The Role of Non-Governmental Organisations in Politicising European Security

A Dissertation Submitted to

the School of Cultural Studies and Social Sciences

in Candidacy for the Degree of

Doctor of Economic and Social Sciences (Dr. rer. pol.)

Institute of Social Sciences

University of Osnabrueck

Presented by

Lina Liedlbauer

from

Duisburg

Osnabrueck, 08.12.2022

Details on the Dissertation Project

Title: The Role of Non-Governmental Organisations in Politicising European Security

Presented by: Lina Liedlbauer, M.A.

First Supervisor: Prof. Dr. Ulrich Schneckener

Second Supervisor: PD Dr. Daniel Lambach

Date of the defense of the doctor's thesis: 31 May 2023

Participants of the examination commission: Prof. Dr. Ulrich Schneckener, PD Dr. Daniel Lambach, Prof. Dr. Daniel Mertens, Prof. Dr. Andrea Lenschow

Preface and Acknowledgments

This thesis developed within the context of the project “Politicizing European Security? Processes of Politicization in Counter-terrorism and Border Security” funded by the German Research Foundation (DFG) (2018-2023). The finalisation of this dissertation project would not have been possible without the support, advice and knowledge of the following persons.

First of all, I want to thank my first supervisor Prof. Dr. Ulrich Schneckener, who gave me a secure framework to write this thesis. He provided direction and helped me to navigate the research project as well as this contribution. Ulrich Schneckener gave me contentual impetus as well as support in framing and formulating this monography. My thank goes also to my second supervisor PD Dr. Daniel Lambach, who helped me in the final stage of this project by asking significant questions. I already know Dr. Lambach since my time as a student at the University Duisburg-Essen, where he supported me with his open and calm attitude back then. Finally, this research would not have been possible without the funding of the DFG.

In the starting phase of the research project and the thesis, Dr. Hendrik Hegemann welcomed me at the University of Osnabrueck and introduced me to academic life as well as giving me numerous suggestions for literature. I want to thank him for the first year of the DFG-project. I was also able to present certain parts of the thesis to the participants of two COST action enter workshops (Krakow 2019, Vienna 2020) and one congress organised by the German Political Science Association (DVPW) (2020). My thank goes to all participants who discussed the very early ideas of this work. I also want to thank the interviewees for taking the time to share their insights in Berlin, Brussels and online.

A great thank goes out to the team at the chair of international relations at the University of Osnabrueck: Dr. Maéva Clément, Dr. Sandra Wienand, Mohamed Ahmed, Stiven Tremaria, Charlotte Pforr, Hannes Kohlhoff and Akhmadshokh Sharifov. Thank you for your time to discuss several exposés, research ideas, presentations and for your very helpful feedback. Orientation was also provided by the colleagues in the colloquium of the institute of social sciences at the UOS, my mentor Prof. Dr. Solveig Richter as well as by my mentee group, that helped me not to lose track and motivation during the difficult pandemic time. I want to thank my long-time friends Julia Klein, Carolin Peiter, Laura Schmitz, Finn Kretschmann, Julia and Robin Scherer for their emotional support. A heartfelt thank you to my friends, Elizabeth and Markus Börgardts, for the corrections, comments and the dedicated time.

Most importantly, I am deeply grateful to my husband Thilo. Only with your constant support, encouragement, patience and positive attitude, I was able to complete this stage of academic life.

In December 2022 Lina Liedlbauer

Abstract

The role of non-governmental organisations (NGOs) in politicisation and European security is highly undertheorised and suffers from a lack of research. The realisation that little is known about those organisations engaging in the EU policy field (empirical interest) and their involvement in politicisation (conceptual interest) is the main driver of the thesis and was transferred in the following research question: "*What role do NGOs play in politicising European security?"*

The thesis responds to this question with taking a) *Brussels-based and national NGOs* and b) the subfield of *EU counter-terrorism* into account. In concrete, the dissertation project analyses the involvement and engagement of these organisations in regard to three counter-terrorism legislations: The EU data retention directive, the EU PNR directive and the EU terrorist content online regulation. With recourse to the prominent literature, politicisation is understood as a process of drawing an issue discussed behind closed doors in the public sphere and making it part of public deliberation. To study the role of NGOs, three strategies present in interest group literature *voice* (outside lobbying), *access* (inside lobbying) and *litigation* (as legal means) are scrutinised in detail and linked to the conception of politicisation. A final comparison of the introduced cases demonstrates that politicisation processes are distinct with regard to the three legislative acts examined. While NGOs succeeded in drawing the EU data retention directive into the public sphere, the politicisation connected to terrorist content online was characterised by a debate between experts, who work with the affected technology, while the issue of passengers' flight data was only hardly publicly deliberated. The main finding of the project is, that privacy and data protection NGOs play a role in politicisation, but that role is highly context-dependent: It depends on whether a favourable political-security culture is in place, whether the issue is conducive ("intrusive") and provides an anchor for framing as well as whether NGOs have sufficient (financial and human) resources to become active as politicisers.

The innovative theoretical framework to study NGO-driven politicisation processes can be regarded as a basis for future research focusing on NGOs working in EU security (e.g. EU migration and border management), different oriented NGOs (e.g. with a focus on environmental, trade, LGBTQ policy) or on other types of non-state actors (e.g. interest groups, social movements).

Zusammenfassung

Die Rolle von Nichtregierungsorganisationen (NRO) in der Politisierung europäischer Sicherheit ist in hohem Maße untertheoretisiert und leidet unter einem Mangel an Forschung. Die Erkenntnis, dass nur wenig über diese Organisationen, die sich in diesem Bereich der EU-Politik engagieren (empirisches Interesse), sowie ihre Involvierung in Politisierung bekannt ist (konzeptionelles Interesse), treibt diese Arbeit an und wurde in die folgende Forschungsfrage transferiert: *"Welche Rolle spielen NROs in der Politisierung europäischer Sicherheit?"*

Die Thesis beantwortet diese Frage unter Betrachtung a) *der in Brüssel ansässigen sowie nationalen NROs* und b) des Teilpolitikfelds der *EU-Terrorismusbekämpfung*. Konkret analysiert das Dissertationsprojekt die Involvierung und das Engagement dieser Organisationen in Bezug auf drei Gesetzgebungen zur Terrorismusbekämpfung: Die EU-Richtlinie zur Vorratsdatenspeicherung, die EU-Richtlinie zu Fluggastdatensätzen (PNR-Daten) und die EU-Verordnung zur Bekämpfung der Verbreitung terroristischer Online-Inhalte. Basierend auf der prominenten Literatur wird Politisierung als ein Prozess verstanden, bei dem ein hinter verschlossenen Türen diskutiertes Thema in die öffentliche Sphäre geholt und Teil der öffentlichen Deliberation wird. Um die Rolle der NROs zu untersuchen, werden drei in der Interessengruppenliteratur vorkommende Strategien – *Voice* (Lobbying nach außen), *Access* (Lobbying nach innen) und *Litigation* (als juristisches Mittel) – eingehend untersucht und mit dem Politisierungskonzept in Verbindung gebracht. Ein abschließender Vergleich der vorgestellten Fälle zeigt, dass die Politisierungsprozesse hinsichtlich der drei untersuchten Rechtsakte unterschiedlich verlaufen. Während es NROs gelang, die EU-Richtlinie zur Vorratsdatenspeicherung in die Öffentlichkeit zu tragen, war die Politisierung im Zusammenhang mit terroristischen Inhalten im Internet von einer Debatte zwischen Experten geprägt, die mit der betroffenen Technologie arbeiten, während die Frage der Fluggastdaten nur schwerlich öffentlich diskutiert wurde. Das Hauptergebnis des Projekts ist, dass Privatsphäre und Datenschutz NROs eine Rolle bei der Politisierung spielen, aber diese Rolle ist stark kontextabhängig: Die Rolle von NROs hängt davon ab, ob eine günstige sicherheitspolitische Kultur vorhanden ist, ob das Thema förderlich ("eingreifend") ist und einen Anker für Framing bietet sowie ob NROs über ausreichende (finanzielle und personelle) Ressourcen verfügen, um als Politisierer aktiv zu werden.

Der innovative theoretische Rahmen zur Untersuchung von NRO-getriebenen Politisierungsprozessen kann als Grundlage für künftige Forschung betrachtet werden, die sich auf NROs im Bereich der EU-Sicherheit konzentriert (z. B. EU-Migration und Grenzmanagement), auf anders orientierte NROs (z. B. mit Fokus auf Umwelt-, Handels-, LGBTQ-Politik) oder auf andere Typen von nichtstaatlichen Akteuren (z. B. Interessengruppen, soziale Bewegungen).

Contents

List of Abbreviations i
List of Illustrations v
1 Introduction 1
2 State of the Art 6
2.1 Research on NGOs in European Security 6
2.1.1 Depiction of NGOs in EU Security 8
2.1.2 *Voice*, *Access*, *Litigation* – Strategies of NGO Influence 10
2.1.3 NGO Research and Politicisation 13
2.2 Research on Politicisation 15
2.2.1 Key Concepts in Politicisation Research 15
2.2.2 Actors, Locations and Objects of Politicisation 23
2.2.3 Conditions of Politicisation 29
2.2.4 Consequences of Politicisation 31
2.3 Identification of Research Gaps 34
3 Theoretical and Methodical Framework to Study NGO-Driven Politicisation Processes in European Security 37
3.1 Politicisation as an Analytical Concept 37
3.1.1 Clarifying Conceptual Terms of Politicisation 37
3.1.2 Operationalisation of NGO Politicisation: Link to *Voice*, *Access*, *Litigation* 39
3.1.3 Potential Locations of Politicisation at EU Level 44
3.1.4 Conceptualising Politicisation as a NGO-Driven Process in EU Security 45
3.2 Methodological Approach 50
3.2.1 Interpretative Case Study Research 50
3.2.2 Data Sources, Data Collection and Strategy of Data Analysis 54
3.3 Summary and Reflection of the Research Process 70
4 Brussels-based and National NGOs in the Field of EU Counter-Terrorism 73
4.1 Mapping of Key NGOs Engaging in Counter-Terrorism at the EU Level 73
4.2 Profiles of Brussels-based and national NGOs 78
4.3 Interim Conclusion 92
5 The Political Opportunity Structure of EU Counter-Terrorism 93
5.1 EU Counter-Terrorism as a Field of Interest for NGOs 93
5.2 The Role of EU Institutions in EU Counter-Terrorism 102
5.2.1 Council of the EU 102
5.2.2 European Commission 106
5.2.3 Court of Justice of the European Union (CJEU) 111
5.2.4 European Parliament 116
5.3 Interim Conclusion: Entry Points for NGOs in EU Counter-Terrorism 120
6 The EU Data Retention Directive (DRD) 122
6.1 Chronological Overview of the Political Process (2001-2020) 124
6.2 Analysis of the Contribution of NGOs in the Politicisation Process 130

6.2.1 Participation of NGOs 130
6.2.2 Connection of NGO Strategies and Dimensions of Politicisation 131
6.2.2.1 *Voice* 131
6.2.2.2 *Access* 149
6.2.2.3 *Litigation* 163
6.3 Interim Conclusion 178
7 The EU Passenger Name Record (PNR) Directive 183
7.1 Chronological Overview of the Political Process (2001-2020) 186
7.2 Analysis of the Contribution of NGOs in the Politicisation Process 191
7.2.1 Participation of NGOs 191
7.2.2 Connection of NGO Strategies and Dimensions of Politicisation 192
7.2.2.1 *Voice* 192
7.2.2.2 *Access* 206
7.2.2.3 *Litigation* 212
7.3 Interim Conclusion 219
8 The EU Terrorist Content Online Regulation (Terreg) 224
8.1 Chronological Overview of the Political Process (2015-2021) 228
8.2 Analysis of the Contribution of NGOs in the Politicisation Process 232
8.2.1 Participation of NGOs 232
8.2.2 Connection of NGO Strategies and Dimensions of Politicisation 233
8.2.2.1 *Voice* 234
8.2.2.2 *Access* 242
8.3 Interim Conclusion 253
9 Research Results of Case Studies and Comparative Analysis 257
9.1 Characteristics of NGO-driven Politicisation Processes 257
9.2 Favourable Conditions of NGO-Driven Politicisation Processes 269
10 Conclusion and Outlook 277
References 289
Appendixes 348
Appendix 1. List of Interviews 348
Appendix 2. Guideline for an Expert Interview (2019) 350
Appendix 3. Guideline for an Expert Interview (2022) 352
Appendix 4. Coding Schemes from MAXQDA (Case 1) 354
Appendix 5. Selection of Articles and Coding Schemes for Qualitative Content Analysis of European Media Outlets (Case 1) 356
Appendix 6. EU DRD – Overview of Analysed European Media Outlet Articles 360
Appendix 7. EU PNR Directive – Overview of Analysed European Media Outlet Articles 374
Appendix 8. EU Terrorist Content Online Regulation – Overview of Analysed European Media Outlet Articles 387
Appendix 9. Case 1 – NGO actions categorised as *access* 395
Appendix 10. Case 2 – NGO actions categorised as *access* 397
Appendix 11. Case 3 – NGO actions categorised as *access* 398

List of Abbreviations

ACTA	Anti-Counterfeiting Trade Agreement
AEDH	European Association for the Defense of Human Rights
AFSJ	Area of Freedom, Security and Justice
AG	Agreement
AK Vorrat DE	German working group on data retention
AK Vorrat AT	Austrian working group on data retention
ALDE	Alliance of Liberals and Democrats for Europe
Art. 29 WP	Article 29 Data Protection Working Party
AT	Austria
BS	Biometric Surveillance
CCC	Chaos Computer Club
CDT	Center for Democracy & Technology
CEP	Counter Extremism Project
CFSP	Common Foreign and Security Policy
CISPE	Cloud Infrastructure Service Providers in Europe
CJEU	Court of Justice of the European Union
COM	European Commission
CPJ	Committee to Protect Journalists
CSOs	Civil Society Organisations
CT	Counter-Terrorism
CTC	Counter-Terrorism Coordinator
CULT	Committee on Culture and Education
DAPIX	Working Party on Information Exchange and Data Protection
DE	Germany

DG	Directorate-General
DG JLS	Directorate-General for Justice, Liberty and Security
digiges	Digitale Gesellschaft (Digital Society)
DRD	Data Retention Directive
DRi	Digital Rights Ireland
DVD	German Organisation for Data Protection e.V.
EAW	European Arrest Warrant
ECR	European Conservatives and Reformists
eco	eco – Verband der Internetwirtschaft
EDiMA	European Digital Media Association
EDPB	European Data Protection Board
EDPS	European Data Protection Supervisor
EDRi	European Digital Rights
EFF	Electronic Frontier Foundation
EP	European Parliament
EPIC	Electronic Privacy Information Center
EPP	European People's Party
EU	European Union
FDP	Free Democratic Party
FIfF	Computer Professionals for Peace and Social Responsibility e.V.
FoeBuD e.V.	Verein zur Förderung des öffentlichen bewegten und unbewegten Datenverkehrs
FRA	Fundamental Rights Agency
GDPR	General Data Protection Regulation
GFF	Gesellschaft für Freiheitsrechte
GUE/NGL	Gauche Unitaire Européenne / Nordic Green Left

HRW	Human Rights Watch
ICAMS	International Campaign Against Mass Surveillance
ICJ	International Commission of Jurists
IMCO	Committee on the Internal Market and Consumer Protection
IRU	Internet Referral Unit
IT-Pol	IT-Political Association of Denmark
JHA	Justice and Home Affairs
LDH	Ligue des droits humains
LIBE	Committee on Civil Liberties, Justice and Home Affairs
Liberties	Civil Liberties Union for Europe
LQDN	La Quadrature du Net
luRe	Iuridicum Remedium
MEP	Member of Parliament
MEPs	Members of Parliament
NetzDG	Network Enforcement Act (Netzwerkdurchsetzungsgesetz)
NURPA	Net Users' Rights Protection Association
PES	Party of European Socialists
PI	Privacy International
PIU	Passenger Information Unit
PNR	Passenger Name Record
RAN	Radicalisation Awareness Network
RSF	Reporters Without Borders
S&D	Socialists & Democrats
SLAPP	Strategic Lawsuits against Public Participation
SPD	Social Democratic Party
SWIFT	Society for Worldwide Interbank Financial Telecommunication

SZ	Süddeutsche Zeitung
TAZ	Die Tageszeitung
Terreg	Terrorist Content Online Regulation
TheGreens/EFA	Greens/ European Free Alliance
UK	United Kingdom
UN	United Nations
US	United States
USA	United States of America
ver.di	United Services Trade Union (Vereinte Dienstleistungsgewerkschaft)
VIBE!AT	Verein für Internet-Benutzer Österreichs

List of Illustrations

Tables

Table 1. Overview of Strategies Addressed by Interest Group Literature 12
Table 2. Key Concepts in Politicisation Research 16
Table 3. Criteria for the Differentiation of *Voice*, *Access*, *Litigation* 41
Table 4. Arenas and Addressees linked to NGO Strategies at EU Level 45
Table 5. Overview of the Analysis Period of the Cases 53
Table 6. Pre-Selection of Relevant Articles for Analysis of EU Media Outlets 65
Table 7. Brussels-Based and National NGOs Engaging in EU Counter-Terrorism 74
Table 8. Results of European Parliament Vote on the DRD 125
Table 9. Data Retention Across Europe in 2020 127
Table 10. Case 1 – Reference to the DRD in EU Media Outlets (2001-2020) 134
Table 11. Case 1 – Mentioning of NGOs by EU Media Outlet Articles (2001-2020) 136
Table 12. Case 1 – Reference to NGOs' *Voice* Activities by EU Media Outlets per Article (2001-2020) 136
Table 13. Case 1 – Reference to NGOs' *Access* Activities by EU Media Outlets per Article (2001-2020) 151
Table 14. Court Challenges Resulted in Annulment of Data Retention Laws in the EU Member States (2008-2015) 163
Table 15. Overview of Data Retention Cases before the CJEU 166
Table 16. Case 1 – Reference to NGOs' Acts of *Litigation* in EU Media Outlets (2001-2020) 167
Table 17. Case 1 – Reference to NGOs' Court Cases Against Data Retention before the CJEU in EU Media Outlets (2001-2020) 167
Table 18. Case 1 – NGO Strategies and Effects on Dimensions of Politicisation 181
Table 19. Results of European Parliament Vote on the EU PNR Directive 189
Table 20. Case 2 – Reference to the EU PNR Directive in EU Media Outlets (2001-2020) 195
Table 21. Case 2 – Mentioning of NGOs by EU Media Outlet Articles (2001-2020) 197
Table 22. Case 2 – Reference to NGOs' *Voice* Activities in EU Media Outlets per Article (2007-2020) 197
Table 23. Case 2 – Reference to NGOs' *Access* Activities in EU Media Outlets per Article (2007-2020) 208
Table 24. Case 2 – Reference to NGOs' Acts of *Litigation* in EU Media Outlets (2007-2020) 213
Table 25. Case 2 – NGO Strategies and Effects on Dimensions of Politicisation 222
Table 26. Case 3 – Reference to the EU Terreg in EU Media Outlets (2015-2021) 235
Table 27. Case 3 – Mentioning of NGOs in EU Media Outlet Articles (2015-2021) 236
Table 28. Case 3 – Reference to NGOs' *Voice* Activities in EU Media Outlets per Article (2018-2021) 238
Table 29. Case 3 – Reference to NGOs' *Access* Activities in EU Media Outlets per Article (2015-2021) 243
Table 30. Case 3 – NGO Strategies and Effects on Dimensions of Politicisation 255
Table 31. Overview of NGO-Driven Politicisation in Case Studies (1-3) 258
Table 32. Summary of Dimensions Across the Case Studies (1-3) 263
Table 33. Locations of Politicisation Across the Cases (1-3) 266
Table 34. Potential Conditions of Politicisation and Features of the Case Studies (1-3) 270

Figures

Figure 1. Connecting NGO Strategies with Dimensions of Politicisation 40
Figure 2. Operationalisation of NGO Politicisation at EU level 43
Figure 3. Ideal-Type Process of NGO-driven Politicisation 48
Figure 4. Operationalisation of NGO Politicisation at EU level 49
Figure 5. Codes and Colour-Legend of the Mapping (Case 1-3) 60
Figure 6. Example of Mapping Actors, (Inter-)Actions and Arguments 61
Figure 7. Categorisation of NGO Actions as *Voice*, *Access*, *Litigation* 62
Figure 8. Example for Media Data Added to Analysis of NGO's Voice Strategy 63
Figure 9. Code-System in the First Case Analysis (EU Data Retention Directive) 66
Figure 10. Coding of *Contestation* in the Third Case (EU Terrorist Content Online Regulation) 67
Figure 11. Article Coded for Analysis of Case 2 (EU PNR Directive) 68
Figure 12. Overview of the Research Process (Case 1-3) 70
Figure 13. Overview of NGO Network and Supporting Organisations in EU Counter-Terrorism 77
Figure 14. Timeline of EU Data Retention Directive (2001-2020) 129
Figure 15. Case 1 – Timeline: Mentioning of NGOs in EU Media Articles per Year (2001-2020) 135
Figure 16. Case 1 – *Voice*: Opposing Positions on the EU DRD 147
Figure 17. Case 1 – *Access*: Opposing Positions on the EU DRD (1) 160
Figure 18. Case 1 – *Access*: Opposing Positions on the EU DRD (2) 161
Figure 19. Case 1 – *Litigation*: Opposing Positions on the EU DRD (1) 175
Figure 20. Case 1 – *Litigation*: Opposing Positions on the EU DRD (2) 177
Figure 21. Timeline of the EU PNR Directive (2001-2020) 190
Figure 22. Case 2 – Timeline: Mentioning of NGOs in EU Media Articles per Year (2001-2020) 196
Figure 23. Case 2 – *Voice*: Opposing Positions on the EU PNR Directive 206
Figure 24. Case 2 – *Access*: Opposing Positions on the EU PNR Directive (1) 210
Figure 25. Case 2 – *Access*: Opposing Positions on the EU PNR Directive (2) 211
Figure 26. Case 2 – *Litigation*: Opposing Positions on the EU PNR Directive 219
Figure 27. Timeline of EU Terrorist Content Online Regulation (2015-2020) 231
Figure 28. Case 3 – Timeline: Mentioning of NGOs in EU Media Articles per Year (2015-2021) 236
Figure 29. Case 3 – *Voice*: Opposing Positions on Terreg 242
Figure 30. Case 3 – *Access*: Opposing Positions on Terreg (1) 252
Figure 31. Case 3 – *Access*: Opposing Positions on Terreg (2) 253

1 Introduction[1]

In 2015, France faced two terror attacks. One taking place in January, the other several months later, in November. Many of us might remember the published issue No. 1178 of the satirical magazine Charlie Hebdo with its green background and the slogan “Je suis Charlie” in front. Another photo that may be memorable to many people is the one displaying the French president François Hollande and the German chancellor Angela Merkel, amongst other heads of state, taking to the streets in Paris. A wave of solidarity gripped Europeans as they supported the French people in their grief by displaying the slogan on social media and in protests across Europe. The people spoke and the European Union (EU) reacted. The acts of terror were answered with the creation of “a Europe that protects” (European Commission 2016b), making counter-terrorism the top priority of its daily work. The adoption of several legislative acts followed. The directive on combating terrorism and the Passenger Name Record (PNR) directive are two legislations that are responses from politicians to the devastating events. Both went through the stages of EU policy-making within two years. This kind of rapid policy-making called non-governmental organisations to action as they saw a ghost of the past that the uproar in the wake of the terrorist attacks had awoken. Amnesty International (2017) published a report titled “Dangerously Disproportionate: The Ever-Expanding National Security State in Europe”. The European Network Against Racism (2016) together with others called on the EU to keep up transparency and the space of civil society participation. Similar concerns came from the scientific community (Bigo et al. 2015a). The main statement upheld by these actors was that the Union should not sacrifice the very (civil) rights that were so carefully established in its history. Amnesty International (2017, 8) took a very clear stance that exemplifies the argumentation of NGOs:

> Amnesty International is calling on all states, including EU member states, to renew their commitment in law and in practice to upholding their international human rights obligations in the context of countering terrorism. The steady regression in many aspects of rights protection in the EU must end.

The time period after 2015 showed: NGOs do play a role in EU counter-terrorism. Taking a closer look at the research side, this realisation, however, makes two gaps in connection to these non-institutional actors vividly apparent: 1) There is a *scientific gap* in place: Contributions that handle the role of NGOs in EU counter-terrorism in particular as well as EU security in general is few and far between (Uçarer 2018; Hodwitz 2019). 2) There is an *empirical gap* that needs attention: The scientific community as well as society in general lack knowledge on who these organisations involved in the EU security policy field are. These

[1] This dissertation project, including the research question(s) and basic models, was developed within the context of the DFG-funded project “Politicizing European Security? Processes of Politicization in Counter-terrorism and Border Security”.

groups are, apart from a few exceptions (C. J. Bennett 2008; Dür and Mateo 2014), understudied. Striking is the question of what these NGOs characterise.

A rather new research branch, focusing on politicisation, ascribes these organisations the role of potential drivers. In this literature, the notion that security and politics do not automatically need to be perceived as two different entities is more and more established (Rüger 2013; Peters 2014; Hegemann 2018) and scholars are increasingly concentrating on the politicisation of European security (Barbé and Morillas 2019; Costa 2019; Hegemann and Schneckener 2019; Schneckener 2020; Voltolini 2020). Yet here, too, one quickly encounters ambiguities and countervailing arguments from researchers as to whether this initial observation of NGOs as drivers is in fact the case. Some even connect NGOs rather to processes of depoliticisation[2] (Dany 2019; Herschinger, Jachtenfuchs, and Kraft-Kasack 2013). However, some scholars state that politicisation is "more than an elite phenomenon" (Hurrelmann, Gora, and Wagner 2015, 43). Addittionally, Edgar Grande and Swen Hutter (2016, 24) emphasise: "If only a few (elite) actors publicly advance their positions, an issue is hardly politicised."

A detailed investigation of NGOs in politicisation has not yet been carried out. This is a sobering thought as these organisations have been associated with positive effects on democratisation and the openness of international institutions. The boost of contributions on global governance at the beginning of the 2000s supported this assessment of NGOs' impact. This makes it all the more important to take a closer look at these actors and shed light on what they are doing in European security. This policy field is traditionally associated with the style of intergovernmental policy-making and the presence of (nation) states as principal or leading actors. The decisions taken in this field have direct implications on the peoples' rights and daily lives. In recent years, it has become apparent time and again that certain heads of state frequently use measures in this field to restrict the rights of civil society, prevent people from taking to the streets or label activist groups as a 'threat to liberty', although these were the ones advocating for liberty. It is therefore urgently necessary to examine these non-state actors, who made it their work to protect the rights of Europeans. This thesis gives both Brussels-based and national NGOs a platform by placing the following question at the core of the work:

"*What role do NGOs play in politicising European security?"*

[2] Since the thesis focuses on the role of NGOs in politicisation, the concept of depoliticisation is not systematically applied in this contribution. The aim is to identify politicisation and to examine NGO participation in these politicisation processes.

This question will be answered by taking a) *Brussels-based and national NGOs* and b) the subfield of *EU counter-terrorism* into account. The research process is guided by several subquestions. These are not only linked to the character of NGOs but also to distinct open questions in politicisation research:

1) Role of NGOs: How is the role of NGOs engaging in the politicisation of European security characterised?

A) What kinds of NGOs are involved in politicising European security?
B) Do NGOs play a role as *politicisers*?
C) Who are the *addressees* of NGOs at EU level?
D) Are NGOs involved in a *politicisation move*?
E) To what extent do NGOs appear in the dimensions of politicisation (*awareness*, *mobilisation*, *contestation*)?

2) Strategies: What are the resources and strategies of NGOs to politicise European security?

3) Locations (Arenas and Levels): Where do politicisation processes initiated by NGOs occur?

4) Objects: What are the objects of NGO-driven politicisation: *policy*, *polity*, or *politics*?

One additional question appears, concentrating on contextual factors that might foster the role of NGOs in politicisation. It also helps to make a broader statement on where to expect NGO politicisation:

Conditions: What are the facilitating factors for NGO-driven politicisation processes?

The objective of this thesis is to make a first step towards theorising the role of NGOs in politicisation processes in the policy field of EU security. This contribution aims to deepen the understanding of politicisation as a concept and the role of NGOs in this given context. To understand the role of NGOs in politicisation an interpretative, qualitative case study approach is used. The units of analysis are politicisation processes within EU counter-terrorism policy processes as a subfield of EU security. Three individual cases are selected to study the role of NGOs in politicisation. These cases are all EU counter-terrorism legislations: 1) The EU data retention directive, 2) The EU PNR directive, 3) The EU terrorist content online regulation (Terreg). The legislative acts each represent thriving focus areas in EU counter-terrorism: The processing of data and the handling of internet content. NGO participation in these cases is already noticeable and access to data ensured.

The chapter starts with a review of NGO research and politicisation literature. It integrates contributions focusing on interest group literature (covering NGOs, amongst other groups), which give an impression on strategies that are relevant for the engagement of these actors:

voice, *access* and *litigation*. While the link between lobbying strategies and politicisation is already explored (see Gheyle and Ville 2019; Voltolini 2020), the use of legal actions to politicise needs further attention. The introduction of politicisation literature gives an overview of key concepts and open questions related to actors, locations (arenas and levels) and objects. Furthermore, the state of research on conditions is presented, paying special attention to those conditions that are discussed in relation to EU security. To give a complete picture of research on politicisation, the scientific debate on consequences, which is in its early stages of development, is covered as well.

The third chapter presents the thesis' 'toolbox' that allows the role of NGOs in politicising the field of European security and EU counter-terrorism in particular to be examined. It introduces analytical concepts that are based on the previously scrutinised literature. The takeaways derived from this first (theoretical) part are:

- An operationalisation that links NGOs' strategies (*voice*, *access* and *litigation*) and dimensions of politicisation (*awareness*, *mobilisation* and *contestation)*. This operationalisation makes it possible to study different arenas (media arena, citizen arena, judicial arena, protest arena, institutional arena) at distinct levels (national, EU, global).
- An ideal-type process of NGO-driven politicisation: This one links to the operationalisation as well as prominent conceptions of researchers like the *politicisation move* (Schneckener 2020) as a starting point.

The second part of this chapter presents the interpretative case study approach. The case selection, analysis period as well as level of analysis are illustrated. The remainder of the chapter focuses on the data sources, the collection techniques and types of strategies to analyse data. Before the empirical-analytical part of the thesis starts, two rather descriptive chapters follow.

Chapter four and five will give an overview of the main actors in this thesis as well as the framework in which they operate. It introduces the profiles of the NGOs that will play a major role in the case studies.[3] The date of creation, mission, issue areas as well as financial background of these organisations is depicted. A figure that highlights the interconnectedness of Brussels-based and national NGOs gives an orientation for the case studies that follow. Chapter five illustrates entry points of NGOs in the EU institutional environment. The institutional framework of the Council of the EU, the Commission, the Court of Justice of the European Union (CJEU) and the European Parliament (EP) is considered.

[3] Those organisations who have their presence in an EU member state and have actively engaged in *voice*, *access* and/or *litigation* strategies at EU level in the subsequent cases (chapter six, seven and eight) will be presented.

Chapter six, seven, and eight comprise the case studies. Taken together the cases cover twenty years of policy-making in EU counter-terrorism (case 1 and case 2: 2001-2020, case 3: 2015-2021). Each within-case analysis is structured in a similar way. It starts with a short overview of the case and the illustration of 'critical junctures'. This includes an explanation of the legislative act and its technical as well as legal details. The case analysis progresses with a study of the three strategies of NGOs. Before three subchapters are dedicated to this undertaking (one for examining *voice*, one to scrutinise NGOs' *access* strategy and one to have a closer look at acts of *litigation*), an overview of participating NGOs is given. In connection with every single strategy, it will be examined how and if the specific NGO repertoire fostered an increase of *awareness*, *mobilisation* and *contestation*. At the end of each case study a short interpretation of main results with recourse to the subquestions is presented. The analyses are based on rich and a high volume of data: More than 600 articles from four EU media outlets (EUobserver, Euractiv, The Parliament Magazine, Politico Europe) were evaluated. In addition to this, 25 expert interviews with NGO staff, EU officials and personnel were conducted to consolidate the research.

Chapter nine represents the cross-case comparison. By referring to the above-presented subquestions, the findings of the case analyses are compared. This cross-case analysis enables the identification of differences and similarities regarding the role of NGOs, their strategies as well as locations and objects of politicisation (questions 1-4). Afterwards insights on conditions on politicisation are highlighted (additional research question).

The conclusion of this thesis (chapter ten) directly ties the insights of the comparison in. Research desiderata and limits triggered in the context of chapter nine – like possible conditions of NGO-driven politicisation in EU security – are also addressed in this chapter. For those who want to study EU counter-terrorism, it moreover provides lessons learned. A discussion of the consequences of politicisation is included as well. The main finding of this thesis is that primarily privacy and data protection NGOs are working in the field and these organisations overtake different roles in politicisation; one of them can be the *politiciser*. This role is however context-dependent: It depends on a conducive political-security culture, the issue (or its intrusiveness) as well as the possibility it provides for NGOs' framing and how well these organisations are resourced (human and financial).

2 State of the Art

This thesis is interested in mapping NGOs in European security and their role in politicising this specific field. Especially by scrutinising EU counter-terrorism and learning more about their presence pertaining this subarea of European security. This chapter on the state of the art of NGO and politicisation literature presents a first step to address this topic. The state of the art is divided into two main subchapters: *2.1 Research on NGOs in European Security*, *2.2 Research on Politicisation.* The former will introduce basic terms and actions of NGOs. Moreover, it will show how far researchers explored their appearance in European security (subchapter 2.1.1). The reader should pay special attention to the strategies of NGOs (subchapter 2.1.2) since these will reoccur as pivotal elements in the analytical part of the thesis. Three strategies of NGOs will be addressed here, which are of importance from a lobbying and legal perspective: *Voice*, *access* and *litigation*. From the viewpoint of previous research, the connection between NGOs and politicisation is not unfamiliar (subchapter 2.1.3). Therefore, the study of the NGO literature offers an ideal transition to politicisation research

The subchapter on the state of politicisation research is driven by several objectives. First, it provides an overview of the conceptual discussion on politicisation (subchapter 2.2.1). This includes an introduction of the different perceptions that exists among political scientists regarding the definition, operationalisation as well as form of politicisation. Second, subchapter 2.2.2 present, which actors have been scrutinised by researchers so far, where researchers assume politicisation takes place (levels and arenas) and what potential focus points (objectives) of politicisation are. Third, the thesis progresses by illustrating factors that are supportive for politicisation (subchapter 2.2.3) as well as consequences of its emergence (subchapter 2.2.4) are discussed. These two topics are regularly addressed and show diverging opinions. This chapter concludes with an identification of research gaps and moves on to the theoretical as well as methodological framework for the study of politicisation.

2.1 Research on NGOs in European Security

The increase in research on NGOs can be observed especially since the 1990s in International Relations. Whereas primarily their relation to states and international organisations was the focus of their research, scholars began to consider those organisations as new actors on the world stage[4] (Clark 1995, 2001; Clark, Friedman, and Hochstetler 1998; U. Brand et al. 2001; Brunnengräber, Klein, and Walk 2005). The question of the clarification of the term “NGO” and

[4] “Many of these transnational actors are new to world politics, a province that historically has been dominated by states” (Clark 1995, 507).

the inherent character of the groups was equally important. Numerous contributions concentrated on the questions, what NGOs are and what they are doing (Fisher 1997; Furtak 2001; Fazi and Smith 2006; Frantz and Martens 2006; Frantz 2007; Götz 2008; Heins 2008; Werker and Ahmed 2008; Karns and Mingst 2010; Furtak 2015). Closely linked to the question of their purpose, is the concern if NGOs "doing good" (Fisher 1997; Reimann 2007) and if these organisations "live up to their own ideals" (Heins 2008, 11). Thus, the democratic character of NGOs itself was of interest. However, scholars were able to shot that they have a positive effect on the strengthening of human rights (Clark 2001) and the democratisation of institutions (Fazi and Smith 2006).

The large number of works that have dealt with the term NGO is inevitably linked to the many other labels that are present regarding to research on non-state actors. The need to distinguish NGOs from these actors is characterised above all by the fact that quite a few authors list these groups under umbrella labels such as civil society (organisations) (Armstrong et al. 2011; Zeegers 2016; Thiel 2017; Eliasson and Huet 2019), advocacy groups (Keck and Sikkink 1998; Carpenter 2007; C. J. Bennett 2008) or interest groups (e.g. Greenwood 2003; Beyers 2004, 2008; Dialer and Richter 2019). The disadvantage of these terms is that they not only cover NGOs but also include other groups such as business or religious organisations.[5] Although, those expressions might seem misleading, the listed contributions complete the state of knowledge about NGOs. They give insights especially with regard to strategies of NGOs as elaborated later. Thus, they will be included as they contribute to the aim of the thesis.

In the context of this thesis, the definition of NGOs is based on the following criteria of the European Commission: "NGOs are not created to generate personal profit. […] NGOs are voluntary. […] NGOs are distinguished from informal or ad hoc groups by having some degree of formal or institutional existence. […] NGOs are independent […] NGOs are not self-serving in aims and related values" (Commission of the European Communities 2000, 3–4).[6] These criteria are in line with characteristics of NGOs highlighted in several scientific definitions (Frantz and Martens 2006; Heins 2008; Furtak 2015).

This subchapter is structured as follows. First, it will reflect in depth the current state and insights of the research on NGOs in European security. Second, literature will be reviewed concentrating especially on strategies of NGOs. Here, literature that labels NGOs under the term 'interest groups' will be included, since this research deals with strategies of these groups

[5] Thiel (2017, 1) for example declares that the expression 'civil society organisations' is "a broad umbrella term for a number of non-governmental organizations (NGOs), religious groups, and other associations relatively autonomous from government that pursue collective goals in Brussels".

[6] The document in which the Commission presents this definition served as a starting point for intensified negotiations between the institutions and these organisations: "The Discussion Paper is also intended to give new impetus to an ongoing process of internal and external appraisal of the way in which the Commission works with NGOs" (Commission of the European Communities 2000, 3).

to increase influence in their interplay with international organisations. Third, insights of NGO research on politicisation are scrutinised.

2.1.1 Depiction of NGOs in EU Security

European security is reflected by studies concentrating either on EU foreign security policy (Dembinski and Joachim 2008; Joachim and Dembinski 2011; Voltolini 2012, 2016) or on EU migration policy (Uçarer 2009, 2014, 2018; Thiel and Uçarer 2014; Gansbergen and Pries 2014; Giannetto 2019). As Uçarer (2018, 465) points out "[i]n particular, more (or actually any) work in judicial and police cooperation is acutely necessary". Apart from the author herself, who analyses NGOs in the Area of Freedom, Security and Justice (AFSJ),[7] scholars tend to disregard this policy field. Thus, it can be stated that there is a great gap concerning research on NGOs in EU counter-terrorism. What insights the existent research in EU security already offers on the role of NGOs, will now be discussed.

The area of European security is first and foremost characterised as a field in which NGO participation is not expected (Joachim and Locher 2009c, 172). Joachim and Dembinski (2011, 1152) call EU foreign and security policy "a 'hard case' for NGO participation" and Uçarer (2014, 127) depicts the AFSJ as "a difficult arena to penetrate by civil society actors". Since the environment is such an extraordinary one, authors direct their attention to the political opportunity structures for NGOs in the field. These structures are especially represented by institutional accesses, so called "access points" (Joachim and Dembinski 2011, 1152). Scholars presume that the EP and the Commission are such entries for NGOs (Dembinski 2009; Joachim and Dembinski 2011; Voltolini 2012; Uçarer 2014; Thiel and Uçarer 2014). Voltolini (2012) and Uçarer (2014) both point out, that with the introduction of the Lisbon Treaty and the increase of the Parliament's competences, the institution became even more important for NGOs. The Commission is regarded as partner of cooperation due to its enlargement of agenda setting capacities (Dembinski and Joachim 2008; Dembinski 2009; Uçarer 2014). Contrary to that, the Council is considered as a rather difficult partner for NGOs (Dembinski 2009, 157). Albeit, some, single member states shaped up as collaborators for NGOs (Dembinski 2009, 159). An analysis of the CJEU as an access point for NGOs in European security is absent so far.

All scholars, scrutinising NGOs in EU security, focus to a certain degree on the question of what resources these groups have and which strategies they use to influence policy-making. With regard to resources, they determine that a presence in Brussels in form of an office,

[7] The former field of justice and home affairs (JHA) in the EU.

qualified staff and proper membership is essential for these organisations (Dembinski 2009; Joachim and Dembinski 2011; Voltolini 2012; Uçarer 2014, 2018). NGOs' financing is often based on "project funding, sometimes by the EU" (Uçarer 2014, 134). Despite this, scholars stress networks as important: "especially NGOs, have created networks or umbrella organisations in Brussels, which represent the interests of their members at the EU level" (Voltolini 2012, 43). Nevertheless, information and the expertise of those NGOs is considered as indispensable (Dembinski 2009; Joachim and Dembinski 2011; Voltolini 2012, 2020; Uçarer 2014, 2018). According to scholars, overtaking the role of 'being an expert' is also the most important activity of the groups (Dembinski 2009; Joachim and Dembinski 2011; Uçarer 2014; Voltolini 2012). They demonstrate their expertise by drafting "policy blueprints" (Dembinski 2009, 1152), sharing "intimate knowledge" (Joachim and Dembinski 2011), "uploading first-hand accounts from their national counterparts" (Uçarer 2014, 134), summarising information for Members of Parliament (MEPs) (Joachim and Dembinski 2011; Uçarer 2014) or organising expert seminars (Joachim and Dembinski 2011, 1162). In some cases, their positions and arguments are included in documents published by EU institutions (Uçarer 2014, 132). Therefore, Voltolini (2012, 17) highlights the dissemination of expertise and knowledge as an important strategy of NGOs to exert influence at the EU level.

Just like expertise, networking is also seen as an important action and not only as a resource of NGOs. The forming of alliances with national NGOs, allows those who work at EU level to enter "a two-level game" (Joachim and Dembinski 2011, 1163) or "mediating between levels" (Uçarer 2014, 132). Next to this, shaming is considered as an important strategy of these groups. In their study of the Code of Conduct on Arms Export, Joachim and Dembinski identified that "NGOs set in motion ‚beauty contests' among governments", in which they rewarded those who stick to the established norms and blamed member states who did not. The strategy of shaming is linked to another important repertoire of NGOs, the use of frames or framing (Dembinski 2009; Joachim and Dembinski 2011; Voltolini 2012, 2016; Uçarer 2014, 2018). According to researchers, the latter is especially successful when it is combined with shaming. The abovementioned example on the Code of Conduct of Arms Export is such a case, where the two means were combined. According to Joachim and Dembinski (2011, 162), the context in which NGOs operate has also an impact on how they present their issues. The EU as a setting, allows NGOs for example to make claims, which remind policy makers of its democracy and fundamental rights standards. Eventually, efforts of NGOs were to increase transparency, widen the room for public exchange and trigger policy change (Joachim and Dembinski 2011; Uçarer 2014).

By reviewing the research on NGOs in EU security it became apparent that the scholars based their analysis and knowledge of NGOs' strategies on discernments from interest group

literature. To complement the knowledge on NGOs' strategies and strengthen this analytical basis, the main concepts of this body of literature will be introduced in the next subchapter. This involves three strategies: Two lobbying strategies – *voice* and *access* – as well as *litigation* as a legal mean of organisations. Interest group literature offers for example a better understanding of how the idea of access points emerged.

2.1.2 *Voice*, *Access*, *Litigation* – Strategies of NGO Influence[8]

A great number of NGO research focuses either directly or indirectly on the question of how NGOs influence the policy cycle and whether these groups are successful with their actions (Clark 1995; Clark, Friedman, and Hochstetler 1998; Take 2002; T. Brühl 2005; Heins 2005; Seifer 2009; Betsill and Corell 2010; Uçarer 2014, 2018; Tallberg et al. 2015). The same research interest is shared by scholars who concentrate on interest groups. Next to NGOs, the term, however also covers groups with a clear business interest or groups that do not have a membership structure. Therefore, scholars admit: "We use the term interest group quite broadly. When we refer to 'interest groups', 'groups' or 'organized interests', we mean not only membership organizations but also advocacy organizations that do not accept members, businesses, and any other organization or institution that makes policy related appeals to the government" (Baumgartner and Leech 1998, xxii). Interest group scholars generally differentiate between three types of strategies: "Voice" and "access" (Bouwen 2002; Beyers 2004; Dür and Bièvre 2007; Dür and Mateo 2014; De Bruycker and Beyers 2019) as well as "litigation" (Bouwen and Mccown 2007; Michalowitz 2019). While the former two can be summarised under 'lobbying', the latter is a legal strategy. Although, there is an ongoing discussion whether *litigation* can be regarded as a form of lobby work, "from an EU practitioner's perspective, litigation is, strictly speaking, not an element of lobbying" (Michalowitz 2019, 513).

According to Beyers (2004, 213), *voice* covers "public political strategies", which "relate to activities taking place in various public spheres, an arena where the communication among societal interests, policy-makers and citizens becomes visible to a broader audience. It is here that political campaigns are reported and that actors try to attract the attention of a broader public". For this reason, *voice* is also referred to as "outside lobbying" (Kollman 1998). Dür (2008, 1122) emphasises that the means to "'make noise'" are diverse. The scholar lists "manifestations, rallies, petitions, statements in the media, and participation in public debates"

[8] This literature was already reflected to a certain extent in Liedlbauer (2021).

(Dür 2008, 1122). Partly these activities motivate citizens to join. In the end, *voice* is a form of indirect communication with political actors (De Bruycker and Beyers 2019, 57).

In contrast to that, *access* "is synonymous with inside lobbying" (Beyers 2004, 213). This kind of lobbying "basically concern[s] the venues where political bargaining takes place" (Beyers 2004, 213) and "involves direct exchanges with policymakers through private communication channels, such as face-to-face meetings, telephone calls, or e-mail exchanges" (De Bruycker and Beyers 2019, 58). Since the public is excluded, scholars refer to it as a "political strategy" (Bouwen and Mccown 2007, 423). Bouwen (2002, 369) stresses that interest groups' need to offer "access good(s)" in order to establish conversations with EU institutions. The provision of data and political insights can be regarded as examples for these 'goods'. The offering of information is key (Bouwen 2002, 369). How much *access* is granted to groups depends on the importance of the information for the involved institutions (Bouwen 2002, 370).[9] Therefore, it "is often conceptualised as an exchange relation between public officials and organised interests" (Beyers and Braun 2014, 95).

Whereas *voice* is linked to high costs for interest groups, *access* is considered as low in price (Beyers 2004, 216). Scholars also highlight that *access* rather pays off as a strategy for interest groups than *voice* (Dür and Mateo 2013; Beyers and Braun 2014; Weiler and Brändli 2015). Nevertheless, when pursuing the strategy of *access* seems to be impossible, interest groups switch to *voice* tactics (Beyers 2004, 216). *Voice* starts quite often at national level, while *access* is pursued by interest groups at EU level (Princen 2007, 57). The success of *voice* is highly dependent on the public's perception and acceptance: When attention by the media is high and alliances are more stable, the chance that groups can achieve their objective is far more realistic (De Bruycker and Beyers 2019). On the contrary, *access* depends on "informal and formal working relations with various government agencies" (Beyers 2008, 1193).

Litigation differs from these two kinds of strategies since it takes place in the legal realm. The strategy follows a long tradition and is primarily based on the attempt of "[s]eeking to have a court rule on the unconstitutionality or otherwise improper nature of legislative provisions in order to change policy" (Bouwen and Mccown 2007, 426). The starting point of *litigation* strategies is the national level (Bouwen and Mccown 2007; Michalowitz 2019). Interest groups aim to change "EU policy that begins at the national level, by bringing a case in a national court, based on a point of EU law" (Bouwen and Mccown 2007, 426). This has not only an effect on the persistence of policy itself, but might also contribute in changing "future legislation" (Bouwen and Mccown 2007, 426). Since *litigation* is very costly, it is mostly pursued by better equipped groups (Bouwen and Mccown 2007, 427). Michalowitz (2019, 513) points

[9] See also Beyers (2004, 426): "Actors seeking access to these arenas have to deliver credible and valid expertise."

out that "[m]ost of the time, litigation is considered a means of last resort if all communication and argumentation fails and a piece of legislation has already been finalized". Voltolini (2012, 40) depicts it as a strategy that is linked to "later stages in the policy-making process". In the context of *litigation*, the CJEU is regarded as an important anchor.[10] By bringing a case before the European court, interest groups pressure the European Council, the Council, the Parliament or the Commission to take up a position (Princen 2007, 23). However, *litigation* is rather perceived as a way of indirect, symbolic communication with policymakers. It "allows hardly any direct influence on the arguments used within the process" (Michalowitz 2019, 513).

As scholars highlight, these strategies are often combined by interest groups (Beyers 2004; Bouwen and Mccown 2007; Kriesi, Tresch, and Jochum 2007; Voltolini 2012). Nonetheless, the image that persists is that groups go forward with purely conducting lobbying activities or by following the legal strategy.[11] This preference is also present in interest group research, since apart from a few exceptions (Voltolini 2012) there are no contributions which take *voice*, *access*, and *litigation* parallelly into account.

Table 1. Overview of Strategies Addressed by Interest Group Literature

Strategy	Type	Contacted Actors	Level	Direct/Indirect Communication	Resources
Voice	Public political strategy ("outside lobbying")	'Wider public'	Start at national level	Indirect addressing of policymakers	Costly
Access	Political strategy ("inside lobbying")	Politicians	EU level	Direct addressing of policymakers	Low costs
Litigation	Legal strategy	Courts	Start at national level	Indirect addressing of policymakers	Costly

Source: Own illustration based on chapter 2.1.2 "*Voice*, *Access* and *Litigation* – Strategies of NGO Influence".

Table 1 summarises the insights from this subchapter. It becomes apparent that each strategy speaks to a different type of actors (public, politicians, courts). The level of initiating the respective strategy is also varying. *Voice* and *litigation* both start at the national, while *access* concentrates on the EU level. *Voice* and *litigation* are also very similar in the sense that they are both expensive and an indirect way of addressing political representatives. The *access*

[10] Bouwen and Mccown (2007, 438) for example refer to the CJEU as "a useful venue to actors seeking policy change by litigation".
[11] "[w]ith regard to combination strategies, there may still tend to be a dominance of either lobbying or litigation over the other" (Bouwen and Mccown 2007, 431).

strategy is budget-friendly for groups and characterised by a direct relation to policymakers. These differences in strategies, when it comes to contacted actors and manner of communication will be important in the later course of this thesis. They serve as criteria to identify NGOs' actions and assign it to one of the three strategies.

While reviewing contributions on NGOs, it became apparent that the term "politicisation" is indeed used by researchers. The next subchapter elucidates information on politicisation derived from NGO (and interest group) research. This part shows that it makes sense to draw a connection between the two subjects. Among others, the literature gives some hints on the characteristics of the role of NGOs and the strategies that pay off with regard to politicisation.

2.1.3 NGO Research and Politicisation

Despite the general vagueness of the term "politicisation", research gives quite some insights on the relation between NGOs and politicisation. In detail, these contributions offer some lessons about the anticipation of NGOs in politicisation (1), contextual factors (2), facilitating issues and strategies to politicise (3).

(1) Most researchers agree that NGOs play a role in politicisation. Fisher (1997, 457–58), who analyses the emergence of NGOs in the late 1990s, credits these organisations with the ability to have a stance in politicising topics: "The work of some empowerment NGOs contributes to this emancipatory process through the politicization of previously depoliticized realms and issues – for example, issues concerning gender or the environment. They turn issues that directly engage the self, subjective experience, and daily life into crucial sites of political contestation." Greenwood (2003, 11–12) has the same opinion, however, with regard to interest groups. In his study of interest group representation in Brussels, he stresses: "public interests have made a real impact upon the climate of ideas in which policy making arises, on the thinking of policy participants, in relation to politicizing issues and bringing them from closed private arenas to open public ones, and upon producer groups with which they engage". The two contributions not only share the opinion that NGOs can be linked to politicisation, but also that this politicisation is expressed by a shift of locations (the private and the public for example). They do not only politicise issues for themselves, but function as facilitators for groups that work close to their own themes, as it is apparent in Greenwood's understanding.

(2) That context – or rather the political opportunity structure – matters for NGO involvement was already highlighted before. Joachim and Locher (2009b, 176), who focus on facilitating structures for NGOs engagement, point out that a changing notion of security at the international level served to be as supportive for the groups' aims: "in the UN, the shift from

military to human security helped NGOs to politicize and open debate on small arms and weapons trafficking, previously closed off to them". So, how security is defined, perceived or contextualised seems to be of importance for the 'success' of these organisations.

(3) Thiel (2017) gives an insight about issues that are favourable for politicisation. The scholar stresses, that especially "human rights policies" have the potential to be "highly politicizised, and a sensitive policy subject for national governments, which do not like to be perceived as having human rights issues in their jurisdiction" (Thiel 2017, 6). In analysing the role of interest groups in the Anti-Counterfeiting Trade Agreement (ACTA), Dür and Mateo (2014, 1213) concluded that these stakeholders opened up the space for further groups to join the debate. They did this by using *voice* strategies which led to a higher perception of controversies in the public. Consequently, "salience and interest group lobbying thus can reinforce each other" (Dür and Mateo 2014, 1213). Princen (2007, 29) notes that the action of "publicizing" is a motor for politicisation. He attributes an agenda-setting advantage to the combination of these two 'practices' (Princen 2007, 29–30).

The literature on NGOs (and interest groups) offers key takeaways for the further course of this thesis. These messages can be summarised as follows:

- NGO research certainly provides insights into the fact that these organisations are involved in politicisation or even contribute actively to politicising an issue. Even a connection between the politicisation of an issue and (political) *contestation* is drawn.
- Questioning what role NGOs could have in politicisation, seems to be closely connected with making a topic accessible to individuals or groups. In this context, the connotation of security can either facilitate or hinder the work of these organisations.
- A link between the *voice* strategy of NGOs and the raising of *awareness* (here called salience) can be established. This became especially visible in Dür and Mateo's research. An action that seems to be supportive for NGOs to gain attention is according to Princen the publication of information.

Chapter 2.1 highlighted the role of NGOs in EU security. So far, little is known about their presence as well activities in the subfield of EU counter-terrorism. The literature offers initial information about the organisations' embedding in the institutional setting and the way they proceed. Three strategies were highlighted as important for NGOs' achievement of objectives: *voice*, *access* and *litigation*. At least for one of these activities, a link to politicisation can be identified. Having set these strategies as a basis, the next subchapter displays how politicisation research views the role of NGOs. This and the definition of politicisation will be one of the main subjects of the next subchapter.

2.2 Research on Politicisation

This state-of-the-art subchapter focuses on the research of politicisation. It gives an overview of conceptual and analytical approaches of politicisation, shows to which levels the concept has already been applied and what has empirically been examined. When it comes to the overview of empirical studies, the focus of this state of the art is explicitly on EU policy areas. The subchapter starts with a focus on the terminological understanding of politicisation, presents the various operational definitions and reflects discussions on "forms" or "shapes" of politicisation. Afterwards, the role of actors like political parties, governments and NGOs, the focus group of this thesis, in politicisation research is examined. This is combined with an illustration of research insights on the locations (arenas and levels) and objects of politicisation. The part on politicisation concludes with taking a closer look at research that scrutinises potential conditions and consequences of politicisation.

2.2.1 Key Concepts in Politicisation Research

The phenomenon of politicisation is far away from being labelled new or recent. According to Schmitter (2009, 211–12), "[n]o serious student of European integration can deny that something like politicization has occurred since the mid-1980s". The same applies to the conceptual research on politicisation. It is a vibrant literature field with a debate on various definitions and approaches of politicisation. Although, there is no 'one and only solution' of defining politicisation, "a consensus is emerging regarding the components of what we mean by the term 'politicization'" (Hutter and Kriesi 2019, 999). This subchapter focuses on conceptual and analytical questions linked to politicisation. It highlights the origins, common features as well as the differences of various prominent concepts. Differences are especially obvious regarding the "operational definitions" (Zürn 2019, 978)[12] of politicisation. Table 2 makes the evolving basis of defining politicisation as well as the differences in operationalising this phenomenon visible. It lists relevant contributions and the respective authors that offer a definition and/or an approach to operationalise politicisation. Based on this table the development and status of understanding the term is discussed.

[12] See also Zürn (2019, 978): "While different strands of the literature use different operational definitions, there seems to be a common core meaning of the concept of politicization."

Table 2. Key Concepts in Politicisation Research

Relevant Contributions[13]	Definition of Politicisation	Operational Definition
Schmitter (1969)	"Politicization thus refers initially to a process whereby the *controversiality* of joint decisionmaking goes up. This in turn is likely to lead to a *widening of the audience or clientele* interested and active in integration. Somewhere along the line *a manifest redefinition of mutual objectives* will probably occur later […] Ultimately, […] there will be *a shift in actor expectations and loyalty* toward the new regional center." (166)	
Hay (2007)	"issues are politicized when they become the subject of deliberation, decision making and human agency where previously they were not." (81)	
Hooghe and Marks (2009)	"a process of politicization in which European issues would engage mass publics." (6)	
De Wilde (2011)	"politicization as process is defined as an increase in polarization of opinions, interests or values and the extent to which they are publicly advanced towards policy formulation within the EU" (559)	
Green-Pedersen (2012)	"politicisation as a matter of saliency, that is, that the issue is high on the agenda of political parties as well as the electorate." (117)	
De Wilde and Zürn (2012)	"politicization means making a matter a subject of public regulation and/or a subject of public discussion" (139)	"Politicization – consisting of awareness of, mobilization around and polarization of European politics" (139)
Zürn (2013)	"*Politisierung soll definiert werden als der Prozess, mittels dessen Entscheidungskompetenzen und die damit verbundenen autoritativen Interpretationen von Sachverhalten in die politische Sphäre gebracht werden, d.h. entweder in das politische Teilsystem (definiert durch die politische Funktionslogik) oder in den politischen Raum (definiert durch Debatten über die angemessene Funktionslogik für eine gegebene Problemlage) transportiert werden*." (19)	

[13] In chronological order according to publication date. Relevant for this thesis.

Statham and Trenz (2013b)	"Politicization is distinct from conflicts and bargaining that remain behind closed doors within institutions, and between governments, because it is publicly visible." (3)	"We find here the components of politicization. The structure of public communication over a contentious issue-field shapes the opportunities that face a claim-maker in her/his attempt to gain media attention (visibility), to challenge existing viewpoints and provoke reactions from other public actors (contestation), and to become the dominant way of perceiving a problem (public resonance and legitimacy)." (10-11)
Zürn (2014)	"In brief, then, *politicization means making collectively binding decisions a matter or an object of public discussion*." (50)	"This definition can be operationalized via three indicators: rising awareness, mobilization, and contestation." (50)
Grande and Hutter (2016)	"politicisation can be defined as an *expansion of the scope of conflict within the political system*." (7)	"we focus on three main conceptual dimensions of politicisation: *issue salience* (visibility), *actor expansion* (range), and *actor polarization* (intensity and direction)" (8)
De Wilde, Leupold and Schmidtke (2016)	"building on a common understanding of politicisation as a three-dimensional process involving increasing salience, polarisation of opinion and the expansion of actors and audiences involved in EU issues" (3).	"posit that politicisation can be empirically observed in (a) the growing *salience* of European governance, involving (b) a *polarisation of opinion,* and (c) an *expansion of actors and audiences* engaged in monitoring EU affairs" (4)
Hagmann, Hegemann and Neal (2018)	"Politicisation is the process of transferring issues into the political sphere, but also the dynamic of reconfiguring its handling there." (11)	"issues becoming more divisive or controversial; actors becoming more aware and politically engaged; and the shifting of security themes and issues from executive secrecy or expert specialisms into more prominent public arenas." (12)
Hegemann and Schneckener (2019)	"politicisation denotes the transfer of previously uncontroversial or not publicly debated issues into the public sphere where they can be subjected to open negotiation, public debate and societal conflict" (2).	"(i) *awareness* among wider audiences, (ii) *mobilisation* of various political and societal actors in and outside political institutions, and (iii) public *contestation* of policies and institutions through the utterance of diverging opinions" (10)

Source: Own illustration based on reviewed literature. Emphases are in the original.

(Operational) Definition of Politicisation

The notion of politicisation as a concept has received a considerable boost, when Hooghe and Marks (2009, 5) stated that the "years of permissive consensus" made way for a "period […] of constraining dissensus". The idea, that the time of 'old-fashion' policy making behind closed-doors by political elites turned into a new phase of open deliberate discussions that involved societal actors, struck a chord with researchers who focused on European integration. Hooghe and Marks (2009) contradicted the hopes of representatives of neofunctionalism like Schmitter (1969), who saw a positive effect of politicisation on the integration project of the EU. The post-functionalists noticed that the politicisation of identity could threaten EU integration or as Börzel and Risse (2018, 87) put it: "As with politicization, neofunctionalism did not foresee that nationalist identities could be politically mobilized *against* the EU." (emphasis in the original)

Scholars also used the concept to examine the politicisation of institutions (at the global level) and to study how those politicised bodies (potentially) react to the phenomenon (e.g. De Wilde and Zürn 2012; Zürn 2013, 2014). Hay (2007) developed his definition of politicisation against the background of domestic policies, curious to learn more about political dissatisfaction. Two contributions enter the stage with an interest in European security (Hagmann, Hegemann, and Neal 2018; Hegemann and Schneckener 2019). In this context, scholars discuss it in relation with securitisation theory as another perspective to capture trends in this area and highlights benefits of using politicisation instead.[14] As table 2 demonstrates, one can differ between the definition of the term politicisation and the operational definition of the concept. This distinction only progressed over the years. The table shows that offering an operationalisation next to a definition is something that researchers started around 2013. Before, the definition of the term often entailed indicators to identify whether politicisation is in place or not (e.g. De Wilde 2011; Green-Pedersen 2012). The definition of Hooghe and Marks (2009) is special due to the focus on "mass publics". The public sphere as a location for politicisation is also emphasised by others: One can find the notion of the "public" in the definitions of De Wilde (2011), De Wilde and Zürn (2012), Statham and Trenz (2013b), Zürn (2014) and Hegemann and Schneckener (2019). Green-Pedersen (2012) presents a somehow distinct understanding of politicisation, making political parties a key variable for its appearance. The conceptualisation stems from his view that it is mainstream parties and their decision to accentuate a topic that are crucial for the occurrence of politicisation. This stands in contrast to Hooghe and Marks (2009), who indicate that it is Eurosceptic (extremist) parties, who are responsible. There are also several authors who highlight the "political sphere" in their definitions (Zürn 2013; Grande and Hutter

[14] Hagemann et al. (2018, 10): "*politicisation* offers an alternative and productive perspective to capture a range of recent phenomena in the security field that move beyond the understanding as security as depoliticisation." (emphasis in the original)

2016; Hagmann, Hegemann, and Neal 2018) instead of pointing to the public sphere. This should be put into perspective as it does not imply that politicisation takes place in a closed political space. Rather two scenarios are possible: (1) The issue or its nature was not regarded as political before, (2) the issue was regarded as political but not openly discussed.[15] As one can see, the understanding of politicisation presented by Grande and Hutter (2016) reads somewhat different than the others. This is because they rely on Schattschneider's notion of politics to develop their approach. Schattschneider (1975 [1960], 3) perceives the very existence of a *conflict* as essential for politics: "the contagiousness of conflict, the elasticity of its scope and the fluidity of the involvement of people are the *X* factors in politics." The contributions who make use of politicisation to learn more about EU security (Hagmann, Hegemann, and Neal 2018; Hegemann and Schneckener 2019), both adapt Grande and Hutter's conception as a basis for their understanding. However, as already implied, a shared view on the phenomenon is emerging over the years. Zürn (2019, 978) summarises this as follows: "Politicization, therefore, can be generally defined as moving something into the realm of public choice". This statement highlights that politicisation not only has a public character, but also involves a transfer. An idea that best becomes visible in Hay's (2007) notion of politicisation and the one developed by Hegemann and Schneckener (2019).

In contrast to the meaning of politicisation, the debate on its operationalisation is far away from being over. This can first be broken down by highlighting that vocabulary to describe this operationalisation is not consistent. Authors speak for example of "manifestations of politicisation" (Zürn 2016), "mechanisms of politicisation" (Statham and Trenz 2015; Maricut-Akbik 2019) or "dimensions of politicisation" (Hutter and Grande 2014; Hegemann and Schneckener 2019; Börzel and Risse 2018).[16] The disagreement becomes further apparent by taking a closer look at the various operational definitions. Most contributions listed in table 2 start with three components to measure politicisation.[17] In general, dimensions are included that reflect 1) the attention or response to an issue, 2) the activity, engagement or involvement of actors and 3) the conflictive character of politicisation.

1) To express that an issue is evolving, and more regarded by individuals or a group of people, authors use the terms "visibility" (Statham and Trenz 2013b), "salience" (De Wilde, Leupold, and Schmidtke 2016) or "awareness" (De Wilde and Zürn 2012; Zürn 2014; Hegemann and Schneckener 2019). Even cases exists where these terms are used interchangeably (Grande and Hutter 2016). For the latter mentioned authors, the core of this component can be

[15] See Schneckener (2020, 142).
[16] In this thesis, the understanding of dimensions of politicisation will be pursued. However, to reflect the different notions and vocabulary used by scientists in this regard, the state-of-the-art chapter does not stick to a specific term. Later, in the methodological chapter, there will be a uniform usage of "dimensions of politicisation".
[17] This is, however, not always the case. Please see Risse (2014) or Hurrelmann, Gora and Wagner (2015).

summarised as follows: “If an issue is not debated in public, it can only be politicised to a very limited extent – if at all” (Grande and Hutter 2016, 8). This is also why Grande and Hutter (2016, 8) see “*issue salience*” as a basis for the analysis of politicisation. In their opinion, the analysis of the two other components does not need to be initiated, when an issue seems to be disregarded. To measure this dimension scholars propose to use or directly refer in their studies to survey data (De Wilde and Zürn 2012; Zürn 2014; Hegemann and Schneckener 2019) or media coverage as a source (Statham and Trenz 2013b; Grande and Hutter 2016; De Wilde, Leupold, and Schmidtke 2016).

2) To point to an involvement of other actors, the expressions “mobilization” (De Wilde and Zürn 2012; Zürn 2014; Hegemann and Schneckener 2019), “actor expansion” (Grande and Hutter 2016), “widening of the audience or clientele” (Schmitter 1969) or “expansion of actors and audiences” (De Wilde, Leupold, and Schmidtke 2016) are used. *Mobilisation* is a term that is influenced by protest research. In this regard it “implies that an issue should not only draw public attention, but also motivate more people and groups from diverse backgrounds to become engaged and active in the political process and invest significant resources to advance their interests” (Hegemann and Schneckener 2019, 11). Hagmann et al. (2018) bridge the first and second component in their operational definition (see table 2). Beyond that, scientific contributions exists that speak of ‘actor expansion’ and ‘*mobilisation*’ as one indicator (see Börzel and Risse 2018, 85). Two variants to measure increasing *mobilisation* empirically can be found in the literature. De Wilde and Zürn (2012, 147) tries to capture it via an increasing number of “plenary debates of national parliaments”. Another suggestion is to examine if actors spent resources to a higher extent to get in contact with politicised institutions (Zürn 2014, 51) or to keep up with an issue (De Wilde, Leupold, and Schmidtke 2016, 7). According to De Wilde et al. (2016, 7) this can be “time or money”.

3) The third component is mostly covered by the term “polarization” (De Wilde and Zürn 2012; Grande and Hutter 2016; De Wilde, Leupold, and Schmidtke 2016) or “contestation” (Statham and Trenz 2013b; Zürn 2014; Hegemann and Schneckener 2019). In Schmitter’s (1969, 166) definition, this component can be boiled down to the sentence “the *controversiality* […] goes up”. This terminology is also preferred by Hagemann et al. (2018). The core meaning behind the terms do not differ widely. Zürn (2014, 51) for example stresses that “[c]ontestation refers to conflicting views of the common good and opposing demands put to political institutions”. Grande and Hutter (2016, 9) who use “polarisation” as a component speak of “opposing camps”. De Wilde et al. (2016, 6) highlight one “in favour” and one “against” side in their explanation of the dimension polarisation. Despite the different vocabulary used, the basic meaning is very similar. The terms have in common that they describe the existence of diverse opinions and the disagreement over an object. Statham and Trenz (2013b, 3) analyse the

appearance of opposing claims in media articles. They stress that "the mass media plays an important role by placing the contesting political actors in front of a public" (Statham and Trenz 2013b, 3). De Wilde and Zürn (2012, 148) use Eurobarometer data as a basis for their analysis.

This summary shows that there is no unified approach of operationalising politicisation, but some scholars use the same vocabulary and conceptualisations overlap sometimes. An exception is the operationalisation presented by Statham and Trenz (2013b, 11), in which the second component cannot be met without "public resonance". It is important to note that what is highlighted here as a separate dimension, can be identified as integral part of dimensions presented by other scholars. Hegemann and Schneckener (2019, 10) stress that *awareness* can be considered as a combination of "public resonance and salience of issues". Thus, in their understanding of *awareness*, the role of the citizens is much more prominent than in "issue saliency". The topic must not only be 'high on the agenda', the citizens' perception that a matter is important, or a citizens' response must also be in place. Nevertheless, the term public resonance is not only used by authors regarding *awareness*, it is also linked to *contestation* or polarisation by several authors (De Wilde 2011; Hutter and Grande 2014). De Wilde (2011) highlights public resonance as an indicator of politicisation next to "polarization of opinion" (567) and "intensifying debate" (568). He stresses that "[t]his differentiates politicized issues and decision-making processes from those characterized by intergovernmental bargaining, lobbying and technocratic regulation" (De Wilde 2011, 568).

Although the operationalisation of politicisation is still a complicated matter, there is another point on which scholars increasingly agree, which is the perception of politicisation as a process (Schmitter 1969; Hay 2007; De Wilde 2011; De Wilde and Zürn 2012; Zürn 2013; Statham and Trenz 2013b; De Wilde, Leupold, and Schmidtke 2016; Grande and Hutter 2016; Hagmann, Hegemann, and Neal 2018; Hegemann and Schneckener 2019).[18] This is also reflected in a number of definitions covered by table 2. However diverging opinions exists on the characterisation of this process. These different views are now discussed.

Forms, Degrees and Types of Politicisation

Although politicisation is increasingly regarded as a process and not a condition, lack of unity exists regarding its character and course. Scholars, who refer to Tilly and Tarrow's (2007) understanding of "contentious interactions" (10-11), do not portray politicisation as a linear process. Instead they see the process characterised by "contentious episodes" (De Wilde 2011; De Wilde and Zürn 2012; Schneckener and Hegemann 2017). Thus, they come to the

[18] See in this regard for example Binder 2008; Grande and Kriesi 2014; Greenwood and Roederer-Rynning 2019; Schneckener 2020; Angelucci and Isernia 2020.

conclusion “what we witness are spikes in controversy that point towards the importance of intermediating factors such as media coverage cycles, Member State politics and the importance of unique happenings of orchestrated public debate like referendums” (De Wilde and Zürn 2012, 140). Another idea is the occurrence of “politicisation boosts”[19] (Anders, Scheller, and Tuntschew 2017, 19; Schneckener 2020, 145), which fits quite well to the understanding of aforementioned peaks.

This differs in comparison to those approaches who frame politicisation as a “gradual process” (Greenwood and Roederer-Rynning 2019), something that is divided by certain stages “pre-politicization, politicization, politicized and de-politicization stage” (Angelucci and Isernia 2020) or those who conceive it as “layered politicization” (H. Zimmermann 2019). Although, there is an agreement by scholars that politicisation can be framed as a process, the process itself is still a “black box” (Schneckener and Hegemann 2017, 7).

“[T]o open up the black box of this process and delve into the dynamic politics of politicization in order to understand how it emerges, unfolds and leads to specific results in policies and politics”, Schneckener and Hegemann (2017, 7) came up with an analytical framework. This framework includes a process characterised by three phases. The first phase constitutes the starting point, the second an episode of “interactive actions” of politicisation and the third ending with the consequences of politicisation (Schneckener and Hegemann 2017, 8).

In this model, the start of the politicisation process is linked to a specific motion. According to the scholars, making an issue public and “moving an issue firmly into the political sphere requires an active move” (Schneckener and Hegemann 2017, 7). This idea is also present in a slightly different form in Angelucci and Isernia (2020, 68) where they for example refer to the “first mover of the process”.

What remains unanswered by researchers however is, how long those processes of politicisation last, what the time frame of each “episode” or “spike” of politicisation is and what is the threshold so that one can speak of politicisation. Hackenesch et al. (2021) give a partial answer to these queries. In their conception of politicisation as a process, the scholars state that it “often unfolds over long time frames” (Hackenesch, Bergmann, and Orbie 2021, 6). Moreover, this process is depicted “as a gradual continuum ranging from lower to higher degrees” (Hackenesch, Bergmann, and Orbie 2021, 6). Regarding the adequate degree, at which one can speak of politicisation, statements of researchers are rather reluctant. Nevertheless, some information considering this difficult topic can be identified. An orientation

[19] Own translation. Schneckener (2016) assumes that “politicisation boosts” occur in phases of (re-)negotiations and (critical) reflections of counter-terrorism policies. By pointing to Nullmeier et al. (2012) the political scientist calls these *boosts* “Hochzeiten von legitimitätspolitischen Auseinandersetzungen” (Schneckener 2016, 112).

is for example provided by Zürn (2016). He stresses the emergence of “full politicisation if we have significant changes in all three dimensions” (Zürn 2016, 170). An approach that is adopted by other researchers (see Hackenesch et al. 2021). As mentioned above Grande and Hutter (2016, 10), perceive saliency as decisive factor for the identification of politicisation. In their created “index of politicisation”, the two indicators “expansion of actors” as well as “polarisation” are interchangeable (Grande and Hutter 2016, 10). Schmitter (1969, 166) depicts then again, the increasing dispute as a significant sign for politicisation.

The above scrutinised scientific contributions not only give insights on analytical components of politicisation but also show how this phenomenon emerges in the European context. This is illustrated in the next subchapter in connection with three different reoccurring research topics.

2.2.2 Actors, Locations and Objects of Politicisation

Inspecting the state of research on politicisation, important insights can be drawn on the following issues: Actors, locations and objects of politicisation. Referring to these catchwords, the chapter depicts the empirical work and various concepts present in different contributions.

Actors in Politicisation Research

Several researchers include the perception of specific types of actors into their concept of politicisation. They refer to them as “agents of politicization” (De Wilde and Zürn 2012; Rauh and Zürn 2014; Schneckener and Hegemann 2017). By definition this means, “[t]he *subjects* or the *agents of politicization* are, in essence, all the individuals or groups who participate in the political process, such as politicians, experts, interest groups, mass media and those in a position to organize political protest” (De Wilde and Zürn 2012, 140; emphasis in original). In detail, three different kinds of agents are at place. First, the ‘politiciser’ (S. Adam and Maier 2011; Schneckener and Hegemann 2017), also referred to as the “driver of the politicization process” (Greenwood and Roederer-Rynning 2019, 317). Second, the ‘addressee’ (Schneckener and Hegemann 2017). Finally, the ‘audience’ (Schmitter 1969; De Wilde, Leupold, and Schmidtke 2016; Schneckener and Hegemann 2017). Schneckener and Hegemann make a clear differentiation between these actors. According to them, the *politiciser* is responsible for starting a politicisation process whereas the *addressee*, in contrast to the *audience*, is able to “stimulate greater public awareness for a certain issue and mobilize for public and media support“ (2017, 9). This is, by the way, a function that *addressee* and *politiciser* share (Schneckener and Hegemann 2017, 9).

Due to the research agenda of Hooghe and Marks (2009) and their initial consideration, a number of contributions are focusing either on Eurosceptic (Grande and Kriesi 2014; Hutter and Kriesi 2019) or mainstream parties (Green-Pedersen 2012; Miklin 2014; De Wilde, Leupold, and Schmidtke 2016) in the context of politicisation. Above that, there is research that considers them both (Angelucci and Isernia 2020). Likewise, research puts the role of parliaments at the centre of attention. In this regard, contributions examine the role of the EP in politicisation processes by highlighting the institution's relation to the civil society (H. Zimmermann 2019; Neuhold and Rosén 2019) or by linking politicisation to the perspective of parliamentarisation (Gheyle 2019; Herranz-Surrallés 2019). At the same time, researchers emphasise the role of national parliaments and electoral politics (e.g. Bellamy and Kröger 2016; Hegemann 2018; Hutter and Kriesi 2019).

In the same way that researchers became increasingly interested in political parties as actors, the role of political elites gained more attention. Rauh (2019) for example examined the consequences of politicisation for the EU Commission. Schmidt (2019, 11) scrutinises "interactions within and between the Council and the Commission". De Bruycker (2017, 603) concludes his analysis of the relation between elites and the public with stressing: "It is expected that the politicization of EU policy processes stimulates elites to articulate public interests".

Beyond that, a lot of politicisation research looking at the role of the public sphere. The media is in most of these contributions understood as its representative (De Wilde 2011; Risse 2014; De Wilde and Lord 2016). In the last subchapter it was already described how media coverage functions as a data source for the identification of politicisation. De Wilde and Lord (2016, 149), however, argue for a greater consideration of the media as an actor in politicisation processes: "For us, then, a holistic understanding is needed which acknowledges that politicisation implies contestation within the political system; within society; and within a media that communicates between views in society and between society and the political system". The media is, however, not the only public actor, which is scrutinised in politicisation research. Whereas Angelucci and Isernia (2020) analyse the role of voters, Baglioni and Hurrelmann (2016) examine for example "citizen engagement".

In the context of the thesis, it is important to highlight contributions that study actors from civil society and link them to the politicisation of specific institutions. In this context, Binder (2008) takes NGOs and the politicisation of the United Nations (UN) Security Council into account. Thereby his work is driven by the question if the opening-up of institutions for non-state actors might be an outcome of politicisation. Dür and Mateo (2014) shifting their focus on interest group activities with regard to the ACTA. They are especially interested in the interlinkage

between public salience, *mobilisation* and the success of interest group lobbying (Dür and Mateo 2014). Gheyle and De Ville (2019, 344), who establish a link between politicisation and interest group lobbying, point out that "[o]utside lobbying is […] one possible avenue or starting point that can lead to the politicisation of an issue".[20] When analysing the role of civil society organisations (CSOs) in elite discourses, by collecting data from English newspapers, Rauh and Zürn (2020, 22) stress "higher levels of politicization are associated with a stronger presence of CSOs in the discourses about the four institutions [International Monetary Fund, World Bank, World Trade Organization, North American Free Trade Agreement] in global elite newspapers".

Two things become apparent when looking at the state of the research regarding actors from civil society. First, there is a great lack of contributions examining the role of these actors in a systematic way: "we need to study more than just the actions of member state governments and European institutions. Rather, the concept of politicization is used to describe the involvement in EU politics of societal actors, like political parties, mass media, interest groups, social movements and citizens through public opinion" (De Wilde 2011, 566).[21] Second, these actors were merely analysed, but assumptions on their role have already been made. De Wilde and Zürn (2012, 140) stresses that "[p]oliticization of the EU contains not only an increased level of resistance against the EU and its policies, but also an increased utilization of these political institutions by societal groups to achieve desired goals". In contrast, positions exist that disagree with any appearance of actors from civil society within a politicisation process at all (Herschinger, Jachtenfuchs, and Kraft-Kasack 2013, 206):

> Organisationen wie Statewatch oder der Arbeitskreis Vorratsdatenspeicherung vertreten dagegen erheblich weniger organisationsfähige, diffuse Interessen. Insofern besteht im Bereich der inneren Sicherheit eine fundamentale Asymmetrie zwischen den spezifischen Interessen des Exekutivapparates und den diffusen Interessen von gesellschaftlichen Akteuren, der dazu führt, dass die am stärksten betroffenen und mobilisierungsfähigen Akteure im Regierungsapparat und nicht in der Gesellschaft anzutreffen sind.

Since authors examine different actors such as global institutions, the EP, national parties, or citizen attitudes, they conduct studies on different levels and arenas. Hence, as one can derive from the last paragraph, research on actors is highly interrelated with the question of arenas and levels of politicisation.

[20] This link will be further highlighted in chapter 2.2.2.
[21] See also Zürn (2016, 178) in this regard: "We also need to know more about the role of interest groups and civil society organisations in the process of politicisation".

Locations of Politicisation

In politicisation research all three terms – spheres, arenas and levels – are used to describe where these processes (might) take place. To start with the term sphere, it is helpful to look at Colin Hay's contribution on politicisation. Hay (2007, 79) differentiates between "(i) the public and governmental sphere; (ii) the public but non-governmental sphere; [and] (iii) the private sphere". Scrutinising the term arena, soon it becomes clear, that scholars have different perceptions of the concept. One can derive a whole list of terminology when studying this concept in politicisation research. Hooghe and Marks (2009, 8) point to the presence of the "arena of mass politics" and the "interest group arena". In the research of Grande and Kriesi (2014) various arenas are present. The scholars refer for example to the "electoral arena", the "judicial arena" or the "protest arena" (Grande and Kriesi 2014, 203). De Wilde (2011, 569) refers to the latter mentioned arena "as 'the streets' where protests might take place organized by interest groups". Rauh and Zürn (2014, 125; own translation) assume that "different societal arenas" exists. Hurrelmann, Gora, and Wagner emphasise three distinctive arenas (2015, 45):

> (a) *institutional arenas* at the core of the political system, which are populated by full-time politicians (e.g., the European Parliament or national parliaments); (b) *intermediary arenas* linking political decision-making processes to the broader citizenry, which tend to be dominated by participants with a strong – and often professional – interest in politics (political parties, interest groups, the media, etc.); and (c) *citizen arenas* in which laypeople communicate about politics (at the workplace, in discussions with friends, etc.).

In their study, the three researchers translate actors into arenas. Each arena stands for a type of actor. Hence, by studying arenas, they study certain actors: "we must distinguish between different *arenas of political discourse* in which politicization may occur, each characterized by the discursive presence of specific actors" (Hurrelmann, Gora, and Wagner 2015, 14; emphasis in the original).

In addition to that, Hagman, Hegemann and Neal describe an approach, that operationalises politicisation by linking it to "arena shifting" (Hagmann, Hegemann, and Neal 2018). By "arena-shifting" the scholars mean "the movement of issues between different types of actors and institutional and political settings" (Hagmann, Hegemann, and Neal 2018, 14). De Wilde, Leupold, and Schmidtke also have a perception of arena in place, in which they refer to the term "settings": "We distinguish between three central political settings as particularly important to politicisation: *parliaments, public spheres and public opinion*" (2016, 7; emphasis in the original).

Hackenesch et al. argue that the two different notions of arenas present in the contributions of Hurrelmann et al. (2015) as well as De Wilde et al. (2016) can be connected: "there is a consensus on distinguishing three loci of politicization" (2021, 8). Therefore, they move their research forward with the three distinct terms presented by Hurrelmann et al. (2015).

Moreover, they ascribe certain actors to these three arenas. Regarding “institutional arenas” they also perceive the role of parliamentary fora as crucial (Hackenesch et al. 2021, 8). Linked to the second cited arena, they see “intermediary actors such as political parties, CSOs, specific interest groups or the media” (Hackenesch et al. 2021, 8) as key. Hackenesch et al. (2021, 8) equate “citizen arena” with the third setting “public opinion” mentioned by De Wilde, Leupold and Schmidtke.

There is a scientific consensus that politicisation “is no longer a phenomenon limited to the national realm” (Zürn 2014, 66). Nevertheless, a holistic multi-level analysis of politicisation is still missing (Zürn 2019). Scholars focusing so far either on the national level[22], the EU level or the global level. Moreover, “these three strands of literature do not interact with each other” (Zürn 2019). Therefore, how politicisation unfolds in vertical terms, how the levels interrelate and in how far politicisation processes on those levels can be observed simultaneously or not, is unknown so far. However, scholars do not only focus on the vertical distribution of politicisation but also on the horizontal. They concentrate on “regional patterns of politicisation” (Schimmelfennig 2015), look at politicisation across regions and across EU member states (De Wilde, Leupold, and Schmidtke 2016; Hutter and Kriesi 2019). As Hutter and Kriesi (2019, 1014) point out, a “regionally differentiated politicisation” can be a great task for the EU and its future politics: “[T]he diversity of politicization puts additional stress on a consensus-based political system that is in general not well equipped to absorb and channel political conflicts”. This pressure might increase when the EU itself is the object of politicisation.

Objects of Politicisation

The debate on objects of politicisation, also called “manifestations of politicisation” (De Wilde 2011), was greatly brought forward by De Wilde and Zürn (2012). The scholars assume that “[d]ecisions (including non-decisions) or the institutions that make decisions are the *objects of politicization*” (De Wilde and Zürn 2012, 140; emphasis in the original). Further, they assume that those “*objects*” can take a different shape (De Wilde and Zürn 2012, 140):

> Politicization involves the demand that reflection take place about the process of deciding (*politics*) and about the content of a decision (*policy*). If not only a decision but the entire decision-making entity is politicized, the normative framework of the institutional order (*polity*) is itself subject to political criteria.

An example for politics politicisation is a study conducted by Greenwood and Roederer-Rynning (2019), who examine the challenging of EU trialogues by civil society and parliamentarians. The analysis of the politicisation of EU measures to tackle the financial crisis

[22] Also referred to as the domestic level Angelucci and Isernia (2020).

(Wonka 2017) or the politicisation of EU policy debates by public interest (De Bruycker 2017) are representative for studies that concentrates on “issue-specific politicisation processes” (De Wilde, Leupold, and Schmidtke 2016, 10). The examination of polity processes can be demonstrated by taking a look at Statham and Trenz (2013a), who are dealing with EU constitutional questions or with regard to Rauh and Zürn (2020, 1466), who scrutinise “legitimation dynamics in global economic governance”. Nevertheless, it is important to highlight, that “the empirical distinction between policy and polity as objects of politicisation is sometimes hard to make, either because agents of politicisation underspecify what they support or oppose, or because the EU has constitutionalised certain policies” (De Wilde and Lord 2016, 10). Thus, by conducting a study on politicisation a clear-cut distinction of objects is not manageable. In the light of this contribution, two prognoses or trends by Hegemann (2020) and Schneckener (2020) on politicisation objects in EU security are of importance. The former stresses that politicisation processes rather tend to transform the form than the content of policies (Hegemann 2020, 188). The latter states that a politicisation focusing on polity will become prevalent in this EU policy field (Schneckener 2020, 144).

So far, the European policy fields under examination by scholars were EU fisheries policy (H. Zimmermann 2019), EU consumer policy (Rauh 2019), the EU’s multiannual budget (De Wilde 2012), EU trade policy (Dür and Mateo 2014; Gheyle 2016, 2019; Duina 2019; Young 2019; Bièvre et al. 2020) and EU aid or development policy (Dany 2019; Hackenesch, Bergmann, and Orbie 2021). In addition to that, research is also increasing with regard to politicisation of EU foreign policy (Costa 2019; Barbé and Morillas 2019; Voltolini 2020; Biedenkopf, Costa, and Góra 2021) and the Common Security and Defense Policy of the EU (Herranz-Surrallés 2019; Angelucci and Isernia 2020). In the same vein, scholars started to scrutinise EU security by studying politicisation processes in border security and counterterrorism (Schneckener and Hegemann 2017) or by analysing EU and transnational counterterrorism (De Londras 2018). The list of studies concentrating on a specific policy field of the EU is growing, but the potential to increase the knowledge about politicisation of specific policies has not yet been exhausted. Especially with regard to security, there is still a great deal of uncertainty as to whether such a policy field can be politicised at all. While some recognise trends of this phenomenon linked to EU security (Hegemann and Schneckener 2019), others speak of an area that is difficult to politicise (Zürn 2013).[23] It does not necessarily have to be an either-or option; of course, it is also possible that both observations (or

[23] Zürn (2013, 34–35) states: “Jedenfalls lässt sich vermuten, dass internationale Institutionen, deren Aufgabenbereich näher an den traditionellen staatlichen Kernaufgaben liegt und die geringere Transparenzerfordernisse aufweisen, wie etwa im Bereich der traditionellen Sicherheitspolitik und der inneren Sicherheit, weniger leicht politisiert werden können.“

assumptions) are true. The theoretical discussion of conditions of politicisation will be reflected in the next subchapter.

2.2.3 Conditions of Politicisation

This subchapter informs about potential conditions of politicisation. First and foremost, it should be highlighted that there is no unanimous agreement on what leads to politicisation. Quite the contrary is the case. Scholars are still divided over the question, what causes, and possible interrelated factors, lead to politicisation. The vocabulary is again diverse. Next to the term "conditions", authors also make use of the words "drivers" or "intermediating factors".

One of the most well-known assumptions in this regard is the "authority transfer hypothesis" developed by Michael Zürn (2006; Zürn, Binder, and Ecker-Ehrhardt 2012; De Wilde and Zürn 2012). With this hypothesis, Zürn, together with De Wilde, stresses that "[p]oliticization […] is a direct consequence of the increasing authority of the EU" (2012, 146). In other words, the transfer of competences from the national to the European level triggers a politicisation process. Interlinked with this assumption is the view that certain "intermediating factors" (De Wilde and Zürn 2012, 143) are connected to this cause. Following Zürn and De Wilde (2012, 138), the transfer of authority is preceded by the existence of a certain "political opportunity structure, which consists of formally institutionalized channels of voice such as consultation procedures and competitive elections (institutional opportunities) as well as cognitive frames such as dominant myths and stories". Hence, this structure is a necessary precondition for the conversion of authority transfer into politicisation. Possible elements of this structure could be "National Narratives", "Media Receptiveness", "Competitive Party Politics", "Referendums and Crises" (De Wilde and Zürn 2012, 143). The latter can also be summarised as historical events and "critical threshold" (Grande and Hutter 2016, 21). Along with this, comes the idea, that "triggering events are another major factor with the potential to change the political agenda and the debate" (Schneckener and Hegemann 2017, 12). In this regard, Schneckener and Hegemann (2017, 12) consider "[a]cts of terrorism", or political revelations, like "the disclosure of scandals", as examples for those events.

Both, the authority transfer hypothesis and the idea of political opportunity structure, are a starting point for various works of research.[24] In this context, studies concentrated for example on the Maastricht Treaty (Grande and Hutter 2016, 21), the Constitutional Treaty (Statham and Trenz 2013a; Statham and Trenz 2013b) or the eurozone-crisis (Grande and Kriesi 2014;

[24] See for example Hutter and Grande (2014) or Baglioni and Hurrelmann (2016).

Börzel and Risse 2018) as critical thresholds. Risse (2014, 142) stresses, that "there is no doubt that the euro crisis has politicized European affairs and the EU".[25]

With the statement, it is "the incentives the issue offers for mainstream political parties" (Green-Pedersen 2012, 115) that matters with regard to politicisation, Green-Pedersen caused two scientific debates. First, one on mainstream parties that was already displayed above. Second, one about the issue itself as a trigger for politicisation. That the 'incentive of an issue' is relevant for politicisation as a driver is still under examination. Angelucci and Isernia (2020), who scrutinise the "structure of the issue" (67) as a possible condition of politicisation, conclude that "[t]o establish when and under what conditions an issue produces one kind of politicization or the other are questions worth being explored further" (83). Nevertheless, some assumptions in this regard have already been made. Schneckener and Hegemann (2017, 12) for example "expect an issue to be 'politicizable' when it visibly infringes upon citizens' basic rights and everyday lives".

A further discussion exist regarding "country-specific institutional, economic and cultural conditions" (De Wilde, Leupold, and Schmidtke 2016, 10)[26] as facilitators of politicisation. These are not only regarded by De Wilde et al. (2016) but also taken into consideration by Schneckener and Hegemann (2017). The scholars, however, apply it to the security area and assume that there are certain "security cultures" in place, which are more sensitive to the occurrence of politicisation (Schneckener and Hegemann 2017, 13). In this thesis, attention is especially paid to the series of factors established by Schneckener and Hegemann, since they were developed with reference to the EU security context. Derived from the prominent politicisation literature, the complete list of conditions created by the scholars reads as follows: "Authority and capacity of the politicizer, intrusiveness and relevance for the audience, authority transfer and sovereignty concern, trigger events, cultural and institutional context" (Schneckener and Hegemann 2017, 8). Regarding the aforementioned condition, Schneckener and Hegemann make an interesting assumption linked to NGOs' presence. The scholars state: "Nonetheless, in a number of cases new political actors or social movements, such as populist movements or transnational NGOs, may enjoy a particular authority just because they are not part of 'the establishment'" (Schneckener and Hegemann 2017, 11).

To present a complete overview of the state of the art of politicisation research, the scientific discussion on possible outcomes or impacts of these processes is exemplified below.

[25] Other scholars who emphasise the role of crises as drivers of politicisation: Rauh and Zürn (2014); Hutter and Kriesi (2019); Miklin (2014).
[26] See also Schneckener and Hegemann (2017).

2.2.4 Consequences of Politicisation

Considering the research topic of potential consequences of politicisation, it will soon become apparent, that research is still in the very early stages of development. This is rather a matter of conjecture than of concrete findings. It is noteworthy to add, that the debate on consequences often interrelates with the desirability of politicisation, questioning its normative outcome for 1) *the EU integration project*, 2) *democratisation (of international institutions)* and 3) *security.*

1) *Politicisation and the EU integration project*: Although the famous statement of Hooghe and Marks (2009) point to a new era of deliberation and inclusion of non-elite actors in debates on the EU's future, the main opinion on the consequences of politicisation is rather pessimistic. This lies in the assumption that especially Eurosceptic (extremist) parties could use politicisation to oppose the European integration project. Not least, it is Hooghe and Marks (2009, 23) who express this concern. Scholars focused on this possibility with regard to the euro crisis as well as immigration crisis (Grande and Kriesi 2014; Schimmelfennig 2015; Statham and Trenz 2015; Börzel and Risse 2018; Maricut-Akbik 2019). Grande and Kriesi (2014, 191) support this impact of politicisation with their findings of an "integration–demarcation" (or "cosmopolitan–nationalist") cleavage. They even recapitulate: "From a normative perspective that promotes a 'cosmopolitan Europe', the current politicization of Europe must be interpreted as disappointing, if not frightening" (Grande and Kriesi 2014, 222). The state of discussion of the consequences of politicisation on the EU integration project can be summarised as follows: The politicisation observed in the last ten to fifteen years is perceived as negatively for the cohesion and deepening of the Union. Researchers are unsure if this politicisation has the potential to become a positive force for integration, how such a change of character of politicisation could look like and how this change could even be initiated. Fact is, "the 'constraining dissensus' will not be the end of European integration as we know it. Majorities in most member states are still supportive of the EU and hold 'inclusive national' identities. They can be mobilized, too, as the recent 'Pulse of Europe' demonstrations in many European cities show" (Börzel and Risse 2018, 102). But how this activation of citizens with positive attitudes toward the integration project could look like, is still underexamined. Baglioni and Hurrelman (2016, 122) highlight that politicisation "is not necessarily bad, but it requires different democratisation strategies than ones that emphasise supranational citizenship".

2) *Politicisation and democratisation (of international institutions)*: It is still hard to say, if politicisation can be perceived as 'a good thing' for democracy. Zürn discusses politicisation as a "precondition for democratization" (2014, 58), but also shows that the positive relationship between politicisation and democracy only appears, when the type or character of such politicisation is beneficial (2013, 24). Herranz-Surrallés (2019) also argues that it rather

depends on the context and character of those politicisation processes. For example, a process that surrounds around “sovereignty and constitutional questions” enforces national parliamentarisation but not the one at EU level (Herranz-Surrallés 2019, 41). The positive effects of politicisation for democracy that researchers see are: more public control and media debate, increasing participation (of citizens and non-institutional actors), strengthened parliamentary control and a diversification of EU political parties (Follesdal and Hix 2006; De Wilde and Lord 2016; Bellamy and Kröger 2016). Schneckener (2020, 147) even points out that some actors, like political parties, evolve from these politicisation processes: "Sichtbare Folgen sind etwa neue politische Allianzen, die Formierung neuer Parteien, die Kooptation von gesellschaftlichen Akteuren oder institutionelle Reformen.“ The image of actors at the EU level would then become more diverse.

If politicisation really impacts the legitimacy of international institutions like the EU is however controversial. De Wilde, Leupold, and Schmidtke (2016, 14) interpret politicisation processes as a sign for the EU’s declining legitimacy.[27] Rauh and Zürn (2020) see a potential for increasing legitimacy through the participation of non-state actors. They assume that “transnationally CSOs become a more sought-after interlocutor” (2020, 604) since politicisation helps these actors to transfer their views to the global level and establish “alternative narratives to the discourses of international authority holders” (2020, 604). These narratives could then empower the legitimacy of institutions.

In studying the politicisation of the EU Commission, Rauh (2019, 361) states that politicisation can develop a good character if “non-governmental organizations representing diffuse societal interests can strengthen their influence on supranational policy by raising the public salience of their requests”. In addition to that, the scholar emphasises “EU politicization incentivizes Europe’s central agenda-setter to be more responsive to public interests” (Rauh 2019, 345).[28] Binder (2008) made a comparable observation by studying politicisation of the Security Council. He concludes that the UN “open[ed] up for NGOs interaction” because of the occurrence of these processes (Binder 2008, 21).

3) *Politicisation and security*: There are only a few authors that discuss the consequences of politicisation on security. By focusing on EU internal security, Bossong and Hegemann (2019, 115) accentuate: “Further politicisation and debate might bring more transparency and enable public deliberation on the question of which security tasks should reasonably and legitimately be transferred to the European level”. However, they also connect the process to rather

[27] “Domestic polarisation may stimulate democratic legitimacy at the national level, but limits it at the European level, if it does not manifest in all member states equally” (De Wilde, Leupold, and Schmidtke 2016, 14).
[28] In this regard a similar assumption of Zürn, Binder and Ecker-Ehrhardt (2012, 98) should be highlighted, who “expect that the responsiveness of international institutions to societal demands increases as these institutions become more politicized.”

challenging developments, like arising “incentives to pursue excessive security measures that target minorities and undermine civil liberties” (Bossong and Hegemann 2019, 115). According to Hegemann and Schneckener (2019, 16) politicisation has the potential to change the notion of security. Security will become less connected to purely intergovernmental policy making and less exclusive. Moreover, its technocratic character vanishes. In a further contribution, Hegemann (2020, 189) asks the question of what the aim of politicisation could be if it is regarded as a normatively desirable phenomenon. He sees two possibilities. On the one hand, it could be possible that politicisation only tries to “overcome the security logic” (Hegemann 2020, 189; own translation). On the other hand, it might facilitate “new forms of democratic politics” in this security logic (Hegemann 2020, 189; own translation). The latter described development, is regarded as more likely by Hegemann (2020, 189) when security is perceived as “value or condition” (own translation).

Hegemann is the first scholar, who reapproaches the question of what the goal of politicisation could be. Literature generally falls too short when it comes to discussing if politicisation really is a desirable outcome. Two questions that are insufficiently regarded by the contributions discussed above are: What is a desirable outcome? How can one identify a desirable outcome? There is no debate on what characterises a normative desirable outcome of politicisation so far. It is also questionable, if what is discussed as a normatively ‘suitable’ outcome, appears as such, once it is realised. Moreover, it is unclear what can possibly be done on the institutional side to harness and promote these synergistic effects of politicisation. For example, even if NGO-initiated politicisation is desirable because it may lead to greater transparency and legitimacy of institutions, there is no discussion on how these effects can be channelled in the long term.

The conceptual and analytical discussion on politicisation demonstrates that a lot is still in the making. Some converging opinions and trends are emerging, but the most recent discussions on the degree of politicisation, locations or conditions show that there are some unanswered questions or rather room for further research. The interim conclusion (2.3) will point out existing gaps in the two bodies of literature. It starts with a summary of the above presented research on politicisation and then connects it to the role of NGOs.

2.3 Identification of Research Gaps

This chapter introduced the state of the art of research on NGOs in European security as well as politicisation. Reviewing this literature three major and three minor research gaps could be identified. In the first place, insights are urgently necessary regarding *the role of NGOs in politicisation research (Gap 1)*, *security policy in politicisation research (Gap 2)*, *the role of NGOs in EU security (Gap 3)*.

Gap 1: The role of NGOs in politicisation research

The subchapter on actors in politicisation literature made clear that NGOs are for the most part disregarded in researchers' contributions. It became apparent that scholars mainly shift their attention to political parties and elites but do not scrutinise the role of NGOs in detail. There are however contributions that mention (not analyse) these actors. These theoretically works seem convinced that these organisations emerge as actors in politicisation. The link between NGOs and international institutions in the literature made this visible. These organisations even seem to appear in the dimensions of politicisation. At least, scholars pointed to them with regard to *awareness*. The organisations' presence in the dimensions of politicisation and the question of strategies NGOs could potentially use to politicise are insufficiently studied. Furthermore, scholars point to different subjects of politicisation (*politiciser, addressee*, *audience*) but it is not clarified yet if these concepts can be identified empirically and if NGOs fulfil either of these roles.

NGO and politicisation literature also emphasises that the organisations' participation is linked to politicisation. While many assumptions are in place that point to an increased involvement of NGOs and a growing use of institutional channels by these actors, the notion that these groups are unable to organise their interests to claim the process for themselves is also noticeable. A residual doubt therefore remains. A similar situation is in place, reviewing the opinion of scholars on the politicisation of (EU) security.

Gap 2: Security policy in politicisation research

A major gap in research is visible by taking the area of EU security into account. Only some scholars linked this policy field to politicisation. The long-established perception of security and the public sphere as two separate parts only seems to change gradually. Those who work in the field are divided whether the security policies offer chances for the development of politicisation processes. While some voices do see a trend of politicisation in the last ten years, other rather connect it to lower or no occurrence of politicisation due to its opaque and intergovernmental character. Those researchers, who identified certain politicisation of the

field, connect the phenomenon to the ability to change exactly this character of (state-based and intransparent) policy-making present in security.

Gap 3: The role of NGOs in EU security

The chapter on NGO research made one point unmistakeable clear: The number of contributions focusing on EU security is few and far between. The area is still depicted as a difficult field for NGO participation. Articles in politicisation research are mostly limited to the area of EU foreign security. What is clearly missing are more and recent studies on the involvement and work of these organisations. In addition to that, there are no contributions that study the presence of NGOs in EU security over a longer period. The field of EU counter-terrorism is especially underrepresented in this kind of research.

NGO-EU security research handles overwhelmingly the question of EU institutions as entry points for these groups and gives insights on strategies of NGOs. Interest group literature offers a range of theoretical knowledge on these strategies, which can be differentiated between lobbying- (*voice*, *access*) and legal-strategies (*litigation*). Scholars highlighted especially *voice* strategies as conducive for politicisation. Moreover, these scientists emphasised the EU level as an important venue for NGOs if their claims are blocked at national level. Research gives insights on possible institutional allies or potential addressees of NGOs. The Commission is perceived to be especially open for negotiations with NGOs in the agenda-setting phase, left parties in the EP are depicted as an important ally in 'politicised circumstances' and the CJEU is regarded as an ideal venue to seek change of national policy (with an EU dimension). In contrast to these three institutions, the Council is rather not regarded as exchange partner of NGOs. This notion is common in interest group research as well as in studies focusing on EU security.

Beyond that, three minor research gaps became visible: Little is known about the objects of politicisation (1), the places or locations where politicisation processes occur (2) and unanimity exists on what potential facilitation factors for the emergence of the phenomenon are (3).

(1) *Objects of politicisation*: The scientific discussion on objects focuses mainly on polity, policy and politics as objects of politicisation. They emphasise that studies on 'issue-specific processes' are necessary. It is not examined what objects of NGO-driven politicisation might be. What is more, some (possible) trends connected to objects were discussed by researchers but none of them were analysed in detail. (2) *Locations of politicisation*: Researchers stress that a multi-level analysis is clearly missing. The examination of politicisation is overwhelmingly limited to a single level (national, EU or global). Hence, variations of politicisation across levels are disregarded. This includes the parallel observation of the role and activities of actors on distinct levels. The question of where politicisation takes place is increasingly connected to the

conceptualisation of different arenas. These were so far not linked to NGOs and handled from the organisations' perspective (e.g. the EU institutional arena). According to NGO-EU research, these actors seem to transfer issues from 'private arenas to open public ones'. (3) *Conditions of politicisation*: A number of potential conditions of politicisation are already discussed. That political opportunity structure matters, is a view shared by distinct politicisation researchers. Scholars assume that certain factors, among them 'institutional opportunities' or 'critical thresholds' are conductive for the politicisation of EU authority. A further condition of politicisation, that at the same time favours the participation of NGOs (according to NGO-EU security research), is the incentives an issue offers. Scholars expect that an issue fosters both – politicisation and NGO participation – when it can be linked to broader, moral issues like human rights. Furthermore, the occurrence of events is considered as a facilitator by politicisation researchers. There is a list of ideas for facilitating factors of politicisation in the context of EU security ('authority and capacity of the politicizer, intrusiveness and relevance for the audience, authority transfer and sovereignty concern, trigger events, cultural and institutional context'). Albeit this list is based on the prominent literature, a closer examination of these conditions does not exist.

The main research question as well as the subquestions presented in the introduction reflect these identified major and minor gaps in politicisation and NGO literature. By responding to these questions, this thesis will contribute new insights to the role of NGOs in politicisation and EU security as well as security policy in politicisation. The subsequent chapter three illustrates the theoretical and methodological framework that allows to analyse the role of Brussels-based and national NGOs in politicising EU security. The previous research insights on politicisation are related to the character and environment of NGOs in EU security and developed further. By connecting the above-mentioned (interest group) strategies to the dimensions of politicisation a new operationalisation is presented that is concentrating on NGOs as main actors. This operationalisation allows to study NGOs strategies, their appearance in the dimensions as well as distinct arenas. The conceptualisation of an ideal-typical process, that links to this operationalisation, is a starting point for the interpretative case study research that will be key in theorising the role of NGOs. Thereby, the study of the above-mentioned (security-related) conditions of politicisation is integrated.

3 Theoretical and Methodical Framework to Study NGO-Driven Politicisation Processes in European Security

This chapter has two aims. First, it sets out to introduce in the analytical concept and notion of politicisation that this thesis follows. Second, it gives an overview of the methodological approach that is pursued and necessary to track a politicisation process as well as to study the role of NGOs in such a setting. Both parts link to the previous review of research on NGOs in European security as well as politicisation. This chapter concludes with a reflection of the research process, that highlights obstacles and advantages of the analytical (theoretical) as well as methodical framework.

3.1 Politicisation as an Analytical Concept

The analytical framework draws on some basic components of the before presented conceptualisations of politicisation. Next, an operationalisation of NGO politicisation and the conception of an ideal-typical NGO-driven politicisation process is presented.

3.1.1 Clarifying Conceptual Terms of Politicisation

The primary objective is to examine whether NGOs operate in the context of politicisation at all. Since these actors were neglected by prominent researchers and the verdict is still open on which role these actors take in politicisation processes, any information of the appearance and activities of these organisations is needed. To answer the main research question, it is important to analyse if NGOs appear in the dimensions of politicisation. The goal is not to extract whether politicisation is particularly high. Nevertheless, the information on how intense a dimension of politicisation is in place, will deliver more insights on how the occurrence of NGOs and the presence of this very dimension are linked. Therefore, the aim is not to assess politicisation quantitatively, but to be able to determine politicisation in a qualitative way. The operationalisation of politicisation described in the next section – that is set up in the context of NGOs – supports this undertaking.

An essential part of an NGO's daily work is to make information available that is disclosed to the public, an inherent connection to this understanding of politicisation is noticeable. The thesis follows the general notion that this defines the process of politicisation i.e. making an issue part of public debate and deliberation. Thereby, it is in accordance with the interpretation of Hegemann and Schneckener (2019, 2) (see table 2). The concentration of drawing a topic into the public light and making it part of a controversy is especially important in the definition of the two authors and also the reason why it is picked for this contribution.

The thesis similarly follows the notion of politicisation as a non-linear process. In particular, it adopts the notion that politicisation is a process, which is characterised by "spikes" or so-called "boosts". Thus, the understanding brought forward by De Wilde and Zürn (2012) as well as Schneckener and Hegemann (2017)[29] is taken up.

To define the starting point of a politicisation process, Schneckener and Hegemann (2017, 1) examine "concrete politicization moves". Important in this regard is the scholars' notion that this move is only in place, when there are "immediate reactions" by other actors (Schneckener and Hegemann 2017, 8–9). To make politicisation processes visible, to identify their starting points and to follow up the discussion on the 'black box' of those processes, this thesis adopts the idea of a *politicisation move*. This means at the same time, the thesis also works with the model of *agents of politicisation*, since these perceptions are highly intertwined. Without identifying the *politiciser* and *addressee*, it is not possible to recognise the *politicisation move*.

In addition, the idea of agents will also help to improve the understanding of the role of NGOs in those processes. So far, it is unclear if these organisations fit into any of those depicted roles. In addition to that, the idea of agents is rather helpful to structure the analysis of a politicisation processes in a systematic way. It helps scrutinising and identifying their interactions as well as their relation to other actors. If NGOs are not taking on the role as *politiciser*, it is at least interesting to ascertain how they are connected to the actor, who fulfils this position. The role of '*audiences*' is only additionally regarded. In this context, it should be mentioned that this actor type is still very abstract and additional conceptual work is needed. This thesis reapproaches this abstract concept by analysing potential audiences of NGOs in EU security, providing empirical insights to undergird the theoretical understanding of this actor type.

As it has been pointed out, several operational definitions of politicisation are in place. This thesis adopts the operationalisation of Hegemann and Schneckener (2019, 10) who focus on three main dimensions: "*awareness*", "*mobilisation*" and "public *contestation*". Their operational definition is derived from the prominent politicisation literature (Grande and Hutter 2016) and their understanding of 'public *contestation*' goes back to Tilly and Tarrow (2007).[30] The operational definition by Hegemann and Schneckener is selected for three reasons: First, the dimension *awareness* is a combination of issue salience and resonance. According to that, it is not enough if citizens know about the presence of an issue or if media often reports on the

[29] See also in this context Schneckener (2020).
[30] According to Tilly and Tarrow (2007, 4): "*Contentious politics* involves interactions in which actors make claims bearing on someone else's interests, leading to coordinated efforts on behalf of shared interests or programs, in which governments are involved as targets, initiators of claims, or third parties. Contentious politics thus brings together three familiar features of social life: contention, collective action, and politics."

issue, it is equally important, that actors react to the issue. For example, by giving their opinion, bringing in opposing or favouring arguments and discussing it widely. Second, their understanding of *mobilisation* already implies an expansion of actors and an expansion of arenas: "mobilisation moves beyond established institutional fora and informal circles representing the 'usual suspects'". "Arena shifting" as it has been highlighted, is in recent scientific contributions discussed as an separate dimension of politicisation (Hagmann, Hegemann, and Neal 2018). This thesis examines the role of arena shifting by subsuming it as an indicator for *mobilisation*. As Hurrelmann, Gora, and Wagner (2015) stress, the study of arenas is highly interlinked with the analysis of actors. Hence, when it comes to arena shifting, it seems that this is also in a way actor expansion, because different arenas are populated by different actors. In consequence, to examine the shift to a further arena allows at the same time to scrutinise the appearance of new actors. The third reason is the reference to Tilly and Tarrow made in Hegemann and Schneckener's notion of public *contestation*. It highlights the conflictive character of politicisation and emphasises at the same time its "interactive" and "responding" side (Schneckener and Hegemann 2017, 7).[31] In addition to these three reasons, there is a proximity between the vocabulary used by Hegemann and Schneckener (2019) and terms present in NGO literature.[32]

As the discussion on dimensions above showed, there is no unanimity among scholars, when to speak of politicisation. It is no clear agreement on whether it is sufficient, if only one dimension is present or, if all three dimensions need to be in place. In this thesis, the threshold for presuming processes of politicisation is low. Differences or shifts in dimensions are considered sensitively, even if they occur only in one of the dimensions. This approach can be met in other research contributions as well.[33]

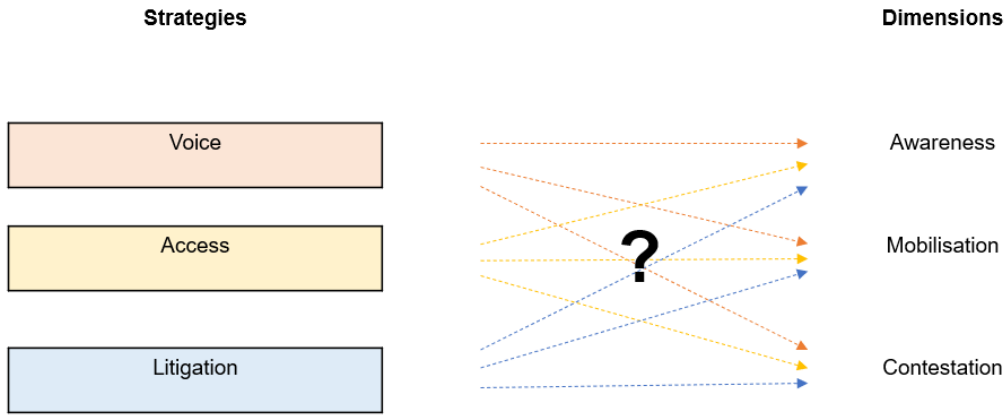
3.1.2 Operationalisation of NGO Politicisation: Link to *Voice*, *Access*, *Litigation*

In this subchapter the operationalisation of politicisation of this thesis will be presented. The operational definition of Hegemann and Schneckener (2019) illustrated in the last section will be further developed and adapted to the environment of NGOs. To reapproach the NGOs' setting, the dimensions of politicisation (*awareness*, *mobilisation*, *contestation*[34]) are linked to the groups' strategies. This link was already demonstrated by some scholars with regard to

[31] "Contentious interaction" emerges, when the addressees response to an actor, who raised a request or concern, with additional or opposing demands (Tilly and Tarrow 2007, 81).
[32] Joachim and Locher (2009a) and Uçarer (2014) refer for example to 'NGO mobilisation' or 'mobilising resources' of NGOs.
[33] See Hackenesch et al. (2021).
[34] In the following the term "public *contestation*" is replaced by *contestation*, since it could be misleading due to the diversity of actors being regarded.

outside lobbying (Dür and Mateo 2014; De Bruycker and Beyers 2019; Gheyle and Ville 2019; Voltolini 2020). Combining or relating the dimensions of politicisation and the strategies of NGOs makes sense due to two reasons: 1) It enables to gain knowledge on strategies of NGOs to politicise. 2) In the long run, it will show with regard to which dimension NGO participation is to be expected.

Figure 1. Connecting NGO Strategies with Dimensions of Politicisation



Source: Own illustration.

The work on an operationalisation that links NGO strategies to dimensions of politicisation starts with a puzzling picture (see figure 1). It is unknown, how each strategy – be it a lobbying or a legal one – is connected to the distinct dimensions. This is at the same time a great opportunity, since room in research still exists regarding the question of means actors use to politicise. The information provided by this chapter is now used to differentiate between these means. This is a first step to a more precise and deeper operationalisation, that serves at the same time to distinguish NGOs' actions in empirical research.

Each of the NGO strategies speak to different types of actors as chapter 2.1.2 highlighted. While *voice* is regarded as a strategy that aims to reach diverse publics, *access* is connected to the realm of policy-makers. An important further feature of these strategies is the way communication takes place. *Access* is defined by direct contact with policymakers, while *voice* is perceived as an indirect form of contact. A further important characteristic is, that *voice* is connected to "noisy" activities of groups that take place in the public. Mentioned in this context were protests, demonstrations, petitions as well as speeches or statements to the public. Also, NGOs' acts of disseminating their position in the media – for example via statements to journalists – are perceived as a part of *voice*. *Litigation* is a strategy that concentrates mainly on the court as addressee and the initiation of a court proceeding. Transferred to the context

of EU security this means that national courts (as a first instance) and the CJEU are the designated contacts for NGOs. Table 3 summarises these main distinct attributes, which serves as criteria for distinguishing between *voice*, *access* and *litigation*.

Table 3. Criteria for the Differentiation of Voice, Access, Litigation

Voice	*Access*	*Litigation*
• (Wider) public is addressed • Noisy activity	• Politicians are addressed: EU institutions and authorities • In search for direct contact with EU institutions' representatives and members	• Proceeding before the CJEU initiated • In search for direct contact with national courts and the CJEU

Source: Own illustration based on chapter 2.1.2.

In a second step, the conceivable effects of those strategies are combined with knowledge derived from politicisation research. In other words, this is where conceptual parts from politicisation (the three dimensions) and the strategies depicted in NGO literature plus the understanding that each strategy speaks to specific types of actors are combined.

The first dimension '(i) *awareness* among wider audiences' is reflected by adding knowledge on the question of who these specific "audiences" might be, taking the context of European security into account. The importance of the media perception and public polls as indicator to identify saliency or *awareness* was highlighted in politicisation research (see chapter 2.2.2). For example, Zürn (2014) points to the importance of survey data as an indicator for *awareness*. This knowledge is used to undergird the dimension. In concrete, EU news outlets are regarded as the (public) audiences of NGOs. The presence of European public polls on a policy issue is an indicator that decision makers believe that this might be an important topic for the EU citizenry (this argument is further elaborated below with regard to the third dimension). In the political setting, EU institutions as well as EU authorities are considered to be potentially preferred audiences of NGOs. In the context of *litigation*, it is assumed that NGOs foster *awareness* among EU news outlets and/or EU institutions or authorities. The situation of having a case before the CJEU will offer them the possibility to show their position on an issue and distribute information on the legal status of a certain law. EU institutions or authorities might take recourse to a NGO case, to either distribute the news or react to it (give for example an explanation of the situation).

The second dimension '(ii) *mobilisation* of various political and societal actors in and outside political institutions' (Hegemann and Schneckener 2019, 10) inherently points to the involvement of diverse actors. This knowledge is combined with the assumption that *voice* includes "noisy" activities. Hence, the occurrence of demonstrations and protests as well as

campaigns (with a public side) including the involvement of civil society actors (those outside of the political realm) is regarded as an indicator for *mobilisation*. The strategy of *access* is defined by "political bargaining" (see chapter 2.1.2), which is why it is assumed that *mobilisation* looks different in this scenario. The assumption is that *access* results in *mobilisation* when alliances between institutional and/or political actors are formed. *Mobilisation* in the legal context, is presumably expressed by the support of a NGO court proceeding by civil society actors and/or actors inside EU institutions or EU authorities. For example, via *litigation mobilisation* is present when NGOs submit a complaint with other political actors. As well as in the context of NGOs *voice* strategy and the groups *litigation* strategy the support given by civil society actors and/or political ones can be defined by participation or financial aid.

The third dimension '(iii) public *contestation* of policies and institutions through the utterance of diverging opinions' was also further elaborated and adapted to the NGOs' context. For that, especially the notion of politicisation as an interactive process was of importance. An indicator for *contestation* is, when a NGO strategy (either *voice*, *access* or *litigation*) led to the utterance of opposing positions that are controversial with regard to the (status quo of the) policy. The *contestation* increases when the scope of claims and arguments against a policy (proposal) widens. In consequence, the utterance of diverse points of criticism towards the policy is present. In the context of *access* and *litigation*, this *contestation* transfers into opposing positions in the EU institutional realm and respectively before the CJEU. Regarding *voice*, it is assumed that opposing positions occur in the 'wider public'. This 'wider public' cannot easily be grasped. Here, again insights from politicisation research help to corroborate the indicators for this dimension. In this thesis, surveys representing the opinion of the European citizenry are examined by focussing on diverging opinions. The very decision of policymakers to consult EU citizens demonstrate that they are hoping to get 'something' out of it: Either they want to get a clear (positive) picture of an EU project, or they suspect that citizens' attitude might be rather sceptical. In any case, it is important for these actors to review the opinion of the broad civil society. Moreover, NGO's actions that triggered a debate in EU news outlets are also considered in order to get a wider picture of the 'public'.

Figure 2 reflects the above-described operationalisation of NGO politicisation at EU level, including the indicators for *awareness*, *mobilisation* and *contestation*. As clarified above, the aim is to study all shifts in dimensions of politicisation. The point is not to show whether a dimension is in place, but to what extent it can be identified or it is present. The figure already indicates that this specific operationalisation permits to study different arenas. These are now regarded in detail.

Figure 2. Operationalisation of NGO Politicisation at EU level

NGO Strategies		***Awareness***	***Mobilisation***	***Contestation***
Voice	POLITICISATION	Visibility of NGOs and their actions in EU news outlets (*media arena*), and policy issue is present in European public polls (*citizen arena*)	Public campaigns, demonstrations and/or protests organised by NGOs are supported by civil society actors (either financially or by participation) (*protest arena*)	Presence of opposing positions on an EU policy in EU news outlets (*media arena*) and European public opinion polls (*citizen arena*)
Access		Actors inside EU institutions or EU authorities mention NGOs and/or their actions in written or oral statements (*institutional arena*)	Alliances between NGOs and actors inside EU institutions and/or EU authorities (*institutional arena*)	Presence of opposing positions on an EU policy inside EU institutions (Council of the EU, Commission, EP, EU authorities) (*institutional arena*)
Litigation		Visibility of NGOs' court case(s) in EU news outlets (*media arena*) and/or written or oral statements by actors inside EU institutions or EU authorities (*institutional arena)*	NGOs' complaint is supported – either financially or by participation – by civil society actors (*protest arena*) and/or actors inside EU institutions or EU authorities (*institutional arena*)	Presence of opposing positions on an EU policy before the CJEU (*judicial arena*)

Source: Own illustration.

3.1.3 Potential Locations of Politicisation at EU Level

The operationalisation summarised in figure 2 allows to analyse five different arenas: A) The *protest arena*, B) the *citizen arena*, C) the *institutional arena,* D) the *judicial arena* as well as E) the *media arena*. There is a great difference in how much knowledge and conceptual work exists on each arena.

A) Starting with the *protest arena*, a concrete proposal for a definition is in place. This arena already appeared in research of Grande and Kriesi (2014, 203) and De Wilde (2011, 569). In the context of this thesis and based on De Wilde's notion (2011, 569), it is understood as the venue, where NGOs organises themselves. It is assumed that they are accompanied in this action by additional NGOs, CSOs or citizens. B) The *citizen arena* is the room where laypeople discuss an EU policy proposal and utter their opinion. This interpretation is derived from Hackenesch et al. (2021, 8) who use this expression to refer to "public opinion". Here, it is equated with the position of Europeans visible in public polls. C) There is also a very good idea of the *institutional arena* present in politicisation research. Hurrelmann et al. (2015, 45) refer to locations that "are populated by full-time politicians" and name the European Parliament in this context. Hackenesch et al. (2021, 8) also include the Council of the European Union and the governments as well as parliaments of EU member states (Hackenesch et al. 2021, 8). This thesis will also link the European Commission to this arena. D) Taking the *judicial arena* into account, a first problem regarding the conceptualisation occurs. Albeit the term exists in politicisation research (see Grande and Kriesi 2014), it is not further defined. In the context of this thesis, the judicial arena is understood as the venue of European courts. To be more explicit, it is connected to the CJEU as the central judicial organ of the EU. E) In prominent politicisation research, the notion of a *media arena* is not present.[35] The media is subsumed under the term "intermediary arena" – a venue that is characterised by the appearance of several other actors, including NGOs themselves. Based on the operationalisation of politicisation provided by this thesis as well as the contribution's aim – taking a NGO perspective into account – it makes sense to understand the media as an arena in its own right. In this regard, the term refers to Brussels news outlets. Table 4 summarises all the considerations exemplified above. It underlines the relation between arenas as well as actors characterising these arenas. Those actors it is assumed, are at the same time potential addressees or with a view to the institutional representatives' "entry points" for NGOs.

[35] Although De Wilde, Leupold and Schmidtke (2016) argue to study media as a "setting".

Table 4. Arenas and Addressees linked to NGO Strategies at EU Level

Strategy	Arena	Potential Addresses of NGOs
Voice	Media arena, protest arena, citizen arena	Brussels news outlets, civil society actors (EU citizenry, CSOs, NGOs)
Access	Institutional arena	EP, Council of the EU, Commission (COM)
Litigation	Judicial arena	CJEU

Source: Own illustration.

The focus of the analysis of arenas is mainly at EU level, since the area of interest is European security. However, it cannot be denied that (discussing and extending) European security has also member state implications. Therefore, these locations of politicisation are studied – where possible – at the national and global level, too. Additional insights on these levels are taken into account as chapter 3.2 will illustrate. The conceptualisation of a NGO-driven politicisation process is the main issue of the next subchapter.

3.1.4 Conceptualising Politicisation as a NGO-Driven Process in EU Security

Based on the previous considerations, the task here is to conceptualise an ideal-type NGO-driven politicisation process. This is the part, where the features of the presented operationalisation and some additional ideas from politicisation research come together. The sketch of a politicisation process provides an important orientation for the case analysis, which is illustrated as a method in the next chapter.

Scholars already assume that outside lobbying is the starting point for politicisation. The thesis respects this research insight but goes further by arguing that *access* and *litigation* have also a 'public side' and can be a facilitator for politicisation. Thus, the strategy of *voice* is regarded to be intertwined with the *politicisation move*, that actors use to initiate politicisation. *Access* as well as *litigation* are rather perceived as means to foster or *boost* politicisation during an already started process. This does not mean, however, that the choice of *voice* as a strategy of NGOs is limited to the initial phase of politicisation. Figure 3 stresses this and reflects the explanations below.

The theoretical framework developed to study a politicisation process characterised by NGO involvement reads as follows: It is assumed that the politicisation process driven by NGOs is non-linear. This non-linear politicisation unfolds in two steps: The first step, consisting of two

components, is crucial to speak of a successful initiation of such a process. Step two is simply regarded as the continuation of this process.

1. Step: NGOs start the process with a *politicisation move* that is defined by a *voice* strategy. This move is expressed in the public sphere. It is expected that the use of NGOs' *voice* actions leads to a change of *awareness* in the media arena. The media arena might automatically be involved since it might be the place, where NGOs want to put the issue out or position themselves to the fact, that they draw an issue into the public. In context of European security, it may result in the situation that the media becomes more aware of the existence of institutional or governmental plans as well as of NGOs' point of view. Not necessarily the scope of debate widens, but media starts to publish (more) articles on the issue and share NGOs' news. [*first component*]

Connected to this, actors react to the NGOs' move. Here, the importance of 'immediate reactions' comes into play (Schneckener and Hegemann 2017). These actors can be the *addressee(s)* of NGOs. Consideration is also given to the possibility that (political) supporters or partners of NGOs may respond instead of the addressed actor(s). At this starting stage of the politicisation process, it is expected that either reactions are present in the institutional arena, and/or in the media arena. In the institutional arena, political actors might want to gain more information on the issue – either by getting in contact with NGOs or by sending letters or addressing questions to other involved (institutional) actors – thereby mentioning NGOs action. Likewise, politicians could join the NGO position – doing this verbally in news outlets or on their own platforms. If it is the *addressee* who reacts, this actor might defend its own view or plans. It may also be the case that the *addressee* wants to initiate an exchange via the media. Consequently, this actor avoids direct contact with NGOs but wants to position itself in a newspaper vis-à-vis NGOs' attitude. Hence, the appearance of 'immediate reactions' is connected to an increase of *awareness* and *mobilisation*. After this, the point where politicisation decreases, stagnates, or elapses can already be reached. However, another possibility is that it results in a second step. [*second component*]

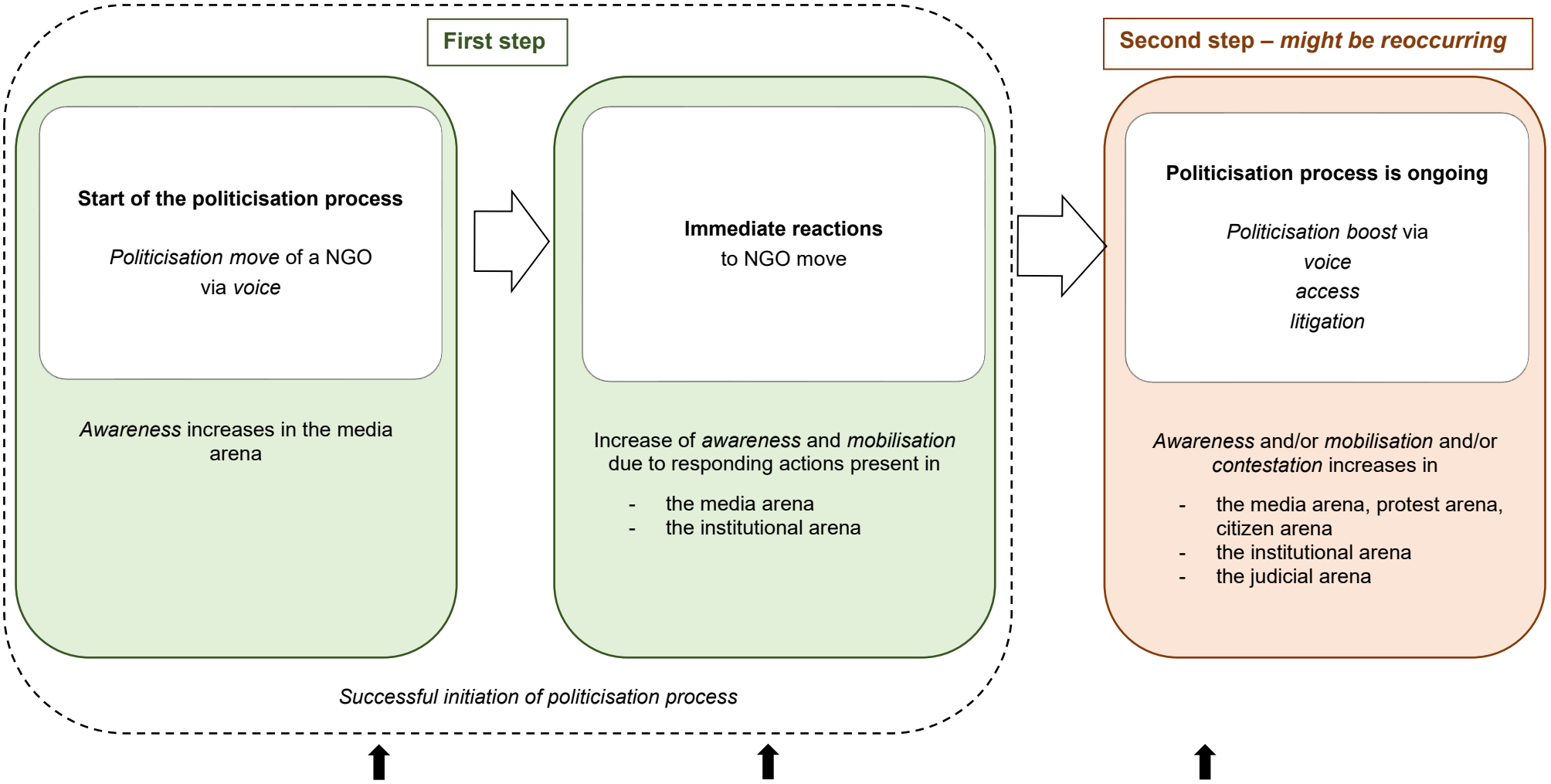
The following indicators are potentially in place in this first step: Visibility of NGOs and their actions in EU news outlets (media arena); Actors inside EU institutions or EU authorities mention NGOs and/or their actions in written or oral statements (institutional arena); Alliances between NGOs and actors inside EU institutions and/or EU authorities (institutional arena).

2. Step: A potential *politicisation boost* is triggered by a NGO action that can be categorised as *voice*, *access* or *litigation*. It is assumed that NGOs choose a single strategy instead of going forward with a combination of these strategies. Interest group research confirmed this assumption by pointing out that these organisations rather do not combine strategies. In the

ideal-type process the idea that the chosen strategy can have an effect on *awareness* and/or *mobilisation* and/or *contestation* is integrated. It is also considered that the *boost* is present in the political (institutional arena) and/or public (media arena, protest arena, citizen arena) and/or legal context (judicial arena). Consequently, the *boost* might involve 'new' arenas (citizen, protest and judicial). Based on research insights, it is plausible to say, that courts may not be the first one to be addressed by NGOs. It might also take a while for citizens to feel addressed and join the protest arena (of NGOs). From a NGO perspective as well as with regard to EU security, it could be the case that these groups still fear the violation of one or several civil rights and therefore see a need for continued activity. This second step might be a reoccurring event if the concerns of NGOs are ignored, or their proposed level of civil rights protection is not achieved. The possibility that several NGO-driven *politicisation boosts* occur is not excluded. However, the expectation is that the more *politicisation boosts* occur, the more opposing actors are inclined to strengthen their respective position. This in turn makes conflict lines more visible. In the EU security case, this could mean that NGOs advocate strongly for a certain right, maybe by linking it to the EU legal framework in place, and states insist on the argument of security. Analysing the second step, it can be possible to identify the other indicators presented in the operationalisation as well. Figure 4 explains the linkage between the operationalisation of NGO-driven politicisation and the ideal-type process. Green-coloured indicators might occur in the first step and second step. Orange-coloured indicators might be identifiable in the second (reoccurring) step. The figure also captures the potential conditions that might be conducive for NGO-politicisation in the context of EU security.

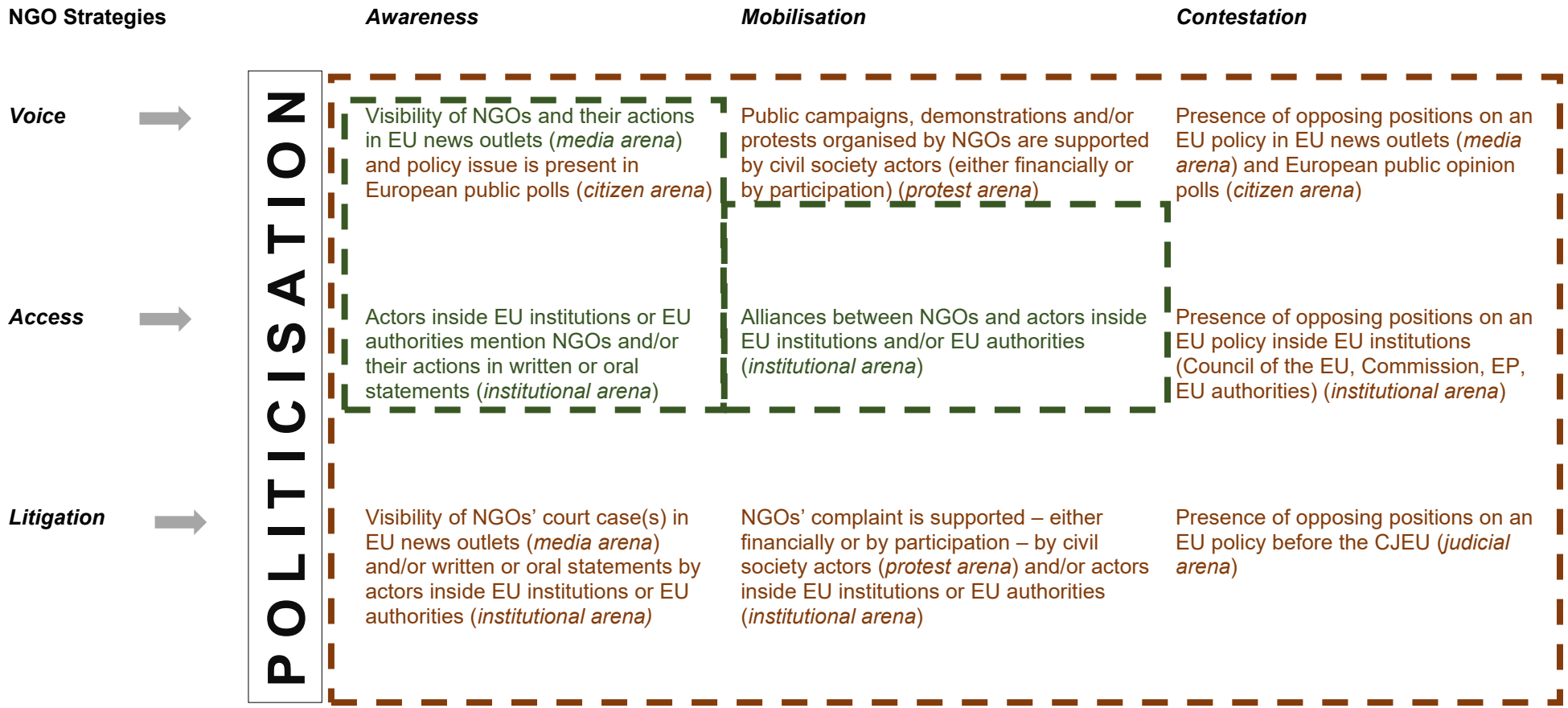
The next part will introduce the methodological approach of the thesis, including the case studies. It is intended to study a total of three cases. The sketch of a politicisation process introduced in this section provides a point of direction for the three single case studies. The cases involved, the reason for their selection as well as methods for data collection and data analysis to examine the role of NGOs in politicising EU security will now be demonstrated.

Figure 3. Ideal-Type Process of NGO-driven Politicisation



Source: Own illustration.

Figure 4. Operationalisation of NGO Politicisation at EU level



Source: Own illustration. Indicators that might be identifiable in step 1 and 2. Indicators that might be in place in step 2.

3.2 Methodological Approach

The selection of methodology and methods is driven by the issue of NGOs (empirical interest) and the concept of politicisation (conceptual interest). The objective of this thesis is to make a first step towards developing a theory on the role of NGOs in politicisation processes in the policy field of EU security by means of interpretative case analyses. Thus, the procedure follows the principle of hermeneutics and is "focused on meaning-making in context" (Schwartz-Shea and Yanow 2012, 53). This contribution is not only interested in analysing if NGOs play a role in politicisation, but it wants to go one step further and understand what kind of role ("character") these specific non-institutional actors overtake in these processes. It aims to deepen the understanding of politicisation as a concept and the role of NGOs in this given context. In general, the case analyses approach is useful "to generate a rich and detailed understanding about how certain processes work" (Lamont 2015, 126). Qualitative analysis techniques used within the case studies compromise components of *Prozessanalyse* (Nullmeier 2021) and qualitative content analysis (Mayring 2015). This thesis deviates from other research focusing on politicisation, in which purely or overwhelmingly quantitatively approaches are pursued.[36] The subsequent section will demonstrate that this thesis concentrates on cases that allow for in-depth analysis. First, the interpretative case study approach is introduced. Second, an overview of data collection and analysis techniques is introduced; including a presentation of data sources.

3.2.1 Interpretative Case Study Research

In social sciences, there are different interpretations of the term 'case study'. Of these, Lipson's (2005, 100) definition fits best to the undertaking of this thesis: "Case studies are detailed investigations of individual events, actors and relationships". The unit of analysis in this case, are politicisation processes within EU counter-terrorism policy processes as a subfield of EU security. Three individual cases are selected to study the role of NGOs in politicisation. These cases are all part of EU counter-terrorism policies: 1) The EU data retention directive, 2) The EU PNR directive, 3) The EU terrorist content online regulation. As chapter 2.3 indicated, NGOs have been greatly neglected by researchers in this subfield of security. By scrutinising specific legislative acts in EU counter-terrorism, this thesis follows the call for the examination of "issue-specific politicisation processes" (De Wilde, Leupold, and Schmidtke 2016, 10) is necessary. Two criteria, discussed by interpretative scholars (Schwartz-Shea and Yanow

[36] See for example Hutter and Grande (2014) or Rauh and Zürn (2019).

2012) in particular, were crucial in this regard: The access to data and the issue of interest.[37] Among scholars, case studies are (increasingly) regarded as an appropriate methodological approach for "theory-led interpretation, understood as intensive reflection on the relationship between empirical evidence and abstract concepts" (Blatter and Haverland 2012, 13).

Case Selection[38]

The EU data retention directive, the EU PNR directive and the EU terrorist content online regulation were selected as cases for three reasons: 1) Their relevance for the EU counter-terrorism field (*empirical reason*), 2) NGOs' participation was already registered (*conceptual reason*), 3) the ability to access data (*research-pragmatic reason*).

1) *Empirical reason*: The three policies are of value for this research since they represent important issue areas of EU counter-terrorism. In fact, the policies represent issues that were increasingly discussed since 9/11. The retention of meta data[39], the storage of traveller's flight data and the "governing" of internet content were all brought up by discussions between the EU (elites) and the United States (US) government. This is illustrated in each introductory part of the case analyses (chapter 6.1, 7.1, 8). The EU data retention directive was one of the projects that was implemented relatively fast. It was discussed already in 1999 but gained more attention after the incidents in September 2001.[40] With the adoption of the ePrivacy directive in 2002, the foundation for storing EU citizens data was created. The data retention directive was the result of negotiations between member states after terrorist attacks were committed in Madrid (2004) and London (2005) and could use the ePrivacy directive as a basis. The link to the EU counter-terrorism field, that developed at this time (as chapter five shows), is immanent. The EU PNR directive's emergence is also linked to the devastating events in Madrid and London. The adoption of the directive, however, took much longer compared to the data retention legislation. Attempts to create a record of passenger's data were already visible in 2004, but the directive itself only came into force after the 2015 Paris terrorist attacks. Both issues were discussed for more than twenty years (in 2022). As chapter six and seven will demonstrate, member states and the European Commission are still perceiving these two policies as essential to counter terrorism. In its 2020 Anti-Terrorism

[37] "For interpretive researchers, by contrast, choices of cases and access are often intertwined—reasonably so, given the research purpose of understanding meaning-making in particular sites." (Schwartz-Shea and Yanow 2012, 70).
[38] The author is fully aware that there is a linguistical dispute whether to use a different, more appropriate word in the context of interpretative research. Schwartz-Shea and Yanow (2012) as well as Nullmeier (2021) propose distinct terms as an example. However, in the light of this thesis the more well-known term "selection" is used, which is still not that uncommon in the context of (describing) interpretative study approaches (see Lamont 2015, 132).
[39] A term explained at the beginning of chapter six.
[40] Interview with NGO staff (6).

Agenda, the retention of communication data and the creation of passenger records were both stressed as essential by the European Commission.[41] The terrorist content online regulation that was not yet adopted at that time, was framed as “a matter of urgency” (European Commission 2020d, 6). Stopping the dissemination of terrorist content is an issue that was handled in different ways by EU institutions and agencies. Before the regulation was planned, member states and the Commission concentrated on voluntary measures to involve internet companies – e.g. Google, Facebook, YouTube – in the fight against this specific content. This was expressed through the creation of an EU Internet Forum and the Commission’s publication of several communications. The regulation is the product of these negotiations. It is an issue that is strongly connected to the EU counter-radicalisation area. The three policies all have a common nominator since they are introduced as preventive measures.

2) *Conceptual reason*: Another reason for the selection of these three legislative acts is, that some research contributions already mentioned the involvement of NGOs in the respective policy processes (De Goede 2008; *EURACTIV* 2004; Guild and Carrera 2014; Wahl 2021). Since this contribution aims to theorise the role of NGOs in politicisation, it makes sense to look at those policies where activities of these non-institutional actors have already been registered.

3) Research-pragmatic reason: Access to data and sources also was an important reason for the selection of these cases. The policy processes around data retention, PNR and terrorist content online are all very well documented – not least, because NGOs have set up databases on these measures. Those databases cover (EU) institutional documents but also sources of non-institutional actors.

With regard to access, the policy process around the directive on combating terrorism adopted in 2017 is also very well documented, for example by European Digital Rights (EDRi). However, this directive does not focus on a specific topic, but encompasses a call for various policy measures - including EU PNR and the handling of internet content. The inherent definition of terrorist content serves for example as a basis for the regulation. Since several counter-terrorism issues are mixed up in this directive, it was decided against selecting this directive for an in-depth case analysis. This procedure is closer to the call of politicisation researchers to focus on a specific issue. The next part focuses on the period of analysis and the level of analysis.

[41] See European Commission (2020d).

Analysis Period and Level of Analysis

In distinct research contributions, the occurrence of politicisation is linked to specific events. The emergence, development and adoption of measures in the counter-terrorism policy field is intertwined with the presence of certain events, too. In the context of EU counter-terrorism the term 'event' refers to a greater extent to acts of terrorism: "The EU's counter-terrorism agenda has been to a large extent 'crisis-driven', and was heavily influenced by various major shocks: 9/11; the Madrid and London bombings; and the rise of the Islamic State in Iraq and Syria (ISIS) and; the terrorist attacks in France of 2015 and 2016; and the attacks in Brussels and Berlin in 2016" (Wensink et al. 2017, 30).

In this thesis, the start of a case analysis is linked to such an event. The starting point for the scrutinisation of the EU data retention directive and the EU PNR is 9/11. The analysis of the EU terrorist content online regulation starts with the time after the attacks in Paris (January 2015). The end of the analysis period was determined regarding strategies of NGOs. Thus, it differs from case to case and is therefore context specific.[42] In the EU data retention case, the act of bringing a case before the CJEU by three different NGOs was observed as crucial and the results of these acts were taken into account. Hence, the case study closes with the ruling of the CJEU on these NGO case proceedings. In the EU PNR case, an act of *litigation* by NGOs was also observable but reactions of the CJEU are still not in place. The analysis period therefore ends with the transfer of the case from national courts to the CJEU. Regarding the EU terrorist content online regulation, the analysis period ends with the adoption of the legislation of the European Parliament. After this time, no major NGO activities were visible. Taken together, these legislative acts cover the time of 2001 until 2021. These legislations were debated successively, but also in parallel at EU level. This is a clear advantage of the case selection since possible effects from one policy can be considered in the light of another. The mentioned analysis period is summarised by table 5.

Table 5. Overview of the Analysis Period of the Cases

Analysis period	**Case**
2001 – 2020	EU data retention directive
2001 – 2020	EU passenger name record directive
2015 – 2021	EU terrorist content online regulation

Source: Own illustration based on the selection of the cases and analysis period.

[42] While the EU data retention directive and the EU PNR directive evaluation phase is for example included or long since finished, the EU terrorist content online is currently (in 2022) in the implementation phase.

For the case analyses, the EU level is most relevant. This is especially due to the fact, that the role of NGOs in EU security should be scrutinised. Consequently, discussions and negotiations between NGOs and Brussels-based institutions are of main interest. Nevertheless, since not only Brussels-based NGOs are considered but also national ones, certain debates in the NGOs' member states will be covered as well. If this coverage supports to reflect the multilevel interplay of politicisation (Zürn 2019), this information is consulted in the case analysis. A comparison between those levels is not the overall aim of the thesis, but since the thesis faces the question of locations of politicisation, such additional information might be valuable to learn more about where these processes occur.

3.2.2 Data Sources, Data Collection and Strategy of Data Analysis

In this part, an overview of main data sources and their application is given. The thesis relies on a triangulation of the following material: A) *primary sources*, B) *secondary literature* and C) *expert interviews*. Additionally, it is explained how expert interviews were conducted to extend the richness of data. Furthermore, it is illustrated how certain components of process analysis as well as qualitative (media-)content analysis are deployed and combined.

In this thesis a triangulation of data sources at the level of a single case (Flick 2018, 196–97) is pursued for cross-checking and assessing a better quality of information by gaining knowledge on NGOs (inter-)actions from different perspectives.[43] The distinct data is especially necessary to trace the different dimensions and "spikes" of politicisation. Primary documents will be the main source of information for the thesis. Secondary literature, especially research articles on the central issues of the case studies, will be considered as supplementary sources. Data gathered from expert interviews serves as additionally insights, too. This is a list of main data sources, that entails a description on their relation to the analysis of politicisation (dimensions and *move*):

A) *Primary sources:*

- EU documents and speeches
- NGO articles
- Governmental documents (e.g. national parliamentary inquires)
- Court cases and decisions
- Media articles
- Social media posts
- Survey data

[43] It is important to include data from different kinds of actors, to see how a certain statement or action is interpreted by others and how it relates to other sources.

Official EU documents and NGO contributions form the basis of the research. To gain information about *mobilisation* articles and reports on NGO campaigns, resource spending, statements are considered. Parliamentary sources – like inquires – are especially important to reconstruct possible alliances between politicians (or political parties) and NGOs. They can nevertheless also be a basis for the *awareness* of NGOs' positions. Court protocols, rulings or complaints will work as a helpful source to track down the range of actors but also the contentious character of their views (*contestation*).

The databases of NGOs were key to get access to primary documents: The NGO Statewatch has an own so-called "observatory" for EU data retention and one focusing on EU PNR. The data collection starts in the beginning of the 2000s and covers mainly EU official documents but also NGO letters from the very beginning of the issues' emergences. Worth mentioning in this context is also the database of Electronic Privacy Information Center (EPIC) on data retention, that has a rich collection of documents (NGO campaigns, EU member state positions, legal statements as well as data protection practitioners' views) focusing on the time between 2001 and 2005 (Center, Electronic Privacy Information 2022). The terrorist content online regulation is, in contrast, a very recent issue (in 2022). Moreover, the NGO EDRi dedicated a very extensive "document pool" to this policy. This database includes their own statements and campaign activities but also key documents of EU institutions, scholars and data protection authorities. (European Digital Rights 2019b)

Articles – published by Brussels-based and European newspapers (e.g. The Guardian, Süddeutsche Zeitung (SZ), Die Zeit) as well as global networks (e.g. BBC) – serve as a source to identify the visibility of NGOs, their positions and actions within the public (*awareness*). As it turned out, the articles of online IT-related news portals have also proved to be important (e.g. Netzpolitik.org, Heise online, ZDNet). The analysis of the Brussels-based outlets (The Parliament Magazine, EUobserver, Euractiv, Politico Europe) is pursued in a more profound way (more information is available below). In the context of the thesis these will be subsumed under the term "EU media outlets". These media articles will also serve to receive more information on *contestation*. In a few instances, twitter data is scrutinised to see who is following NGOs' claims and participating in their campaigns (*mobilisation*).[44]

Insights on citizens opinions, provided by Eurobarometer (special) reports and further relevant national public polls, will be considered as well. Change in citizens' opinion is registered and – only where possible and in a cautious way – put into the context of NGOs' work. In sum

[44] The author knows that it is still difficult to work with the hashtag search on Twitter, which is why data is not summarised quantitatively and links between NGOs and individuals or groups were checked twice via other sources. Information gathered from tweets was only used additionally.

eleven Eurobarometer survey reports were examined in detail, which were published between 2007 and 2021.[45]

B) *Secondary literature:* Scientific articles and contributions of think-tanks are checked for further information on the three case studies. This includes for example articles on court rulings, that present information on the legal status of a legislative act or discusses how the statement can be understood. This kind of sources support especially the analysis of conflicting positions of actors (*contestation*) or participating actors (*mobilisation*).

C) *Expert interviews:* Data gathered from expert interviews will work to reconstruct the chronology of the politicisation process, including the *politicisation move*. The interviews also deliver more (background) information about how involved actors perceive the *awareness* of an issue and who the allies on NGOs are (*mobilisation*). In particular, the interview data allows to further comprehend and reconstruct the positions of and conflicts between actors (*contestation*).

Information on Expert Interviews

The conduction of expert interviews is a key data gathering method in the context of this thesis. According to Meuser and Nagel (1991, 443), are those experts, "die selbst Teil des Handlungsfeldes sind, das den Forschungsgegenstand ausmacht." In consequence, interviews were conducted with persons who participated actively in the policy processes of the EU data retention directive, EU PNR directive and EU terrorist content online regulation. A crucial criterion for the sampling was that experts were either involved on the NGO side or could overtake a complimentary perspective, which served to be very fruitful to check statements that were made from within the NGO community. In initial selection of possible interviewees was made based on insights given by primary and secondary sources (NGO articles, expert reports, media coverage, scientific articles), that highlighted main participants. Expert interviews were conducted in two phases: In the first phase, eleven interviews were carried out. Whereas in the second phase fourteen interviews were conducted. In sum, twenty-five guided conversations with employees of NGOs (fifteen) and EU representatives, officials, and personnel (ten) took place.[46] An anonymised list of interviewees is part of the appendix (no. 1).[47] At the beginning of the research project interviews served to learn more about actors (especially NGOs) in EU counter-terrorism and the research field itself. Bogner, Littig and Menz (2014, 23) call it "orientation in the field" (own transposition). This first interview phase took

[45] A pre-selection and study of Eurobarometer surveys showed that these seven reports could possibly address the issues of data retention, PNR and/or terrorist content online.
[46] In sum, 23 experts were interviewed. Two of these experts were interviewed twice.
[47] During four of the conducted expert interviews, the supervisor of this dissertation project was present.

mainly place in Brussels and Berlin in 2019. One interview was conducted via phone and one via videocall. In the second round, the purpose of conducting expert interviews changed. The use of expert interviews now served to gather further information and fill into specific gaps in research (or material). It was, however, never about trying to uncover causal mechanisms. Thus, the "systematic" use of interviews for the purpose of "information gathering" (own transposition) became central (see Bogner, Littig, and Menz 2014, 24). The purpose was to get a deeper understanding of the role of NGOs in the three distinct policy processes and their interaction with other actors. Furthermore, the interviews were useful to validate the researcher's "sense-making" (Schwartz-Shea and Yanow 2012, 73) in the later stage of the research process. In the second phase, in 2022, interviews were also conducted in person in Brussels, but mainly via video teleconference or telephone.[48] All interviewees (in the first and second phase) were contacted via an email that entailed a detailed description of the research project, its objective as well as a short illustration of the author's workplace.[49] Now and then, an interviewee was contacted on recommendation or by passing on the research request to a colleague with a different kind of expert knowledge. In both field phases, the character of interviews was qualitative open-ended and semi-structured. Since the purpose of conducting interviews was distinct in the two field phases, a guideline was produced for each period. The 2019 guide was rather broader in scope and structured by these four topics: 1) Agents of politicisation, 2) objects of politicisation, 3) *awareness*, *mobilisation* and *contestation*, 4) instruments and contributing factors. Even though the work was still at an early stage at this point, some similarities with the introduced research project (chapter 1) are already visible. For each interviewee the same guide served as a basis for the meeting. This changed in the second field phase. In 2022, two different guides were used, in which the central research questions of this thesis as well as the posed sub-questions (see chapter one) were transformed into interview questions. One was for interviews with NGO staff, the other was for conversations with EU officials and personnel. In 2022, the questions asked concentrated mainly on four issue areas: 1) Information about the policy process (either EU data retention directive, EU PNR directive, EU terrorist content online regulation), 2) information about NGOs' role and their actions, 3) information about the perception of NGOs and their actions (mainly in the institutional, citizen and media arena), 4) information about essential conflicts and points of contention. Two examples of an interview protocol (2019 and 2022) that entail an order of more specific questions is part of the appendix (no. 2 and no. 3). The guideline for the interviews gave the researcher some assurance during the meetings, made it possible to have a structure for each conversation and offered the possibility to check, if every sub-topic was

[48] The overwhelmingly digital conduction of interviews can be regarded as an effect of the Covid-19 crisis. However, the video calls had the advantage that interviewees based in different EU member states could be "met" virtually in a short time window.
[49] It was for example mentioned that this dissertation is part of a broader project context.

addressed. In some interviews, however, a rather flexible approach and a certain openness on the part of the researcher paid off to gain new insights on the phenomenon of interest. Where permission was given, interviews were audio recorded.[50] Otherwise, notes were taken (this was possible in all interviews). Then a note protocol was made for each interview (also for those that were audio recorded) and in some cases certain passages were transcribed.[51] More details about the handling of this data follows in the next part, which focuses on the explanation of *process analysis* as a strategy for data analysis.[52]

Information on Process Analysis

To study each single case, technical elements of *Prozessanalyse* (Nullmeier 2021) were used and added by data generated from a qualitative (media-)content analysis, following Mayring's (2015) procedure. In general, the research process can be summarised as follows: For each case a chronology of events and interactions was prepared and then mapped with the help of inductive created codes (covering actors, actions and strategies). In a next step, NGO activities were subsumed under the respective strategy (*voice*, *access*, *litigation*) and scrutinised in more detail. To get a better picture on the *awareness* of NGOs and their actions in the respective policy process and to track further points of *contestation* in the public, a qualitative analysis of four EU media outlets was pursued. After studying each single case, a comparative assessment was conducted, which is structured by the subquestions of this thesis. Each single case study already closes with a summary (chapter 6.3, 7.3, 8.3) that responds to these research questions as a first preparing step for the subsequent comparative analysis (chapter nine). Hence, the focus is shifted to that kind of information that is essential regarding the main research question(s) and provides the basis for a comparison of similarities as well as differences of (potential) politicisation processes. First and foremost, the comparison of the three policies serves to determine a degree of politicisation, which becomes only graspable in the relative scale of the cases to each other. Generalisability of the results is existent, but to a limited extend. The focus is on theory development and understanding what role NGOs play in politicisation of EU security. How the method of process analysis as well as the qualitative content analysis were perused, is now illustrated in more detail.

[50] Nineteen audio recordings of interviews exist.
[51] Meuser and Nagel (2009, 35–37) emphasise this rather practical procedure of transcribing only relevant passages of expert interviews. Consequently, a protocol in note form for each interview exists, that sometimes entails some notes that were made during the interviews. The expert interviews lasted between 30 to 90 minutes. The data collected from interviews were first anonymised and then directly integrated in the research without using a specific data analysis method (for example content analysis). Transcriptions were in certain cases supported by f4transkript.
[52] *Prozessanalyse* (Nullmeier 2021) is now presented as one essential tool for data analysis. However, it is important to mention, that it also has characteristics of data collection.

Inspired by Nullmeier's outlet of a process analysis, the following procedure was adopted to study the single cases: Frank Nullmeier (2021, 24) proposes a procedure that focuses on "dem politischen Geschehen jenseits eines Denkens in Variablen". With the concept of process analysis, the scholar introduces a rather interpretative way of tracking events and actors that puts "temporality" (own transposition) in the center of attention (Nullmeier 2021, 28). Lastly, however, his approach follows the tradition of *erklären*[53], a characteristic that can simply not be reconciled with the objective of this thesis nor the reality of NGOs' work.[54] Consequently, to analyse the data in the context of each single case, only certain steps of *Prozessanalyse* (creating a chronology, *chronozentristische Analyse*, *Narrationstest*) are combined with the own proceeding.

First, a chronology has been created for each policy process. The chronology's time period is based on the analysis period of each case (EU data retention: 2001-2020, EU PNR directive: 2001-2020, EU terrorist content online regulation: 2015-2021). The material is arranged according to the date of publication or event. Each analysis starts with a (major) act of terrorism as point of reference. Nullmeier (2021, 220) also stresses the importance of an "initial event" as starting point of the analysis. The "initial state" (Nullmeier 2021, 227) is always defined by the situation that the respective legislative act is in progress and not yet adopted. The chronological overview covers NGO actions as well as actions of participating actors. Regarding the latter group of actors, statements and actions of national politicians, interest groups, EU officials and representatives, experts and scholars were integrated in the chronology.

To get a first impression on the *awareness* of the (inter-)actions of NGOs, media articles and other sources that cited or referred to the specific act were added. This was done in two ways: 1) Media articles that covered NGO actions and positions were collected[55], 2) reactions by actors on a NGO action – be it a statement in a newspaper, a tweet, a speech, the publication of a document or a report – were incorporated. This can for example be the distribution of a before-published article of a NGO on the website of a Member of Parliament (MEP) or an EU official sharing the link to a NGO letter. The invitation of a NGO to a roundtable after a letter was addressed to the very organisers of this event or the participation in a conference after several exchanges between NGOs and the person in charge took place are examples how reactions were covered to potentially assess if a *politicisation move* or *boost* is in place.

[53] A central aim of Nullmeier (2021, 209) is "the explanation of a single event" (own transposition).
[54] In several interviews – NGO staff (8), NGO staff (11) and NGO staff (14) – experts from the NGO community stressed that they do not have the "power" to influence policy making at EU level in the sense that for example one action leads to the rejection of a Commission's proposal or the MEP's voting in a certain way. See this statement for example: "We bolstered perceptions that people already have" (NGO staff (8)).
[55] This were not only articles published by Brussels media outlets, but news and blogs articles in more general (see section on data sources).

Protests or demonstrations of NGOs that were joined by citizens and national politicians were integrated as well. In most of the cases, the dimension of *mobilisation* could be identified in this kind of material. For each individual case an additional shorter version of a timeline with key dates was created to get a better overview, next to the mentioned long collection of material.[56]

The second step of analysis consisted of a mapping of actors, strategies and arguments. Mapping is a key tool in interpretative research (Schwartz-Shea and Yanow 2012, 84–89). The material was coded based on the following scheme:

Figure 5. Codes and Colour-Legend of the Mapping (Case 1-3)

Green: Politicization move & politicization boost
Yellow: Claims, arguments and positions
Pink: Actors
Blue green: (Inter-)action
Turquoise: Alliance or Cooperation
Green: Politiciser
Purple: Addressee
Orange: Audience
Red (& Verdana): Events (external)

Wine-red: Awareness
Mud: Contestation
Dark Green: Mobilization

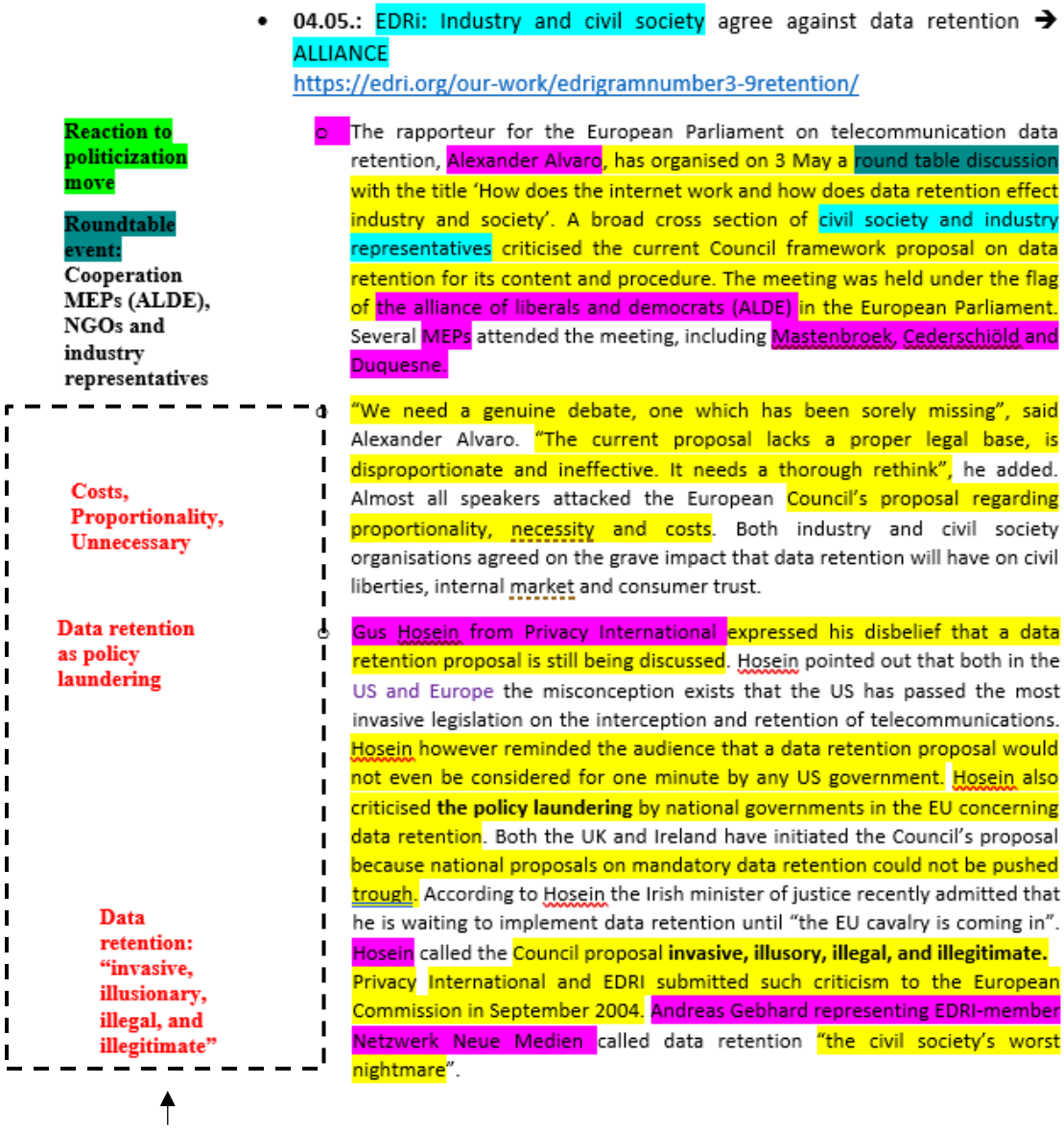
Source: Own illustration.

These codes originate from conceptual pre-considerations (and terms) introduced in chapter 3.1 and were adapted (in an inductive way) again and again during the mapping process. As one can see in figure 5, the codes cover the three dimensions of politicisation as well as other basic conceptual terms (*politicisation move* and *politicisation boost*, *politiciser*, *addressee*, *audience*) but also vocabulary that aims to learn more about the situation at hand and actor constellation. Each code is linked to a distinct colour. An inspiration for this second step of analysis was given by Nullmeier's (2021, 298) approach of *chronozentristische Textanalyse* (emphasis in the original), which is based on the method of Koopman's and Statham's (2010) "political claims analysis".[57] Above that, recurring and persistent arguments of NGOs, their alliances, as well as their opponents were elaborated in a structured way from the text. An example of how this mapping looks like is given by the subsequent image (figure 6 below). Here, an article was integrated in the mapping, colour-coded and marginal notes were used to highlight information on politicization, actors and the recurring arguments. The ideal-typical

[56] In the first case, the chronology was over 250 pages long. The second case comprised around 200 pages. The timeline for the third case covered more than 180 pages of text material.
[57] Nullmeier (2021, 297) stresses: "Bei einer speziell auf die Prozessanalyse ausgerichteten Textauswertung werden bestimmte Vorüberlegungen und Kategorien vorab festgelegt".

sketch (subchapter 3.1.4) served as a first point of orientation to identify the start of this process "*politicisation move*".

Figure 6. Example of Mapping Actors, (Inter-)Actions and Arguments



Source: Own illustration. Example of the data analysis from the first case (EU data retention directive).

This procedure was intended to highlight and filter incisive actions initiated by NGOs in order to subject them to further analysis. The actions of NGOs were then assigned to one of the main strategies *voice*, *access* or *litigation*. For this step, the criteria for differentiating NGO strategies presented in chapter 3.1.2 were essential.[58] The actions of NGOs were pooled, summarised

[58] In the following, three short examples (from case 1) on how the author of this thesis differentiated between *voice*, *access*, *litigation* in difficult scenarios are given. Example for *voice*: A petition that was handed over to MEPs was classified as *voice*, since citizens needed to sign it first. Example for *access*: The "stopdataretention.eu" campaign

and restructured. It was then scrutinised in-depth, if each action (and the strategy as a sum) led to *awareness*, *mobilisation* and/or *contestation*. The operationalisation of politicisation presented in subchapter 3.1.2 served as a basis for identifying the three dimensions. An example of this third step of material analysis is provided by figure 7 (below). In the first column the NGO and its action is listed (in this case one categorised as *voice*). The second column lists reactions to this action as well as sources, in which it was mentioned. *Mobilisation* (third column) shows potential cooperation partners (in this case no actor outside the NGO realm supported the action). The fourth column refers to a dispute (opposing positions) that arouse due to the action.

Figure 7. Categorisation of NGO Actions as Voice, Access, Litigation

NGO Action	Awareness	Mobilisation	Contestation
Statewatch Leak "funding by Commission" (11.01.2013) **Politicisation move**	Recognized by MEPs *(political venue)* • Parlimantary question by Martin Ehrenhauser (15.01.2013): " How does the Commission respond to the charge of going over the heads of the European Parliament and the Council by creating a fait accompli even though no decision concerning EU PNR has yet been taken?" • Parliamentary question by Alexander Alvaro (16.01.2013): " Is the Commission aware of the fact that its role under the Treaties is to propose legislation and not to present the legislative bodies with a fait accompli?" • Leaked letter drafted by Commissioner Malmström shows that LIBE chairman	Distribution of the link: • EDRi: EU PNR directive gets funding before being adopted (16.01.2013)	Legal basis vs. COM funding • Statewatch: "Despite its controversial nature, some interested parties are pushing ahead with the development of the PNR system - despite the fact there is not yet a legal basis for it."; " The behind-the-scenes development of ambitious technological projects whilst legislative negotiations are ongoing is not unknown in the EU" • COM: "The call for proposals and the Commission proposal for an EU PNR system share the same dual objective, namely to foster the processing of PNR data as an effective tool to fight serious crime and terrorism in the EU"; "If the co-legislators adopt a Directive on an EU PNR system as proposed by the Commission. the national PNR systems might become part of an EU PNR system. provided the conditions of a future EU PNR Directive are met by the national components."

Source: Own illustration. Example of the data analysis from the second case (EU PNR directive).

The data was then added by the information generated from the scrutinisation of Eurobarometer surveys and the qualitative analysis of EU media articles. The excerpt covered by figure 8 (see next page) gives an example how knowledge generated from the media content analysis was combined with the study of NGOs actions. The links where NGOs action were cited are listed under *awareness* and signs for opposing positions are included under *contestation*.

With regard to the selected media data, it is important to mention that the NGO or the NGO's action must occur in the material in order to be implemented in the tables. Since *access* is defined by direct contact initiated by NGOs, for each case an (additional and more

by NGOs was categorised as *access* because these organisations clearly wanted to reach out to the Commission. Example for *litigation*: A crowdfunding campaign of NGOs was listed under this strategy as the main aim was to bring a case before the CJEU.

summarised) overview was created (appendixes no. 9-11) that shows who the contacts (*addressees*) of the organisations were.

After it was analysed how *voice*, *access* and/or *litigation* triggered *awareness*, *mobilisation* and/or *contestation*, a first narration of the policy process was written down. This narration was then reviewed first by conducting a new round of research. Later, it was checked in expert interviews, too. Gaps in material were also addressed through the conduction of these expert interviews. Of course, it was possible that a "narration" was overruled during this procedure and the more accurate version of the story of a politicisation process needed to be told. This could also happen during later stages of the research. Nullmeier's (2021, 250) descriptions of the "Narrationstest" are comparable to this step of data analysis.

Figure 8. Example for Media Data Added to Analysis of NGO's Voice Strategy

NGO Action	**Awareness**	**Mobilisation**	**Contestation**
13.02.: EDRi leak https://edri.org/files/illegal_content_ec_draft_recommendation_201802.pdf EDRi article: https://edri.org/our-work/leak-european-commissions-reckless-draft-recommendation-illegal-content/ ***[Politicization move!!!]***	**14.02. Euractiv:** https://www.euractiv.com/section/digital/news/eu-adds-pressure-on-online-platforms-with-plan-for-fast-removal-of-terrorist-content/ **15.02. Euractiv.de:** https://www.euractiv.de/section/eu-innenpolitik/news/leak-online-plattformen-sollen-illegale-inhalte-innerhalb-einer-stunde-loeschen/ **16.02.: Euractiv:** https://www.euractiv.com/section/digital/news/france-eyes-eu-law-to-crack-down-on-terrorists-use-of-social-media/ **01.03.: Euractiv:** https://www.euractiv.com/section/digital/news/commission-faces-backlash-for-plan-to-fast-track-tech-platforms-removal-of-illegal-posts/ **13.02. Netzpolitik.org:** https://netzpolitik.org/2018/eu-kommission-will-plattformen-die-loeschung-von-illegalen-inhalten-ohne-netz-und-doppeltem-boden-empfehlen/ **Erich Möchel:** https://fm4.orf.at/stories/2896057/	EDiMA one of the signers of EDRi letter (see access 13.02.)!	EDiMA, a Brussels-based association that represents big platforms like Facebook, Google, Twitter and Amazon, said it was "dismayed" by the announcement because companies have been meeting the Commission's demands over the last two years to remove more illegal posts. "Our sector accepts the urgency but needs to balance the responsibility to protect users while upholding fundamental rights – a one-hour turn-around time in such cases could harm the effectiveness of service providers' take-down systems rather than help," EDiMA said in a statement. (Commission faces backlash for plan to fast-track tech platforms, S. 2: 1190)

Source: Own illustration. Example of the data analysis from the third case (EU terrorist content online regulation).

In the ultimate step of analysis, the peaks of politicisation (*move* and *boosts*) were identified. In the subsequent case comparison (chapter 9), these crucial time frames are contrasted. In the conclusions of the respective case analyses (chapter 6.3., 7.3, 8.3), a graphical representation of the politicisation processes and these "peaks" is omitted in order to avoid a picture of spurious causality. Again, it is important to note, that it is impossible to state that a specific NGO's action alone is responsible for the politicisation of an issue. Finally, cross-case statements on the role of NGOs in politicisation were made, which are once again cited in bundled form in the conclusion of this thesis (chapter ten). Next, it is illustrated how the data from four EU media outlets was collected and examined.

Information on EU Media Outlet Analysis

To identify the dimension of *awareness* of NGOs and their actions at EU level in the three cases, a qualitative content analysis is conducted which is following Mayring's (2015) structuring technique. Mayring's procedure is defined by the characteristics "systematisch", "regelgeleitet" and "theoriegeleitet" (2015, 13). The scope of analysis relates to news coverage from four Brussels media outlets (Euobserver, Euractiv, The Parliament Magazine, Politico Europe). The sampling focuses on four of the most circulated and read media outlets in the EU/Brussels "bubble". A Politico article published in 2019 lists these magazines under "the top 20 most influential media outlets" in the European Parliament (O'Malley and Randerson 2019). Looking at only those that are concentrating on EU news, these are the highest listed. A study published by ComRes and Burson-Marsteller (2018) ranks Politico, EUobserver as well as Euractiv as most read sources for Brussels news, too. These are all English-language publications[59] that were written by journalists during the three policy processes or in some rare cases by partaking politicians (MEPs or a Commissioner), NGOs or interest groups representatives. The term policy process refers in this regard to the agenda setting or proposal, formulation, adoption, implementation and evaluation phase of the respective legislative act.[60]

The timeframe of the article selection is oriented to the case analysis time period (EU data retention directive: 2001-2020; EU PNR directive: 2001-2020; EU terrorist content online regulation: 2015-2021). The main criterion for the inclusion of an article in the analysis was that a clear reference to one of the three topics – data retention, PNR or terrorist content online – is at hand. This means that articles with the mentioning of one of the keywords from table 6 (below) were included in research.[61] This procedure also gave a response to the following two questions: How often is the topic discussed in general? How many articles are published on the issue?

In total 601 EU media articles were analysed. This overview contains the number of articles, sorted by the individual cases and media outlets:

- EU data retention directive: 289 news articles in total; 75 Euractiv, 110 Politico, 4 The Parliament Magazine, 100 EUobserver
- EU PNR directive: 208 news articles in total; 55 Euractiv, 57 Politico, 12 The Parliament Magazine, 84 EUobserver
- EU terrorist content online regulation: 104 news articles in total; 63 Euractiv, 24 Politico, 3 The Parliament Magazine, 14 EUobserver

[59] Occasionally, German articles from Euractiv appear in the case analyses; these come from the material collection of the process analysis and provide complementary insights.
[60] As can be seen in the first and second case (data retention and PNR), it is possible that some of these stages are reoccurring.
[61] This list of keywords was created inductively and grew with the search for articles.

Table 6. Pre-Selection of Relevant Articles for Analysis of EU Media Outlets

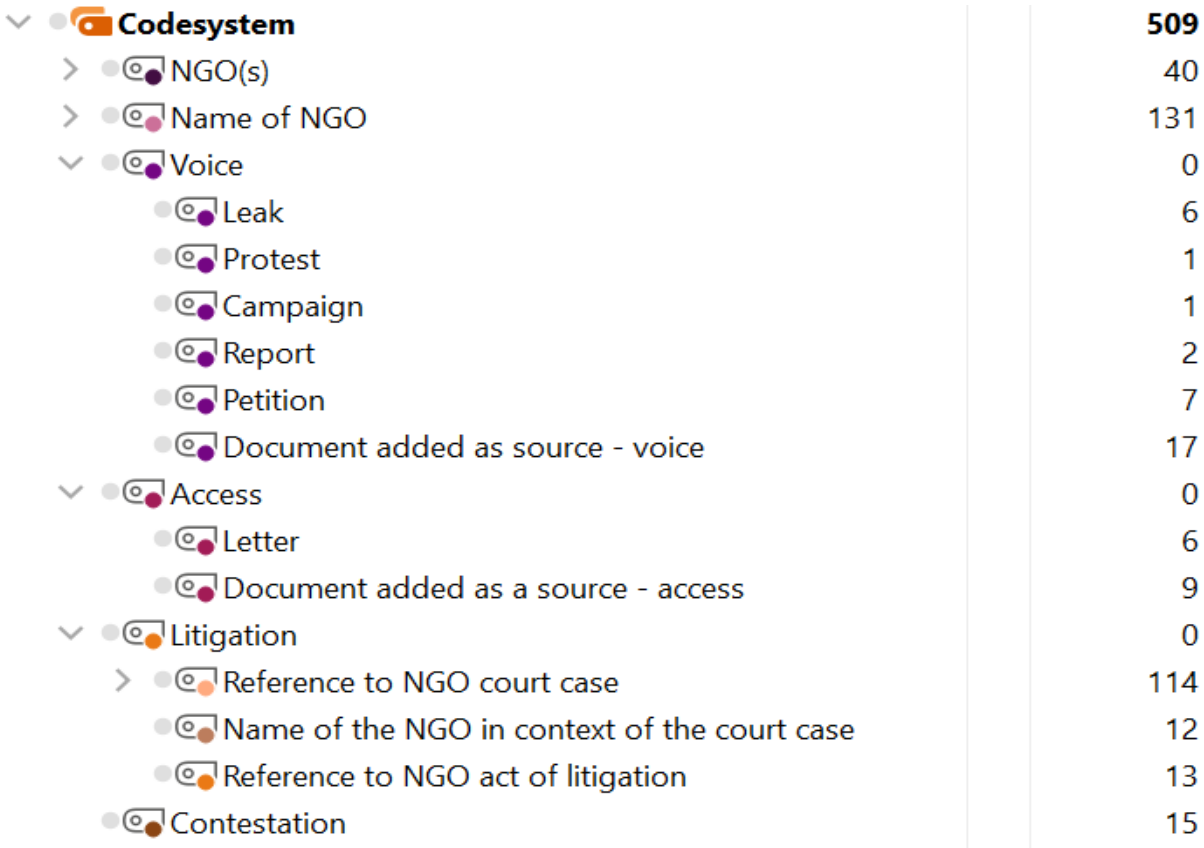
EU data retention directive	EU PNR directive	EU terrorist content online regulation

• "EU data retention directive"
  ○ "data retention"
  ○ "telecommunications data"
  ○ "storage of data"
  ○ "retention of data"
  ○ "communications data"
  ○ "traffic and location data"
  ○ "data retained"
  ○ "retained data"
	• "EU PNR directive"
	  ○ "(EU) pnr"
	  ○ "Passenger name record"
	  ○ "passenger name record directive"
	  ○ "pnr directive",
	  ○ "passenger data retention"
	  ○ "air passenger data",
	  ○ "european air passenger data scheme"
	  ○ "eu-wide pnr"
	  ○ "european air passenger directive"
	  ○ "(eu) pnr flight data"
	  ○ "eu pnr law"
	  ○ "flight passenger data"
	  ○ "eu (airline) passenger data"
		• "EU Terrorist Content Regulation"
		  ○ "online terrorist content"
		  ○ "Terreg"/"TERREG"
		  ○ "terrorist content"
		  ○ "terrorism content"
		  ○ "terrorist content regulation"
		  ○ "online terror content"
		  ○ "TCO"

Source: Own illustration. See appendix no. 5, which gives examples for the identification of the keywords in articles with respect to the first case (EU data retention directive).

The appendix entails a list of all included articles (see no. 6, no. 7 and no. 8). The qualitative content analysis for each single case is driven by the following question: Are NGOs and their strategies (*voice*, *access*, *litigation*) covered by Brussels media outlets? In consequence, the scope of the question that drives this kind of data analysis is narrower (in contrast to the main research question of the thesis) and fits only the purpose of assessing the *awareness* of NGOs' actions. The name of a NGO (like "Statewatch") is the coding unit. The contextual unit is a news article. All 601 news articles were analysed entirely. The qualitative content analysis was supported by the software MAXQDA. The articles from the four EU media outlets were integrated in the softeware's documents database with the use of the function "Web Collector". First, a basic keyword search was conducted with MAXQDA. The identified passages were then searched for new keywords. Second, articles were analysed in more depth (manually) to expand the list for the keyword search. Third, a new round of basis keyword search was conducted. (The last two steps could occur again, when new terms came up during the analysis.) During these steps codes were created from within the material and with reference to the theoretical framework (chapter 3.1). Figure 9 shows how the codebook of the first case analysis created by MAXQDA looks like:

Figure 9. Code-System in the First Case Analysis (EU Data Retention Directive)



Source: Own illustration. Created with MAXQDA. A longer list of codes is part of the appendix (no. 4).

To give the reader more details on this coding process, the appendix (no. 5) entails an overview of a coding scheme (including coding categories, coding examples and the numbers of coded articles) of the EU data retention directive case.

After the *awareness* of NGOs was examined, the news articles were once again searched for indicators of *contestation*.[62] The identified text passages were tagged with the corresponding code and inserted into the table, which focuses on the link of NGO strategies and politicisation dimensions (step three of the research process). The material was then interpreted in relation with the other collected data. This was made for cross-checking the results of the mapping (step two of the research process) and filtering main positions of these non-institutional organisations. Figure 10 gives one example for coding *contestation* (presence of opposing positions on an EU policy in EU news outlets):

[62] The basis was the operationalisation presented in subchapter 3.1.2.

Figure 10. Coding of Contestation in the Third Case (EU Terrorist Content Online Regulation)

The Counter Extremism Project, a London-based NGO, has highlighted concerns about the fact that the rule is only applicable after the time in which a removal order is issued and not from the time that the offending content is uploaded.

"Reliable enforcement and automated technology so that content can be taken down within one hour of upload needs to be included in the proposed draft," said David Ibsen, executive director of the organisation.

Meanwhile Maryant Fernández Pérez, a senior policy advisor at European Digital Rights (EDRi), highlighted the issues that could arise in respect of freedom of expression and privacy.

"Eight months away from the EU elections, it is regrettable that the Commission proposes new legislation with minimal regard for effectiveness or for fundamental rights, the pillars of our democracy," she said.

Source: Stolton 2018a. Document text extracted and coded with MAXQDA.

The evidence on NGOs' *awareness* was integrated in this material as well, but also presented in the form of a frequency table (mentioning of NGOs by name) and a timeline comparing the number of articles relating to the respective policy issue (data retention, PNR, terrorist content online) with the mention of NGOs by name[63] in these articles. Finally, the overall results of the qualitative content analysis were interpreted with reference to the main research question.

Selection of Articles: Decisions Explained

Now, additional information should be given on the selection of media articles for the qualitative content analysis. The undertaking of selecting those articles that addressed the issue of data retention, PNR and terrorist content online was sometimes rather difficult. This was mainly because there was some overlap with similar topics. Next to the EU PNR directive, the issue of traveller's flight data was also discussed under different agreements between the EU and external states (e.g. EU-US PNR agreement, EU-Canada PNR agreement). Therefore, when selecting the articles, it was necessary to make sure that these texts really deal with the directive and not with an agreement. A similar problem was at hand regarding the EU terrorist content online regulation. During the period under review, not only the regulation at EU level was negotiated. The handling of illegal content (in general) was discussed as well. The selection of the articles therefore had to ensure a clear, "correct" thematic reference. In the following an example of an excerpt of an article is shown, that was not included in the media

[63] Only the number of NGOs mentioned by name was included in this analysis and the diagram, as general terms such as activists or civil rights groups could cover other actors, too, and lead to a false interpretation.

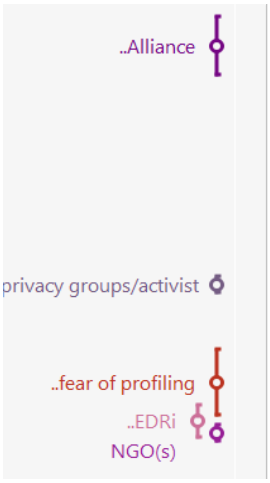
analysis of the EU terrorist content online regulation. The article “MEPs urge Commission to tackle illegal online sports broadcasts” was published by Euractiv (Pollet 2021):

> Among the critics of the report is German MEP Patrick Breyer (Greens/EFA), who considers it ‘a threat to our fundamental digital rights’ and that it ‘could just as easily have been written by industry lobbyists’. Breyer believes the guarantees provided in the resolution are not sufficient, and fears that the lack of ‘assessment by an independent judicial authority would lead to over-blocking of legal content.’ This is especially a danger given the tight 30-minute deadline for removal of illegal streams, Breyer said, pointing out that this was even less than the hour given to platforms to remove online terrorist content as adopted by the Parliament at the end of April. ‘The best way to reduce illegal streaming is to ensure legal, universal and affordable access to sports broadcasts, both by subscription and pay-per-view,’ Breyer said.

As one can see, the regulation is indeed addressed in the context of the article, but the article’s main objective is not to report on this legislative act. Instead, the coverage focuses on the Commission’s activities with regard to illegal streaming of live sport events (the title already points to this). No other person cited in the article refers to the terrorist content online regulation. Since a clear overlap of the topics is visible here, it was ultimately decided not to include the article in the analysis.

The author is aware that the interpretative approach comes with some pitfalls regarding the intercoder reliability. Especially since the material for all the three cases was coded by the same researcher (a problem that a lot of dissertation projects are facing). To make the selection process more transparent, an excerpt of an article that was coded and an excerpt of an article that was not coded in the EU PNR case analysis are presented below. This transparent reflection of the coding procedure should help to reduce the addressed problem.

Figure 11. Article Coded for Analysis of Case 2 (EU PNR Directive)



Instead of paying for an EU-wide system for sharing flight data that could cost of hundreds of millions of euros to set up, Albrecht argues the money would be better spent on joint investigation teams between EU countries.

“Otherwise we’ll have 28 huge silos of data that are not used by policemen but analysed by computers,” Albrecht said.

Kirkhope’s European Conservatives and Reformers Party has argued that PNR data would be used to track patterns of behavior and find criminal activity–but not to profile flight passengers.

But privacy activists counter that collection of personal information from flights gives authorities the power to analyse passengers’ data automatically.

“The incoherence of the supporters of PNR is best illustrated by Mr Kirkhope himself, who argues that PNR is not about profiling, it is about ‘looking for patterns in data’, which is pretty much the dictionary definition of profiling,” said Joe McNamee, executive director of NGO European Digital Rights.

Source: Stupp 2016. Document text extracted and coded with MAXQDA.

Figure 11 gives a further idea, how the coding was done. The title of the article already suggests a connection to the EU PNR directive, since it is about “flight data”. In the article the

legislative act is referred to as “an EU-wide system for sharing flight data” (Stupp 2016). The image above shows the identification of five inductive created codes.

The article “EU passport-free travel at risk, Tusk warns”, published by EUobserver (Nielsen 2022), was included in the selection because the majority clearly addresses the topic of PNR. See this excerpt:

> Donald Tusk on Tuesday (13 January) told MEPs in Strasbourg that an incoherent EU-wide security policy would ‘put at risk the freedom that we have built at the European level, including Schengen’. […] At stake is an EU-wide passenger name records (EU PNR) bill that would require airlines to hand over the personal data of its customers to the police. Tusk said the bill is needed to prevent a patchwork of individual national systems from emerging. ‘One European system is clearly better for security and freedom, that was true in December, and unfortunately, it is even more true today,’ he said.

The article progresses with this focus on the EU PNR issue. In the last part of the text, however, other schemes of EU interior ministers are addressed. In this context, the following statement of a NGO appears (Nielsen 2022):

> ‘Proposals to outlaw encrypted communications not only threaten the very rights they're said to be designed to protect, but begin from a fundamentally flawed premise - that such measures are even possible,’ said Mike Rispoli, spokesman for Privacy International, in response to Cameron’s scheme.

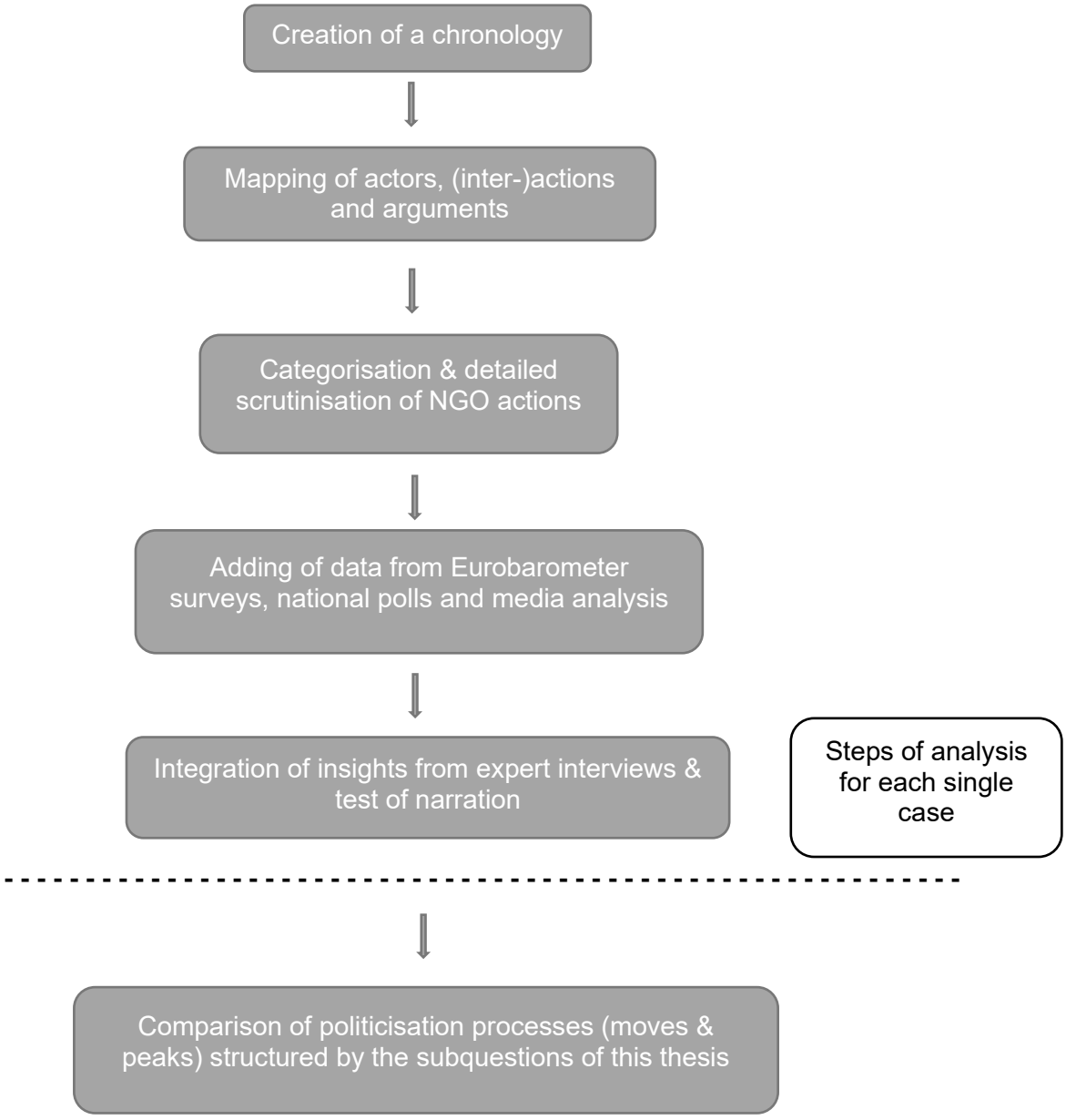
This NGO name and position was not coded for the analysis of the case since it can be regarded out of context. The citation of Privacy International is directed to another topic and cannot be linked to PNR. The selection and coding of the articles was quite laborious and can also be described as very time intensive. It was, however, an undertaking that paid off since it provided additional (and visual) information on the identification of the *politicisation move* as well as the *politicisation boots* in the three cases. The subchapters focusing on NGOs’ *voice* strategy (6.2.2.1, 7.2.2.1, 8.2.2.1) exemplify this. An attentive reader may notice that in the list of selected articles concerning the EU data retention case (appendix 6), some article titles refer to the PNR topic. The close connection between these topics will also become visible in the case analyses (chapter six and seven). It was necessary to include these articles to learn more about the *awareness* of NGOs’ act of *litigation* (related to data retention), as this issue was often mixed by journalists with the coverage of the PNR policy processes (directive and agreements).

As demonstrated in this subchapter, to understand the role of NGOs in politicising European security a flexible and creative interpretative methodological approach needed to be developed. This is due to the relatively recent stage of research on politicisation, which has so far provided few points of contact for qualitative work. The next chapter gives more insights on the research process. Advantages as well as limits of the introduced procedure are described.

3.3 Summary and Reflection of the Research Process

This chapter presents a serious reflection of the methodological approach. Before the limits and advantages of this work are presented, an overview of the whole process will be given. This figure 12 should contribute to the transparency and comprehensiveness of the conducted research process (presented in chapter 3.2). Since an interpretive case study approach was conducted, the research process was defined by the "hermeneutic–phenomenological circle-spiral" (Schwartz-Shea and Yanow 2012, 78). Hence, it was not straight forward.

Figure 12. Overview of the Research Process (Case 1-3)



Source: Own illustration.

Again, it needs to be emphasised that the research process, although presented as a step-by-step approach for simplification and comprehensibility (figure 12), was by no means forthright. Schwartz-Shea and Yanow (2012, 57) describe interpretative work as the “rhythm of an iterative, recursive interpretive research process”. In the authors opinion this quote fits very well to describe the scientific process of writing this thesis. The interpretative approach of going “back and forth” influenced especially the development of chapter 3.1. The building of the theoretical framework was constantly in progress. That is, the concepts presented in this part – the operationalisation and the design of the arenas in particular – were repeatedly adapted and partially realigned during the research process. It was an ongoing learning for the researcher and a deep exchange between empirical insights and conceptual knowledge. This course of action had however also the consequence that chapters focusing on the three cases needed to be rewritten several times.

During the data collection phase, a very present problem was the one addressed by Checkel (2008, 121) as “answering ’how much data is enough?’”. This issue particularly affected step one and step two of the research process. Process analysis can be described as a very resource intensive research technique (similar as process tracing). The problem was rarely about “too little data” – in this context the extensive databases of NGOs were helpful – but more about “too much data” that was difficult to process and filter. The step of mapping was for each case a very time-consuming undertaking, that should not be estimated. The third step of categorising and examining NGO actions in table format was essential in order not to lose track.

To contribute to the validity of data and maintain an objective stance, it was an important move to conduct expert interviews not only with NGOs but also with EU officials and others who partook in the three distinct policy processes. The author was aware that the deep study of NGO sources (and opinions) could have consequences for the interpretation of data and the research results. To get a “balanced” view, it was helpful to not only study the argumentation of other actors than NGOs, but also to “listen” to it. In addition, the expert interviews with EU officials as “the complementary side” sometimes provided information about the NGO constellation (alliances and collaborations) that helped to evaluate the reconstruction made – through a detailed analysis of the texts – by the researcher herself. At the same time, it was very important to get into contact and discuss actions with NGOs to not “overinterpret” their positions or actions. As will become apparent later in the thesis (chapter 9), the cultural context of an NGO i.e., in which member state an organisation is based, plays an important role. Many of the NGOs studied are active in Germany, a state in which the researcher herself lives and works. In order to avoid the distort of results, it was important to re-check in conversations with

participating actors whether those German NGOs were really that active or whether this could be a personal misjudgement of the researcher.

One noteworthy piece of information should be given about the activity of coding in the mapping (step two of the illustrated research process). Here, it was particularly difficult to code the *audience* of NGOs. Sometimes it was even not possible to label an actor or a group with this code at that stage of research process. A problem was that the *audience* as such was mostly not mentioned in the material itself, but rather emerged through a more in-depth scrutinisation of the case and the conduction of the expert interviews. This example again illustrates quite well the interpretative ("iterative") work that was done.

Before the case analyses mirror this approach, there are two more substantive chapters. First, the NGOs that appear in the case chapters are presented. Second, the political opportunity structures to which NGOs are exposed at the EU level are outlined. These chapters thus provide the context for the reader of this work to be able to dive into the three cases afterwards.

4 Brussels-based and National NGOs in the Field of EU Counter-Terrorism

This chapter is dedicated to the Brussels-based and national NGOs that are engaging in the EU counter-terrorism field. It starts, however, with a broader perspective, presenting not only the prominent NGOs but also the network, they are embedded in, and their alliances (chapter 4.1). These partnering organisations must not necessarily be located in an EU member state but could be of global character as well. After mapping this NGO scenery that is active at the EU level, the profiles of the prominent Brussels-based and national NGOs are illustrated (chapter 4.2). This is a chance for you as a reader to get a better idea of who these main actors that appear in the case studies are.[64] A particular interesting insight that deserves some attention is, that these are mainly NGOs who work with a focus on privacy and digital rights. There is little literature that pays attention to these privacy organisations. An exception is Bennett (2008). The subsequent presentation of these actors is therefore mainly based on information provided by these NGOs themselves. In this thesis, the understanding of what an NGO is, refers to the European Commission's own definition (see chapter 2.1). The profiles demonstrate that those organisations who will now be introduced meet this definition. The chapter concludes with highlighting common characteristics of these organisations (chapter 4.3).

4.1 Mapping of Key NGOs Engaging in Counter-Terrorism at the EU Level

The mapping of main Brussels-based and national NGOs in the subfield of EU security shows that besides of a few exceptions, digital rights organisations or those groups who explicitly focus on surveillance are active. Some of them prefer the label "civil rights" or "basic rights" organisation. Table 7 provides an overview of the organisations that greatly drive the NGO scenery in the policy processes around data retention, PNR and terrorist internet content. The table lists those Brussels-based and national NGOs that are prominent in one (or more) of the case studies and overtook a crucial role in pursuing *voice*, *access* and/or *litigation* at the EU level.[65] Besides that, the reader will also encounter information on the objective of these NGOs and in which EU member state they have their main office.

[64] Subchapter 6.2.1, 7.2.1 and 8.2.1 who all focus on the participating NGOs in the respective cases point this out.
[65] This criterion includes NGOs based in the UK. As for example chapter six will demonstrate, the former member state has played a major role in the examined case and period under review. The NGO WITNESS is an example for an organisation that is not scrutinised in this section since it is based in the United States of America (USA). Quintessenz, an Austrian group that could only be linked once to a *voice* action and that was only partly active in the first case study, does not appear in subchapter 4.2. Amnesty International and Reporters Without Borders also

Table 7. Brussels-Based and National NGOs Engaging in EU Counter-Terrorism

Name of NGO	Focus	Presence	Prominent role in	Case 1 - DRD	Case 2 - PNR	Case 3 - Terreg
Access Now	digital rights	Belgium	*access*	(x)	(x)	x
AK Vorrat AT/ epicenter.works	basic rights	Austria	*litigation*	x	x	
Article 19	human rights	International (UK)[66]	*access*	x		x
Center for Democracy and Technology (CDT)	human rights	Belgium (and USA)	*access*	(x)		x
Civil Liberties Union (Liberties)	civil rights	Germany	*access*		x	x
Digitalcourage	digital rights	Germany	*voice, access*	x	x	(x)
Digitale Gesellschaft (Digital society)	digital rights	Germany	*voice, access*	x	x	x
Digital Rights Ireland (DRi)	digital rights	Ireland	*litigation*	x		
European Digital Rights (EDRi)	digital rights	International (Belgium)	*voice, access*	x	x	x
Gesellschaft für Freiheitsrechte (GFF)	civil rights	Germany	*litigation*		x	
Liga voor Mensenrechten	human rights	Belgium (Flemish)	*litigation*	x	x	
Ligue des droits humains (LDH)	human rights	Belgium (Francophone)	*litigation*	(x)	x	
La Quadrature Du Net (LQDN)	digital rights	France	*access, litigation*	x		x
Privacy International (PI)	human rights	International (UK)	*voice, access, litigation*	x		
Statewatch	civil rights	UK	*voice*	x	x	x

Source: Own illustration.

Before the next subchapter introduces these listed NGOs that actively engaged in the European security subfield, the earlier addressed broader perspective is pursued, that involves a description of the NGO network as well its non-governmental alliances in EU counter-

are not listed with their profiles, because they have not dealt specifically with the issue, only in the role of supporting organisations.

[66] United Kingdom (UK).

terrorism. The information – who appears in which position – is drawn from the case analyses presented in chapter six, seven and eight.

Table 7 contains the name of fifteen NGOs. With the exception of CDT Europe, Ligue des droits humains and Liberties, all of them are part of the EDRi network. One EDRi member, the Berlin-based GFF, is part of the Liberties network together with the Belgian LDH. EDRi and Liberties are partnering organisations, both focusing on EU policy analysis. The NGO profiles will demonstrate that Bits of Freedom and the Electronic Frontier Foundation (EFF) are two supporting organisations. They are both part of the EDRi network, the former group even was involved in its founding, and provide financial help as well as support in public relations activities (i.e. distributing the work and position of EDRi). Next to this Dutch and US-based organisation, the Open Rights Group, the Panoptykon Foundation as well as the Austrian association VIBE!AT[67] appear as supporters. The UK-based NGO Open Rights Group is involved as partner of PI. The Polish Panoptykon Foundation collaborates with EDRi and Access Now Europe on a regular basis. VIBE!AT supported epicenter.works in a legal action. Just as epicenter.works, VIBE!AT is a member of EDRi, too. Adding to that, engagement was visible from another Austrian EDRi member. The registered association Quintessenz, who is one of the co-founders of EDRi and involved in the organisation of the Big Brother Awards in Austria, appeared as partner of Statewatch. Two EDRi members that also occur are Iuridicum Remedium (IuRe) and the IT-Political Association of Denmark (IT-Pol). The Czech and Danish digital rights organisations are overwhelmingly active in their respective member states. The latter mentioned NGO has a special standing due to Denmark's opt-out from Justice and Home Affairs (JHA) issues. Because of that, the implementation of legislation might look different at their member state level compared to other EU countries. The Liga voor Mensenrechten cooperated with two Belgian data protectionists. A campaign, in which also the Belgian LDH was involved, was backed up by the platform datapanik.org as well as the Net Users' Rights Protection Association (NURPA). For a certain period, NURPA had an EDRi-observer status.

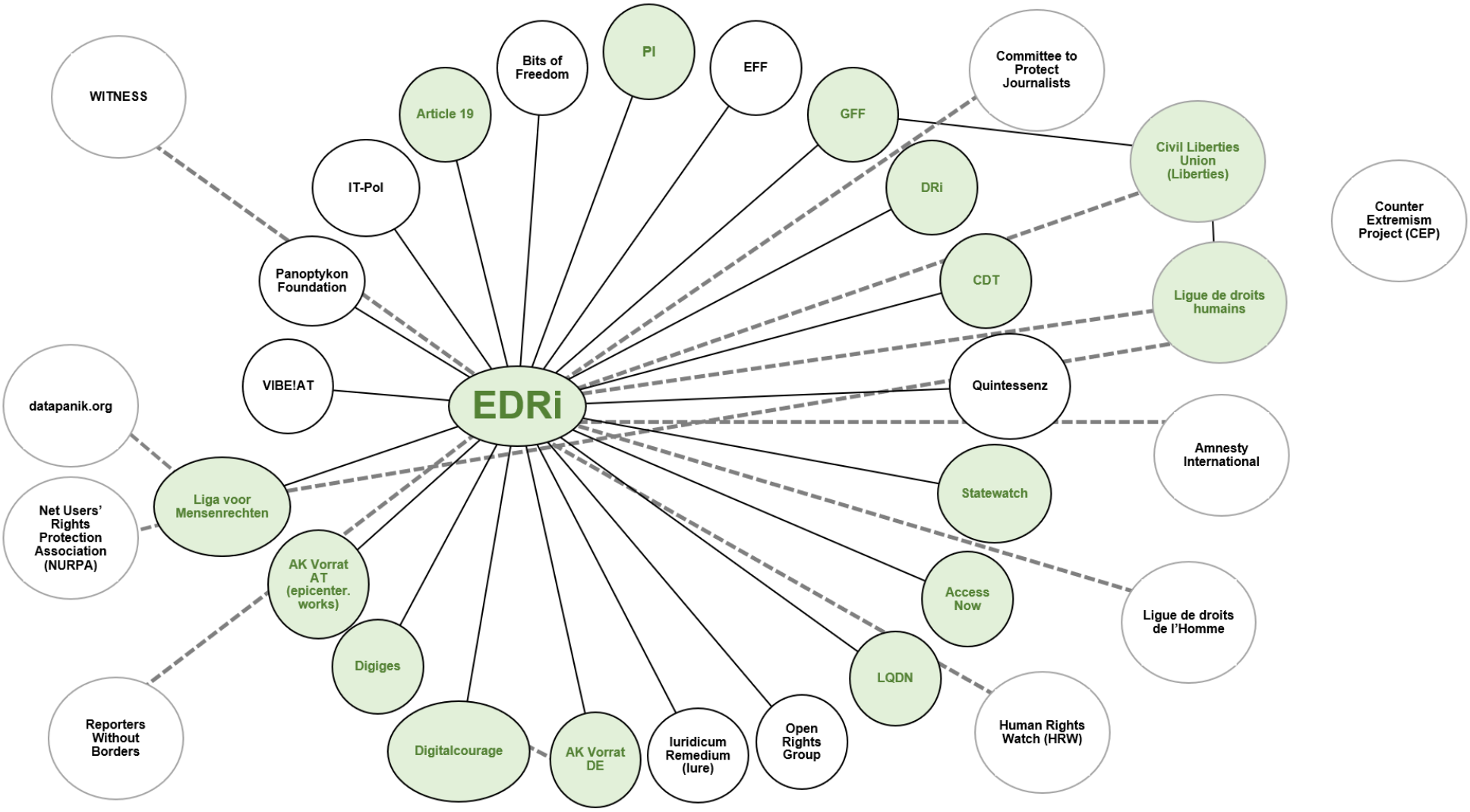
International organisations that can be called supporters are Amnesty International, Human Rights Watch (HRW), Reporters Without Borders (RSF), Ligue des droits de l'Homme, WITNESS and the Committee to Protect Journalists (CPJ). The common denominator for these organisations is the fight for human rights. Even if this engagement for human rights takes different forms and has different focal points. RSF and the CPJ both concentrate on freedom of expression. RSF is like Ligue des droits de l'Homme headquartered in Paris. The CPJ has experts around the world and its main presence in New York. The global NGO WITNESS is also headquartered in New York. It shares, however, another similarity with CPJ,

[67] Verein für Internet-Benutzer Österreichs.

since it advocates for journalists and others who work with online streams and video technology to protect human rights (WITNESS n.d.). The London-based organisation Amnesty International and HRW, which has its head office in the US, are both active in the field of human rights for over fifty years. They probably might be the best-known NGOs that are named in this contribution.

The introduction of actors however does not stop here. One other NGO needs to be introduced: The Counter Extremism Project (CEP). The CEP has offices in different cities like London and New York. The NGO describes its objective as follows: “CEP builds a more moderate and secure society by educating the public, policymakers, the private sector, and civil society actors about the threat of extremism. CEP also formulates programs to sever the financial, recruitment, and material support networks of extremist groups and their leaders” (Counter Extremism Project n.d.). The organisation will emerge in a hitherto unusual context: As a counterpart of the digital rights NGO scene. A summary of the active NGO network and its alliances is given by figure 13. The background of those organisations whose names have been colour-coded are illustrated in chapter 4.2.

Figure 13. Overview of NGO Network and Supporting Organisations in EU Counter-Terrorism



Source: Own illustration based on information provided by chapter six, seven and eight.

4.2 Profiles of Brussels-based and national NGOs

This section presents the prominent human rights and privacy NGOs in detail. For each organisation a profile is created that sheds light on the groups' self-understanding, development, funding and (strategic) objectives. The NGO European Digital Rights (EDRi) is the first to be introduced. It is the umbrella organisation of several other civil rights defenders whose profiles appear as well in this subchapter. Then NGOs are introduced in alphabetical order.

European Digital Rights (EDRi)

- Founded: 2002
- Type: International NGO
- Membership status: Umbrella-organisation
- Headquartered in: Brussels
- Mission: "to challenge private and state actors who abuse their power to control or manipulate the public" (European Digital Rights n.d.c, 2).
- Campaigns[68]: SaveTheInternet.eu, #ReclaimYourFace, #BanBS[69]

The organisation EDRi can be seen as a project of several NGOs and civil rights defenders. The founding organisations were among others Bits of Freedom (European Digital Rights 2009) and Privacy International (PI), which will be introduced later. In total, ten organisations participated in its founding (European Digital Rights 2010c). In 2022, more than forty NGOs have an EDRi membership (European Digital Rights n.d.d). In 2010, the number was far lower with almost thirty NGOs joining the network (European Digital Rights 2010c). Almost all EDRi members are based in the EU. The organisation has however a specific notion of the region in mind: "We always think Europe in terms of the Council of Europe territory – so not just European Union member states" (European Digital Rights 2010c). The EFF and EPIC make two exceptions as both are are based in the USA. EDRi member PI is registered as international – albeit its main office is in London – and Access Now is labelled European. Organisations, who want to become active within the EDRi network do not automatically have to become a member, they can also take part as an observer. EDRi itself is member of several bodies. For example, the Organisation for Economic Co-operation and Development (OECD) or the European Association for the Defense of Human Rights (AEDH). This information comes from the EU transparency register, in which the NGO enlisted itself (europa.eu 2021). EDRi participates in the Commission's "Group of Experts on EU Trade Agreement" in which it is listed as NGO (European Commission n.d.b). To fulfil its mission, the digital rights defender uses the means of advocacy work and campaigning. The NGO receives its funding from

[68] This is only a selection and does not cover all campaigns of NGOs. It just should give an impression in which scenarios these organisations listed under 4.2 cooperated.
[69] BS stands for Biometric Surveillance.

foundations and companies. Those enterprises are Duckduckgo, Microsoft, Twitter or Mozilla – all internet service providers (European Digital Rights 2022). The US based research center and EDRi member EPIC is listed as a "non-corporate donor" (European Digital Rights 2022). The list of funders also covers the European Data Protection Supervisor (EDPS).[70] In its annual report of 2020, the digital rights NGO declared that it received around 70 percent foundation grants (European Digital Rights n.d.a, 42). EDRi takes part in several events. For example as participant in the digital rights conference re:publica, which is among others organised by the German blog Netzpolitik.org, or as (co-)organiser of the Belgian Big Brother Awards. The latter "is an event which seeks to highlight violations of our privacy, especially with regard to new methods of surveillance, associated with the development of technology" (Iuridicum Remedium 2018). A true characteristic of the NGOs' work is, however, the dissemination of news from the EU bubble as Bennett (2008, 53) describes: "Its activities now concentrate on the publication of the very successful bi-weekly newsletter, the Edrigram." As umbrella organisation it overtakes a main coordinating function in all three policy processes as the subsequent studies (chapter six, seven, eight) will show. Next, the focus is on Access Now Europe. The organisation is not only member of EDRi, but also shares the same building in Brussels.

Access Now Europe

- Founded: 2009
- Type: International NGO with a branch in Europe
- Membership status: EDRi member
- Headquartered in: Brussels
- Mission: "Access Now defends and extends the digital rights of users at risk around the world" (Access Now n.d.b).
- Campaigns: SaveTheInternet.eu, #KeepItOn, #ReclaimYourFace, #BanBS

The NGO was responsible for "disseminating the video footage that came out of the Iran despite government efforts to thwart outgoing communication" (Access Now n.d.a). It has several offices around the world. Staff members work in Latin America (e.g. Argentina), North America (e.g. Canada), in Africa (e.g. Ghana) or Asia (e.g. the Philippines) (Access Now n.d.b). In 2022, the Brussels staff team has been active twelve years at the EU level. The issues the European presence is concentrating on are "privacy and data protection, freedom of expression, artificial intelligence, surveillance and national security, Net Neutrality, and more" (Access Now 2019b). The Brussels team consists of four staff members. It is represented in one Commission expert group as a NGO (europa.eu). The team describes its cooperation with EU institutions as follows: "The Brussels team liaises on a regular basis with members of the European Parliament from all political families, European Commission officials, including high-

[70] See also the annual report of 2020 published by EDRi (n.d.a., 43).

ranking directors and commissioners, and representatives from member states to the Council of the EU" (Access Now 2019b). In addition, the NGO's work is characterised by the preparation of analysis reports for MEPs and EU data protection authorities. In total, the work of the NGO concentrates on "five issue areas": "privacy", "freedom of expression", "digital security", "business and human rights", "net discrimination" (Access Now n.d.b). Together with EDRi it presented an evaluation of the Commission's work on online disinformation (Access Now 2018). Access Now Europe describes its relationship with EDRi as follows: "Our work in the EU is reinforced by cooperating with national and international digital rights groups from across Europe. We are a proud member of European Digital Rights (EDRi), working now for many years in collaboration with established and emerging organisations and individuals" (Access Now 2019b). Access Now receives its funding from foundations and companies, but also individual donors. Such as EDRi, it receives financial support from companies like DuckDuckGo, Mozilla, Microsoft or Apple. In 2021, it was also funded by different foreign offices of states. For example, the German Federal Foreign Office, the UK Foreign, Commonwealth and Development Office or the Dutch Ministry of Foreign Affairs (Access Now n.d.c). In its 2020 delivered "European Human Rights agenda for the digital age", the NGO named the protection of freedom of expression as a key aim (Access Now 2020). This objective will become visible in the subsequent case analysis, too. Epicenter.works, a group that is now introduced, was one of the cooperating partners of EDRi and Access Now in the "SaveTheInternet.eu" campaign.

AK Vorrat AT/epicenter.works

- Founded: 2010
- Type: Austrian NGO
- Membership status: EDRi member
- Headquartered in: Vienna
- Mission: "committed to the preservation of fundamental rights in the digital age and a pluralistic society" (European Digital Rights 2017b).
- Campaigns: SaveTheInternet.eu, Pledge2019.eu, #ReclaimYourFace

The NGO epicenter.works focuses on distinct issues concerning digital rights: Net neutrality, PNR, surveillance measures and data retention. The latter is closely intertwined with the creation of the NGO. epicenter.works was founded shortly before Austria adopted the national implementation law on data retention (epicenter.works n.d.d). Back then the group was called "Arbeitskreis Vorratsdaten Österreich" (AK Vorrat AT). The NGO has its current name only since 2016: "The new brand is an expression of the broader spectrum of content that the organization works on" (epicenter.works n.d.d). The NGO emphasises its independence on its website and links this value to its funding organisations. The organisation states that it does

not accept funding of corporations like Google or Facebook (epicenter.works 2019d). According to the group's transparency report of 2019, its sources of funds are overwhelmingly donations; then releases of capital reserves, then grants and then sponsoring incomes (epicenter.works n.d.a). One of the supporting members of epicenter.works is the German Chaos Computer Club (CCC). In 2019, it announced to have financial problems and called for public funding in Austrian news magazines (*DER STANDARD* 2019). The NGO became well-known in Austria not only for its work against data retention but also for the publication of its "Handbook for the Evaluation of Anti-Terrorism Legislation", which "aims to support state and civil society organizations with identifying surveillance measures that potentially infringe fundamental rights before they come into effect" (epicenter.works n.d.c). In 2021, the NGO declared the EU terrorist content online regulation as a top priority of its efforts. Above that, it calls their activities with regard to EU PNR as a milestone of its work (epicenter.works 2020). So far, three digital rights NGOs have been introduced. Now, the profile of the first human rights NGO follows.

Article 19

- Founded: 1987
- Type: International NGO
- Membership status: EDRi member
- Headquartered in: London
- Mission: "ARTICLE 19 works for a world where all people everywhere can freely express themselves and actively engage in public life without fear of discrimination" (ARTICLE 19 n.d.a)
- Campaigns: #KeepItReal, #ChallengeHate, #ReclaimYourFace

Just like the organisations presented above, the human rights NGO Article 19 is also part of the EDRi network. It was however already established before EDRi started its work in Brussels. The inspiration for its name came from the Universal Declaration of Human Rights, in which the said Article 19 deals with the rights to freedom of expression. The NGO is registered as global, since the staff members operate not only in Europe but also in North America or the Middle East (ARTICLE 19 n.d.e). At EU level, the NGO is included as expert in the Commission's group that concentrates on Strategic Lawsuits against Public Participation (SLAPP) (ARTICLE 19 2020c). This is also a key issue on which the NGO is focusing on (ARTICLE 19 Netherlands n.d.). At UN level, it is involved in the Human Rights Council (ARTICLE 19 n.d.d). The NGO publishes the "The Global Expression Report", which can be understood as a "global, data-informed, annual look at freedom of expression worldwide" (ARTICLE 19 2021a, 8). In its Annual Report of 2020, the NGO stressed the production of more than thirty legal analyses and highlights the EU Terreg as one of the examined policies (ARTICLE 19 n.d.c, 18). In 2022, EDRi and Article 19 are working together on the EU Digital

Service Act (ARTICLE 19 2021b). The funding of Article 19 comes from different bodies. The NGO highlights “institutional donors” (ARTICLE 19 n.d.a), but also “long-term donors” (ARTICLE 19 n.d.b). The latter term includes the European Commission and the Open Society Foundations. The Annual Report of 2020 also highlights foreign ministries (e.g. Germany, UK, Netherlands) and corporations like Facebook or Google as donors (ARTICLE 19 n.d.c, 66–67). The Center for Democracy and Technology that will now be introduced, is the first organisation that is not a member of EDRi.

Center for Democracy and Technology (CDT) Europe

- Founded: 1994
- Type: International NGO with a branch in Europe
- Headquartered in: Brussels
- Mission: “CDT Europe advocates for the promotion and protection of democracy and human rights in European tech law and policy” (Center for Democracy and Technology n.d.c).

The CDT is an US-based “public interest group” (Center for Democracy and Technology n.d.a). Like Access Now it has a branch in Europe but does not understand itself as a “membership organisation”. The Center labels itself as a not-for profit organisation (europa.eu 2022d). The European presence is listed in the EU transparency register since 2012 (europa.eu 2022d). The US office was founded by the executive director of the EFF (C. J. Bennett 2008, 50). Peter Hustinx, former EDPS (2004-2014), is member of the organisations Europe Board (Center for Democracy and Technology n.d.b). Three staff members work full-time in the organisation’s European office. The director of CDT Europe has a human rights background since she worked as advocacy director at Amnesty International. During this position she was covered as one of the “women who shape Brussels” by Politico in 2017 (Heath and Mischke n.d.). The focus of CDT Europe is clearly on the EU and not the national member state level. The group’s programmatic issue areas are “Free Expression & Intermediary Liability”, “Artificial Intelligence”, “Government Surveillance and Access to Personal Data”, “Data Protection and Privacy”, “Net Neutrality” in the EU (Center for Democracy and Technology n.d.a). According to the Commission’s transparency register, the EU Terreg was also a key topic for CDT Europe (europa.eu 2022d). The Brussels’ team for example was in exchange with representatives of the EP, which exemplifies the main strategy of the group. It operates “by bringing expertise as well as stakeholders together” (Center for Democracy and Technology n.d.e). CDT Europe is funded by the Washington-based headquarter but wants to become an independent entity in the future (Center for Democracy and Technology n.d.d). Companies and foundations that support CDT financially are for example Google, Amazon, Open Society Foundations or Twitter (Center for Democracy and Technology n.d.d). In this context, CDT states that “financial

supporters have no influence or control over CDT's projects or priorities, including the content of educational programs, research, written reports, or other work product" (Center for Democracy and Technology n.d.d). In a next step, the work of a Berlin-based organisation is illustrated.

Civil Liberties Union for Europe (Liberties)

- Founded: 2017
- Type: European NGO
- Membership status: Umbrella-organisation
- Headquartered in: Berlin
- Mission: "to support the EU in applying its powers to respect (refrain from actively violating), protect (prevent third parties such as national governments and companies from violating), and promote (take measures to create an environment where rights are more likely to be realised) fundamental rights, the rule of law and democracy" (Civil Liberties Union for Europe n.d.c, 5).
- Campaign: #StopSLAPPs, #ReclaimYourFace, #BanBS

Comparing Liberties with the above-presented organisations two characteristics stand out. The NGO is not a member of EDRi and quite newly established. Next to its head office in Germany's capital city it has also a full-time presence in Brussels. Its entry in the EU transparency register indicates that the NGO's work is also characterised by lobbying activities in Brussels. The NGO declares that it "is built on a network of national civil liberties NGOs from across the EU" (Civil Liberties Union n.d.a). From the 2020 Annual Report, one can extract that the NGO has 18 member organisations (Civil Liberties Union for Europe n.d.c). Some of the names will come up in the course of this thesis. This includes for example the GFF or the Ligue des droits humains (Belgian League of Human Rights) (Civil Liberties Union n.d.b). The aim of Liberties is, however, to grow. The NGO wants to increase its scope of members until it has a representative in each EU member state (Civil Liberties Union n.d.a). The NGO stands up for the freedom of EU citizens as well as the principles of a democratic society. Such as Article 19, it is also participating in the expert group SLAPP (europa.eu 2022b). Together with EDRi, Amnesty International and Access Now, it works on EU policies such as the Digital Service Act or the EU's disinformation strategy. Regarding the latter it drafted an own report to confront the matter of false sources, reporting and facts (Access Now, Civil Liberties Union for Europe, and European Digital Rights 2018). Liberties emphasises this partnership with EDRi as an initial goal: "Liberties' aim was also to build a supporting network of other civil liberties NGOs therefore Liberties contacted potential partner NGOs and shared its policy papers and other analyses with them" (Civil Liberties Union for Europe n.d.b). The NGO is funded by a number of foundations. One of them, whose name has already been mentioned several times, is the Open Society Foundations (Civil Liberties Union n.d.a). According to the NGOs Annual Report

of 2020, the Open Society Initiative for Europe and the Ford Foundation are also major funders (Civil Liberties Union for Europe n.d.c). The link to the field of EU counter-terrorism becomes evident in the first Annual Report (2017) of the group. The NGO highlights itself as opposer of surveillance (Civil Liberties Union for Europe n.d.b):

> In the name of counter-terrorism, governments and companies routinely intercept, record and store communications and other personal data that passes over the internet. Mass surveillance has not helped to combat terrorism, and is probably endangering public safety by distracting security services from genuine threats and pulling resources away from more traditional forms of intelligence gathering.

The next NGO that will be regarded is such as Liberties based in Germany. The founding of this German data protection group however dates to the 1980s.

Digitalcourage (and German Working Group on Data Retention)

- Founded: 1987
- Type: German NGO
- Membership status: EDRi member
- Headquartered in: Bielefeld
- Mission: “Digitalcourage advocates for fundamental rights, privacy and protecting personal data. We want to shape technology and politics with a focus on human dignity” (Digitalcourage 2021).
- Campaign: #ReclaimYourFace, #BanBS, SaveTheInternet.eu

Unlike the NGO Liberties, the organisation Digitalcourage e.V. has been in business for quite some time. It works on digital rights issues for more than thirty years already. Until 2012, it was named FoeBuD (Verein zur Förderung des öffentlichen bewegten und unbewegten Datenverkehrs). The organisation mainly campaigns against mass surveillance and the general suspicion of citizens. The NGOs’ actions are related to this goal. Digitalcourage is for example the organiser of the Germen Big Brother Awards since 2000. Its 2021 annual report, shows that the NGO works with a set of different means (pandeluun and Tangens 2020). These are for example the organisation of demonstrations and complaints, lobbying and advocacy work as well as the preparation of presentations and publications. Organising demonstrations is a part of their work that Digitalcourage is very proud of: “We have been a central part of broad coalitions behind large-scale rallies such as Freiheit statt Angst (“Freedom not Fear”, which brought some 50,000 people out at its peak in 2008) and unteilbar (“indivisible”, where almost 250,000 stood up against the far right in 2018)” (Digitalcourage 2021). In 2021, the NGO reports to have around 3000 supporters (Digitalcourage 2021). According to the EU transparency register, Digitalcourage is focusing on different EU policies such as the ePrivacy directive, EU data retention and EU PNR (europa.eu 2022e). Digitalcourage is mainly financed by membership fees and donations (Sieber 2021).

However, the NGO is not only collecting funds for itself, but also for the German working group on data retention (AK Vorrat DE) (Digitalcourage n.d.). The group describes itself as "an association of civil rights campaigners, data protection activists and Internet users." (German Working Group on Data Retention n.d.b) Digitalcourage is member of AK Vorrat DE and responsible for its website. It describes its relation to the working groups as follows: "Ganz viel unserer Arbeit zum Thema Vorratsdatenspeicherung passiert im und mit dem AK-Vorrat" (Simon 2015). The German AK Vorrat does not have any organisational basis[71], which is why it is not listed in this chapter as a NGO. It is rather regarded as a data protection group. Due to the closeness to Digitalcourage, it will further be scrutinised in the case analyses.

Digitale Gesellschaft (Digital Society)

- Founded: 2010
- Type: German NGO
- Membership status: EDRi member
- Headquartered in: Berlin
- Mission: "Wir wollen eine offene und freie digitale Gesellschaft erhalten und mitgestalten" (Digitale Gesellschaft n.d.b).
- Campaign: #ReclaimYourFace, SaveTheInternet.eu, #BanBS

The Digitale Gesellschaft, also called digiges, celebrated its tenth anniversary in 2020. In the EU transparency register, the organisation states that it has no financial purpose and is independent. The latter aspect is also emphasised on the NGOs' website: "Die Digitale Gesellschaft e.V. versteht sich als parteiunabhängige Organisation" (Digitale Gesellschaft n.d.a). It also appears in the German transparency register as "Privatrechtliche Organisation mit Gemeinwohlaufgaben" (Deutscher Bundestag 2022a). Here, the charity aspect of digiges becomes visible. The NGO has two staff members and the board of Digital Society works on a voluntary basis (Digitale Gesellschaft n.d.d). Digiges (n.d.b) was founded among others by members of the German digital rights blog Netzpolitik.org. The groups financing is based on a mix of contributions of members, individual donors, project funds and grants of institutions (Digitale Gesellschaft 2019). One of the NGO's funders is the Open Society Foundations (Digitale Gesellschaft n.d.d). To fulfil their mission, it works as campaigner, with lobbying as well as advocacy strategies. It produces for example statements and provides information on ongoing legislative projects. Digital Society for example explained upload filters to the wider public in a small booklet (Busch-Heizmann 2020). Once per month, the NGO organises an event, called "Netzpolitischer Abend". As one success of the year 2020, digiges describes its involvement in the policy process on the EU terrorist content online regulation (Digitale Gesellschaft n.d.c). Why it is listed as success will become clear in chapter eight. The

[71] See Simon (2015): "Der AK Vorrat hat keine feste Struktur."

organisation was also greatly involved in the process around PNR as chapter seven highlights. In the next paragraph, EDRi member Digital Rights Ireland is presented.

Digital Rights Ireland (DRi)

- Founded: 2005
- Type: Irish NGO
- Membership status: EDRi member
- Mission: ”Digital Rights Ireland is dedicated to defending Civil, Human and Legal rights in a digital age.”
- Campaign: #no2psc (Public Service Card)

The EFF lists DRi as “a digital rights lobbying and advocacy NGO” (Electronic Frontier Foundation 2014). It is in fact a very small NGO. The staff and the three directors work completely voluntary. The group has no headquarter or other kind of presence (Digital Rights Ireland n.d.a). DRi is dependent on donations. However, it refrains from labelling itself “charity” and gives a straightforward explanation for that: “In Ireland, charities aren’t allowed to take part in political activity. We are a non-profit company limited by guarantee – which means that we cannot distribute any funds to our members” (Digital Rights Ireland n.d.b). Consequently, no personal profit is in place. On the contrary, DRi explains that donations automatically are linked to their work and not to the financing of other things: “We have no staff or office, so all our funds go directly towards our work“ (Digital Rights Ireland n.d.a). DRi cooperates with Privacy International as well as Access Now. Together with PI it drafted the report “The Right to Privacy in Ireland” (Privacy International 2016a). Some reader of this contribution might already know, in which context of EU counter-terrorism the NGO gained prominence. As chapter five and six will demonstrate, a CJEU ruling is named after this organisation. That litigation as a means seems to be important to the NGO can be inferred to some extent from the professions of their team. Another NGO, that specialised on litigation, is the German Gesellschaft für Freiheitsrechte.

Gesellschaft für Freiheitsrechte (GFF)

- Founded: 2015
- Type: German NGO
- Membership status: EDRi member, Liberties member
- Headquartered in: Berlin
- Mission: “to establish a sustainable structure for successful strategic litigation in the area of human and civil rights in Germany and Europe” (European Digital Rights 2016a).
- Campaign: #noPAG (Bavarian Police Task Act)

In 2020, the NGO declared to have fifteen staff members (Gesellschaft für Freiheitsrechte 2020a). Former MEP Felix Reda is part of the GFF team. GFF focuses on different

programmatic issues like digital rights, equality and antidiscrimination, social participation, fundamental rights and democracy promotion (Gesellschaft für Freiheitsrechte n.d.b). The GFF is active in a digital rights as well as a civil rights NGO network. Among others, its partners are Amnesty International, the already presented NGO digiges and EDRi-founder Bits of Freedom (Gesellschaft für Freiheitsrechte n.d.c). It also cooperates with LQDN and PI, two NGOs that will be introduced later. The GFF receives its funding like many others from the Open Society Foundations and DuckDuckGo (Deutscher Bundestag 2022b). The CCC and Netzpolitik.org are also listed as donors (Gesellschaft für Freiheitsrechte n.d.a). The 2020 annual report of the NGO shows that the largest sums of funding were granted by (ongoing) memberships and individual donations as well as institutions (Gesellschaft für Freiheitsrechte n.d.b, 26). However, this money does not fund the board of GFF, since the directors work entirely on a voluntary basis. The GFF declares to be a charity and highlights its will to be independent (Gesellschaft für Freiheitsrechte n.d.a). The actions of GFF concentrate on Germany's national level, but also on the EU level. The above-mentioned mission illustrates this. For several years now, it examines and assesses the (public) room for NGOs to manoeuvre in Germany and Europe (Gesellschaft für Freiheitsrechte 2019b). The focus now turns to a Belgian-based human rights NGO and away from the German level.

Liga voor Mensenrechten

- Founded: 1979
- Type: Belgian NGO
- Membership status: EDRi member
- Headquartered in: Gent
- Mission: "We raise support for human rights and prevent human rights violations in Belgium" (Liga voor Mensenrechten 2020).
- Campaign: Police Watch

The Liga voor Mensenrechten is a Dutch-speaking organisation. The NGO describes itself as "a Belgian human rights NGO, focusing on Flanders and Brussels" (Liga voor Mensenrechten 2020). The regional aspect of this self-presentation will become later again of importance. The EDRi membership becomes also visible in the organisation's activities. Together with EDRi it organises the Belgian Big Brother Awards. Next to this, the NGO awards a human rights prize every year (Liga voor Mensenrechten n.d.). Other activities of the NGO are litigation, educational training and the drafting of policy analyses. The organisation focuses in particular on the following topics in its daily (human rights) work: "the balance between freedom and security; the rights of prisoners; privacy; and non-discrimination" (Liga voor Mensenrechten 2020). On the state of privacy' rights in Belgium, the NGO published in cooperation with PI a report (Privacy International, Liga voor Mensenrechten, and Ligue des droits de l'Homme

2015). The Liga voor Mensenrechte is financed by donations. In 2020, it started a crowdfunding project together with the Belgian NGO Ligue des droit humains to finance a “Human Rights House” in Brussels. (van Durme 2020). The stronger cooperation with the Francophone NGO is a key objective of Liga voor Mensenrechten (Liga voor Mensenrechten 2020). Before the introduction of Belgian’s federal political system, there was only one Belgian Liga instead of the two NGOs Liga and la Ligue. The next section reflects the activities of the Francophone pendant of Liga voor Mensenrechten.

Ligue des droits humains (LDH)

- Founded: 1979
- Type: Belgian NGO
- Membership status: Liberties member
- Headquartered in: Brussels
- Mission: “promeut les **principes d’égalité**, de **liberté** et de **solidarité**” (Ligue des droits humains n.d.b., emphasis in the original).
- Campaign: Police Watch, #ReclaimYourFace

The LDH is like Liga voor Mensenrechten involved in the organisation of the Belgian Big Brother Award. However, it has no membership (or observer) status of EDRi like its sister organisation. Like GFF, Ligue des droit humains is a member of the Liberties network. The defender of human rights was founded under the name Ligue des droits de l’Homme. Since 2018, the league bears its new name (Ligue des droits humains n.d.a). This is indeed less confusing, since in France another (Paris-based) Liga with the same name is in place. All three organisations – the French Ligue des droits de l’Homme, the Belgian Liga voor Mensenrechten and the Belgian LDH – are all part of the International Federation for Human Rights. The AEDH, in which EDRi is a member, is also part of this international human rights NGO with more than 190 leagues (International Federation for Human Rights n.d.). The LDH is financed by membership donations as well as public and private grants (Ligue des droits humains n.d.c, 39). It focuses like Liga voor Mensenrechten on prisoner’s rights, privacy rights and anti-discrimination (Civil Liberties Union for Europe n.d.a). Similar to the Dutch-speaking organisation, it uses the means of education, litigation and policy analyses to purse its aims. On the former mentioned activity is a great focus of the NGO (Civil Liberties Union for Europe n.d.a):

> LDH educates the public to respect basic human rights (including institutional violence, access to justice, respect for minorities, women's rights), challenges the political power on issues concerning human rights, trains adults (under its continuing education activities) on awareness of human rights issues and the law, and brings issues regarding the development of educational tools and training to the attention of education stakeholders.

It went before the Belgian court to litigate against the retention of passenger data as chapter seven will illustrate. Not once, but twice: LDH was against the creation of an European PNR system as well as against the EU's exchange of traveller's data with the US.

La Quadrature du Net (LQDN)

- Founded: 2008
- Type: French NGO
- Membership status: EDRi member
- Headquartered in: Paris
- Mission: "La Quadrature du Net is a non-profit association that defends the rights and freedom of citizens on the Internet. More specifically, it advocates for the adaptation of French and European legislation to the founding principles of the Internet, most notably the free circulation of knowledge" (La Quadrature du Net n.d.d).
- Campaign: #ReclaimYourFace, SaveTheInternet.eu, #BanBS

LQDN became a part of the EDRi network in 2021 (La Quadrature du Net 2021a). The NGO's work is provided with grants by Open Society Foundations and La Fondation Charles Léopold Mayer pour le Progrès de l'Homme (La Quadrature du Net n.d.a). Furthermore, the organisation stresses its dependency on individual sponsors. In 2021, almost 80 percent of their revenues were based on donations (La Quadrature du Net n.d.c). According to the EU transparency register, the NGO has seven staff members and seven board members (europa.eu 2022c). One of the founding members of LQDN is from the French Data Network. As the case study on data retention will show, do these organisations also appear as partners. Moreover, the NGO stresses to have a relation to PI as a partner organisation. Connections to Amnesty International as well as the Ligue des Droits de l'Homme (based in Paris as well) are also existent (La Quadrature du Net n.d.a). LQDN concentrates on topics like net neutrality, censorship and the protection of personal data (europa.eu 2022c). Like many of the other NGOs illustrated before, LQDN focuses on educational means, advocacy and legal tactics to pursue its work. Before the section on the NGO's supporter PI starts, one further characteristic of this organisation needs to be highlighted. It perceives itself to be "at a key position, at the interface of a Free Software movement, inspired by the emancipating ethic of hackers and other pioneers of the Free Internet, and human rights organizations, whether they are French or not" (La Quadrature du Net 2018c).

Privacy International (PI)

- Founded: 1990
- Type: International NGO
- Membership status: EDRi member
- Headquartered in: London
- Mission: “That’s why PI is here: to protect democracy, defend people's dignity, and demand accountability from institutions who breach public trust” (Privacy International n.d.a).
- Campaign: #ReclaimYourFace, #BanBS

The global operating NGO is already an old-timer in the field and describes the time period after the attacks in the US in 2001 as “challenging”: “people were more shocked at the abrogation of rights at that moment than they were even just a few years later. Normalisation takes root quickly” (Privacy International 2018). The organisation is not only responsible for the founding of EDRi but also for the creation of the Big Brother Awards. In 1998, the event was first launched by PI (Cullen 2003). Together with Access Now Europe, it is part of a Commission’s expert group that focuses on the General Data Protection Regulation (GDPR) (europa.eu 2022a). With its more than twenty[72] staff members, the UK-based NGO works on topics that are related to surveillance, borders and security as well as data protection. Next to the monitoring of privacy rights and the publication of reports, litigation is also an essential activity of the organisation. The NGO took for example legal action against SWIFT[73] due to data protection issues (Privacy International 2018). PI is funded by different sources. On the one side, the financial contributions of several institutional bodies such as Open Society Foundations, Ford Foundation or Digital Freedom Fund are highlighted in the annual report of 2020 (Privacy International n.d.b, 13). The NGO also states that it received earlier grants by the Mozilla Foundation or EPIC (Privacy International n.d.c). On the other side, it describes individual donations as essential (Privacy International n.d.c). The organisation is listed in the charity register of the UK (Charity Commission for England and Wales n.d.). A partnering organisation of PI is Statewatch. Such as PI, the organisation is based in the UK and its creation goes back to the very early 90s. The profile of Statewatch is now presented.

[72] This information is derived from Charity Commission for England and Wales (n.d.).
[73] SWIFT stands for Society for Worldwide Interbank Financial Telecommunication. Subchapter 5.1 will take recourse on the issue.

Statewatch

- Founded: 1991
- Type: UK-based NGO
- Membership status: EDRi member
- Headquartered in: London
- Mission: "*To monitor, analyse and expose state activity that threatens civil liberties, human rights and democratic standards in order to inform and enable a culture of diversity, debate and dissent."* (Statewatch n.d.a, emphasised in the original).
- Campaign: #ReclaimYourFace, #BanBS

Issue areas that the staff members of Statewatch are focusing on are privacy rights, data protection, migration and asylum policies as well as surveillance (Statewatch 2020a). The background of the persons working on these issues is diverse, including for example journalists, researchers or activists. A main aim of the NGO is the promotion of democracy. To achieve this self-set goal, the NGO pursues a specific approach – one that distinguishes it from other illustrated organisations. Statewatch makes secret documents of EU institutions accessible on its website: "As time went on this became one of the organisation's key roles – to expose and challenge new laws and policies being discussed by governments within the Council that were being kept hidden from public view" (Statewatch 2020a). Thus, it stresses "the publication of critical research and investigative journalism" (Statewatch 2020a) as key tasks. In this context, the NGO's largest database "Statewatch European Monitoring and Documentation Centre (SEMDOC)" can be named. It entails documents reflecting the EU's work and decisions in JHA (Statewatch n.d.c). The NGO has also other "observatories" on its website in place. For example, one document pooling on EU data retention (see chapter 3.2). In its research activities, the organisation works together with the Transnational Institute (Statewatch n.d.b). The link between the NGO and the field of EU counter-terrorism is apparent in the project "Securing Europe through Counter-terrorism: Impact, Legitimacy, and Effectiveness (SECILE)". The project pursues an impact assessment of EU measures in this security subfield. Statewatch has a charity status in the UK. The funding comes from institutional sources – e.g. Open Society Initiative for Europe – as well as donations from the public (Statewatch n.d.a). For its 30th anniversary, the NGO started a crowdfunding campaign to fortify its work (Statewatch 2020b).

This was the last organisation that was covered in detail. The next subchapter will summarise the main insights given by these profiles and the presentation of the NGO network (4.1).

4.3 Interim Conclusion

The overview of Brussels-based and national NGOs highlighted some common characteristics of the organisations. One observation has already been made in advance. In the field of EU counter-terrorism mainly those NGOs with a digital rights focus are engaged. Global human rights organisations rather tend to act as supporters. Figure 13 showed the interconnectedness of these actors. This illustration also shows the great commitment of EDRi members in the field. Another observation is the relation between the founding of certain NGOs and the issues of surveillance and data retention. This will play a role in chapter six. Probably the most relevant example is epicenter.works. The profiles (subchapter 4.2) also revealed how poorly equipped some of these organisations are in terms of resources. Not only is there a lack of financial resources, but also of personnel. Some of the offices are staffed with a maximum of three full-time employees. With regard to the financing of NGO's work, it can be stated that this is mostly based on donations from individuals, members and institutions. The Open Society Foundations were named most frequently as a donor. Interestingly, some NGOs accept donations from companies like Google, Twitter and Apple. This raised some discussion in the past. Bennett (2008, 51) for example highlights a dispute with regard to the funding of the American CDT, where the organisation made the following statement: "CDT counters by arguing that you cannot develop public policy without understanding technology, and that requires close cooperation with hardware and software vendors, Internet Service Providers, and telecommunication companies." The case studies will show (especially chapter eight) that there is at least no alliance between these former mentioned "Big Techs" and NGOs. In the next chapters, it will become observable, that those actors who were listed as founders of organisations, appear as cooperating partners. Netzpolitik.org (connected to digiges) and French Data Network (founder of LQDN) can be named in this context.
This section ends on a critical note. Sometimes it was rather difficult to gain a swift insight into the financial state of an organisation and its sponsors. Although many of the mentioned NGOs upload easily accessible transparency reports, this is not always the case. However, transparency is a value that has already become apparent in several profiles and is also raised as an argument by NGOs in the context of the EU data retention directive, the EU PNR directive and the EU Terreg.

The next subchapter gives an illustration of the political opportunity structure in which NGOs are embedded in and interact with other actors (for example EU institutions). Thus, after chapter four illustrated the main actors of this dissertation, the framework in which these are working is now considered. The aim is to filter information on those points where NGOs enter the EU counter-terrorism policy field. The surveillance issue as highlighted in the profile of Liberties Europe is one of these proclaimed entry points.

5 The Political Opportunity Structure of EU Counter-Terrorism

Since chapter two demonstrated the importance of the political opportunity structure for politicisation and NGO involvement, the institutional and thematic entry points of these organisations in the policy subfield EU counter-terrorism[74] will now be illustrated. Two questions drive this chapter: To what extent does the EU policy field provide points of reference (or interest) for the work and objectives of NGOs? How does the (inter-)institutional framework in which these organisations operate look like?

First and foremost, this chapter concentrates on the depiction of EU counter-terrorism as a field of interest for NGOs (chapter 5.1). It thereby identifies main measures and trends which drove the emergence of this area, but also highlights scholars' observations and queries in this regard. In doing so, it gives some background information on the policies that form the basis of chapter six, seven and eight. This serves as a preparation for the comprehensibility of political discussions and actor constellations prevalent in the subsequent case analyses. In a further step, the role of the European Commission, Council of the EU, the EP and the CJEU in the field is explained (chapter 5.2). According to NGO EU security research, these European institutions are the potential points of exchange for these non-state actors. Their significant role is likewise emphasised in EU CT research (e.g. Trauner and Ripoll Servent 2016; Wensink et al. 2017).[75] Chapter 5.3 summarises why NGOs could be 'attracted' to this specific policy subfield and in which environment they are working.[76]

5.1 EU Counter-Terrorism as a Field of Interest for NGOs

This subchapter focuses on the emergence and the understanding of EU counter-terrorism as a subfield[77] of EU security as well as on the points of interest it offers NGOs to work in this context. It is therefore divided in three parts: First, the main characteristics of EU counter-terrorism as a policy field are illustrated. Second, those issues, strategies and policies that drove the emergence of EU counter-terrorism are scrutinised, including the topics of data

[74] For a better readability, the abbreviation "CT" for "counter-terrorism" is used occasionally in this chapter.
[75] The relevance of the European Council as the strategic guide, who "sits at the top of the counter-terror structure" (Argomaniz 2011, 37) is undisputable. Since the state of NGO research, however, showed that no prominent connection between these groups and this institution exits, it will not be analysed in a separate subchapter. The role of the European Council in the inter-institutional setting will be explained while scrutinising the other EU institutions.
[76] This chapter does not seek completeness in the exemplification of the EU counter-terrorism area and the listing of measures, strategies, and actors. It is intended to give a brief overview of the most important steps, the EU has taken and of the main players in the field, which are at the same time relevant for NGOs to exchange views. Yet, numerous contributions exists shedding light on the historical account, emergence and development of EU counter-terrorism (e.g. Den Boer 2003a, 2003b; Monar 2007; Bures 2011; 2018a; Bossong 2013b; Doody 2015).
[77] This thesis follows the understanding of a field stressed by Bigo et al. (2007, 9): "The notion of field can then be said to refer to a specific social space structured by struggles over a specific capital determining part of what is at stake in these struggles."

retention, PNR and terrorist content online. Third, based on the analysis of main characteristics and recurring observations of scholars connected to the subfield, it is reflected why NGOs could be interested in focusing on EU counter-terrorism issues.

Characteristics of EU Counter-Terrorism

First, EU counter-terrorism is conceived as an 'overlapping' EU security area. This is particularly emphasised by Keohane (2005, 8): "'counterterrorism' is not in itself a defined policy area. In its broadest and fullest sense 'counter-terrorism' spans a number of policy areas. It requires action from every government department, not only from those charged with law enforcement, border control, and foreign and defense policy." This understanding is supported by numerous authors (Bures 2011; Kaunert 2010b; Schneckener 2016). Argomaniz et al. (2015) fall into line with this understanding, adding that counter-terrorism cannot be reduced to one of the pillars existent in the EU's pre-Lisbon era.[78] It rather "spans across a number of other policy areas across all of the EU's former three pillars" (Argomaniz, Bures, and Kaunert 2015, 192). Kaunert (2010b, 9) equally pointing to this characterisation of 'cross-pillarization', stresses that it is "one of the most complicated areas in institutional terms", but "clearly one of the most crucial security policy fields within the EU". Nonetheless, Argomaniz (2011, 861) and Coolsaet (2010, 861) both stress that it is possible to identify three key tasks in this area, ranging from police and judicial cooperation to intelligence exchange. Rhinard et al. (2007, 94) add two further tasks, namely "border control and immigration" and "the access of terrorists to financial resources".

The second characteristic of EU counter-terrorism is, that it is a policy field highly driven by events (e.g. Bendiek 2006; Coolsaet 2010; Hassan 2010; Bossong 2013b; Bakker 2015; Schneckener 2016; Cross 2017; Wensink et al. 2017). Coolsaet (2010, 858) states that "[t]he dynamics behind EU counterterrorism can be compared to successive shock waves, propelled by major attacks, but gradually winding down once the sense of urgency had faded away." The "event-driven" character of EU counter-terrorism becomes especially visible in connection to the 9/11 terrorist attacks. Scholars note that these determine the starting point of a European response against terrorism (D. Zimmermann 2006; Argomaniz 2011; Bures 2011; Murphy 2015) and can clearly be regarded as a "window of opportunity" (Den Boer 2003a, 2003b).[79] "The 11th of September terrorist acts in the USA seemed to unleash an unprecedented wave

[78] This structure consistent of three pillars was introduced by the Treaty of Maastricht (1992) and vanished with the entry into force of the Lisbon Treaty (2009). The three-pillar structure included one focusing on matters concerning the internal market (first pillar), one dedicated to Common Foreign and Security Policy (CFSP) (second pillar) and one covering JHA matters (third pillar).
[79] See also: Kaunert (2010b) and Hegemann, Heller and Kahl (2011).

of policy interventions within the European Union" (Den Boer 2003a, 1). Although, EU counter-terrorism emergence can be traced back to this event, acts of terrorism were not a new experience for a few EU member states. The responses to these attacks were however characterised through particularity and isolation: "For years, several European countries, Spain, Italy, the United Kingdom and (West) Germany included, tackled terrorism largely on their own. […] Cooperation amongst European states remained extremely limited" (Kaunert and Léonard 2019, 262). An exception was the TREVI group, set up in the 1970s and known as a "laboratory" (Monar 2001, 750) for cross-border cooperation. The event-driven character of EU counter-terrorism is also highlighted with regard to the devastating attacks in Madrid (11 March 2004) and London (07 July 2005). Bendiek (2006, 7) even points out, that these two events along with the incidents in the US, "triggered the EU to define counter-terrorism as a decisive, cross cutting task of security policy".

Third, the field of EU counter-terrorism is increasingly characterised by an inclusion of EU border control and migration policies, an observation made by various scholars over a longer period of time (Tsoukala 2004; Léonard 2010; Murphy 2015). Busch and Monroy (2017, 2) stress for example: "What can be seen is that when it comes to counter-terrorism many topics discussed have been introduced previously as instruments of migration and border management." Bossong (2019, 17) points out, that this trend even intensified after the Paris 2015 terrorist attacks.

Along with the "event-driven" character highlighted before, goes this fourth characterisation of EU counter-terrorism as a policy field that is often driven by "the garbage-can policy-making" (Bossong 2008, 36). In this way, measures that have not been adopted, ignored or failed are attributed to a new problem and put back on the political agenda. Often this procedure is connected to the before mentioned 'window of opportunity' (Bossong 2008, 35).

The fifth characterisation of EU counter-terrorism acts jointly with the overall observation that the line between internal and external security has become increasingly blurred (Lutterbeck 2005; Ekengren 2006; Balzacq 2008a; W. Rees 2008; van Buuren and Bakker 2016). For the EU counter-terrorism area this recognition implies several challenges, like the often critical judged linkage between development policies and security (Rhinard, Boin, and Ekengren 2007; Daniel Keohane 2008) or institutional, legal queries between EU internal security and EU foreign security policy (van Buuren and Bakker 2016, 298). Moreover, it shifts their relation to third states, i.e. "the EU has found itself drawn into a close relationship with the USA" (W. Rees 2008, 109).

A further characterisation of EU counter-terrorism field is, that it is driven by a Europeanisation of the threat (Bigo et al. 2007; Monar 2007; Hassan 2010; van Buuren and Bakker 2016).

According to Hassan (2010, 454), the starting point of this Europeanisation is also attributable to the EU's response to the Madrid and London attacks. Former measures were rather reluctant in treating terrorism as a security threat (Monar 2007, 294). However, linked to this Europeanisation of the threat are also new questions and doubts. Bigo et al. (2007, 65) emphasise that "the progressive Europeanization of this field shows some serious limits since counterterrorism remains a state prerogative." Van Buuren and Bakker (2016, 292) are unsure whether the EU level is adequate to tackle the threat: "Quite often, calls upon 'Brussels' to do more are based on the idea that the EU would be in a better position to deal with terrorism than individual Member States […]. In fact, it seems highly unlikely that a 'Europeanization' of counterterrorism will make Europeans more safe from terrorism." In the next step, an overview of EU measures is given. Embedded in this overview is background information on the emergence of the three policies discussed in chapter 6-8.

EU Counter-Terrorism: Issues, Strategies and Policies

According to Hayes and Jones (2013, 25), the EU adopted far more than 200 measures in the area of counter-terrorism, of which a great amount have a direct impact on the legal situation in EU member states.[80] A lot of these measures and strategies became the centre of attention in scholars' contributions. Often discussed among scholars are for example the *EU Plan of Action on Combating Terrorism* (D. Zimmermann 2006; Bossong 2008) and the *European Arrest Warrant (EAW)*. The latter was published only two weeks after 9/11 (Hayes and Jones 2015, 15). Bossong (2008, 42) stresses these two measures as emblematic for the "hectic garbage-can process of agenda-setting and policymaking." The 2004 *European Council Declaration on Combating Terrorism* – adopted after the Madrid terrorist attacks – is considered as a further important step in the subfield's history. It marks a starting point for the EU's understanding of terrorism as a "homegrown" problem and the examination of root causes for radicalisation (Bures 2011; Bakker 2015; Coolsaet 2016). The declaration "address[es] the factors which contribute to support for, and recruitment into, terrorism" (Council of the European Union 2004b, 4). The declaration also supported the idea of creating the position of a Counter-Terrorism Coordinator (CTC) (Council of the European Union 2004b, 2). Moreover, it fostered the EU's external action of counter-terrorism, like the cooperation with Mediterranean governments (Wolff 2009). According to Léonard (2010, 34), it was also the origin for the mixing of counter-terrorism and border control measures.

[80] See also Hayes and Jones (2015, 20): "Between September 2001 and the summer of 2013, the European Union adopted at least 238 separate counter-terrorism measures."

Likewise discussed is the 2005 *EU Counter-Terrorism Strategy* (e.g. David Keohane 2005; Bendiek 2006). It was adopted in the aftermath of the terrorist attacks in London, pushed forward by the UK government during its Council presidency, which pursued a similar strategy at national level (Coolsaet 2010, 860). The strategy was closely connected to the perception that "[b]y the end of 2005, radicalisation had become the holy grail of European counterterrorism" (Coolsaet 2016, 20). Beyond that, it identified the internet as a crucial source for terrorists and a platform for the distribution of their propaganda (Martins and Ziegler 2018, 328).[81] Monar (2007, 293) assessed that the strategy, together with the EU's Action Plan, "constitute an interesting attempt at Europeanizing and responding to a threat that is usually presented only either as a national or global one."

Scholars not only focused on main EU counter-terrorism strategies, but also pointed to legal measures and policies in their analyses. Their interest ranged from the *EU data retention directive* (De Goede 2008; Carrera, Guild, and Mitsilegas 2017) to the *EU money laundering directive* (Dittrich 2005; Mitsilegas and Vavoula 2016), covering the *EU firearms directive* (Wensink et al. 2017)*,* the *EU directive on combating terroris*m (Bures 2018b; De Londras 2018) as well as the matter of *PNR,* which can be encountered in form of an EU directive and several agreements with third states (Léonard 2010; Funk and Trauner 2016; Baker-Beall 2019). Regarding the latter issue, the EU-US PNR agreement is probably discussed most frequently in EU counter-terrorism literature (Monar 2008; Argomaniz 2009; Kaunert, Léonard, and MacKenzie 2012). When it comes to EU-US relations in fighting terrorism, scientific interest concerns also the *SWIFT agreement* (De Goede 2012; Kaunert, Léonard, and MacKenzie 2012).

Scholars perceive the *EU data retention directive* as emblematic for the EU's notion "that privacy was creating a comfortable environment where terrorist groups would thrive away from prying eyes" (Martin-Mazé, Burgess, and J. Peter 2015, 102). The *EU directive on combating terrorism* and the EU *PNR directive* are stressed as responses to the foreign fighter[82] phenomenon (Bures 2018b; De Londras 2018; Baker-Beall 2019) as well as in the context of rapid policy-making (Bąkowski and Puccio 2015; Bigo et al. 2015b; Martins and Ziegler 2018). Baker-Beall (2019, 437) argues that the flight data legislation is representative for a "move to (re)frame migration and border control as essential aspects of EU counter-terrorism policy." Studies on the EU-US PNR case reflect doubts regarding data protection and the processing of personal data (Argomaniz 2009; Kaunert, Léonard, and MacKenzie 2012; Lavenex 2015; Funk and Trauner 2016; Carrera, Guild, and Mitsilegas 2017). Argomaniz (2009, 120)

[81] Argomaniz (2015, 253) illustrates that "a common argument is that the Internet has become an 'online terrorism university' for self-taught terrorists".
[82] Individuals who travel to from Europe to conflict areas in Syria and Iraq "to engage in these conflicts" (Bures 2018b, 1).

conceives the agreement as an example for “a European internalization of US-advocated security norms”.

In general, authors claimed that the EU-US relationship is especially characterised by a pressure exercised by the US government (e.g. Den Boer 2003a; Hayes and Jones 2013; Bures 2018a). This pressure was especially visible in the period after the 9/11 attacks. Bossong (2013b, 66) argues that the Bush presidency (2001-2009) had no great impact on the internal side of EU counter-terrorism policy, but rather urged the EU to take action with regard to border security such as the exchange and transfer of PNR data. Balzacq (2008b, 91) states that “the PNR is the by-product of US internal developments that followed the events of 9/11”. The origin of the data retention directive goes back to the same time period. Actually both issues were tabled in a letter drafted by US President George W. Bush (Statewatch 2001).

In fact, a lot of the highlighted characteristics of EU counter-terrorism policy as well as identified issues occur again in the EU’s latest response in the field. In 2020, the EU Commission published a new *Counter-Terrorism Agenda* (European Commission 2020d). The agenda, such as former formats, is based on four pillars. The part on border security, falling under the “protect” pillar, refers to the exchange of PNR data as “an essential tool to fight terrorism” (European Commission 2020d, 14). Issues like data retention, terrorist financing and a strengthened law enforcement operation appear under the “respond” pillar (European Commission 2020d, 16–22). For a greater part, the “prevent” pillar points to EU measures to counter radicalisation online. This includes the “Regulation on addressing the dissemination of terrorist content online” (European Commission 2020d, 6).

Since 2003, the EU overtook several (voluntary) measures to tackle specific content on the internet and made numerous calls to initiate action among tech companies who run certain websites. While not all of these measures focused on terrorist content some had an impact on the debate on how to handle this type of internet content. In general, it can be stated that “EU law makes illegal four types of content: (i) child sexual abuse material; (ii) racist and xenophobic hate speech; (iii) terrorist content; and (iv) content infringing Intellectual Property Rights (IPR)” (De Streel et al. 2020, 16). One of the first public debated attempts was the EU Commission’s financially supported project “CleanIT”. In 2013, a year after the financing of this project, Rob Wainwright, director of Europol, declared: “The threat from terrorism, therefore, remains strong in Europe. It also continues to evolve from structured groups and networks to smaller EU-based groups and solo terrorists or lone actors, while the Internet remains a key facilitator for terrorism-related activities” (Europol 2013, 5). In 2015, EU authorities and institutions adopted several measures to take action on the internet. The EU internet forum – an exchange platform for net businesses, government representatives and EU staff – was

launched by the Commission. Moreover, the EU Internet Referral Unit (EU IRU) was set up in Europol. The terrorist content online regulation is a product of these very different attempts and claims. Actions were however not only introduced by the EU institutions, but also by specific member states' governments. The EU IRU is not a forerunner, but a replica of the Counter Terrorism Internet Referral Unit (CTIRU) introduced at UK's national level in 2010. The Terreg is by some scholars and actors of the net community regarded as a successor of the German Network Enforcement Act (Netzwerkdurchsetzungsgesetz; NetzDG) (Counter Extremism Project 2020). The law was adopted in mid-2017 and inspired other member states – among them France – to introduce similar legislations at national level.

An exhaustive review of EU CT studies illustrates recurring or ongoing problems and challenges that keep scholars busy: 1) The lack of member states cooperation when it comes to EU counter-terrorism policies is thematised. Den Boer and Monar (2002, 20) note "it would be naïve to assume that anti-terrorism is an easy and self-evident topic which lends itself for rallying the Member States." Dittrich (2005, 5) believes that "the so called 'old boys networks' are likely to continue to be the preferred means for exchange information". This seems to be true, since more recent studies highlight that member states have not overcome a lack of cross-border police cooperation and were not able to establish an EU-wide intelligence sharing, including a close collaboration with Europol (Bures 2011; 2016, 2018a; van Buuren and Bakker 2016). Therefore, calls of EU institutions and individual member states for more information exchange and fortified cooperation are often present after terrorist attacks (Carrera, Guild, and Mitsilegas 2017; Bossong 2019).

2) The effectiveness and efficiency of policies is a further theme in EU studies (Coolsaet 2010; Hayes and Jones 2013; Kaunert and Léonard 2019). Concerns in this regard are raised due to a "lack of transparency" (Den Boer and Monar 2002, 19), but quite often "implementation deficits" (Bures 2011, 80)[83] are addressed. These implementation problems can be traced back to the fact that not all member states conduct a swift transposition of laws adopted at EU level; sometimes they even fail to transpose a law at all. Argomaniz (2010) labels implementation of policies the "'Achilles heel' in EU counterterrorism". He illustrates that with regard to the legal transposition of EU CT laws, "[t]he picture […] is patchy and involves important cross-national differences" (Argomaniz 2011, 298).[84] This implementation problems exists across issue areas of EU counter-terrorism. While Bakker (2015) stresses poor implementation with regard to counter-radicalisation policies, Den Boers (2014, 49) notes an "implementation gap" in EU policing. Argomaniz et al. (2015) assess that the EU lacks a strategy in counter-terrorism at

[83] See also Rhinard, Boin and Ekengren (2007) and Monar (2007, 2008).
[84] See also Lavenex (2015).

all. Moreover, Bures (2006, 57) notion that "the EU's counterterrorism policy is more of a paper tiger than it is an effective counterterrorism device" is an image for the EU hard to shake off.

3) These concerns of effectiveness are often accompanied by questions on the legitimacy and proportionality of actions within the field (Londras and Doody 2015). The potential negative consequences of EU counter-terrorism policies on human rights is often highlighted in this context (Monar 2007; Den Boer, Hillebrand, and Nölke 2008; Chistyakova 2015). Scholars stress that "many CT measures were found to lack effective safeguards to ensure equality of treatment and protection of the freedoms and rights of citizens" (Chistyakova 2015, 134). Especially this latter issue, serves as an entry point for NGOs as it is now demonstrated.

Points of Reference for NGOs in EU Counter-Terrorism

The link between NGOs and governments' anti-terrorism action can probably best be exemplified in the context of the US war on terror. Roth (2007, 49) analyses the challenges NGOs are facing in the light of the war on terror and stresses that organisations like Amnesty International have contributed greatly to the clarification of human rights violations. That this watchdog role of NGOs increased with regard to the involvement of governments in the war on terror can also be shown by taking the publications of organisations themselves into account (e.g. Hoffman 2004; Heinz and Arend 2005). Hodwitz (2019, 587) differentiates between two kinds of obstacles for NGOs: "those that (1) originate from terrorist organizations and (2) originate from counterterrorism measures". In this thesis, one is rather able to identify the second mentioned obstacle. EU CT measures call NGOs on the agenda because their daily work and their means to conduct their job are threatened. Some answers, why the EU's subfield motivates NGOs to participate can also be found in EU studies. EU counter-terrorism researchers seem to unintentionally give a response to this question.[85]

The recurring themes that drive EU CT studies mentioned above, are also likely to provide reasons for NGOs to participate in the field: 1) The deficits regarding the implementation of EU legislation might encourage NGOs to follow up monitoring activities at the national level, including reporting the state of transposition of these very laws. In this vein, Monar's (2007, 311) identification of a problem of authentication of EU decisions especially in the light of Council actions can be noted. His statement refers to the pre-Lisbon period and the adoption of Council's "framework legislation, which can then afterwards lead to more controversial restrictive measures at the national level" (Monar 2007, 311). Edwards and Meyer (2008, 20) also support the assessment that the relationship between democracy, civil liberties and

[85] The discussion in how far counter-terrorism policies restricted NGOs' work and their financing is not part of this chapter. For further information please see Hayes (2017).

security was particularly difficult before the entry into force of the Lisbon Treaty: “Counter-terrorism policies as far as they rely on second and third pillar instruments are outside judicial review through the ECJ and parliamentary scrutiny through the European Parliament. Scrutiny through national parliaments and Courts falls short of filling the accountability gap.” Consequently, this is likely to be an entry point for NGOs’ role as observers at the EU level.

2) The political processes accompanying counter-terrorism policies are often linked to a lack of visibility and traceability. Further elaborations on the Council’s role in the field will highlight this. More generally, it can be summarised that the division of tasks and competences is still (even after the adoption of the Lisbon Treaty) not easy to comprehend, which in turn does not necessarily make the understanding of new developments easier, especially for EU citizens (Hayes and Jones 2013, 2015; Doody 2015; Wensink et al. 2017). Hence, EU counter-terrorism calls especially those actors onto the agenda who have made it their business to make political processes more transparent and are able to translate the “EU language” to non-experts.

3) The main challenge in the field is “fighting terrorism while preserving civil liberties” (Dittrich 2005, 50). That this balance cannot always be held is presented in various contexts by scholars. The factors that cause a fluctuation in the equilibrium of freedom and security are however diverse. Den Boer (2003a, 17) identifies the increasing securitisation in the aftermath of 9/11 as decisive for the changed position of civil liberties at EU level and asks the following question: “Does the emergence of this security continuum turn Europe into a surveillance society, or worse: have EU Member States become police states?” De Goede (2008) highlights that the preventive approach of EU counter-terrorism puts citizens under suspicion and extends the surveillance dimension of these policies. Argomaniz (2015) makes the argument that EU policies to tackle online terrorist content threaten the freedom of expression and the right to privacy. In the same vein, Léonard (2010, 47) illustrates that the adoption of migration policies under the heading of counter-terrorism has severe consequences for civil liberties in Europe: “whilst it is unclear to which extent reinforced migration controls contribute to combating terrorism, it has become increasingly evident that they have negative externalities, notably as far as the right to privacy and data protection are concerned.”

According to Nilsson (2007, 71) the above-mentioned conflict between ‘security’ and ‘freedom’ seems not dissolve in the future: “Nevertheless there is, and probably always will be, a discussion among governments, parliaments and civil society on the border line of tolerance for the infringement of individual liberties if the aim is to protect the lives of innocent persons that are targets of terrorist attacks.” This prediction seems to be confirmed as ten years later, Carrera et al. (2017, 2) state that EU counter-terrorism is trapped in a “liberal paradox”.

According to the scholars, this situation originated from the EU's lack of reflective attitude towards their own counter-terrorism actions and the misinterpretation of the role of civil liberties in this security context (Carrera, Guild, and Mitsilegas 2017, 2). In their analysis of the EU's response to the Barcelona terrorist attacks (2017), they stress that the EU restricts its own rights, which seems to be contradictory, since the attacks stand for the restriction of these very rights (Carrera, Guild, and Mitsilegas 2017, 2).

The subchapter below is dedicated to the depiction of the role of the EU Commission, the Council of EU, the EP and the CJEU for NGOs. In this context, also the relationship between member states, represented in the Council of the EU, and supranational institutions will be examined.

5.2 The Role of EU Institutions in EU Counter-Terrorism

This subchapter reflects the role of EU institutions in counter-terrorism. The thesis looks at the role of the Council of the EU, the EU Commission, the CJEU and the EP in a separate manner. It will give insights of EU security research handling the development and scope of activities of these institutions in the field and reflects – where possible – their relation to NGOs. So far, only a small number of contributions focus on the institutional setting of EU counter-terrorism in a holistic way (Argomaniz 2011; Doody 2015; Wensink et al. 2017).[86] This section is structured according to the openness of these institutions for NGOs. Hence, it starts with the least "accessible" institution according to NGO literature and closes with an analysis of the EP's role in EU counter-terrorism as an institution considered as the most 'open' for NGO participation.

5.2.1 Council of the EU

With the adoption of an anti-terrorism roadmap (2001) and the definition of terrorism (2002)[87], the Council contributed to the foundation of the EU counter-terrorism field's emergence. In EU counter-terrorism studies there is no doubt that the Council – better known as the 'Council of Ministers' – is the most important actor in the field and the field's development. This is a fact that has not changed with the Lisbon Treaty and the subsequent inclusion of the EP in the legislation process: "One should, however, never lose sight of the fact that its member states

[86] An encompassing overview of institutional changes in Pre-Lisbon JHA is also given by Emek M. Uçarer (2009).
[87] The JHA Council prepared this definition and the European Council approved it in the Framework Decision on Combating Terrorism (2002/475/JHA). Murphy (2015, 52) stresses that there is no "de facto single definition of terrorism across the EU but rather a range of definitions which have the framework decision as their inspiration."

remain, even after the reform of the EU through the Lisbon Treaty, the primary actors in this field" (Coolsaet 2010, 861).[88]

The Council, which consists of member states' governments conducts this role as decision-maker together with the European Council and the EP (Doody 2015, 47). The European Council, an institution comprised of heads of state, leads the way of the Council's goals and priorities in the area of EU counter-terrorism. It does so by publishing 'joint statements' and so-called 'European Council conclusions'. The latter "form a very substantial part of the EU's body of counter-terrorism measures" (Doody 2015, 47). In the past, it also became active in monitoring the progress of policies' implementation (e.g. European Council 2015). Since the entry into force of the Lisbon Treaty, the EP acts as a co-legislator next to the Council. Doody (2015, 47) stresses that "[b]ased in Brussels and Luxembourg, the role of the Council is to decide on proposals from the Commission and, in collaboration with the Parliament, to adopt decisions." To find an agreement with the Commission and the EP on specific legislative acts, the Council interacts in so called trilogues – an interinstitutional 'negotiation format'.

For EU counter-terrorism, the most important body within the Council is the JHA Council. The entity is composed of the member states' justice and interior ministers. In some cases, the position of justice and home minister is fulfilled by one person. However, there are also member states that have appointed one minister for 'justice' and another being responsible for 'home' issues. For example, Germany is a case in point. The 2004 Hague Programme officially confirmed the JHA Council's "leading role" in countering terrorism (Official Journal of the European Union 2005, 9). Doody (2015, 49) calls it "the principal decision-making institution" in the field. The JHA Council meets in a three-month cycle (Busch and Monroy 2017, 3). The work in the JHA Council is supported by a number of sub-entities: "Within the JHA Council configuration, there are five working groups of interest from a counterterrorist perspective: the Article 36 Committee (CATS), the Terrorism Working Group, the Working Party on Civil Protection, the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) and the Standing Committee on Internal Security (COSI)" (Doody 2015, 50). Since one of the top priorities of the Council is to improve data collection and exchange between member states, the Working Party on Information Exchange and Data Protection (DAPIX) should be mentioned in this context as well. Moreover, legal provision and policy backup for the JHA Council's tasks is given by the Directorate-General for Justice and Home Affairs. This body is also subdivided between one service focusing on questions of 'justice' and another handling issues related to 'home affairs'. Argomaniz (2011, 37) opinions that it played next to the Directorate-General

[88] Argomaniz (2011, 53) argues in the same direction: "it is easy to detect the importance of the Council as a locus of decision-making in this [counter-terrorism] area."

(DG) in charge for foreign affairs “an important role in the negotiation of key counter-terror legislation by assisting in building consensus.”

Assistance and oversight are also given by the CTC. The ‘Declaration on combating terrorism’ (Council of the European Union 2004a, 14) confirmed: “The Co-ordinator, who will work within the Council Secretariat, will co-ordinate the work of the Council in combating terrorism and, with due regard to the responsibilities of the Commission, maintain an overview of all the instruments at the Union’s disposal with a view to regular reporting to the Council and effective follow-up of Council decisions.” He also became very active in overseeing member states (non)-implementation of policies (Doody 2015, 44). As highlighted before, the transposition of EU laws at national level, is still a hurdle for the effectiveness of EU counter-terrorism. Argomaniz (2010, 306) shows that considerable differences between member states exists: While he points to Finland, Denmark, Austria, Poland and Hungary as ‘exemplary students’ of policy implementation, he subsumes Greece, Luxembourg, Ireland, Cyprus and Italy under the label “laggards”.

In the past, EU counter-terrorism was heavily driven by certain member states, one of them being the UK. It gave the impetus for the *EU Counter-Terrorism Strategy*, providing its own internal strategy for combating terrorism as a strategic template. With the Brexit, this state as a driver of counter-terrorism policies will now vanish at EU level. This could create new obstacles: “Moreover, albeit the details of Brexit are yet to be negotiated, the departure of a large Member State with a long history of (counter-)terrorism is likely to further limit the EU’s ability to respond to FF-related security threats” (Bures 2018b, 13).[89] To establish its position in EU counter-terrorism, the UK used its Presidency of the Council of the EU (01.07.-31.12.2005). The Council’s Presidency follows a rotating system, appointing for this position every six months a new member state that eventually is leading the course of the JHA Council (Roos 2018, 421). Wensink et al. (2017, 80) argue that this procedure does not necessarily contain advantages for the development of the EU counter-terrorism field:

> due to the dynamic of the six months rotation of the EU Presidency, the European Council’s or the Council’s capabilities to design and follow-up on a long-term vision shaped and driven by the ambitions of one particular Presidency, will remain limited, unless this system is changed for the benefit of thematic Member State Presidencies that can last a longer term.

By taking a closer look at EU counter-terrorism studies, three dominant (interrelated) discussions on the Council come into account: The member states reluctance to give up sovereignty, their lack of willingness to drive integration and supranationalism and a missing transparency of decision-making in this institution (Den Boer 2003b; Bures 2006, 2018a;

[89] “FF” stands for the term ‘foreign fighters’.

D. Zimmermann 2006; Monar 2007; Rhinard, Boin, and Ekengren 2007; Bossong 2013b; Den Boer 2014; Roos 2018).

The member states' concerns to give up sovereignty accompanied the creation and design of the EU counter-terrorism field. Following Monica den Boer (Den Boer 2003b, 185), EU governments' actions are defined by the following 'inner conflict': "member states of the European Union are under pressure to achieve a balance between preservation of their own national policies and laws and progress towards a harmonization of laws, politics and policies." In the pre-Lisbon era, cooperation between member states and the Council's decision-making was characterised by an intergovernmental mode. In addition, "the prevailing lack of genuine pro-integration thinking in the JHA pillar" (Bures 2006, 72) was clearly visible. To circumvent any supranational coordination, EU governments used the 'tactic' of adopting internal security measures under the framework of external policy (Lavenex 2006, 329). A case in point, that demonstrates member states favouring mode of intergovernmental policy-making, is the Council's decision to enhance the competences of Europol, which was rapidly adopted a few months before the entry into force of the Lisbon Treaty and led to the exclusion of the EP in the legislation process (Den Boer 2014). Still, the question pending is, if the emergence of the Lisbon Treaty changed the member states' preferred intergovernmental mode of policy-making and drove supranationalisation forward (Ripoll Servent and Trauner 2014; Maricut 2016; Roos 2018). At this point, debates on the "new intergovernmentalism" (Bickerton, Hodson, and Puetter 2015) or the question whether "a hybrid area of European 'integration [both] with and without supranationalisation'" (Maricut 2016, 552) is in place or not, cannot be resolved. Nonetheless, recent research demonstrates the unchangeable position of the Council in EU counter-terrorism – the term 'position' covering both its location in the interinstitutional setting and its immutable opinion.

As EU counter-terrorism studies show, member states' persistence towards their emphasis on national sovereignty was not dissolved by the cancellation of the third pillar structure (e.g. Bossong 2013b; Den Boer 2014). Quite the contrary is true as Bures (2018b, 2) highlights in his analysis of EU measures to handle the foreign fighter phenomenon: "A closer analysis of the EU's response […] reveals that it is one thing for Europe's policymakers to make public promises to improve the fight against FF and quite another thing for them to persuade the Member States and their relevant security agencies to comply." Hence, it highly depends on the member states' interest whether an issue is pursued at EU level or not. This is also supported by Trauner and Ripoll's (2016, 1429) opinion regarding the Paris 2015 attacks: "Member States have remained key in determining the depth and scope of policy change in the Area of Freedom, Security and Justice." Although, communitarisation progresses slower as expected and 'promises' connected to the Lisbon Treaty were not fully redeemed, one thing

still has to be kept in mind: “From one perspective, cooperation on terrorism issues is remarkable: EU governments are building common capacity in areas that were once the sole preserve of national governments” (Rhinard, Boin, and Ekengren 2007, 87).

The Council is generally perceived as an opaque institution. Documents are quite difficult to access, which makes member states’ search for consensus hard to track. An insight sometimes requires additional sources as Roos (2018, 422) highlights: “The documentation of decision-making in this EU institution is less transparent and accessible than that of the Commission, the European Parliament (EP) or the European Court of Justice (EUCJ). Research on the Council, in particular research on the process dimension of negotiations, calls for the triangulation of data.” Just as it proves difficult for scientists to get into exchange with this institution, NGOs face the same challenge. In general, it can be noted: “There exists no regular and formalised dialogue structure and when dialogue takes place, it is mostly on an ad hoc basis and at the initiative of NGOs” (Fazi and Smith 2006, 31). Nonetheless, in some cases, NGOs were able to build up a relation to the Council’s Presidency (Fazi and Smith 2006, 31). One Council official highlighted that newsletter of Brussels-based NGOs are regularly checked to use it as a basis to develop the Council’s position or response to the claims of these organisations.[90]

5.2.2 European Commission

The emergence and expansion of the EU counter-terrorism field was accompanied by the supervision of different EU Commissioners and Presidents of the European Commission. In addition, there have been some intra-institutional restructurings since 2001, transforming for example the Directorate-General for Justice, Liberty and Security (DG JLS) into two separate entities, one handling home affairs (DG Home) and the other justice matters (DG Just) (Argomaniz 2011, 36; Uçarer 2014, 133; Lavenex 2015, 374). The role of the Commission in JHA increased over time. While at the beginning of the field’s emergence the Commission was obtaining a rather modest role, the institution is now increasingly pointing the way ahead in EU counter-terrorism. Two examples in this case are the proclamation of a “Security Union” (2016) and the publication of a “Counter-Terrorism Agenda for the EU” (2020). The number of staff dedicated to counter-terrorism issues within the institution should also not be ignored, which has increased significantly, especially since the Brussels terrorist attacks (2016). Over time, means to conduct and transpose counter-terrorism turned to an overwhelmingly technocratic response. These developments are now illustrated in more detail.

[90] Interview with Council official (1).

Since 2001, the Commission President's position was filled by three male and the first female president. Romano Prodi's (1999-2004) office period was characterised by the 9/11 terrorist attacks and the Madrid train bombings. He was in close contact with the US, being addressee for President Bush's list of "Proposals for US-EU Counter-terrorism Cooperation" (Statewatch 2001). Furthermore, his term of office was defined by divergences with the US over the Iraq war as he pointed to it as a cause of the terrorist threat in Europe. Under the oversight of José Manuel Barroso (2004-2014), who stayed in office for 9 years, the Commission underwent the abovementioned splitting of DG JLS. It was also during this period, that the EU experienced a bout of 'CT fatigue' and Council and EP engaged in inter-institutional turf battles on the EU-US PNR agreement as well as the SWIFT agreement. Under Jean-Claude Juncker (2014-2019) the EU's self-perception of a "Security Union" was fostered. In the aftermath of the Brussels terror attacks (2016) he proclaimed: "[W]e need a Capital Market Union, Energy Union, Economic and Monetary Union, but we also think we need a security union" (Fernández Álvarez 2016). Under Juncker, factsheets and progress reports on the Security Union were delivered on a regularly basis, making developments in the counter-terrorism field more visible and graspable. The "Twentieth Progress Report towards an effective and genuine Security Union" include a direct and unequivocal call on member states to implement several directives such as the EU PNR directive or the directive on combating terrorism (European Commission 2019a). With the promotion of the "Security Union" the Commission directly reacted to a trend articulated in Eurobarometer surveys (European Commission 2017, 2):

> Security has arguably been a greater issue for Europeans in the last years than at any time since a generation ago. Armed conflict on the EU's doorstep, foreign terrorist fighters returning to the EU from conflict zones, and in the last three years a series of terrorist attacks within the EU, contribute to making security and in particular terrorism at the top of Europeans' concerns.

The "von der Leyen Commission"– in office since the end of 2019 – first and foremost aims to implement the European Green Deal program, responding to the threat of climate change. Thus, collective security was pushed further down the EU agenda by environmental issues, but it was by no means replaced. The concept of a "Security Union" persists in the term of Ursula von der Leyen. The Commission even announced to pursue a new "Security Union Strategy", covering the years 2020-2025 (European Commission 2020c).

In the field of EU counter-terrorism, the tackling of internet terrorist content is on top of the agenda in 2020. In a letter to newly elected EU Commissioner for Internal Security, Ylva Johansson, von der Leyen (European Commission 2019b), stressed: "Our approach to security and protection must be as uncompromising online as it is offline. I want you to continue efforts to **prevent and remove terrorist content online**." (emphasis in the original) With this approach, she is following the approach of Juncker and Johansson's predecessor Commissioner for Migration, Home Affairs and Citizenship Dimitris Avramopoulos (2014-

2019). After the acts of terrorism in Brussels the Commissioner underlined the Commission's role or rather its inter-relational position in the EU counter-terrorism setting: "Our response to fighting radicalisation and recruitment to terrorism needs to be holistic. And the EU level can support Member States in these efforts" (European Commission 2016a). This supporting role for member states is addressed several times in his statement (European Commission 2016a) and can be understand as emblematic for the Commission's self-perception in the policy area.

During his term of office, Commissioner Avramopoulos was accompanied by Sir Julian King, Commissioner for the Security Union. Jean-Claude Juncker created this position with a clear task, to implement the European Agenda of Security. In his mission letter to King, Juncker describes that this role includes particularly the strengthening of EU counter-terrorism: "Identifying where the EU can make a real difference in fighting terrorism, including measures that can address the threat posed by returning foreign terrorist fighters" (Juncker 2016).

By creating the position of a Commissioner for the Security Union, Jean-Claude Juncker restructured the College of Commissioners. This college serves to support the President's work and comprises 27 Commissioners in total, including the President and Vice-Presidents: "Each Commissioner has a six-member advisory staff, the *cabinet*, and is responsible for one or more departments or *Directorates-Generals* (DG) that are related to his or her portfolio (Argomaniz 2011, 36; emphasis in the original). A prior (bigger) restructuring took place as Barroso split the DG JLS and Cecilia Malmström (2010-2014) fulfilled the newly created portfolio of an EU Commissioner for Home Affairs. Under Malmström's responsibility the Radicalisation Awareness Network (RAN) was launched, "an 'umbrella network' to pool expertise, knowledge and good practices, with the collaboration of civil society members (including victims), local authorities, academics and field experts" (Davila Gordillo and Ragazzi 2017, 55). Commissioner Malmström's interest in including the local level is also mirrored in her handling of the issue terrorist online content: "Civil society has a lot of knowledge on how to counter radicalisation. National authorities need to work closer with civil society to better counteract extremists' online propaganda" (Malmström 2014). A high number of counter-terrorism tasks is headed under the DG Home portfolio, however since the area involves cross-cutting issues, other DGs and their respective Commissioners are involved as well. As an example, Malmström often worked closely with Viviane Reding, Justice and Fundamental Rights Commissioner[91] (e.g. European Commission). Doody (2015, 45) points out that data retention is an example for a legislation that was worked on by different DGs and which can be considered as representative for "the complex nature of counter-terrorism".

[91] Reding held office from 2010 to 2014.

The RAN is often perceived as a 'flagship project' of the EU Commission in the area of counter-terrorism (concretely counter-radicalisation), it is however just one of the Commission's programmes to reinforce the work in networks and bring together actors at EU level. Similar undertakings are for example the European Network of Experts on Radicalisation (ENER) or its 'successor' the High-Level Commission Expert Group on Radicalisation (HLCEG-R). The EU Internet Forum which brings Big Techs[92] like Google, Facebook and Microsoft together, is mentionable in this context as well. In general, it can be emphasised, that "the European Commission worked on demonstrating the EU's potential contribution via research policies and knowledge exchange mechanisms" (Bossong 2013a, 5).[93] Again, the supporting role of the Commission becomes visible.

As highlighted before, the Commission's role as "the executive arm of the EU" (Doody 2015, 45) expanded over time. Since the Commission gained an almost exclusive power considering the right of initiative after the Lisbon Treaty's adoption, its ability to push issues forward was enhanced enormously. However, the EU Commission also benefited from further institutional changes. Through the increased competences of the CJEU and the legal acknowledgment of the Charter of Fundamental Rights, the scope of argumentation of the institution widened. In the above-mentioned disputes between EP and Council, the Commission was solely the audience, "[n]either did it face the constraints that the EP was confronted with resulting from becoming a co-legislator and suddenly being in the spotlight" (Zaun 2018, 416). Nonetheless, the Commission does act amidst a different challenge, which could not be resolved by the Lisbon Treaty: "[a]ny efforts to organize counter-terrorism at the supranational level thus meet with a primary constraint: despite ownership of the mechanisms, the Commission's crisis management capacity depends on member states resources. […] The development of a supranational counter-terrorism role in Europe is thus heavily constrained by this member state-centred reality" (Rhinard, Boin, and Ekengren 2007, 100).

In the pre-Lisbon period, the role of the Commission was stronger in the first than in the third pillar (Monar 2006, 507). However, this does not neglect the power of the European Commission during this time. Kaunert (2010b, 11) demonstrates that the institution occupied the "role of a supranational policy entrepreneur" in EU counter-terrorism. In analysing the Commission's position after the 9/11 terrorist attacks, he concludes: "It played the role of a strategic 'first mover' in order to shape the debate in a way that placed the EU at the centre of Europe's 'war on terror'" (Kaunert 2010b, 16). One of the reasons for this opinion is, that the

[92] Online service provider.
[93] See in this context also Bakker (2015, 293) on the institution's role in counter-radicalisation: "The Commission only has a stimulating and co-ordinating role and wants to channel policies effectively, including through investment of funds for research, the organization of conferences, support for education and inter-cultural engagement, and monitoring at the pan-EU level."

Commission was able to convince member states in adopting the EAW (Kaunert 2010b, 10). The Commission efforts to assure an EAW are generally perceived as integration friendly (Kaunert 2010b). Analysing the Commission's role in JHA, Zaun (2018, 414) highlights "the Commission has generally proposed policies that would ensure more competences for the EU."

Such as Kaunert (2010b), Argomaniz (2011, 36) concludes that the Commission overtook the role "as a very active engine of counter-terror proposals in the field of Justice and Home Affairs, making full use of its shared right of initiative." That the Commission increasingly uses the initiative right contains possibilities for NGOs, since the proposal phase is a very important anchor for these groups (Fazi and Smith 2006, 27; emphasis in the original):

> NGOs have the opportunity to take part in the development of policy proposals through both formal and informal channels, allowing them to draw the Commission's attention to any specific or emerging issue, but also to discuss its mid-term strategy, in the **agenda-setting phase**. Yet their involvement is **mainly focused on the decision-making**, and more specifically the **proposal phase.**

In his analysis of the Commission's role in constructing an AFSJ, Kaunert (2010a, 179) highlights that "the Commission also worked very hard over the years to build up good relations with the plethora of NGOs in the field". He adds that these groups work as "an important ally for the Commission" (Kaunert 2010a, 179) and depicts these alliances as helpful "to incrementally contribute to a shift in political norms enabling decision-makers to consider the communitarisation of the AFSJ" (Kaunert 2010a, 185).[94] As Fazi and Smith (2006, 30) stress, "NGOs play a key role as whistle-blowers in monitoring the implementation of EU legislation." Therefore, it can be assumed that NGOs benefit from the fact that the Lisbon Treaty strengthened the Commission's capability to dun member states for the non-implementation of laws. In contrast, what might rather hinder the NGOs to get into exchange with the Commission, is the institution's weak role in the evaluation of CT policies (Bossong 2013a) and that the number of public consultations initiated by the Commission on JHA issues is rather low (Hayes and Jones 2015, 36). Nevertheless, the Commission offers NGOs a further way to drive policy-making at EU level: "There are instances where important actors of NGOs had even become important members of the service in the Commission" (Kaunert 2010a, 179).

Subchapter 5.1 showed that EU counter-terrorism is often driven by a conflict between security and freedom. According to Zaun (2018, 415), who explores the question if the Commission is rather balancing in favour of freedom or upholds security, the institution "is an 'opportunistic actor' when it comes to the normative underpinnings of its proposal and corresponds well with

[94] General aspirations of the Commission to bind with civil society are for example visible in the Commission discussion paper "The Commission and non-governmental organisations: Building a stronger partnership" (Commission of the European Communities 2000).

the concept of the Commission as an unideological, technocratic actor." Moreover, the scholar elucidates that there are situations in which the Commission "sacrifice[d] individual freedoms", for example in the context of the EAW (Zaun 2018, 415). It seems, NGOs have to decide on a case-by-case basis, whether the Commission is an appropriate contact for their claims of "more freedom".

5.2.3 Court of Justice of the European Union (CJEU)

Following Mitsilegas (2016, 113), "counterterrorism measures pose perhaps the most acute challenges to the rule of law". This calls for both – action of the CJEU and NGO participation – in the EU's security subfield. NGO research pointed out that the CJEU serves as an important anchor for the group's strategy of 'litigation', when a case made its way to the EU level. It is to be assumed that the expansion of the institution's role at EU level and the binding character of the EU Charter of Fundamental Rights – both changes introduced by the Lisbon Treaty (2009) – increased the attractiveness of the CJEU as an entry point for NGOs. This subchapter sheds some light on this assumption. Moreover, it will review research on the CJEU's role in the EU's fight against terrorism and give insights into the courts previous judgments on cases with a CT-dimension.

The CJEU is a supranational institution located in Luxembourg, that is composed of two separate courts: The European Court of Justice (ECJ) – often referred to as the Court of Justice (CJ) – and the General Court. As emphasised before, the Lisbon Treaty entailed profound changes on the scope of the court's jurisdiction in the AFSJ. As part of the treaty reform, the court was renamed from ECJ to CJEU and its internal institutional structures underwent some changes, too. Including further renaming, as the 'Court of First Instance' (CFI) became the 'General Court' (Hatzopoulos 2008, 3). Moreover, the number of Advocates General in the ECJ were raised to 11 (Mańko 2019, 3). The Advocates General support the judges in the ECJ. The number of judges varies according to the number of member states in place (de Witte 2008, 44). To assist the judges in their decision on an issue, the Advocates General provide an opinion: "The CJ is not bound by the opinions of the Advocates General, although they are commonly regarded as influential" (Mańko 2019, 2). The number of judges and Advocates General differ in the two courts of the CJEU.

In the pre-Lisbon period, Hatzopoulos (2008, 2) states that "[t]he ECJ is the body whose institutional role is to benefit most from this upcoming 'depilarisation'." While the CJEU's jurisdiction was extremely limited in the third pillar, it became an institution with full-fledged oversight on EU counter-terrorism law in the post-Lisbon period. Through the treaty reform, the CJEU was granted the possibility to give preliminary rulings on EU law and to make

decisions on infringement proceedings (Hatzopoulos 2008; Mitsilegas 2016). Via the type of case 'preliminary rulings', the Court is able to decide if national laws apply to EU law. The question of clarifying whether or not a national legislation contradicts EU law is transferred from a national court to the CJEU. This means, complaints first address a court in a member state, before the CJEU is getting involved. Preliminary rulings can also handle questions on the reading of EU law. It is also possible to bring an "urgent preliminary procedure" before the CJEU in order to receive a much quicker response of the court (Lenaerts 2010, 261).

In contrast to 'preliminary rulings', 'infringement proceedings' – as a further type of case – handle the (non-)implementation of EU law at national level. Infringement proceedings can be referred by the Commission to the CJEU as the following Article 258 TFEU (Official Journal of the European Union 2012, 160) defines:

> If the Commission considers that a Member State has failed to fulfil an obligation under the Treaties, it shall deliver a reasoned opinion on the matter after giving the State concerned the opportunity to submit its observations.
> If the State concerned does not comply with the opinion within the period laid down by the Commission, the latter may bring the matter before the Court of Justice of the European Union.

The CJEU for example proves if a member state adequately transposed a directive at national level. Infringement proceedings can result in a lump sum for this member state if it constantly fails to comply with the legal act. As an example, the Commission started an infringement proceeding against Germany for its non-compliance with the *data retention directive* (Hayes and Jones 2015, 23).

In addition, as inter-institutional queries on the legal basis of EU action are not unusual, the CJEU also has the power to annul an EU legal act. An "action for annulment" can be brought before the court by an EU institution (with exception of the European Council) or an EU member state (European Commission 2012). The CJEU then reviews if the legal act is in accordance with the EU treaties and the EU Charter of Fundamental Rights (Mańko 2019, 2). A further reason for bringing an act of annulment before the CJEU can be the violation of "the principles of subsidiarity and proportionality – though these are rarely the basis of a successful challenge to the lawfulness of EU legislation" (Murphy 2015, 38). Not uncommonly, an act of annulment before the CJEU was the result of an institutional 'turf battle' in the past.

Although the main hurdles for the CJEU's jurisdiction in EU counter-terrorism were abolished, some shortfalls remain. The court's competence to rule on countries' operational cooperation is still limited (Murphy 2015, 41)[95] and the CJEU's jurisdiction does not refer to member states that opt-out from AFSJ (Argomaniz 2011, 37). In 2021, the latter applies to Denmark and

[95] Murphy (2015, 41) explains: "While national courts and the European Court of Human Rights can perform this role the exclusion of operational matters from its jurisdiction is a significant limitation on the ECJ's ability to preserve the rule of law principles as the EU increases its role in criminal justice."

Ireland, since the UK withdrew from the EU: “the departure of the UK from the EU leaves its participation in EU counter-terrorism law, policy, and operations subject to renegotiation” (Murphy 2019, 240).

Bauer et al. (2018, 15) point to one important fact that has to be kept in mind by looking at the CJEU’s role within the institutional context: “In contrast to the European Council and the Parliament, the Court of Justice of the European Union (CJEU) cannot work in a proactive or entrepreneurial manner. It is dependent on other actors to become an active participant.” Therefore, the CJEU’s inter-relational position and activity in the EU institutional setting is somehow predefined by its tasks, i.e. the type of cases he becomes involved in.

In general, it can be stressed, that the CJEU is perceived as an integration-friendly institution (e.g. Wasserfallen 2010; Murphy 2015; Bauer, Ege, and Becker 2018; Herlin-Karnell 2018) and a driver of supranationalism (Trauner and Ripoll Servent 2016). Therefore, technical metaphors are not uncommon for the description of the CJEU’s role. Herlin-Karnell (2018, 396) calls it “a vehicle of integration” and Bauer et al. (2018, 15) consider the CJEU as an “engine of integration”. Moreover, it increasingly strengthened the respect of fundamental rights in Europe as will be illustrated in the following. In its activities, the CJEU was supported by the European Commission – this again highlights the reactive role described by Bauer et al. (2018). Trauner and Ripoll (2016, 1428) stress, that “the Commission used the case law of the Court to stabilize and deepen a rights-enhancing rationale in EU citizenship.” Impetus on its role, however, was also recently given by the German Federal Court, who called on the CJEU to fulfil its role in a more strongly manner (Romaniec 2020).

Mitsilegas (2016, 109) argues that the CJEU “has become a key actor in the development of EU internal security cooperation.” The court is even labelled as a “game changer” in AFSJ (Trauner and Ripoll Servent 2016; Herlin-Karnell 2018).[96] The institution received this status due to its former rulings, of which some have relevance for the development and progress of EU counter-terrorism. In those cases, the CJEU has expressed his position towards several issue-areas that are covered by the EU counter-terrorism field: Data protection and privacy rights, surveillance, the safeguarding of human rights and the stance of EU law.[97]

In the prominent *Kadi I and Kadi II* cases, the CJEU became “an agent of European values” (Herlin-Karnell 2018, 400). The CJEU clarified the relation of EU and international law and also stressed the fundamental right of data protection in its rulings. The cases have an EU counter-

[96] Lenaerts (2010, 301) comments that “it is clear that the Area of Freedom, Security and Justice is greatly influenced by guiding principles developed by the ECJ in other areas of Union law.”
[97] Murphy (2015, 47) illustrates that a “wide range substantive rights that might be affected by EU counterterrorism include freedom of expression (incitement to terrorism offences), freedom of assembly (proscription of terrorist groups), the right to privacy (data retention laws) and the right to property (targeted asset-freezing sanctions)”.

terrorism dimension since the plaintiff Kadi was linked to Al-Qaida by the Security Council (Kokott and Sobotta 2012, 1015; Lenaerts 2014, 708). Due to this connection, a Security Council resolution foresaw the freezing of Kadi's assets. In the first case, taking place in the pre-Lisbon EU, the CJEU emphasised the distinctness between European rule of law and international law (Kuner 2014, 62). In particular, it stressed that EU law is discrete from a UN Security resolution (Kokott and Sobotta 2012, 1015). In the second case, the CJEU stressed again that the EU must act in accordance with its own fundamental rights (Lenaerts 2014, 712). Murphy (2019, 221) opinions that "[t]he Kadi case is the earliest, and still the most significant contribution of the EU to the development of transnational counter-terrorism law".

In its annulment of the *EU-Canada PNR agreement*, the CJEU spoke again in favor of data protection, giving the signal that this civil liberty must be safeguarded in third states' relations. With its ruling, Tambou (2018) argues, the CJEU achieved an important stance in dealing with the EU's international pacts. The court's decision on the *Digital Rights Ireland* case is considered as an important basis for its ruling on the *EU-Canada agreement*. Scholars point to the former case as the "most important decision in JHA" (Maricut 2016, 551) or refer to it as "[a]n example of the Court of Justice acting as a successful guardian of the AFSJ" (Herlin-Karnell 2018, 404).

A further step, in which the court again stressed the significance of the right to privacy, is the *Schrems II* case. The court demonstrated that this specific right – determined in the second chapter of the Charter of Fundamental Rights – is more important than a data transfer agreement between the US and EU. In several of these above-described cases, the CJEU underlined the importance of the Charter of Fundamental Rights for the European rule of law. It pointed to this document in its ruling on data retention, the *Schrems* case and regarding the *EU-Canada PNR agreement*. Beyond that, the Charter allows the institution to define its own role at EU level and its stance towards fundamental rights. In light of the described cases, some scholars even perceive the CJEU as a "Fundamental Rights Court" (Sarmiento 2015; Tuchtfeld 2020).

Between 2009 and 2012, "the Court of Justice has made reference to or drawn on provisions of the Charter of Rights in at least 122 judgments, and the General Court (previously the Court of First Instance) in at least 37 judgments" (Búrca 2013, 169). This attitude of the CJEU towards the EU Charter is of significance for NGO's activities and strategies. It gives NGOs room to manoeuvre and to negotiate. In the same vein, the development of the CJEU's role as a 'Fundamental Rights Court' strengthens the role of NGOs as well. It widens their scope of argument. In an article, expressing its position towards the *Terrorist Content Online Regulation*, the privacy advocacy group EDRi (2020h) mentions the CJEU to give politicians

in the legislative process a signal: “the agreed text is still a softened version of the original proposal and still raises doubts as to whether it would pass the legality test of the Court of Justice of the European Union or not.” Hence, the CJEU offers NGOs an indirect point of entrance by being a symbol for fundamental rights.

The strategy of litigation offers a way to get in direct contact with the CJEU. The NGO can bring a case before a national court, framing it as a case of EU law and rely on its transference to the CJEU. In other words, NGOs can make use of the ‘preliminary ruling procedure’. In this context, the EU Charter of Fundamental Rights improved the circumstances drafting a claimant. In seven chapters, the EU Charter gives a transparent overview of rights relating to “freedoms”, “equality” and “citizens’ rights” (Official Journal of the European Communities 2000). The guide “The European Charter of Fundamental Rights as a Living Instrument” demonstrates how NGOs can apply the Charter to their own work (Bojanski, Hofbauer, and Mileszyk 2014, 26):[98]

> The Charter of Fundamental Right can be used in strategic litigation in two scenarios:
>
> 1. The human rights violation complaint can be based only on Charter provisions in situations when the right is not guaranteed by any other binding and enforceable document, as in a case of right to good administration;
>
> 2. The Charter can be used to strengthen human rights violation claims simultaneously with other human rights documents (usually it will be the European Convention on Human Rights).

Trauner and Ripoll Servent (2016) summarise the advantages of litigation at EU level. Although, they made the following statement rather with regard to the EU inter-relational setting, its relevance for NGO participation cannot be completely denied. They stress that “litigation has been a more frequent and successful path […] to either lock in or change a policy rationale” (Trauner and Ripoll Servent 2016, 1429).

At last, NGOs can get into contact with the CJEU by encouraging the Commission to start an infringement procedure. By informing the Commission that a certain country fails to comply to EU law or violates it, the scenario of an infringement proceeding can be a possible result. However, Eliantonio (2018, 763) shows with regard to NGO participation in “environmental implementation conflicts”, that communication often stops at the Commission, leaving out any possibility to get in contact with the CJEU.

The CJEU allows NGOs to put EU counter-terrorism policies to the acid test; To review the legality of legal acts in the light of both – the EU treaties and the EU Charter. If a referral is made to the court, it serves as an important entry point for the groups’ strategy of litigation. In

[98] “Traditionally, strategic litigation is a tool used in national judicial proceedings. Nevertheless, an NGO can encourage the national court to ask for a preliminary ruling from the Court of Justice of the European Union in situations where European law (concerning fundamental rights) needs explanation and clarification“ (Bojanski, Hofbauer, and Mileszyk 2014, 26).

2020, the CJEU gave an important sign for the work of NGOs in Europe. It ruled the Hungarian "Lex NGO" legislation unlawful, that aimed to impose restrictions on the financing of NGOs (Novak 2020). Nevertheless, the court only overtakes a reactive role in these scenarios. In sum, what the CJEU cannot provide for NGOs is a direct proactive relationship. Moreover, it just comes into play if EU legislation made it already through the proposal-, adoption- and decision-making stage. This situation is what makes the EP such an important and interesting actor for these groups.

5.2.4 European Parliament

The European Parliament underwent a remarkable institutional change. While in the pre-Lisbon period its influence at EU level was perceived as negligible – "[t]he EU legislative assembly, the European parliament, is weak" (D. Zimmermann 2006, 126) – it has now acquired the standing of "the EU's main supranational institution" (Argomaniz 2011, 42). Next to the Council and the Commission the EP owns the position as (co-)legislator at EU level. It decides on the future of a Commission's proposal, rejects it or demands amendments. The mechanism that grants the institution such a legislative power – the ordinary legislative procedure – brought the EP in the position to negotiate on directives and regulations in trialogue meetings. In sum, "the EP has come from being a complete outsider to gaining a veto power in internal security matters both, inside the European Union and beyond" (Ripoll Servent 2018, 387). EU studies even show that the EP is able to widen its influence with regard to CFSP (Riddervold and Rosén 2016; Rosén and Raube 2018), an area in which it lacks the position as co-legislator.

At the same time, however, the fact that the Parliament became just formally involved in the decision-making of EU counter-terrorism in the post-Lisbon phase means that many measures were adopted without its consent before 2009. The missing participation of the EP in the pre-Lisbon era is highlighted in several analyses of EU CT policies. Wensink et al. (2017, 51) state that "some three quarters of the EU legislative measures adopted since 2001 were adopted without the European Parliament operating as co-legislator". Hayes and Jones (2015, 30) express it this way: "[T]he European Parliament was excluded from what is now the normal EU decision-making process in respect of three-quarters of the eighty-eight pieces of legally-binding counterterrorism legislation." That this situation changed, with the EP becoming on equal footing with the Council of Ministers, opens new policy space for NGOs. Not at least, because the institution presents itself as a protector of civil liberties and human rights (e.g. (Argomaniz 2009). As Tsoukala (2004, 431) demonstrates, even in the aftermath of 9/11 a

sizeable number of parliamentarians argued that the safeguarding of human rights is a top priority that must not be infringed by newly proposed anti-terrorism measures.

Between 2001 and 2022, five different EPs were in place. The legislative period of each of these Parliaments covers five years. Hence, the emergence of the subfield was accompanied by five shifts of power in this institution: The fifth Parliament (1999-2004), the sixth Parliament (2004-2009), the seventh Parliament (2009-2014), the eight Parliament (2014-2019) and ninth Parliament (2019-2024).[99] Every new parliamentary term leads to the situation that NGOs need to adapt to a new environment as new MEPs move in and the party spectrum changes. In 2020, 703 members (European Parliament 2022) are in place which could be important points of contact for NGOs. In this ninth EP, around 60 percent of members are new (European Parliament 2019b). Hence, the circumstances at EU level can change quickly for NGOs after an election, making it necessary to establish new contacts. Research on interest groups demonstrate that some of the political groups in the EP (Socialists, Greens, Lefts) are characterised as a predominant partner for these organisations (Beyers, De Bruycker, and Baller 2015, 547).

After the January 2015 terrorist attack as well as the November 2015 acts of terrorism, the EP adopted a resolution in which it called for more action of member states (European Parliament 2015a, 2015b). A pressing claim of the institution was the intensification of cross-border cooperation between EU countries, especially regarding the interworking of judicial and law enforcement aspects. In its resolution of 25 November 2015, the EP "[r]eiterates its commitment to work towards the finalisation of an EU directive on passenger name records (PNR) by the end of 2015" (European Parliament 2015b). With this statement, the EP reversed its long-standing position on the *EU PNR directive* and endorsed a proposal that it had blocked since 2011. The *EU PNR directive* is now presented as a flag ship of EP action (European Parliamentary Research Service 2019, 10–11). Ripoll Servent (2018, 390) stresses that the adoption of the *EU PNR directive* as well as acceptance of the *EU firearms directive* are attributable to the Council's strategy to ally with conservatives' groups in the EP.

In their research on the AFSJ, Trauner and Ripoll Servent (2016, 1424) state that it is the Alliance of Liberals and Democrats for Europe (ALDE) that overtook an important role in the seventh EP (2009-2014). The political party had such a central function, because it decided whether a coalition between parties would work out or rather was threatened with failure (Trauner and Ripoll Servent 2016, 1424). Therefore, the conservatives used the following strategy: "The Parliament's centre-right EPP tended to propose solutions close to the Council, which gave rise to an inter-institutional coalition that focused on co-opting the liberal political

[99] An overview is provided by the European Parliament (2019a).

group" (Trauner and Ripoll Servent 2016, 1424). Ripoll Servent (2018, 389) demonstrates that this situation intensified in the subsequent parliamentary term due to rise of right-wing populist seats and the grand coalition between Socialists & Democrats (S&D) and European People's Party (EPP).

A further important actor within the EP is the Committee on Civil Liberties, Justice and Home Affairs (LIBE). Argomaniz (2011, 43) sheds light on the committee's role for EU counter-terrorism: "LIBE is the EP committee that has been traditionally most closely involved with counter-terror measures, adopting the mantle of the 'protector of civil liberties'." In the process of deciding on a legislative proposal, the LIBE Committee is allowed to appoint a shadow rapporteur. The role of a shadow rapporteur is fulfilled by a MEP, who is then responsible for communicating LIBE's position on a Commission's proposal, presenting the outcome of internal discussions and being in negotiation with relevant stakeholders. Thus, it can be a person of contact for the Council and Commission. Consequently, this makes it a person of interest for NGOs, too. Being in communication with members of the LIBE Committee might have a beneficial effect for the work of NGOs. One possible outcome can be the involvement of NGOs in discussions on a legal act. Moreover, it can also create the opportunity for NGOs of an exchange of views, i.e. regarding the wording of a text. Albeit, the EP Committee seems to be rather reluctant in contesting the Council's decision on security matters as demonstrated by Roos (2018, 430): "Instead of maximizing its powers conferred by co-decision, the LIBE Committee of the EP has refrained from seriously opposing the Council."

One actor that is perhaps somewhat under the radar but is indispensable for the daily work of MEPs, is the European Parliamentary Research Service (EPRS). It is a think tank within the EP, launched in 2013 as a Directorate-General (European Parliament 2013d). It provides MEPs with expertise knowledge on EU legislation, summarises positions of EU institutions, business and civil society, keeps them updated on the progress of a law and its stage in the policy-cycle. Specifically, the Directorate A, the Member's Research Service, made it its business "to provide all Members of the European Parliament with independent, objective and authoritative analysis of, and research on, EU-related policy issues, in order to assist them in their parliamentary work" (European Parliamentary Research Service n.d., 6). Furthermore, it contributes to make the EP's function, work and decisions visible and transparent for EU citizens and scholars. The EPRS can serve as a platform for NGO's views, making its position public to MEPs and sharing expertise on a specific issue. At the same time, it can work as a source of information for these groups, getting an overview of further opinions on a specific issue.

Two examples are on a regularly basis used to demonstrate the role of the EP in EU counter-terrorism: The *EU data retention directive* and the *EU-US SWIFT agreement*. According to Ripoll Servent (2013, 2015, 2018), the former case shows how different the EP positions itself in negotiations in which it overtakes the role as consultant and in situations, where it co-decides on a proposal. By looking at the data retention case, the scholar illustrates that the Parliament gave up its data protection standards for the desire to be seen as a "responsible legislator" (Ripoll Servent 2013). The *EU-US SWIFT agreement* is maybe the best studied case of the Parliament's involvement in EU counter-terrorism policy (e.g. Carrera and Guild 2012; De Goede 2012; Doody 2015; Murphy 2015). It became such a relevant one for scholars since it covers the story of an EU institutional battle taking place in a phase of transition from the pre- to the post-Lisbon period. Due to missing safeguards for data protection, the EP rejected the SWIFT agreement in a plenary meeting. According to Doody (2015, 48), "[t]he Parliament flexed its new-found muscle" when it decided against the Commission's and Council's undertaking.

With the Treaty of Lisbon, the third pillar was communitarised and the Parliament was promoted to the position of co-legislator. The two cases show how important it is to the Parliament that this role is adequately recognised by the Council and that it is willing to forfeit its own standards to become actively involved in EU CT policy-making; A field traditionally understood as driven by intergovernmentalism. Moreover, these examples illustrate that the EP has occasionally had to stand up for itself within the institutional system of the EU. In EU studies, this is regarded as the EP's "self-empowerment" in the post-Lisbon institutional setting (Meissner and Schoeller 2019). To widen its powers, the EP can also refer to NGOs as allies (Meissner and Schoeller 2019, 1077): "By cooperating with media or non-governmental organizations (NGOs), the EP can mobilize public opinion on the grounds of democratic norms." Rosén and Raube (2018, 81) however argue that this is not an easy task, since "there is no common European public to which it can appeal". In the case of the EU-Canada PNR agreement, the Parliament enhanced its position by involving the CJEU. During the re-negotiation phase of the agreement in 2014, it brought a case before the court, questioning its compatibility with the EU Charter (Tambou 2018). The decision of the CJEU to strike down the agreement, however, strengthened the EP's depicted position as a protector of data and privacy rights. Of course, the relation between the Commission and the EP is defined by the latter's ability to elect the President of the former. Moreover, it is characterised by institutional cooperation, especially in those areas in which the mode of intergovernmental policy-making still dominates, like the CFSP (Riddervold and Rosén 2016). Furthermore, the EP can scrutinise the Commission's action with the instrument of parliamentary questions. MEPs can ask the Commission to give either a written or oral response to an addressed question. For

example, these questions can be necessary to get informed on the state of a proposal, inter-institutional negotiations or to check on any plans of the Commission. However, recent discussions on the agenda-setting power of the EP might redesign this institutional relationship. The role of the EP could be subject of a further process of redefinition if it is decided to bestow the institution the right of legislative initiative.

In her analysis of the EP's role in AFSJ, Ripoll Servent (2018, 392) highlights, "we know relatively little about the role of NGOs […]. Their role, however, is particularly relevant for the Parliament, especially in an area where it is extremely difficult to obtain expertise that does not originate from national authorities." Here, the importance of NGOs as experts that was already highlighted in chapter two becomes again visible. The next subchapter will summarise the points of friction that makes EU counter-terrorism a field of interest for NGOs and their work.

5.3 Interim Conclusion: Entry Points for NGOs in EU Counter-Terrorism

The fifth chapter gave an overview of two decades of EU counter-terrorism policies. The EU is active in this issue area for a long time and its 'actorness' is increasingly recognised. This implies that there is still momentum in the field. Although the EU went through a phase of 'fatigue', the subfield is still central. As the review of studies show, the progression and development of the field was pushed with each new terrorist attack. Moreover, the entry into force of the Lisbon Treaty has shifted the institutional balance of power in the Union. This has led to some disputes between the institutions even before its actual entry into force. If reflections on a right to initiative for the EP become true, EU institutions might intend to redefine their roles in the EU security subfield. The chapter started with two questions. One focusing on thematic entry points for NGOs (1), the other asking how the institutional setting in which these organisations manoeuvre looks like (2).

(1) The start of this chapter stressed that NGOs interact in a field that is defined by conflicting priorities between security and freedom. This became especially clear in the review of EU counter-terrorism literature. Section 5.1 stressed that exactly this state 'fighting terrorism while preserving civil liberties' incites NGOs to become active. The increasing adoption of pre-emptive approaches, that are often connected to surveillance and policing as well as the lack of transparent procedures at the EU level (especially after 9/11) can be regarded as points of motivation for NGOs to work in this specific field. In addition, this policy field is characterised by a particular complexity of the institutional setting, which puts NGO on the agenda not only as protector of civil liberties (watchdogs), but also as mediator and translator of the often-technocratic terminology.

(2) The ever-changing realities in the field are not likely to go unnoticed by NGOs in pursuing their tasks. On the contrary, it is to be expected that NGOs dealing with counter-terrorism issues have had to constantly adapt to these changes. While it is important not to minimise the opportunities that the adoption of the Lisbon Treaty has created for NGOs, some challenges should be highlighted. The fact that the EP tends to be entangled in competence arrangements with the Council could limit the entry for NGOs. Another point that could have a limiting effect on the work of NGOs is the conservative orientation of the institution, which has increased especially since the 8th legislative term. It not only gave the Council a greater power in policymaking, but also decreased the influence of political parties that are identified as significant allies for NGOs. Moreover, Brussels-based NGOs might face the same struggle as parliamentarians: There is no 'common European public', so who exactly are its addressees?

In addition, the chapter shed light on the increasing involvement of the Commission and the CJEU in EU counter-terrorism. The Commission issued important strategies in the field and created new positions, like the Commissioner for the Security Union, but also widened its position in making use of its role as a funder and constructor of networks. The rulings of the CJEU, which are increasingly guided by the principles of the EU Charter of Fundamental Rights, have also stimulated a refine of the field. Not at least, because the CJEU has annulled certain legal acts, which make a renegotiation in these cases necessary. The stronger appearance of these two institutions in this pre-intergovernmental area, could allow NGOs to make use of their entire repertoire of strategies.

At last, it should be noted that NGOs are not alone in the struggle of working between the two poles of security and freedom. The actions of EU institutions also happen between these two values. This might not necessarily ease the work of NGOs, it could however make it easier for them to find allies. The next three chapters will give a detailed analysis of the role of Brussels- and national NGOs in three distinct EU CT policy processes: The EU data retention directive, the EU PNR directive and the terrorist content online regulation.

6 The EU Data Retention Directive (DRD)

Chapter 5.2.4 demonstrated that there is a lot of knowledge about the EP's involvement and political position on the EU data retention directive, but very little regarding the role of NGOs. This is surprising since the move of an Irish NGO to bring a case before the CJEU resulted in the annulment of this legal act. This chapter illustrates the group's legal action and other engagement of NGOs. It constitutes the first within-case analysis. The chapter is structured as follows: The case analysis starts with a chronological overview of the discussion around the EU data retention directive, covering the period of 2001 until 2020. The timeline gives an overview of the most important decisions, events and actors in the context of the directive. In a second step, the chapter highlights the contribution of NGOs in politicisation, elaborating their participation in the process and examining the main strategies of these groups. The latter part will be conducted in more depth and in relation with the three dimensions of politicisation *awareness*, *mobilisation* and *contestation*. In concrete terms, it is analysed in how far the strategies – *voice*, *access*, *litigation* – fostered an increase of the three dimensions and hence a politicisation process regarding the counter-terrorism policy. The structure of the subchapter is therefore guided by the three NGO strategies. The operationalisation of the dimensions of politicisation introduced in subchapter 3.1.2 serves as a template for the analysis. The in-depth within-case analysis closes with an interim conclusion, reflecting the subquestions of this thesis and summarising the (potential) politicisation at hand. Before the entire policy process is traced, an explanation of the directive's subject is given.

What is the directive about?

The directive 2006/24/EC is adopted to collect and store customers' information by telecommunication firms and internet service providers. In a further step, the law regulates how and under which circumstances this data will be made accessible for law enforcement actions. It is stressed that the legislation is guided by the EU Charter, in particular, the right to privacy and that measures introduced by this law must follow the principle of proportionality. A framework to oblige electronic communication services to retain data - and if needed to deliver it to crime authorities – is provided by the e-Privacy directive (2002/58/EC), to which the legislation explicitly refers. Article 15 (1) of the e-Privacy directive stresses that retention activities are allowed but need to be in line with the EU treaty principle of proportionality.[100]

[100] "Member States may adopt legislative measures to restrict the scope of the rights and obligations provided for in Article 5, Article 6, Article 8(1), (2), (3) and (4), and Article 9 of this Directive when such restriction constitutes a necessary, appropriate and proportionate measure within a democratic society to safeguard national security (i.e. State security), defence, public security, and the prevention, investigation, detection and prosecution of criminal offences or of unauthorised use of the electronic communication system, as referred to in Article 13(1) of Directive 95/46/EC." (Official Journal of the European Communities 2002, Article 15.1, 46).

Hence, it agrees to the restriction of specific civil rights, like the confidentiality of communication, for specific security purposes, but only as long as these restrictions are reasonable from a proportionality perspective.

The directive originated with the purpose “to harmonise the obligations on providers to retain certain data and to ensure that those data are available for the purpose of the investigation, detection and prosecution of serious crime” (Official Journal of the European Union 2006, 56). As exemplified at the beginning of the directive’s preamble, some member states already retained data, while others refrained from this activity, which created an uneven and complicated situation for electronic communication companies as well as for security authorities in the EU (Official Journal of the European Union 2006, 54). Moreover, the introductory text emphasises that data retention is needed as a response to the terrorist attacks in Madrid (2004) and London (2005). In consequence, the legislation stresses that “that there is a need to ensure at European level that data […] are retained for a certain period” (Official Journal of the European Union 2006, 55). The highlighted retention period can vary between 6 months and two years, whereas member states can select their preferred time of data storage within this defined scope (Official Journal of the European Union 2006, Article 6, 58). After the selected period has expired, the stored data must be erased (Official Journal of the European Union 2006, Article 7.d, 59).

The directive covers the retention of so-called “metadata” (Guild and Carrera 2014, 1), which are the outcome of internet access, email communications or telephony. This can be a telephone number, the details of who communicated with whom, the place from which the customer decided to communicate or the point of time, a user choose to access an email account. Hence, all information that includes where, when, how long and with whom a person communicated. (Official Journal of the European Union 2006, Article 5, 57-58). However, the directive does not cover calls that were not successfully connected and exclude the retention of information that sheds light on the subject matter of an electronic exchange: “This Directive […] does not relate to data that are the content of the information communicated” (Official Journal of the European Union 2006, 55). The directive also states that EU countries are obliged to collect and edit data, more precisely “statistics”, on the law enforcement’s handling of the new opportunities provided by this legislation (Official Journal of the European Union 2006, Article 10, 59). The Commission is on the other hand to be trusted with the conduction of an evaluation of the directive (Official Journal of the European Union 2006, Article 14, 60). The legislative act defines the deadline for member states to implement a national law as mid-September 2007 (Official Journal of the European Union 2006, Article 15, 60).

6.1 Chronological Overview of the Political Process (2001-2020)

The discussion on the directive, which aimed to store the meta data of EU citizens, started shortly after 9/11. A real debate at the EU level only started in 2005. The debate was caused by the plans of the Council of the EU (Council) to introduce a framework decision on data retention[101]. A scheme proposed by the UK, France, Ireland and Sweden. On 31 May 2005, the LIBE rejected the Council's plans and rapporteur Alexander Alvaro (ALDE) claimed: "[t]he Commission should draft an appropriate proposal" (European Parliament 2005a, 9). The Commission published the document in September 2005. The dynamic to finish the issue however increased at the EU level in July, since the UK faced a serious terrorist attack. Due to the 'London bombings', the Council announced to agree on the policy by the end of the year (European Digital Rights 2005b). In the JHA Council, Charles Clarke, UK Home Secretary,[102] pursued two strategies to fulfil this goal, which was at the same time a top priority of his government. He tried to convince the EU member states to adopt the framework decision in the Council and at the same time kept up negotiations with the EP. However, the adoption of the decision in the Council was threatened to fail. Member states were lobbied by the telecommunication industry, which feared the high costs of data storage. This was especially the case for Germany. Otto Schily, Federal Minister of the Interior, and Brigitte Zypries, Federal Minister of Justice, both members of the Social Democratic Party (SPD), were in constant discussion with representatives of the German telecommunications company Telekom. At the Council's meeting in Newcastle in September 2005, it was still unclear, if the member states wanted to include a compensation for the industry and if unsuccessful caller attempts should be a part of the retained data (Der Bayrische Staatsminister des Innern, Dr. Günther Beckstein 2005, 5). The latter issue was the reason why the legislation was disliked by the German telecommunications industry. Due to this disagreement, Charles Clarke pressured the EP to adopt the Commission's proposal. He emphasised, "if parliament failed, he would make sure the European Parliament would no longer have a say anymore on JHA matters" (European Digital Rights 2005b). On 14 December 2005, the EP agreed on the proposal. The exclusion of unsuccessful caller attempts was responsible for the circumstance, that almost all German MEPs of EPP and PES[103] voted in favour of the directive (European Digital Rights 2005c). Looking at the Parliament vote, it is striking that all members of Greens/EFA[104] and GUE/NGL[105] voted against the directive. The political group ALDE was divided over the issue. Nevertheless, most of the liberals voted in favour of data retention (see table 8).

[101] Framework decisions are not legally binding.
[102] The UK assumed the presidency of the Council on 1 July 2005.
[103] The Party of European Socialists (PES).
[104] The Greens/ European Free Alliance (Greens/EFA).
[105] The Gauche Unitaire Européenne / Nordic Green Left (GUE/NGL).

Table 8. Results of European Parliament Vote on the DRD

Political group	In favour	Against	Abstention
Total	*378*	*197*	*30*
ALDE	25	38	4
EPP	179	39	10
Greens/EFA	0	35	1
GUE/NGL	0	28	0
IND/DEM	2	23	2
NI	8	8	7
PSE	146	24	2
UEN	18	2	4

Source: Own illustration based on a document leaked by Statewatch (European Parliament 2005c, 18–19). Displays the number of MEPs, who voted in favour and against the data retention directive as well as abstained.

A few months after the directive's publication in the Official Journal of the EU in March 2006, Ireland brought a case against the EP and Council before the Court. The member state did not agree with the framing of data retention. It rather conceived it as a matter of law enforcement than one of internal market harmonisation (European Court of Justice 2009). The Republic of Ireland already expressed this disagreement in the JHA Council's vote. Next to Slovakia, who later supported Ireland's case before the court, the member state voted against the adoption of the directive (European Digital Rights 2006a).

The directive had to be transposed by member states in the mid of September 2007 (Official Journal of the European Union 2006, Article 15, 60). Between 2009 and 2011 data retention laws became the focus of various court decisions at the national and EU level. The CJEU decided in case C-301/06 that the first pillar was the appropriate legal basis for the directive (European Court of Justice 2009). On 2 March 2010, the Federal Court of Germany ruled the transposed national legislation unconstitutional (Bundesverfassungsgericht 2010). The annulation was accompanied by similar decisions in Bulgaria (2008), Romania (2009), the Czech Republic (2011) and Cyprus (2011) (Jones 2014). These occurrences were openly debated in the European Commission's evaluation process of the directive, which started in 2009. After the public consultation phase, the Commissioner for Home Affairs Cecilia Malmström (2010-2014) officially announced to keep the policy. In 2012, the Commission opened an infringement proceeding against Germany for failure to transpose the directive. The lack of implementation was caused by the German Federal Court's annulment of the national law. With the Commission's decision to bring the case of Germany before the Court of Justice of the EU (CJEU), the Commission claimed for "a daily penalty payment of € 315 036.54" (European Commission 2012). The Kingdom of Sweden experienced a similar fate due to its

difficulties of transposing directive in national law.[106] The subsequent discussion on this matter however was obsolete, since the Commission withdrew the infringement proceeding in 2014 (European Parliament 2014). The reason was the annulment of the DRD by the CJEU on 8 April 2014. The CJEU (2014) stated that the directive "entails a wide-ranging and particularly serious interference with the fundamental rights to respect for private life and to the protection of personal data, without that interference being limited to what is strictly necessary".

For some member states, the court's decision had direct consequences. First in Austria, then in Romania, Slovenia and Bulgaria, national courts declared the transposition laws unconstitutional. Court decisions in the Netherlands, Slovakia and Belgium followed. For three of these states, it was already the second ruling that highlighted the unconstitutional character of the data retention law in place.[107]

However, despite the CJEU's decision, member states kept their laws or decided on new ones. For example, the German Bundestag passed a second data retention law[108] on 16 October 2015. The issue was driven by Chancellor Merkel after the Paris terror attacks of January 2015 (Krempl 2015a).[109] In 2016, the law faced again a constitutional complaint. At the end of the year, the CJEU decided in a joined case, brought forward by British MPs and a Swedish telecommunication industry that existing data retention laws must meet the requirements of the 2014 ruling. In plain terms: Those national schemes which were not revised after the former CJEU's decision were declared to be invalid.[110]

After this decision, the Federal Network Agency suspended the introduction of data retention at the German level (Spiegel 2017). The debate on data retention at the EU level however proceeded. In 2020, member states have still data retention schemes in place (see table 9 on the next page).[111] Since the 2016 CJEU ruling, the Council – in cooperation with Eurojust and Europol – looked for ways to reintroduce the issue (Council of the European Union 2017b), for example by using the adoption of the new e-Privacy regulation or by pushing for a harmonised solution. Yet, the Commission has not responded to the wish of the member states to submit a new proposal.[112] The issue however gained traction again in European courtrooms.

[106] All cases are summarised and listed in table 14 (subchapter 6.2.2.3).
[107] An overview of these cases is given in table 15 (subchapter 6.2.2.3).
[108] "Gesetz zur Einführung einer Speicherpflicht und einer Höchstspeicherfrist für Verkehrsdaten"
[109] The law was overwhelmingly supported by the political parties CDU/CSU, partly by SPD and opposed by Alliance90/TheGreens and The Left.
[110] "Existing national laws will need to be checked against the judgment, although this is likely to be difficult. It is however clear from the operative part of the *Tele 2* judgment that a general and indiscriminate retention obligation for crime prevention and other security reasons would no more be possible at national level than it is at EU level" (Council of the European Union 2017a, 6; emphasis in the original).
[111] Data retention is currently in 22 member states in place. Six of these member states facing lawsuits due to their data retention schemes (Mrohs et al. 2019).
[112] This response by the Commission was given due to a parliament question in 2018: "The Commission has no plans currently to propose legislation, mindful of the different views that have been expressed on this issue by various stakeholders" (European Parliament 2018).

In autumn 2020, the CJEU ruled in three cases on data retention. The fate of data retention laws in Belgium, the UK and France were at stake. As in its 2016 ruling, the EU court stressed that national laws must be compatible with law. In the words of the CJEU (2020): “EU law precludes national legislation”. Nevertheless, the ruling provided some leeway for member states in stating that indiscriminate data retention is allowed in situations in which national security appears to be at risk. Further decisions by the CJEU on the issue of data retention are expected in 2021.

Table 9. Data Retention Across Europe in 2020

Member State	Data retention in place	No data retention in place
Austria		X
Belgium	(X)	
Bulgaria	X	
Croatia	X	
Cyprus	X	
Czech Republic	X	
Denmark	X	
Estonia	X	
Finland	X	
France	(X)	
Germany	(X)	
Greece	X	
Hungary	X	
Ireland	X	
Italy	X	
Latvia	X	
Lithuania	X	
Luxembourg	X	
Malta	X	
Netherlands		X
Poland	X	
Portugal	X	
Romania	X	
Slovakia	X	
Slovenia		X
Spain	X	
Sweden	X	
United Kingdom	(X)	

Source: Own illustration based on analysis of data provided by European Union Agency For Fundamental Rights 2019a; Council of the European Union 2019; European Parliamentary Research Service 2020. UK, France and Belgium: Since the CJEU ruled the national laws illegal, it has now decided by national courts how the issue is progressed. Germany: A data retention scheme is in place, but not active.

To track the course of the political process, figure 14 provides an overview of the timeline of the DRD. One important insight of this subchapter – that is also recognisable in this figure – is the close connection between terror attacks in EU member states and the development as well as the maintenance of data retention as a law enforcement tool. Another is the high number of court cases connected to the policy. This makes an exception regarding the other case studies

of this monography. In how far NGOs were involved in these legal actions will be the subject of the next subchapter.

The subsequent subchapter forms the central part of the case analysis. It starts with a description of the participation of NGOs in the policy process. The aim of this section is to get to know the involved NGOs by name and to receive some insights about these organisations, like the (member) states in which they are registered. This is followed by a section that connects NGO strategies and dimensions of politicisation. More information about this essential part will be given in the introduction of chapter 6.2.

Figure 14. Timeline of EU Data Retention Directive (2001-2020)

Terrorist attacks	9/11		Madrid train bombing (March)	London terror attack (Jul)					Paris terror attacks (Jan/ Nov)	Brussels bombings (March)		
Legislative acts		e-Privacy directive comes into force	Council framework decision	COM EU DRD proposal (Sep)	Official publication of EU DRD (April)	*COM evaluation (2009-2011)*					(New) COM e-Privacy regulation proposal	
	2001	**2002**	**2004**	**2005**	**2006**	**2009**	**2013**	**2014**	**2015**	**2016**	**2017**	**2020**
CJEU decisions						Ireland vs EP: Legal basis correct	COM vs Sweden: Sweden must pay a penalty sum	Annulment of EU DRD		National laws are not compatible with EU law (no bulk DR)		EU law precludes national law (no bulk DR)

Source: Own illustration based on analysis of case.

6.2 Analysis of the Contribution of NGOs in the Politicisation Process

This subchapter constitutes the analysis of the NGOs contribution in politicising the EU data retention directive. A first step, as already emphasised, is to give an overview of participating NGOs. This is followed by an analysis of NGO strategies. Regarding this second step, it can be stated that all strategies discussed in chapter two – *voice*, *access*, *litigation* – are present in this case. Each strategy is examined individually. Consequently, three subchapters are dedicated to this undertaking. First, the extent to which each strategy has been used by NGOs is analysed. This means that an overview of NGO actions that can be considered as part of the strategy is presented. The addressee of the action provides a point of orientation for differentiating between the strategies. To distinguish between *voice* and *access*, the indicator of whether an actor is addressed directly or indirectly is also regarded. Second, it will be scrutinised how these strategies contributed to a potential politicisation of the legislation. In connection with every single strategy, it will be examined how and if the particular NGO strategy fostered an increase of *awareness*, *mobilisation* and *contestation*. The analysis period covers the time of 2001 until 2020. However, the chronological overview has demonstrated that a crucial point in time in the history of data retention was 2005, when member states discussed a Council Framework Decision.

6.2.1 Participation of NGOs

In the policy process of the EU DRD, NGOs with a focus on civil rights and digital rights can be regarded as key players. At the beginning of the discussion on data retention, participation by two UK-based civil rights organisations – Statewatch and Privacy International (PI) – and the umbrella organisation EDRi was visible. The Brussels-based NGO EDRi is mentioned by a further stakeholder – the German working group on data retention (AK Vorrat DE) – as an important opposer against data retention.[113] The AK Vorrat DE itself appeared at German level in 2005. The AK Vorrat AT (later: epicenter.works) started its participation around 2010. At Austrian level, EDRi members Quintessenz and VIBE!AT were also active on the issue.

One NGO that has taken on a very essential role in the context of the strategy of *litigation* is Digital Rights Ireland (DRi). As already mentioned, one ruling of the CJEU is named after this NGO. A lot of actionism was also observable at the French national level. The main driver in this regard was the organisation La Quadrature du Net (LQDN). The NGO was active in the context of “les Exégètes Amateurs”. At Belgian level, Liga voor Mensenrechten was actively engaged. Participation of the German-based EDRi member Digitalcourage is especially visible

[113] See the groups wiki (German Working Group on Data Retention n.d.d).

since 2018 at EU level.[114] On some occasions, it cooperated with the NGO Amnesty International. The German NGO can however be regarded as a supporting NGO and not a main driver. The same is true for digiges, the Dutch foundation Bits of Freedom, the EFF, Access Now Europe, the Open Rights Group, CDT Europe or the Polish Panoptykon Foundation. The above-mentioned NGOs PI, EDRi and Statewatch are the key drivers of actionism against data retention. The case analysis will show that there was recurrent cooperation between the umbrella organisation and its two British members.

The political process of the directive spans almost 20 years. It will become apparent that some actors never stopped working on the issue, while others were only partially active. NGOs participated in the DRD policy process by pursuing different kinds of strategies at the same time. In how far these organisations pursued the strategies of *voice*, *access* and *litigation* is now illustrated in greater detail. Each strategy is explored in a separate subchapter. To highlight the NGOs' use of these strategies is an intermediate step in the analysis. The actual aim is to review how these strategies have contributed to a (potential) politicisation process.

6.2.2 Connection of NGO Strategies and Dimensions of Politicisation

The last subchapter gave an idea of who the main non-governmental actors in this case are. Now, the NGOs' strategies and activities will be considered in the light of the politicisation concept. More precisely, in connection with the three dimensions *awareness*, *mobilisation* and *contestation*. The analysis starts with the examination of NGOs' use of *voice* activities. This is followed by a study of the organisations' *access* as well as *litigation* strategy. Afterwards the findings of the analysis are summarised in an interim conclusion. This will demonstrate that this first case – the EU data retention directive – has some exclusive characteristics in comparison to the two other cases. Hence, the study of the EU DRD offers an interesting and unique perspective on NGOs' role in politicisation.

6.2.2.1 Voice

The strategy of *voice* is greatly pursued by NGOs in the data retention case. Numerous actions introduced by these organisations can be attributed to it. The following "noisy" actions were in place in the almost twenty years of the case: The launch of an email campaign, the organisation of protests and demonstrations, the use of petitions and the publication of reports. Moreover, NGOs used the mean of leaking documents to reach out to the public and surveyed

[114] Until 2012, the organisation was called "Verein zur Förderung des öffentlichen bewegten und unbewegten Datenverkehrs" (FoeBuD e.V.).

citizens regarding their opinion on data retention. In a few cases, NGO staff published articles in news magazines to distribute their position. Before it is examined to which extent these actions have encouraged a change in the dimensions of politicisation, some further details on these actions are given. By reflecting these activities, one attribute of this case will become visible: The involvement of the national and the EU level.

A first *voice* action was already visible at EU level in 2002. Under the STOP1984 campaign a petition was started while the e-Privacy directive – the basis for the EU DRD – was discussed by EU institutions (Statewatch 2002). A further petition introduced by EDRi followed in 2005 (European Digital Rights 2005c). The collected signatures were transferred to MEPs one day before the vote on the directive. Later, (under *mobilisation*) it will become visible that the NGO had support from other actors in creating this action. At German national level, the Forum Computer Professionals for Peace and Social Responsibility (FIfF) e.V. and German Organisation for Data Protection (DVD) e.V. published a statement to the public. The press release of 2004 was added by the opinion of a German data protection expert (Hülsmann 2004). An email campaign by AK Vorrat DE started in 2006. It was designed as a "join-in" activity as this description shows: "They [AK Vorrat DE] also set up a web portal where anybody could write an open letter which would automatically be sent to the members of the ruling conservative and social democratic parties in the federal parliament" (Hornung, Bendrath, and Pfitzmann 2010, 150). As one can derive from the statement, it was not the wider European citizenry that was addressed by this action but rather the German public. The privacy group also introduced a petition at German level in 2012. A further petition was visible by its Austrian counterpart. Via the website "zeichnetmit.at" Austrian citizens were able to support the action introduced by AK Vorrat AT. The two groups – AK Vorrat DE and AK Vorrat AT – were also involved in the organisation of a series of demonstrations in their respective member states. The following statement by AK Vorrat DE demonstrates the close connection between the organisation of their first demonstration and the EU DRD directive: "**On 11. October 2008 we called for an international action day** in as many European capital cities as possible and elsewhere around the world to demonstrate against the total retention of telecommunication data and other instruments of surveillance" (German Working Group on Data Retention n.d.e.; emphasis in the original). To organise this action the German working group used a wiki. A tool that was also deployed by EDRi (2005a) to conduct the above-mentioned petition: "To engage more supporters to contribute to the campaign against data retention, EDRI has opened a special WIKI, based on the technology used by the online encyclopaedia Wikipedia. Everybody is invited to contribute background information and localised banners."

Protests initiated by NGOs were visible in 2015 and in 2017 at Germany's national level. In 2015, the data protection groups Digitale Gesellschaft (Digital Society, digiges), AK Vorrat DE

and Digitalcourage cooperated in organising a protest before the building of the German Bundestag. In 2017, Digitalcourage made use of this action again. In the same year, staff of the Amnesty International section in Berlin initiated some minor protest actions. The possibility to address the public by conducting a poll was used by AK Vorrat DE. In 2008, the group commissioned the forsa Institute for Social Research and Statistical Analysis to carry out a survey of citizens on data retention. The publication of reports was a kind of action pursued by EDRi. In 2011, the NGO published a "shadow evaluation report on data retention directive (2006/24/EC)" (European Digital Rights 2011b). As the name of the document indicates, it was created during the evaluation phase of the EU legislation. In 2020, EDRi produced the booklet "Data Retention Revisited" (Rucz and Kloosterboer 2020). The NGO PI also made use of this action in 2017. It published the report "A Concerning State of Play for the Right to Privacy in Europe: National Data Retention Laws since the CJEU's Tele-2/Watson Judgment". As one can derive from chapter 6.1, this report focuses on member states keeping national data retention laws despite two CJEU rulings (2014 and 2016).

As already mentioned, the distribution of positions by writing own articles on media's platforms was an action only used a few times by NGOs. TJ McIntyre (2013), director of Digital Rights Ireland, choose to use Politico as a platform to distribute his opinion on the EU DRD. The head of policy at EDRi shared an NGO letter addressed to Ursula von der Leyen via the German newspaper Die Tageszeitung (TAZ). In contrast to that, the leaking of documents was an activity constantly pursued by NGOs. Those leaks were mainly distributed by the UK-based NGO Statewatch. Sometimes national-based organisations – like the Austrian civil liberties group Quintessenz or the German NGO Digitalcourage – joined Statewatch in making use of this action. The leaked documents included for example a statement of the Commission to member states inability to show the effectiveness of the directive (European Digital Rights 2020g) or a series of Council papers that thematise the reintroduction of data retention at EU level after the two CJEU decisions (Statewatch 2017a). Furthermore, Statewatch leaked documents that questioned the legality of the Council's plan of 2005, the introduction of the Framework Decision (Statewatch 2012a). In the study of *awareness*, it will become apparent that the leaking of this specific information was crucial for the start of the politicisation process.

Awareness

The analysis of *awareness* starts with a presentation of NGOs general reception by the Brussels media. First, it will be illustrated to what extent these groups and the EU DRD were recognised. Second, the reception of NGOs *voice* strategy by the media is scrutinised. The qualitative analysis of four media outlets – EUobserver, EURACTIV, Politico Europe, The Parliament Magazine – shows that the issue of data retention was permanently on their agenda between 2001 and 2020. The topic was raised in 290 articles in total, being especially present in Politico Europe and EUobserver (see table 10). In contrast, the Parliament Magazine did not overly recognise the issue, nor – as later demonstrated – the position of NGOs. The media attention around the issue was at its highest in 2005, covering the time of the discussion on the Council's Framework Decision and the subsequent adoption of the DRD. As Figure 15 (next page) indicates the year shows the hights number of media articles throughout the entire timespan. This is also true for the number of articles referring to NGOs and their actions. In 2005, one can see a clear increase with 22 articles mentioning NGOs. Before, NGOs were also present, but to a far lesser extent. In 2002, when the e-Privacy directive – the basis for the data retention directive – was debated, NGO positions have become much more prominent with 8 mentions by EU media outlets. However, their positions and actions received far more attention by the media when the debate about the Council's framework decision of April 2005 started.

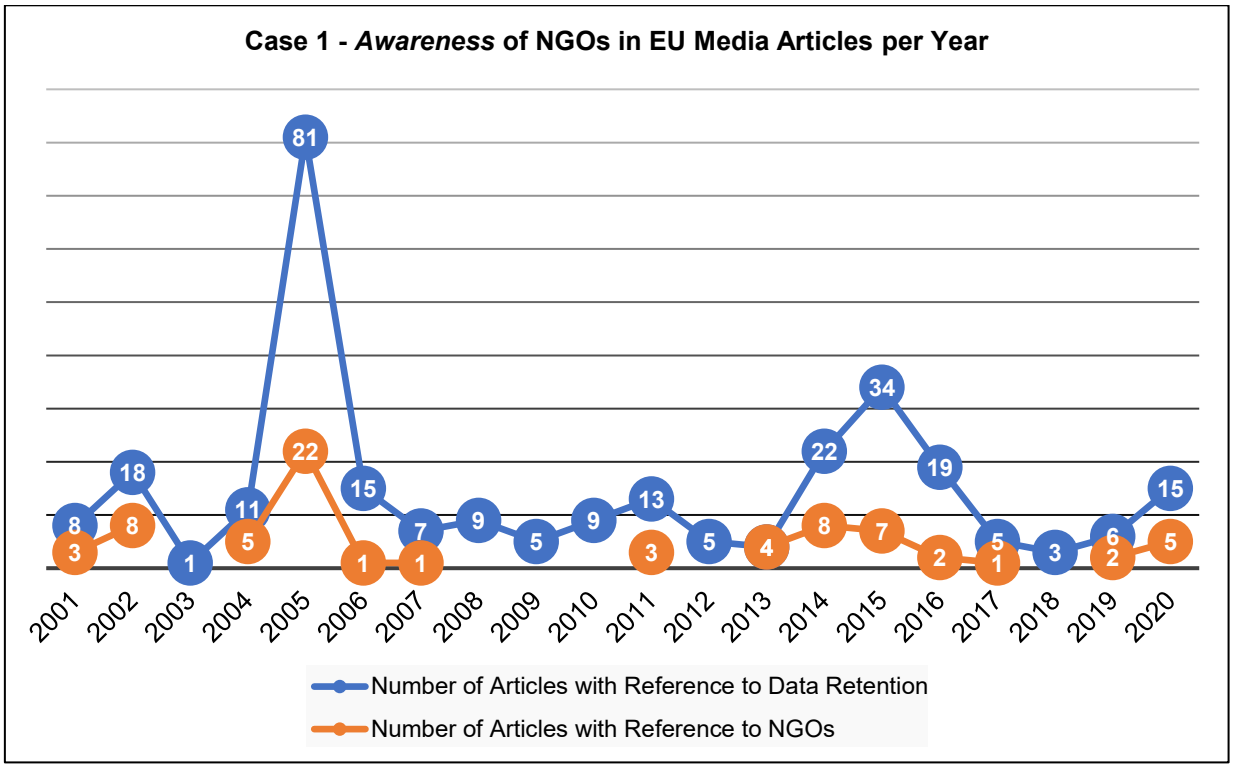
Table 10. Case 1 – Reference to the DRD in EU Media Outlets (2001-2020)

EUobserver	EURACTIV	Politico Europe	The Parliament Magazine	In total
100	75	110	4	290

Source: Own illustration based on qualitative (online) media outlet analysis.

Figure 15 also highlights that media outlets increasingly reported on the issue in 2011, when the Commission's evaluation process was ongoing and in the aftermath of the 2014 CJEU ruling. Moreover, one can identify an increase in reporting on the topic in 2020. NGOs received no attention by media outlets between 2007 and 2010 but were slightly recognised in 2011 and then again even more in 2014. However, the EU media outlets' attention on these groups never was as high as in 2005.

Figure 15. Case 1 – Timeline: Mentioning of NGOs in EU Media Articles per Year (2001-2020)



Source: Own illustration based on qualitative (online) media outlet analysis (EUobserver, EURACTIV, Politico Europe, The Parliament Magazine). The figure only refers to the number of articles (72) that explicitly mentioned NGOs by name.

The term "NGO" – standing alone and without reference to an organisation – is used five times in articles. The terms "civil rights group"[115] and "privacy group"[116] are the more frequently used terms with 25 and 10 mentions respectively. In total, NGOs were mentioned by name 131 times in EU media outlets. The number of articles naming an NGO is 72. EURACTIV takes the lead in referencing NGOs and their actions (see table 11). EU media outlets mostly cover the view of the NGO Statewatch. EDRi is the second most mentioned organisation followed by PI and DRi. It seems that the Brussels-based organisation Access Now is not very connected to the issue of data retention by the media. In the same manner, LQDN does not get much attention from the media, which is surprising since it had an important role regarding one of the court cases on data retention (as later demonstrated). The Liga voor Mensenrechten, that will also be more present to the reader in the analysis of *litigation* was never recognised by the media. The same image applies to the AK Vorrat AT. The analysis also demonstrates that positions and activities of national NGOs and groups, like Digitalcourage, AK Vorrat DE and the Panoptykon Foundation are more present in EUobserver and EURACTIV.

[115] This term also covers the mentioning of "civil liberties groups", "civil liberties organisations", "civil liberties campaigners", "civil society groups", "civil rights campaigners" and "civil society representatives".
[116] This term includes references to "privacy campaigner(s)", "privacy defenders", "privacy activists".

Table 11. Case 1 – Mentioning of NGOs by EU Media Outlet Articles (2001-2020)

Name of NGO / EU Media Outlets	DRi	Statewatch	EDRi	PI	Digitalcourage	LQDN	AK Vorrat DE	Access Now	Panoptykon Foundation	In total (by media outlet):
EUobserver	3	21 (8)	4 (3)	4 (3)	-	1	3 (2)	-	3	39 (23)
EURACTIV	4 (3)	27 (15)	18 (12)	10 (8)	2	-	6 (3)	-	-	67 (43)
Politico Europe	5	7 (6)	5 (4)	6	-	1	-	1	-	25 (23)
The Parliament Magazine	-	-	-	-	-	-	-	-	-	-
In total (by NGO):	12 (11)	55 (29)	27 (19)	20 (17)	2	2	9 (5)	1	3	**131 (72)**

Source: Own illustration based on qualitative (online) media outlet analysis (EUobserver, EURACTIV, Politico Europe, The Parliament Magazine). The total number of articles in which NGOs are mentioned is displayed in brackets. In some cases, NGOs are mentioned several times in one and the same article, which is why the number deviates from the total number of named NGOs.

The *voice* actions that did receive attention by the Brussels media were protests, reports, leaks and petitions. Moreover, NGO articles and analysis – that addressed the public realm – were 17 times added as a source in nine different media articles. Higher attention by the news magazines was given to NGOs' action of leaking confidential documents and the organisation of petitions as table 12 indicates. Before these findings are now placed in the wider (and chronological) context of the policy process, one remark on the issues coverage by European public polls follows. The retention of communication data was a reoccurring issue in Eurobarometer polls. It was addressed in 2003 (European Commission 2003a), 2008 (European Commission 2008a), 2011 (European Commission 2011c), and 2015 (European Commission 2015b). In 2008, the Council of Europe conducted an own survey (Banisar 2008). Thus, it seemed to be of importance to reflect the opinion of the European citizenry.

Table 12. Case 1 – Reference to NGOs' Voice Activities by EU Media Outlets per Article (2001-2020)

The kind of NGO action mentioned	Number of NGO action mentioned by media articles
Protest	1
Report	2
Leak	6
Petition	7
NGO document added as source	17
Number of NGO *voice* activities mentioned in total: 33	

Source: Own illustration based on qualitative (online) media outlet analysis (EUobserver, EURACTIV, Politico Europe, The Parliament Magazine).

A first and slight increase in *awareness* was induced by the petition of STOP1984. The Brussels magazines Politico (Cappato 2002) and EUobserver (Spinant 2002) covered this action. A larger *boost* in *awareness* was however only visible in 2005. The reason for the increase was a leak initiated by Statewatch. The NGO published a document that highlighted the disagreement of EU institutions' lawyers with the legal basis of the proposed Council Framework Decision. The documents demonstrated that the idea to adopt data retention under the third pillar lacked support by the legal services of the Council as well as the Commission. Rather, these authorities saw the first pillar as appropriate for this political undertaking. The action by Statewatch received a direct response in different venues. In the media arena, Politico Europe and Euractiv reported on the leak. The former press magazine published the article "EU lawyers judge data retention scheme illegal" including a comment of a Statewatch representative: "Tony Bunyan of the civil liberties group Statewatch said that the EU institutions' legal services had paid insufficient attention to the right to privacy, as recognised by the European Convention on Human Rights" (Cronin 2005). Euractiv did not directly respond to the leak but picked up the topic a little bit later. In Euractiv's article the view of EDRi and PI on data retention was greatly reflected (EURACTIV.com 2005b). The leak was also recognised by Heise online, a German news blog focusing on IT (Ermert 2005a). The blog tracked the issue and reported that the JHA Council had removed the issue from the agenda of its next meeting, shortly after Statewatch published the lawyers' documents (Krempl 2005). The LIBE rapporteur and ALDE member Alexander Alvaro reacted by setting up a roundtable event that brought politicians, business representatives and NGOs together. EDRi and PI both attended the meeting which was titled "'How does the internet work and how does data retention effect industry and society'" (European Digital Rights 2005d). Within the course of events, the LIBE Committee rejected the Framework Decision proposed by member states (European Parliament 2005a). The rapport – in which the committee called for the tabling of a new proposal – was drafted by Alexander Alvaro in the same month that Statewatch published the information on the lawyers' opinion. Statewatch's leak can be regarded as the *politicisation move*. The NGO drew the information on the questioned legality of the Council's plans into the public light and received 'immediate reactions'.

The position of NGOs then gained further attention by EU media outlets due to EDRi's petition "Dataretentionisnosolution". The petition was mentioned in five different articles of Euractiv (4)[117] and Politico (1)[118]. Again, the IT-blog Heise online pointed to this action initiated by a privacy NGO (Ermert 2005b). It was also covered by the German technology and internet blog Netzpolitik.org (Bendrath 2005). After collecting signatures and delivering these to three MEPs

[117] EURACTIV.com (September 27, 2005d; November 24, 2005; November 10, 2005e; September 21, 2005c).
[118] Cronin (August 31, 2005).

of ALDE, Greens/EFA and Socialists, EDRi (2005c) was invited to a public hearing on data retention organised by the greens. The European Greens (n.d.) also covered the petition in a resolution from 2010. Of course, civil society also distributed this news. It will however become visible that their support had an impact on *mobilisation* rather than *awareness*. With regard to the national demonstrations and protest actions initiated by NGOs, the same scenario applies. Only one protest in Vienna received attention by Euractiv. The respective article was however published four years after the event had taken place and basically focused on the 2016 CJEU ruling (EURACTIV.com 2016).

After that, *awareness* increased slightly due to an activity of AK Vorrat DE at Germany's national level. The reaction however did not spill over to the EU media realm. In this venue, the privacy group's action of conducting a public poll was never mentioned. In the German media realm, Heise online (Mühlbauer 2008) and TAZ (Rath 2008) reported on the issue. Moreover, members of the Free Democratic Party (FDP) addressed the poll in a minor interpellation. The liberals asked the German government to comment on the results of the survey (Deutscher Bundestag 2008, 6).

The "shadow evaluation report" of EDRi,[119] which accompanied the Commission's evaluation process, was distributed by several outlets. The British IT-news website The Register (Fae 2011) and the German blog Netzpolitik.org (Fiedler 2011) disseminated the document as well. Later, in 2017, it was also used as a source for two expert opinions on Austrian legislation to strengthen argumentation against data retention (Ebenhöh 2017; Kaltseis 2017). The Green MEP Jan-Philipp Albrecht announced the publication of EDRi's "shadow evaluation report" on his webpage in advance (Greens/EFA 2011). The document was also highlighted in two articles published by Euractiv (EURACTIV.de 2011; EURACTIV.com 2011) – one on the newsmagazine's German website, the other being drafted in English. On the contrary, the report published by PI in 2017 and EDRi's data retention booklet were hardly recognised. In the case of the first mentioned report, only two entries of IT blogs pointed to the study of the London-based NGO (Lomas 2017; Moody 2018).

Between 2012 and 2019, the action of leaking documents fostered some minor and some greater increases in *awareness* around the issue data retention. The leak of a secret document of the Commission by the Austrian group Quintessenz – a member of EDRi – was the basis for articles drafted by German media (Deutsche Welle (www.dw.com) 2012; L. Sander 2012). Statewatch's action of leaking internal documents of EU institutions managed to trigger reporting of Euractiv in 2017 (Stupp 2017) as well as reactions by an Austrian radio station

[119] This is the purpose of the document: "European Digital Rights has decided to publish this shadow evaluation report to be read alongside with the official report, focusing on the issues that are directly or indirectly relevant to the fundamental rights and freedoms of all EU citizens" (European Digital Rights 2011b, 2).

(Moechel 2019a) and Heise Online (Mühlbauer 2019) in 2019. Patrick Breyer – now in its position as MEP obtained in 2019 – distributed the latter leak via twitter (Twitter 2022). A greater peak in attention around data retention arose due to a leak initiated by Digitalcourage. The German NGO distributed a Council's document that revealed member states' intention to implement a new European data retention scheme (Ebelt 2019b). From within the net community, Heise online (Krempl 2019b), Netzpolitik.org (Mrohs et al. 2019), and MEP Patrick Breyer (2019) distributed the news. The before-mentioned Austrian radio station (Moechel 2019b) and SZ (Beisel 2019; B. Hirsch 2019) also reported on the issue. Euractiv (Stolton 2019) not only dedicated an article to the leak but also included a statement by a staff member of Digitalcourage in its reporting: "'what we currently see at EU level is that our governments are taking an uncompromising course towards mass surveillance. Fundamental rights and judgments are being ignored, and Germany is joining in'".

This statement to some extent is a spoiler on information that the reader of this thesis will encounter in the section on *contestation*. Because in contrast to the described *awareness* in place, *voice* action fostered the controversial nature of the issue to a higher extent. The analysis of *awareness* demonstrated that NGOs *voice* strategy triggered the debate at EU level in 2005, but in the further course of time (intentionally or unintentionally) ensured that more national media showed interest in the topic. This was especially the case regarding the German media – and in singular instances in Austria. Next, it will be analysed in how far *mobilisation* was in place. The existence of this dimension was – such as *contestation* – far more noticeable. That NGOs *voice* engagement led to a great support at member states' national level will now become evident.

Mobilisation

NGOs' use of *voice* action greatly expressed the existence of *mobilisation*. The actions that made support for NGOs and their position visible were protests, demonstrations and petitions. The support for NGOs came from different realms. The privacy groups were backed up by actors from the industry – internet service providers not telecommunication firms as some might assume – data protection experts and by European citizens. To whom the broad term "citizens" explicitly refers, will become clearer during this section. Some *mobilisation* could also be identified in statements to the public and NGO reports. For example, the statement of the FIfF e.V. and the DVD e.V. already indicated a broad coalition against data retention between experts, privacy associations and human rights NGOs in 2004 at Germany's national level. EDRi's data retention booklet, published in 2020, shows that the NGO received advisory support from scientists as well as scientific institutes (Rucz and Kloosterboer 2020).

Nevertheless, a first sign of support for the privacy NGOs by the wider citizenry became visible through the organisations' use of petitions.

The 2002 petition conducted by the STOP1984 campaign was backed up by more than 10.000 people (Statewatch 2002). EDRi's petition in 2005 gained the support of more 50.000 signatories (European Digital Rights 2006b). A special aspect about this petition were the cooperation partners of EDRi. The NGO initiated the "noisy" action together with two Dutch business representatives, the service and infrastructure providers BIT B.V. and XS4ALL. What is more, German data protection associations, civil rights organisations and a hacker club wanted citizens to join the action and called on them in press statements (see for example Hülsmann 2005; Kant 2005). AK Vorrat DE, who started its own petition to prohibit European data retention in 2012, gained the support of more than 60.000 German citizens. Its earlier action of sending e-mails to MEPs was also rapidly joined.[120] The number of signatories was topped by a similar action of its Austrian counterpart. The action of AK Vorrat AT on the website "zeichnemit.at" was supported by more than 100.000 citizens (epicenter.works 2012b). In 2014, German groups and NGOs – the action expresses a coalition of AK Vorrat DE, digiges, Digitalcourage and Campact[121] – became again active in issuing a petition. This time more than 100.000 signatures were collected at German national level (Campact e.V. 2014). The call for signatures was supported by a left member of the German Bundestag (Korte 2015).

In the time between 2006 and 2010, the AK Vorrat DE coordinated demonstrations under the heading of "Freedom not Fear".[122] The number of citizens joining these events varied between, 250[123] (in 2006), 1000[124] (in 2007) and more than 25.000 (Klopp 2009) (in 2009). In most of the cases, the privacy group organised demonstrations in several German cities on the same day, therefore calling it occasionally an "action day" (German Working Group on Data Retention n.d.c). Later, "Freedom not Fear" became not only a motto but also a platform for exchange and at the same time organiser of these demonstrations. In 2020, "Freedom not Fear" developed to a coalition of more than 150 worldwide-based organisations, who gather yearly to, stand up against mass surveillance and associated technologies in their respective states (European Digital Rights 2020d).[125]

The issue of data retention was constantly present at these demonstrations. One link to data retention, regarding a 2008 organised demonstration, was already highlighted in the

[120] According to EDRi (2006c): "Reactions for the online campaign are very good. Within the first two hours after it was reported in the German news ticker heise.de, campaign supporters already have sent 120 individually formulated letters of protest."
[121] The German-based association Campact focuses on the organisation of online-campaigns.
[122] According to the wiki of AK Vorrat, more than 13 protests took place between the time after the DRD adoption at EU level and 2013 (German Working Group on Data Retention, n.d.).
[123] In 2006, the motto was "Freiheit statt Sicherheitswahn" (Krempl, June 17, 2006).
[124] In 2007, one of the first demonstrations took place (Krempl, April 14, 2007).
[125] The interview with MEP staff (1) and MEP (1) reflected this *mobilisation* at German national level.

introduction part of NGOs' *voice* strategy. Another example is a speech of the German data protection supervisor Peter Schaar (2018), in which this authority pleads for a Europe-wide stop of data retention regimes after the CJEU 2014 decision. This example not only shows the connection between the demonstrations and data retention but also displays that the former EDPS is a supporter of AK Vorrat DE. A published list of participating actors of a 2010 "Freedom not Fear" demonstration exemplifies that the privacy group also was backed up by individual German politicians from the liberals, the left, the greens and the pirates.[126] Three MEPs were also listed in the event's description. The green politician Jan-Philipp Albrecht was one of them. German unions like the German Vereinte Dienstleistungsgewerkschaft (ver.di, United Services Trade Union) or IG Metall appeared as well. Moreover, the list of supporters included the blog Netzpolitik.org.

As illustrated earlier, some minor protests were organised by digiges (in 2015) and Digitalcourage (in 2017). The first-mentioned NGO decided to take to the streets after the German government adopted a second data retention law (Steven 2015a). Digitalcourage made use of this "noisy" action, when the Federal Network Agency decided to suspend the activation of the German law (Ebelt 2017). During the protest of digiges, politicians from the Greens and FDP joined the action with posters of their parties. The NGOs Humanistische Union and Amnesty International were present, too. Amnesty International (2015) called on the public to take part in the protest in advance. The cooperation between Amnesty International and the digital rights defenders AK Vorrat DE, digiges and Digitalcourage was visible in one other protest (Beckedahl 2015). The protest initiated by Digitalcourage was backed up by some individual politicians from the German Social Democratic Party, the Greens and the Left. The then former EDPS Peter Schaar was present as well (Demuth 2017).

Also the Austrian AK Vorrat decided to initiated demonstrations to utter its opinion on data retention. More than a thousand people took to the streets in Vienna, Linz and other Austrian cities, joining the "farewell privacy" marches in 2012. A call to take part in the action was made by the activist group Anonymous (Riegler 2012). Similar to Germany, the privacy advocates were supported by members of the Austrian green party (Die Presse 2012). This link between green politicians and the privacy group will become apparent again under *litigation*.[127]

Links between NGOs, industry and representatives of professional groups were also visible in the polling of German citizens. The AK Vorrat DE was not alone in its decision to commission forsa with a study. It instructed the polling institute with this task together with two associations, one composed of journalists, the other representing internet providers "eco – Verband der

[126] The entire German Green party was even listed as supporter (German Working Group on Data Retention 2010a).
[127] This picture of *mobilisation* at the Austrian national level was supported by the interview with NGO staff (9).

Internetwirtschaft" (eco). The latter group will return on the next pages of this thesis. Taking this section into account, it can be stressed that *mobilisation* indeed was in place due to NGO's use of *voice* activities. Before the focus of analysis turns to *contestation*, one important remark needs to be made.

Mobilisation is not only visible through the action of NGOs, but the founding of these groups is an indicator for the presence of this dimension as well. The adoption of the DRD directive resulted in the founding of several political and civil rights groupings. First, the Pirate Party was founded in Sweden at the beginning of 2006 (Gehlen 2006). The link between the parties founding and the DRD is irrevocable.[128] This is also the case for the founding of the pirates in Germany. The relation between data retention and the political party can be illustrated by inspecting Patrick Breyer's (n.d.) explanation on why he joined the Pirates:

> When I learned in 2006 that the German Pirate Party was to be founded in Berlin, I became a founding member especially because of the Party's strong commitment to privacy and data protection. The Pirate Party declared war right in its first policy programme on excessive state surveillance. It recognised that government surveillance of citizens who are not suspected of any crime is a fundamentally unacceptable violation of the fundamental right to privacy. It is high time that the changes sought by the civil liberties movement, for example at the protest marches "Freedom not Fear", are finally implemented politically.

Second, the DRD led to the founding of two working groups against data retention, one located in Germany (AK Vorrat Germany), the other being an Austrian-based organisation (AK Vorrat Austria).[129] The former derived from the STOP1984 campaign. Both groupings were joined and supported by jurists, journalists, consumer protectors and medicals, who understood data retention as a threat to the right to confidential communications. At the Austrian level, the *mobilisation* against data retention went so far, that it resulted in the founding of epicenter.works, the successor of AK Vorrat Austria.

Contestation

That *contestation* exists regarding the issue of data retention cannot be denied. Looking at titles of EU newspaper articles like "Arguments continue on eve of data retention D-day" (Küchler 2005), shows that some polarisation indeed seems to be in place. Quite often the EU news outlets reported on the "EU's controversial directive on data retention" (Alvaro 2011), "a controversial EU law" (EuObserver 2014) or "the controversial issue of data retention"

[128] During the Commission's evaluation conference on data retention, Erik Josefsson, a European Parliament candidate for the Swedish Left party, declared: "The issue of data retention has been a factor contributing to the formation of the Pirate Party (now SE's third largest party with a big youth following), a one-issue party focussing on intellectual property, freedom of knowledge and protection of privacy." (European Commission 2014a, 14).
[129] Interviews with MEP staff (1) and NGO staff (9) emphasised this connection between the issue (data retention) and the emerging of these two groups.

(EURACTIV.com 2005d). The question at hand is, could NGOs' actions somehow contribute to this assessment of the EU counter-terrorism policy?

The NGOs *voice* strategy unfolded a series of opposing positions on data retention. The common nominator of the NGOs activities was the fight against surveillance and the maintenance of the right to privacy. These positions were the driver for the petition of STOP1984 (2002), the statement of German data protection NGOs and associations (2004), the organisation of "Freedom not Fear" demonstrations (2006-2014) and protest marches of digiges and Amnesty International (2015). The petition introduced by AK Vorrat AT was accompanied by the following introduction in which not only the argumentation on the right to privacy but also the NGO's concern of putting every citizen under general suspicion becomes visible (epicenter.works 2012b):

> Bei der Vorratsdatenspeicherung werden von jedem Menschen in Europa sensible persönliche Daten ohne jeden Verdacht gespeichert. […] Aus den Daten können persönliche und geschäftliche Beziehungen mühelos abgelesen werden. […] Deshalb stellt die verdachtsunabhängige Vorratsdatenspeicherung einen massiven Eingriff in das Grundrecht auf Privatsphäre (Artikel 8 der europäischen Menschenrechtskonvention im Verfassungsrang) dar.

The parliamentary debate on the directive highlights that NGOs were not the only actors raising these concerns. Similar patterns of argumentation are visible by MEPs from the Left, the Greens and the liberals. A case in point is this statement of a German member of GUE/NGL (European Parliament 2005b):

> In essence, the Commission proposal tends to place 460 million EU citizens under general suspicion. The plan for the storage of collected data goes hand in hand with blatant assaults on Europeans' fundamental rights and freedoms, along with the threat of disproportionate restrictions on the privacy of communications and the protection of the private domain, the very essence of both of which is at risk.

On the opposite side was the opinion that the balance between freedom and security was not affected by the directive. This view was mostly shared by social democrats and conservatives. A member of the political group EPP argued for example in the parliamentary debate: "Security over freedom, no. I would say: infinite freedom, but with security; and that is simply because without security we cannot fully enjoy our freedoms" (European Parliament 2005b). The main argument in favour of adopting the directive by these parliamentarians was however the fight against terrorism. A view that these politicians shared with the Council and the Commission. How this message was delivered by MEPs demonstrates the following quote of a Swedish social democrat: "Citizens put the fight against crime and terrorism high on the list of what the EU should tackle successfully. People also want us to solve problems jointly, and that is something in which we have succeeded" (European Parliament 2005b).

The right to privacy and the fear of surveillance were the principal argument of NGOs. However, some of these and other *voice* activities of these organisations disclose some further

positions and debates on data retention. Starting with the leaks of NGOs, which were made at different points in the policy process, several controversialities come to light. *Contestation* increased with the *politicisation move* of Statewatch to leak the confidential documents, which revealed the legal status of the Council's Framework Decision. This led NGOs – Statewatch and EDRi (2005e) – as well as personnel of EU institutions to question the legal basis. The decision of the LIBE Committee to reject the plan of Sweden, UK, France and Ireland was closely intertwined with the pillar question as already illustrated. The responsible rapporteur Alexander Alvaro stressed some months after Statewatch's leak, in the time when the EP was already discussing the Commission's proposal for a directive with the Council, that if the Council progresses with its draft framework decision, the MEPs "will bring the Council to Court, if it must be". Before, the Commissioner Vivian Reding had argued publicly against the framework decision and in favour of a Commission's proposal (EURACTIV.com 2005b):

> This is a question of market regulation, it can't be subject to an agreement between governments under the Third Pillar. In the coming days there will be a proposal that Data Retention will be in the First Pillar. We need an impact assessment for the industry. We need the right balance not only in terms of privacy and consumer protection, but also in terms of the market.

The debate over the proper legal basis for the measure dragged on to the point where Ireland had the EU court rule on this matter. During the Council vote, the dissatisfaction of the member state became visible. The state voted "no" since it did not want the counter-terrorism measure to result in a directive. Ireland perceived the issue as a third pillar matter. A policy issue that needs to be debated in an intergovernmental way. However, the court did not give any room to these doubts and considered the first pillar as the appropriate basis.

A statement of Statewatch that accompanied the leak highlighted two further points of *contestation*: The high costs for businesses and the effectiveness of the proposed measure.[130] These concerns were shared by the shadow rapporteur. After inviting EDRi to a roundtable event, the ALDE member Alexander Alvaro stressed (EURACTIV.com 2005b):

> To this date, there is no proof of evidence whether the information collected would give legal authorities an advantage in the fight against terrorism. On one hand we risk infringing European citizens' right to privacy and on the other hand there is a danger of burdening the European telecommunications industry with the high storage costs that the proposal would invariably entail.

The argument of costs was also part of the petition introduced by EDRi and XS4ALL. The internet provider even addressed the Commission the following comment in a letter: "On the issue of cost reimbursement, we are very concerned about the phrasing of the definition of additional costs" (Judith van Erve, XS4ALL Public Affairs, ISPO 2005). The call for cost

[130] "This would also be an opportunity for the European Parliament to insist upon a proper initial impact assessment to examine whether the huge cost which the proposal would entail for an industry crucial to Europe's economic growth can be justified, in light of the less intrusive but more effective measures that could be taken to focus police investigations on persons who are reasonably suspected of involvement in serious crime - instead of mass surveillance of the entire society." (Statewatch 2012a).

reimbursement came also from non-EU based companies. The Information Technology Association of America (2005) had a clear opinion on this matter, which it communicated to the Commission: “internal security is a core state function, which must be financed with public budget funds. Therefore, government must also bear the costs of data retention.“ The petition of EDRi led the European Greens to a different argumentation. In a resolution on data retention – that reflected the petition – the greens (n.d.) came to the opinion that the issue of data retention stands for a broader topic, namely for the design of the European project: “We want a Europe of freedom, that respects and defends civil liberties. For this, the European approach on the struggle against the blanket retention of personal data has to be fought also in the member states parliaments. In the new Europe of Lisbon we have to act together!”

The leak of the Austrian Quintessenz triggered a controversy regarding the lack of evidence. After the directive’s adoption and during the Commission’s evaluation, NGOs were constantly trying to show that member states – and the Commission – have no evidence that data retention serves the work of law enforcements. This point of criticism was also stressed by EDRi in its “shadow report” on data retention. The umbrella network stated: “Data retention not 'strictly necessary' but superfluous for the detection, investigation and prosecution of serious crime” (European Digital Rights 2011b, 12). In this opinion, NGOs were not alone. The Article 29 Data Protection Working Party (Art. 29 WP) (2005, 2) also opinioned that it “questions whether the justification for an obligatory and general data retention coming from the competent authorities in Member States is grounded on crystal-clear evidence”. MEP Jan-Philipp Albrecht used the occasion of EDRi’s report to equally emphasise the missing evidence in his press release and called on the Commission to withdraw the law (Greens/EFA 2011). Patrick Breyer, who represented the position of the AK Vorrat DE in conferences on the directive’s evaluation, stated before the Commission: “There is no proof that crime rates vary in a country according to whether the DRD is in place or that implementing the DRD has any effect on safety levels or reduces the number of children abused” (European Commission 2014a, 7). Elspeth Guild, a participant representing the academic perspective, perceived the assessment of the directive’s efficiency as especially difficult (European Commission 2014a, 11). She also demanded that the position of civil society needs to be considered (European Commission 2014a, 11). During this event, one personnel of the UK Home Office however displayed data retention as an essential tool: “The communications data is an unintended witness of the digital movements of terrorists, other criminals and witnesses alike. It is significant to identifying other evidence” (European Commission 2014a, 18).[131] This is not only contrary to the positions above but also to the opinion of an academic at the Oxford Internet Institute, who reacted in a German newspaper on the leak of Quintessenz in the following way:

[131] Commission official (1&2) highlighted that the main argument of law enforcement is “protection”.

“Data retention is a very blunt tool, with a lot of negative repercussions and consequences” (Deutsche Welle (www.dw.com) 2012).

The question of those ‘consequences’ was part of the forsa survey commissioned by AK Vorrat DE. The results of the poll indicated that German citizens’ use of communication services was affected by the storage of data, i.e. by the knowledge that their data was going to be retained by the government (German Working Group on Data Retention 2008a). In detail, the majority of the interviewed[132] stated that they would abstain from conducting confident conversations via telephone, like calling a psychiatrist (German Working Group on Data Retention 2008a, 3). This information supported the privacy group’s view that data retention poses a risk to the right of confidentiality.[133] EDRi and Bits of Freedom (Arnbak 2010) declared: “As such, data retention affects the daily life of 40 million citizens.” The CDT (Center for Democracy and Technology 2012, 3) quoted this study to show that “human rights concerns are not theoretical.” The forsa study is however not the only poll that highlighted the visibility of *contestation* regarding data retention in the public realm.

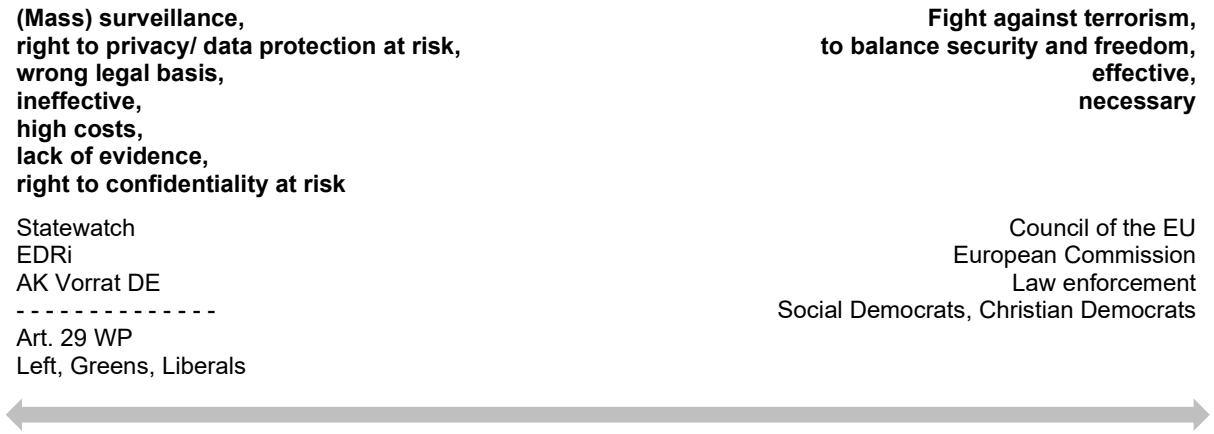
Between 2003 and 2015 further public polls focused on the issue of data retention. In 2008, two different surveys were in place: A Flash Eurobarometer (European Commission 2008a) issue that focused on EU citizens’ position on data protection and a Council of Europe survey titled “Speaking of terror: A survey of the effects of counter-terrorism legislation on freedom of the media in Europe” (Banisar 2008). The Eurobarometer poll and the Council of Europe survey focused especially on the citizens’ assessment of the balance between security measures and the restriction of privacy as well as data protection. The report of the Eurobarometer demonstrated that EU citizens of 15 member states are rather tolerant when it comes to “the monitoring of telephone calls” (European Commission 2008a, 51). The report highlighted, that most citizens agree with this measure when it is linked to the purpose of combating terrorism. In Germany, Austria and Sweden – the member states in which AK Vorrat DE, AK Vorrat AT and the Pirate Party were founded – the number of supporters was (far) higher than the number of opponents (European Commission 2008a, 51). The image in Ireland, Slovenia and Cyprus was divergent. The support was lower and the reason of terrorism for introducing data storage not as accepted as in other EU countries. According to the survey, “Irish respondents were the least supportive of the monitoring of telephone calls: only a minority favoured phone calls being monitored (48%), while half of the respondents proved to be opposed to this measure” (European Commission 2008a, 51). By comparing data of 2003 and 2008, the Eurobarometer report summarised that EU citizens’ willingness that their

[132] According to AK Vorrat, more than 1000 German citizens were interviewed by Forsa.
[133] A position that becomes more visible in the study of the NGOs’ *access* activities.

telecommunication data is retained due to the reason of terrorism slightly increased (European Commission 2008a, 52).

After the Commission had announced the results of its evaluation process, the issue of data protection and privacy was again present in a Special Eurobarometer in 2011 (European Commission). The report titled "Attitudes on Data Protection and Electronic Identity in the European Union" demonstrated that "[a] majority of Europeans are concerned about the recording of their behaviour via payment cards (54% vs. 38%), mobile phones (49% vs. 43%) or mobile Internet (40% vs. 35%)" (European Commission 2011c, 1). According to the report, "a high proportion of respondents in Germany, the UK and Austria (all 65%) say that mobile numbers are personal information" (European Commission 2011c, 19). Furthermore, the report indicated that this concern was particularly raised by younger Europeans[134] (European Commission 2011c, 67). Overall, the report showed that EU citizens paid more attention to the issue of data protection in general, since "70% of Europeans are concerned that their personal data held by companies may be used for a purpose other than that for which it was collected" (European Commission 2011c, 2). In 2015, the number of citizens that feared the monitoring of their mobile phones increased slightly – now being six percent higher than in 2011 (European Commission 2015b, 6).

Figure 16. Case 1 – Voice: Opposing Positions on the EU DRD



Source: Own illustration. This is only a snippet of the conflict parties and the discussion.[135]

Figure 16 gives an overview of the opposing positions between NGOs, data protection authorities and parliamentarians, on the one side, and the Council, Commission, member states' law enforcement and social as well as Christian democrats, on the other side. The figure visualises the long list of arguments against the directive by its opponents. The next subchapter

[134] "Respondents in the 55+ age group (41%) are less likely to be concerned about tracking via mobile phones / mobile Internet than the younger age groups, the greatest difference being noted with those aged 25-39 (55%)" (European Commission 2011c, 67).
[135] The interview with Commission official (1&2) supports this constellation.

on NGOs' *access* strategy demonstrates that this list is even longer. The reader will however reencounter some of the above presented positions. This subchapter now concludes with a brief paragraph on the NGOs' *voice* strategy and summarises to what extent the three dimensions of politicisation could be identified.

The analysis demonstrates that the *politicisation process* started with a "noisy" action, the leaking of confidential documents by Statewatch. After this leak, the *awareness* of NGOs position and activities increased in the EU media realm. In 2005 and until the directive's official adoption, NGOs were most often mentioned by name by European news articles. Figure 15 (Case 1 – Timeline: Mentioning of NGOs in EU Media Articles per Year (2001-2020)) illustrated this. In total, the activity of leaking documents and conducting a petition, were the actions most recognised by the media. In some cases, German daily newspapers reacted to leaks of NGOs (e.g. the one initiated by Digitalcourage). *Awareness* of NGOs, their actions and positions was especially visible in in the venue of (German) IT-blogs, e.g. Heise online and Netzpolitik.org. Moreover, MEPs from the greens and liberals – Jan-Philipp Albrecht and Alexander Alvaro – directly reacted to the organisations' "louder" actions. At German national level, the liberal political party draw the survey of AK Vorrat DE in the political venue.

The examination of NGO's *voice* strategy demonstrated that *mobilisation* was greatly in place at EU and national level. It started already in 2002 but was present to a higher degree since 2005. Citizen's support at national level – in Austria and Germany – developed since 2008. NGOs were able to reach out to the public and to *mobilise* a part of the wider citizenry in these two central member states. Moreover, cooperation existed between NGOs and internet service providers at EU level. At German national level, an alliance between NGOs, data protection experts, unions and associations of specific professions (e.g. journalists, lawyers) was visible. The privacy groups were also supported by individual politicians from the German Social Democratic Party, the Left and liberals in demonstrations and protests. In both Germany and Austria, the green parties backed up the actions of NGOs.

Scrutinising the connection between NGOs' *voice* strategy and *contestation*, gives a different image. *Contestation* was in place, but to a lesser extent than *mobilisation*. The NGOs' list of arguments against data retention was very long as certain actions expressed. However, a real clash between actors' positions was only triggered a few times (e.g. due to two leaks and one survey). An important observation that can be made, is the existence of opposing positions on privacy/surveillance and security/fight against terrorism. Furthermore, the debate on necessity and effectiveness became visible several times. This debate also characterises the NGOs' *access* strategy significantly as the next subchapter highlights.

6.2.2.2 Access

Signs for the NGOs' use of an *access* strategy were present several times in the DRD case. At the beginning of the debate on data retention, NGOs presented themselves as experts to EU institutions: "As civil liberties organisations, with experience and expertise in technology policy, we are deeply concerned about the ill-thought consequences of this policy proposal". (Statewatch 2012b). This self-imposed expert role on the subject became again and again visible in their actions to establish *access* with EU institutions. Actions that NGOs used to get into direct contact with EU institutions and political representatives were the following: The organisation of letter campaigns, the publication of a report, the drafting of individual and joint letters and the use of AsktheEU[136].

In total, four broader letter campaigns of NGOs were in place between 2001 and 2020. The first letter campaign against data retention was introduced by the Global Internet Liberty Campaign in 2001. The first contact of this coalition of organisations was the President of Council of Ministers (Global Internet Liberty Campaign 2001) before the campaigners designated contact person changed to the President of the EP (Global Internet Liberty Campaign 2002b). The cause for drafting the letter was the NGOs' "concern regarding the request of President Bush that the proposed EU directive on the protection of privacy in the electronic communications sector (COM(2000)385) be altered to allow for data retention regarding the communications of Europeans and consequently of American" (Global Internet Liberty Campaign 2001). A second NGO letter campaign with the slogan "Invasive, Illusory, Illegal, and Illegitimate" (Equipo Nizkor 2004) started shortly after the Madrid bombings. It was launched by the Brussels-based NGO EDRi and its British member PI (Equipo Nizkor 2004). The recipient of this letter campaign was the Commission in the first place. During the formulation phase this changed. MEPs became the potential target of the civil rights groups. During this first letter campaign initiated by EDRi and PI, Statewatch was involved in the launch of an "International Campaign Against Mass Surveillance" (ICAMS) and the publication of the accompanying report "The Emergence of a Global Infrastructure for Mass Registration and Surveillance" (International Campaign Against Mass Surveillance 2005). The report was addressed to heads of governments and international institutions. A third letter campaign of NGOs started in 2010 and lasted until 2011. This was the time of the evaluation process of the directive. NGO representatives drafted several letters to Commissioners like JHA Commissioner Cecilia Malmström. Their intention was to get a seat at the table and discuss the future of the directive with already invited law enforcement representatives, politicians and staff of EU institutions. The German AK Vorrat, especially its member Patrick Breyer, was

[136] The platform was established by two NGOs – Access Info Europe and mySociety – to get access to EU documents or information, that is not publicly available (AsktheEU.org n.d.).

coordinator of this initiative. During the letter exchange, Breyer demonstrated himself as an expert to Commissioner Malmström, not only from a professional but also from a civil society perspective (German Working Group on Data Retention 2010b):

> I can provide feedback from the coalition of over 100 civil liberties, data protection and human rights associations, crisis line and emergency call operators, professional associations of journalists, jurists and doctors, trade unions and consumer organisations that represent those whose communications are being registered under the Directive. I can also feed in the position of European Digital Rights, being an observer to this group. […] By inviting a civil society representative, the Commission would demonstrate that it is serious about fully taking into account the views of all stakeholders.

A fourth broader campaign was started in 2018. Founder of "stopdataretention.eu" was the French organisation Les Exégètes Amateurs (Les Exégètes Amateurs 2018a). In essence, the campaign is defined by NGOs' action to get into contact with the European Commission by issuing individual complaints on data retention. The NGOs however also called on the public to follow their example and provided materials to join this action. Hence, this campaign has also a "noisy" side – and a legal one regarding the issued complaints. However, the political realm was the NGOs' first and primary addressee. Next to these three broader letter campaigns, also some individual attempts of NGOs to establish direct contact with EU institutions were in place. For example, a letter drafted by EDRi, which was sent to several Commissioners together with a study on the state of national data retention laws in 2015 (Joe McNamee, Executive Director, European Digital Rights 2015). Another example is a joint letter drafted by Digitalcourage (2020) shortly before the CJEU ruled on data retention in 2020. These individual letters are included in the analysis as they provide some additional insights regarding the *mobilisation* and *contestation* in this case. The platform AsktheEU was used twice by NGOs. First EDRi and Bits of Freedom used the website to get into contact with the Commission (AsktheEU.org 2015), then Digitalcourage made use of this tool (AsktheEU.org 2019). This action will however not be further scrutinised, since it had no impact on the three dimensions of politicisation. In how far the other *access* activities of NGOs eventually did, will now be the focus of analysis.

Awareness

The qualitative-content analysis of the four EU media outlets (Euractiv, Politico Europe, EUobserver, The Parliament Magazine) shows that six letters published by NGOs were recognised in this venue. These six letters received wider attention in an article and were the occasion for journalists to draft this piece. In 9 cases, NGOs' letters are added as a source in news articles. The results from the media content analysis are now discussed in the context with other observations on *awareness*. A summary of these results is given by Table 13.

Table 13. Case 1 – Reference to NGOs' Access Activities by EU Media Outlets per Article (2001-2020)

The kind of NGO action mentioned	Number of NGO action mentioned by media articles
Letter campaign	6
NGO document added as a source	9
Number of NGO *access* activities mentioned in total: 14	

Source: Own illustration based on qualitative (online) media outlet analysis (EUobserver, EURACTIV, Politico Europe, The Parliament Magazine).

Regarding the NGOs' *access* strategy some minor and two great peaks in *awareness* are visible. The minor peaks occurred due to the Global Internet Liberty Campaign (2001-2002), the "Invasive, Illusory, Illegal, and Illegitimate" campaign of PI and EDRi (2004), the ICAMS report (2005) and EDRi's study on illegal data retention schemes in member states (2015). The Global Internet Liberty Campaign received attention in EUobserver (Spinant 2002) and Euractiv (2003). Moreover, the NGOs got a written response by the shadow rapporteur, which did not allow much room for activism regarding the e-Privacy directive: "I am aware that this final proposal is not fully satisfactory, but a compromise solution seldom is" (Elena Ornella Paciotti, MEP, Shadow Rapporteur - PES Group, pers. comm.). Euractiv (EURACTIV.com 2005b, 2005c) reported twice on the 2005 campaign of EDRi and PI. In its coverage, the news agency gave enhanced space to the NGOs' position: "Civil society groups and and[sic!] privacy advocates say data retention is "invasive, illegal, illusory and illegitimate" (EURACTIV.com 2005e). Netzpolitik.org (Lüttcher 2004) also dedicated an article to the campaign of the two NGOs. Statewatch's surveillance campaign as well as the accompanying report was discussed in greater detail in the article "Global security policy will 'roll back freedom', says report" (EURACTIV.com 2005a). EDRi's study on data retention schemes in Europe was incorporated in a tech newsletter by Politico (D. Meyer 2015). Netzpolitik.org (2015) distributed the document and outcome of the study as well. The NGO also received a message from the Commission. The institution stated that it would continue to observe the situation (European Digital Rights 2015d). A few weeks later, the Commission (2015a) also felt obliged to issue the following opinion: "the decision of whether or not to introduce national data retention laws is a national decision." Furthermore, the study resulted in a meeting between EDRi and staff members of the Police Cooperation Unit of (DG Home). Hence, the study as a means of *access* fulfilled its function. The outcome was however not increasing *awareness* of the issue. In contrast, the subsequent reaction by the Commission (described by EDRi) led to no further discussion: "Even now, the Commission believes that the European Court's ruling annulling the Directive is too ambiguous to allow it to take legal action to prevent any Member State from breaching any of its provisions" (European Digital Rights 2015c). The "stopdataretention.eu"

campaign is an outcome of this unsuccessful act to keep the issue on the (Commission's) political agenda. Next to two other activities, it will now be regarded.

Three higher peaks in *awareness* – two of these three can even be described as massive – increased due to NGOs' letter exchange with the Commission on the directive's evaluation (2010), the "stopdataretention.eu" campaign (2018) and the joint NGO letter drafted by Digitalcourage (2019). In the midst of the Commission's evaluation phase, the German data retention group drafted a letter to the JHA Commissioner (Patrick Breyrer, German Working Group on Data Retention 2010). The letter was distributed in EDRi's shadow report as an annex (2011b) and mentioned in two different articles (2010a, 2010b). The document caused a *politicisation boost* in the political and (German) media venue. The AK Vorrat DE received an immediate and demanding response by the JHA Commissioner Cecilia Malmström:

> Your letter refers to studies demonstrating that the communications data available without data retention are generally sufficient for effective criminal investigations, and that data retention is harmful and unconstitutional in many European Member States. I encourage you to provide me and my services with further details about these studies so that they can be taken into account in the evaluation process.

Furthermore, EDRi (2012) reported that Malmström turned to the Council for input on the necessity of the directive. The NGO letter was further noted by German IT blogs – Heise online (Wilkens 2010), Netzpolitik.org (Beckedahl 2010) as well as Golem (Sawall 2010). It was furthermore highlighted on websites of the Greens (Von Notz 2010a, 2010b). A German association of judges, who also signed the letter, took a stand on it in a letter of their own, addressed to German political institutions and parties (Neue Richtervereinigung 2011). The EDPS referred to the document in two different parts of its written opinion (2011) on the Commission's evaluation process. The data protection authority (2011, 2) highlighted it for example as a source in the context of this statement: "These doubts have been shared by many civil society organisations." The drafting of the letter resulted also in a further exchange between Patrick Breyer – the coordinator of the NGO letter – and the Commission, during which the German privacy activist shared the results of further data on the EU DRD. In the Commission's 2011 "Data Retention Conference" representatives of three organisations of the EDRi network attended (European Commission 2011a). A member of the Dutch organisation Bits of Freedom participated along with several activists from AK Vorrat Germany. Next to this, Christof Tschol was present, a member of AK Vorrat Austria and a complainant against the Austrian data retention law. As the European Commission (2011b, 29) then published its own "Evaluation report on the Data Retention Directive (Directive 2006/24/EC)", it adopted the position of the NGOs:

> A number of civil society organisations wrote to the Commission arguing that data retention is, in principle, an unjustified and unnecessary restriction of individuals' right to privacy. They consider the non-consensual 'blanket and indiscriminate' retention of individuals' telecommunications traffic, location and subscriber data to be an unlawful restriction of fundamental rights.

In its reporting on the evaluation process, Euractiv Germany regarded Breyer as a key stakeholder. His view on the directive was listed next to the opinion of MEPs (EURACTIV.de 2011). In a scientific report on data retention, the letter of AK Vorrat DE served as a source for the following statement: "Indeed, the necessity of data retention as a law enforcement technique has been contested since its inception" (Guild and Carrera 2014, 7).

A subsequent letter coordinated by EDRi (Andreas Krisch 2011), addressing the topic of the Commission's evaluation report, was highlighted in a parliamentary question issued by green MEP (European Parliament 2012) and then immediately answered by Cecilia Malmström. In her response the JHA Commissioner declared: "We recognise that you, along with data protection authorities and, to some extent, industry stakeholders are very dissatisfied with the current framework" (Cecilia Malmström, European Commissioner for Home Affairs 2011). Above that, the politician approached the position of NGOs. Malmström stressed in the letter, that she is still waiting for member states to deliver statistics on the use of data retention but admitted that the concerns about privacy could not be dismissed: "We of course agree with you that data retention impinges on the right to privacy" (Cecilia Malmström, European Commissioner for Home Affairs 2011). In a next step, the Commission Services addressed the Council's Working Party on Data Protection and Exchange of Information (DAPIX) with an unambiguous message (Council of the European Union 2011b, 4): "Data protection authorities and NGOs are concerned at the lack of a clear limitation of the purpose for which data may be retained." Consequently, the letters from NGOs were not only consciously noticed, but their concerns were seriously considered.

The "stopdataretention.eu" campaign of NGOs had quite a different impact. It was brought into being by French NGOs and the campaign letter was shared by the participating organisations, too (see for example Commons Network 2018; La Quadrature du Net 2018d; Steven 2018). In the European media outlets, the NGO campaign was not mentioned. In the political venue no impact was either visible. Nevertheless, it triggered a *boost* in *awareness* in the media realm. The magazine Forbes covered the *access* action of NGOs. The online article highlighted: "Campaign groups, NGOs and academics have teamed up to file a series of complaints with the EU over bulk surveillance in several countries" (Woollacott 2018). Moreover, a high number of German (Krempl 2019b; Rudl 2018a), French (Grumiaux 2018; Guiton 2018; L 2018; M. Rees 2018) and anglophone (Hill 2018; Moody 2018; Schwartz 2018) blogs with a focus on topics around digitalisation, internet and technology contributed to the wider circulation of the letter. The joint NGO letter coordinated

by a German digital rights organisation received attention in Euractiv (Stolton 2020) and was discussed on a website focusing on criminal law in Europe (Wahl 2020).

The analysis of the first dimension made evident that NGOs were able to shift their issues and positions in the (EU) political venue, to receive attention from IT blogs and media – overwhelmingly located in Germany in few instances in France – and in some minor cases to become recognised by Brussels media as well. Again, it became recognisable that participating NGOs and individuals reinforced the action of the coordinating organisation by sharing it – i.e. letters – on their platforms. One NGO letter was even highlighted in a parliamentary question. This situation gives more indications on *mobilisation* than *awareness*. The next section will present what partnerships and supporters became visible through NGOs' *access* strategy.

Mobilisation

The NGO letter campaigns all expressed some *mobilisation* – however, to a different extent and form. The number of supporters (partners and allies) as well as their background (location, level and professional area) varies in these campaigns. In some of these letters a connection between NGOs and actors from the industry is very strong, in others the relation among civil society representatives becomes apparent. The analysis shows that some of the alliances have existed for a very long time, almost as long as data retention has been debated in the EU.

In 2002, *mobilisation* was already in place. Around 30 digital rights NGOs and research institutions with a focus on technology and digitalisation teamed up against data retention in the context of the EU e-Privacy directive. These participating organisations and individuals had their presence overwhelmingly in the US and in EU member states. Two signatories came from South African organisations. The American Civil Liberties Union (USA) and the Association for Progressive Communications (South Africa) can be named here. The European signatories were mostly comprised of members of EDRi, but some actors from the industry were also visible. For example, XS4ALL, the internet service provider that cooperated with the privacy NGO in organising a petition (2005). This group increased during the campaign to more than sixty cooperation partners. Organisations from Latin-American joined the activity, e.g. Equipo Nizkor. The higher number of German and Austrian individual signatories in the second campaign letter is striking (Global Internet Liberty Campaign 2002b). The list contains for example the signature of the later founder of the IT blog Netzpolitik.org. In this case this persons represents the Green Youth (Germany).

The support for the second letter campaign – that was introduced in the data retention directive's formulation phase – was even higher. More than 170 organisations were motivated by EDRi and PI's slogan "Invasive, Illusory, Illegal and Illegitimate" and signed a first letter (Equipo Nizkor 2004). The list of supporters was divided by the coordinators in "international organisations", "national organisations" and "endorsing companies". Again, organisations mainly present in Europe and the USA appeared as signatories. These were joined by a small number of groups based in Latin-American, the Philippines, Canada and Australia. A high number of IT and communication firms from the Netherlands as supporters is noticeable during this campaign. Moreover, a lot of participating organisations are based in France, Germany and Spain. The German Left party also signed the letter. A signatory in a further letter, this time the output of a cooperation between Statewatch, PI, EDRi, should also be named. The letter was signed by the "Joint Declaration on Data Retention (DE)" (Privacy International 2005). DE, in turn, consisted of a network of other world-wide and European based digital rights representatives, which was coordinated by Patrick Breyer (jointdeclaration.com n.d.). These representatives were characterised by their professional activities as journalists and data protection experts (mostly in Germany). It was delivered to MEPs right before the vote on the directive.

The letter coordinated by Breyer during the Commission's evaluation phase received a lot of attention. Media articles and politicians who shared the news of this document, frequently highlighted, that this was a letter signed by "100 Organisationen aus 23 europäischen Ländern" (Von Notz 2010b). These "23 countries" are almost exclusively EU member states. The high number of "organisations" contained associations and unions of journalists, academics, psychologists, general practitioners, lawyers as well as institutional bodies representing data protection and consumer rights. Among others, the organisation Deutsche Aidshilfe and German privacy commissioner Thilo Weichert were for example listed. Internet providers like eco – who cooperated with the AK Vorrat in polling German citizens – were also mentioned. Just like EDRi and its member organisations. As some readers might have already guessed, most of these actors also backed up the afore mentioned "Joint Declaration on Data Retention". Weichert even signed the global NGO campaign (2002). Besides NGOs with a focus on privacy rights, human rights organisations like HRW contributed with a signature, too. The second letter coordinated by EDRi, in which AK Vorrat now appeared as supporter, was also signed by several journalist associations – based at Germany's and Netherland's national level as well as EU level. Striking are again the signatures of lawyers and consumer advocates. The German blog Netzpolitik.org joined EDRi's action as well. An interesting aspect – which was briefly highlighted under *awareness* – is that this letter was sent by the greens in a communication to the Commission, with a clearly formulated claim: "Can the Commission

please respond in detail to the concerns raised by 34 NGOs" (European Parliament 2012). The MEPs have thus helped to ensure that the NGOs have been heard and have clearly championed their cause.

The fourth campaign "stopdataretention.eu" involves a new cooperation partner of NGOs. The privacy groups teamed up with the EU funded Horizon 2020 project netCommons.[137] In 2017 NGOs and the research project started their collaboration against data retention. The project netCommons acted on behalf of the networking community. It represented for example the interests of the French Data Network or Fédération FDN (netCommons 2017b). These stakeholders were supported by other network community actors from Brazil, Colombia or South Africa (see for example Association for Progressive Communications n.d.). The cooperation became not only apparent in the "stopdataretention.eu" campaign but also in a workshop (netCommons 2017a) and a "strategy meeting" (netCommons 2018) organised by the research project. The French NGO LQDN attended both events. The two events also made connections to MEPs visible. The workshop was co-initiated by a social democrat and green MEP. The "strategy meeting welcomed NGOs defending digital rights, members of the European Parliament (greens) and also academics" (netCommons 2018). netCommons then joined the campaign "stopdataretention.eu" brought into being by Les Exégètes Amateurs. Les Exégètes Amateurs is a legal working group consisted of LQDN, the Fédération FDN[138] and the French Data Network. Hence, two actors from netCommons are part of this legal group. In total, the campaign letter of les Exégètes Amateurs was signed by more than 60 NGOs and community network representatives (stopdataretention.eu n.d.). This is how the alliance introduced itself to the European Commission (Les Exégètes Amateurs 2018a; emphasis in the original):

> We are **NGOs and litigation groups** upholding the rights to privacy, data protection and freedom of expression through advocacy, workshops and other educational activities. We are **community networks**, organisations that operate on local communication infrastructures managed as commons good, for the people and by the people. We are **academics**, analysing and teaching law in compliance with democratic values and the hierarchy of norms without which there is no rule of law. We are **activists**, voicing a common concern for the preservation of rights and freedoms, including privacy and personal data protection.

The letter of Digitalcourage (2019) is noteworthy under this section since it highlights an alliance of actors that already existed in 2010. Such as in the letter campaign during the directive's evaluation, privacy NGOs allied with lawyers, data protection experts and internet service providers. Among the 46 signatories, the before mentioned association of German

[137] This is a self-description of the project: "netCommons is a Horizon2020 research project, which follows a novel transdisciplinary methodology on treating network infrastructure as commons, for resiliency, sustainability, self-determination, and social integration" (netCommons n.d.).
[138] Fédération des Fournisseurs d'Accès Internet Associatifs.

judges and the merger of internet firms “eco” were listed. The former German privacy commissioner Thilo Weichert and the Deutsche Aidshilfe were supporters of Digitalcourage’s letter, too. This time, however, the alliance’s concern was characterised by a different kind of argument against data retention. This will be scrutinised in the next subchapter *contestation*.

The examination of NGOs’ *access* strategy led to a better understanding of the organisation’s cooperative partnerships. It became apparent that the civil rights defenders cooperated with different kind of actors at the national and EU level. These actors were often based in Germany, the Netherlands and France. To name but a few: Privacy experts, lawyers, journalists, consumer rights representatives and internet communication businesses. Some of the relations started already in 2002 and lasted until 2019.

Contestation

Among others, the fear of surveillance has been a major argument against data retention in NGOs’ *access* strategy. In most cases, it was closely intertwined with the concern that data retention could pose a risk to privacy. This statement of the Global Internet Liberty Campaign (2002a) illustrates this very good: “If the vote follows this path, the whole data protection scheme established by the European Union in the last few years to limit unwarranted intrusions in individuals’ privacy will crumble and enable EU governments to acquire very extensive surveillance powers and tracking capabilities.“ Moreover, activists were convinced that data retention could have a negative impact on the quality of democracy in Europe (Global Internet Liberty Campaign 2002a). These concerns were further manifested in the campaign initiated by EDRi and PI (2004-2005). Their message was captured in an article by Euractiv as presented under the section *awareness*. This is the quoted statement of the two NGOs (EURACTIV.com 2005e):

> ‘Data retention is an invasive tool that interferes with the private lives of everyone. Retaining personal data on everyone is an illegal practice in terms of Article 8 of the European Convention on Human Rights, as it is disproportionate. Security gained from retention may be illusory, as it is likely that traffic data that is associated to one individual may actually be linked to activity taken by another, or by a process that is unrelated to the activities of that user. The means through which this policy is being pursued is illegitimate, as some member states who have failed to pass this policy through their own Parliaments are now trying to push it through the EU instead in the name of harmonisation and international cooperation.’

Some of these arguments reoccurred during the evaluation phase of the directive but were not only expressed by NGOs. In his speech at the Commission’s conference on data retention, the EDPS Peter Hustinx (2010, 1) stated: “retaining communication and location data of all persons in the EU, whenever they use the telephone or the internet, constitutes a huge interference with the right to privacy of all citizens. The Directive is without doubt the most privacy invasive instrument ever adopted by the EU in terms of scale and the number of people it affects.”

Privacy NGOs and the EDPS, MEP Alexander Alvaro (ALDE) called data retention “an ‘invasive’ instrument” (European Commission 2011a). The green MEP Jan-Phillip Albrecht was convinced that data retention causes a “fragmented” state of fundamental rights in member states (European Commission 2011a). The Art. 29 WP already came to the same view. In a report, the data protection working group stressed that the directive: “encroaches into the daily life of every citizen and may endanger the fundamental values and freedoms all European citizens enjoy and cherish” (Article 29 Data Protection Working Party 2006, 2).

As already illustrated, the letter drafted by AK Vorrat in 2010 received a lot of attention. The main argument of the 100 signatories was that “[t]elecommunications data retention undermines professional confidentiality, creating the permanent risk of data losses and data abuses and deters citizens from making confidential communications via electronic communication networks. It undermines the protection of journalistic sources and thus compromises the freedom of the press” (Patrick Breyrer, German Working Group on Data Retention 2010). The letter animated the Greens to utter the following points of criticism on the directive. In these statements the support of green politicians – already exemplified in the section on *mobilisation* – becomes once more visible (Von Notz 2010a):

> **Unser Antrag:** Wir Grünen sind nach wie vor der Meinung: Die anlasslose, massenhafte Speicherung individueller Daten ist ein tiefer Eingriff in die Privatsphäre aller Bürgerinnen und Bürger. Vorratsdatenspeicherungen stellen Bürgerinnen und Bürger unter einen unzulässigen Generalverdacht. Zudem birgt jede Vorratsdatenspeicherung große Risiken des Datenmissbrauchs.

A further discussion that arose due to the NGO letter was driven by the necessity argument. NGOs and their partners called data retention “superfluous” (Patrick Breyrer, German Working Group on Data Retention 2010). This argument was adopted by the EDPS in a written statement, in the same document that points two times to the letter of 100 organisations. The data protection authority directed a clear demand to the Commission and member states: “Evidence is required that it really constitutes a necessary and proportionate measure. Without such evidence, the Directive should be withdrawn or replaced by an instrument which does meet the requirements of necessity and proportionality“ (European Data Protection Supervisor 2010, 5). The association of judges denounced the lack of usefulness of data retention as an instrument for German law enforcement. It even saw it as an obstacle for daily police work in Germany (Neue Richtervereinigung 2011). MEP Jan-Philipp Albrecht went further with his argumentation. On the Commission’s evaluation conference, the member of the Green/EFA stressed: “The purpose of the DRD was to fight serious crimes and terrorism, but data from MS shows that many cases where data is accessed do no relate to fighting serious crimes and terrorism” (European Commission 2014a). Thus, he holds the view that data retention completely missed its purpose. Whether the aim of the directive “is appropriate and adequate”

was also questioned by a representative of the Council of Europe (European Commission 2014a). The EDPS came to the same conclusion, only the way of his argumentation was different. The privacy authority finished its speech by raising the following point: ”The Directive has clearly failed to harmonise national legislation” (European Data Protection Supervisor 2010, 6). EDRi adopted both arguments in its letter to Commissioner Malmström: “data retention is neither necessary for market harmonisation nor for the fight against serious crime and is, therefore, illegal” (Andreas Krisch 2011). However, this was contrasted by the opinions of member states’ law enforcement and the Commission. A representative of the “law enforcement community” shared these insights with the conference participants: “Experience in the UK has shown that historic communications data is absolutely critical in the fight against serious crime, he said. Retained communications data has frequently given investigators vital information. Many serious crimes are solved not by forensics but by communications data“ (European Commission 2014a). In her speech introducing the final evaluation report, Commissioner Malmström (2011) paid close attention to the “necessity” argument raised by NGOs, MEPs and data protection authorities and gave the following reply:

> Overall, the information we have received indicates that data retention subject to EU regulation is indeed a necessary measure:
>
> - necessary because historic telecommunications data can be crucial in solving crimes and ensuring justice is served;
> - necessary because industry needs to know that data retention rules will be as consistent as possible throughout the internal market;
> - necessary because citizens are entitled to know that there are solid and consistent safeguards for protecting their personal data wherever it is stored or processed in the European Union.

The Commission not only supported the directive in the last instance, but also stole the oppositions’ thunder. The illustrated opposing positions on the data retention directive are summarised in figure 17 (below). The “stopdataretention.eu” campaign led to a quite different debate. The fear of surveillance, however, defined again the letter coordinated by Digitalcourage. The coalition of organisations addressed the Commission with an explicit request: “We call on you to develop the European way so that it leads to an EU free of invasive surveillance” (Digitalcourage 2020). Expressions – like “the most privacy-invasive instrument” – that were present during the evaluation phase, reappeared in this context (Digitalcourage 2020).

With the “stopdataretention” campaign, privacy NGOs and network infrastructure providers addressed the Commission with their official complaints to become active and open infringement proceedings on member states. Their *access* action was driven by two concerns: First, NGOs wanted the repeal of already existing national data retention laws (netCommons 2017b). Second, they aimed to prevent member states intention to widen the possibilities to

reintroduce data retention in the e-privacy regulation, a project to renew the 2002 adopted directive. The latter objective was summarised in a first letter of the alliance (netCommons 2017b): “As EU lawmakers start discussing the overhaul of the e-Privacy Directive, we call on them to oppose any blanket data retention obligations and close existing loopholes in EU law to ensure that only targeted and limited retention obligations can be imposed on hosting and access providers.“

Figure 17. Case 1 – Access: Opposing Positions on the EU DRD (1)

Surveillance, unnecessary, right to privacy/data protection at risk, right to confidentiality at risk, failed harmonisation	**Necessary, to uphold security and justice, harmonisation of internal market**
digital rights groups/NGOs (AK Vorrat, EDRi, PI, Digitalcourage) EDPS Art. 29 WP Jan-Philipp Albrecht (Greens/EFA) Alexander Alvaro (ALDE) Council of Europe	Law enforcement European Commission

Source: Own illustration. This is only a snippet of the conflict parties and the discussion.

The Commission, however, agreed that it would support the Council in working with Eurojust and Europol in finding a solution so that national laws would comply with the latest CJEU ruling (Council of the European Union 2017b, 6). In this context, Europol expressed a need for data retention, justified with the necessity of harmonised rules, since “[t]he current situation creates unjust pressure on the investigating authorities” (Council of the European Union 2017c, 15). The Art. 29 WP was against the changing of new e-Privacy regulation for the purpose of a reintroduction of data retention. The data protection group especially perceived the extension of article 11 of the e-Privacy regulation as problematic: “**the Proposed Regulation would undesirably broaden the possibilities to retain data**” (Article 29 Data Protection Working Party 2017, 23; emphasis in the original). The working party also recalled that the CJEU ruling would not foresee indiscriminate data retention in the EU (Article 29 Data Protection Working Party 2017, 23). The EDPS joined the opinion of the Art. 29 WP by making this statement: “In any event, the EDPS considers that the mere fact that the intended scope of the Proposal is extended compared to the ePrivacy Directive today, should not be understood as a general mandate for the Member States to automatically extend the scope of application of any -existing or future-data retention regimes” (European Data Protection Supervisor 2017, 21). Moreover, the ‘EU privacy Tsar’ issued a clear opinion on existing data retention schemes at the national level: “Member States are no longer under a legal obligation deriving from a

specific Union legal instrument to introduce or maintain a data retention regime" (European Data Protection Supervisor 2017, 21). In contrast, the Estonian Council Presidency (Jul-Dec 2017) notified the DAPIX that the e-Privacy regulation offered several opportunities for data retention (Council of the European Union 2017f). The EU Counter-Terrorism Coordinator also saw a clear benefit in reintroducing data retention: "The EU instrument could assess the current very serious terrorist threat to the EU as well as the increased use of cyber space and communications technology for serious crime, hence the serious threat to public security" (Council of the European Union 2017d, 2). Europol also stressed the "essential need to incorporate data retention rules for law enforcement purposes into the upcoming ePrivacy Regulation" (Council of the European Union 2017e, 3). The director of Statewatch (2017b) summarised the situation as follows: "Despite the 2014 Digital Rights Ireland judgment the Council, the Commission and Member States have simply carried on ignoring the ECJ's verdict that the Data Retention Directive has been unlawful since it was adopted in 2006. In 2016 the "Tele 2 and Watson" judgment came to the same conclusions. For how long will they be allowed to flout the rule of law?"

Figure 18. Case 1 – Access: Opposing Positions on the EU DRD (2)

No reintroduction of data retention in e-Privacy regulation, "European law prevails over national laws"	**Extend the e-Privacy regulation, fight against terrorism, harmonisation**
NGOs (Statewatch)	Member states
Art. 29 WP	DAPIX
EDPS	Eurojust
FRA	Europol
	European Commission
	EU Counter-Terrorism Coordinator

Source: Own illustration. This is only a snippet of the conflict parties and the discussion.

The FRA highlighted that "EU Member States should align their legislation on data retention with the CJEU rulings, and avoid general and indiscriminate retention of data by telecommunication providers" (European Union Agency For Fundamental Rights 2019a, 165). A claim that the organisers of the "stopdataretention.eu" campaign framed in the following way: "European law prevails over national laws" (Les Exégètes Amateurs 2018a). A sentence that reader will meet again in the subsequent section but uttered by a different actor at a later point in time. Figure 18 (above) gives an overview of the presented actors and positions.

In sum, it cannot be denied that the *access* strategy of NGOs has had a beneficial effect on politicisation. Although, the civil rights defenders received only little *awareness* in the Brussels' media realm, they were greatly recognised by EU institutions and authorities (European Commission, EDPS) as well as by representatives of internet technology (businesses and

blogs). *Mobilisation* was in place at several points in time. In 2002, it was defined by a world-wide network of organisations and individuals advocating against President Bush's plans to bring data retention to the EU. The subsequent campaign of PI and EDRi was however the one with the highest support. More than 170 organisations joined their briefing to MEPs (2004). In 2010, cooperation partners of NGOs looked somehow different. Here, *mobilisation* was defined by a participation of professional associations. NGOs' claims were for example backed up by lawyers, journalists and psychologists. Moreover, representatives of vulnerable groups (e.g. Deutsche Aidshilfe) supported their campaign. During this time, the involvement of the German national level became especially noticeable. The last broader campaign of NGOs is characterised by the support of the network community. The peculiarity is that this community is funded by the Commission. Time and time again, relations between the privacy advocates and green MEPs become apparent in the analysis – be it in the context of a workshop or a parliamentary question. Another insight of examining *mobilisation* is that NGOs have been working with the same individuals and organisations repeatedly for many years. For example, many supporters of a 2019 joint letter already contributed their signatures in the global letter campaign (2001-2002). The founder of Netzpolitik.org for example contributed its signature before the German blog even existed. The *access* strategy of NGOs fostered *contestation* in the political realm and realm of experts. *Contestation* can be described as high during the evaluation of the directive. NGOs, data protection authorities and MEPs (ALDE, Green/EFA) expressed their criticism on the directive, even used very similar wording when assessing the legislation. They were faced by the belief of the Commission and law enforcement representatives that data retention provides a great advantage for the detection of crimes. A comparable image of conflict parties was visible in a further controversy. NGOs and data protection experts (EDPS, Art. 29, FRA) warned on the reintroduction of data retention in the e-Privacy regulation, while the EU institutions and personnel (EU Counter-Terrorism Coordinator) along with law enforcement entities (Europol, Eurojust) made exactly this their objective. The Commission overtook an assistance role in this scenario, helping member states and EU agencies in pursuing their aims.

This later debate would never have arisen if NGOs' *litigation* strategy had not existed. How this strategy looked like is presented in the next subchapter. The *mobilisation* that derives from this legal strategy is striking. An interaction of NGOs across member states' borders will become observable.

6.2.2.3 Litigation

NGOs heavily relied upon *litigation* as a strategy in the case of data retention. Acts to start this strategy were introduced first at member states' national level. In a few circumstances, NGOs were able to move this action to the European level and to involve the CJEU. All in all, data retention was legally challenged in more than ten different member states. Sometimes a national data retention law faced legal action twice. Table 14 gives an overview of successful acts of *litigation* against data retention at the national level.[139]

Table 14. Court Challenges Resulted in Annulment of Data Retention Laws in the EU Member States (2008-2015)

State	Year of Court's Decision	Civil society/NGO involvement
Bulgaria	2008, 2015	Access to Information Programme (AIP)
Romania	2009, 2014	"Civil Society Commissariat" (2009)
Germany	2010	EDRi observer AK Vorrat Germany
Cyprus	2011	
Czech Republic	2011	EDRi member Iuridicum Remedium (IuRe)
Austria	2014	AK Vorrat Austria, EDRi member Austrian Association for Internet users (VIBE!AT), Institute of Human Rights
Slovenia	2014	
Netherlands	2015	Stichting Privacy First, Nederlands Juristen Comité voor de Mensenrechten, Nederlandse Vereiniging van Strafrechtadvocaten, Nederlandse vereiniging van Journalisten, BIT B.V., SpeakUp B.V., VOYS B.V.
Slovakia	2014, 2015	Think-tank "European Information Society Institute (EISi)"
Belgium	2015	EDRi observer NURPA, datapanik.org, EDRi member Liga voor Mensenrechten and the Ligue des Droits Humains[140]

Source: Own illustration based on data analysis.[141] This is only a snippet of the conflict parties and the discussion.

[139] The table entails a list of all cases that did not result in a case brought before the CJEU.
[140] In 2015 active under its former name Ligue des droits de l'Homme.
[141] A data retention case was also brought forward in Hungary, however it was removed from the agenda as constitutional changes applied (Vainio and Miettinen 2015, 295) In Poland, amongst others EDRi member Panoptykon challenged data retention rules legally (Rodriguez 2012). Cases were also brought before courts in

In most of the cases, NGOs were initiators of a lawsuit or otherwise involved in the legal action. Quite often, members of EDRi took the role as a complainant. In Germany, EDRi observer AK Vorrat brought a case before the Federal Constitutional Court (German Working Group on Data Retention 2008b). Patrick Breyer, who was already introduced in NGO's *access* strategy was one of the main complainants in Germany. The same move was made by EDRi member Iuridicum Remedium (IuRe) in the Czech Republic. In the Netherlands, jurisdictional and media representatives took action against the Dutch version of data retention. In the study of *mobilisation*, connections to EDRi's 2005 petition will become visible to the reader. Two actors involved in EDRi's work, observer NURPA and member Liga voor Mensenrechten, were complainants in Belgium. To take legal action against the national data retention law, the activists started together with two further groups (e.g. LDH under its former name Ligue des droits de l'Homme) a crowdfunding campaign. In their appeal for donations, they gave an insight into their financial situation and the path of their *litigation* strategy ahead (stopdataretention.be 2022):

> The right to privacy is invaluable. Yet, the complaint we have filed in order to obtain the cancellation of the Belgian data rentention law comes at a cost that the Liga voor Mensenrechten, la Ligue des droits de l'Homme [LDH] and NURPA, couldn't bear on their own. […] The legal battle that lies ahead of us is a long one. As a first step, the parties will have to submit their arguments in a written form, and will then plead before the twelve judges of the Belgian Constitutional Court. Finally, the latter will deliberate. However, their decision should not be expected before 2015.

In Austria, data retention was debated twice by the Austrian Constitutional Court. In a first move, the court transferred the case to the CJEU. The legal action against the Austrian law was initiated among others by AK Vorrat Austria and VIBE!AT, two members of the umbrella organisation EDRi. In a report about the state of the campaign published by EFF, the strategy of AK Vorrat Austria was depicted as follows (Bowe 2012):

> Austrian activists took advantage of a two-year delay of the implementation of this ill-conceived Directive in their country by mapping out their opposition strategy in advance. They sought to leverage a two tier [sic!] strategy to beat back the Data Retention Directive at the European level, and to fight against the Austrian data retention law at the national level.

The lawsuit of these Austrian organisations was handled as a joined case by the CJEU. This means the Court of Justice simultaneously delivered one opinion on two different cases (C-293/12 and C-594/12). The second case was brought forward by DRi, an Irish NGO. The starting point of DRi's *litigation* strategy was already in 2006. Hence, the NGO brought a case before its national court shortly after the directive was adopted at the EU level. The organisation announced the start of their *litigation* strategy with these words: "We are at the edge of Europe, but our legal action challenging mass surveillance has implications for the

Italy and Portugal to challenge data retention, without resulting into a change of the legal situation (Milieu 2020, 42).

whole European Union. We are the only group bringing a legal challenge and we need your support" (Digital Rights Ireland 2006b). As the table above demonstrates, they were the only group pursuing this legal strategy in 2006, but this situation changed later.

The privacy NGO asked for "support" in several forms. On the one hand, it asked for financial assistance. On the other hand, the group called on the reader of their articles to disseminate the information on the legal action via media and internet platforms (Digital Rights Ireland 2006b). The promise the NGO made to the visitor of its website was the following one (Digital Rights Ireland 2006a):

> If we are successful, the effect will be to undermine Data Retention laws in all EU states, not just Ireland, and to overturn the Data Retention Directive. A ruling from the European Court of Justice that Data Retention is contrary to Human Rights will be binding on all member states, their courts and the EU institutions.

The legal action took DRi eight years in total. The NGO spent four of these years before the CJEU. During the other four years, the group spent time fighting the issue in the Irish High Court. How the NGO managed to go through such a long lawsuit demonstrates this statement by its director: "DRI benefited greatly from their EDRI membership and their ability to share information with other groups in Europe. DRI's data retention case was ultimately merged with a similar one from Austria, which helped signal to the ECJ that this was a matter of importance throughout Europe" (Electronic Frontier Foundation 2014). After this case, three further court cases were issued by NGOs. The member states affected were France, Belgium and UK. LQDN, PI and Liga voor Mensenrechten were the involved NGOs. Table 15 provides an overview of all cases linked to data retention that resulted before the CJEU.

Now, an analysis of *awareness*, *mobilisation* and *contestation* follows. However, it is almost too obvious – looking at table 14 and 15 – to withhold this information: The NGO's *litigation* strategy greatly fostered *mobilisation*. It will not only become visible how support increased among the NGO scenery – the statement of DRi's director pointed to this – but also how these groups were backed up by the wider EU citizenry. This is an interesting insight of this fist within case-analysis.

Table 15. Overview of Data Retention Cases before the CJEU

Name of the Case	Year of CJEU's Decision	Initiator	NGO involvement
Case C-301/06	2009	The Republic of Ireland (vs. European Parliament and Council of the EU)	
Case C-270/11	2013	Commission (vs. Kingdom of Sweden)	
Case C-329/12	*Withdrawal of the Case*	Commission (vs. the Federal Republic of Germany)	
Joined cases C-293/12 and C-594/12	2014	Digital Rights Ireland Ltd (Ireland), the Province of Carinthia and others (Austria)	EDRi members Digital Rights Ireland (Ireland), AK Vorrat Austria (now called epicenter.works) and VIBE!AT (Austria)
Joined cases C-203/15 and C-698/15	2016	Tele 2 Sverige (Sweden), Watson et al. (UK)	PI, Open Rights Group intervened (UK)
Case C-623/17, joined cases C-511/18, C-512/18 and C-520/18	2020	Privacy International (UK), La Quadrature Du Net (France), Ordre des barreaux francophones et germanophone etc. (Belgium)	EDRi member PI (UK), La Quadrature du Net (France), Liga voor Mensenrechten (Belgium); PI and CDT intervene in French case
Case C-746/18	2021	Prokuratuur (Estonia)	
Joined cases C-793/19 and C-794/19	*Still pending*	SpaceNet (Germany), Telekom (Germany)	
Case C-140/20	*Still pending*	G.D. (Ireland)	

Source: Own illustration based on data analysis. Last updated: May 2021.

Awareness

The act of *litigation* by an NGO is mentioned 20 times in 13 different EU media outlet articles (see table 16). The leak of an NGO as well as NGOs' petitions received a little less attention as the former analysis of *voice* exemplified.

Media articles most frequently mention the act of *litigation* but with pointing to an action pursued by "civil rights organisations" or "privacy groups". The organisation DRi as the plaintiff is mentioned in five cases and the organisation LQDN as well as PI are only mentioned once in this context. An example is this reference to the act of *litigation* by AK Vorrat DE, which ended before the German constitutional court: "But the proposal caused outrage among German citizens, concerned at breaches of privacy and civil liberty rights. A complaint was brought by 35,000 citizens, the largest number of plaintiffs ever associated with one case" (Mahony 2010). The news outlet does indeed cover the *litigation* act, but without noting the coordinating organisation.

Table 16. Case 1 – Reference to NGOs' Acts of Litigation in EU Media Outlets (2001-2020)

The kind of NGO action mentioned	Number of NGO action mentioned by media articles
Court action in Ireland (initiator: DRi)	7
Court action in Austria (initiator: AK Vorrat AT)	5
Case before UK, French and Belgium court (initiator: PI, LQDN, Liga voor Mensenrechten)	1
Court action in UK (initiator: PI)	2
Court action in France (initiator: LQDN)	2
Constitutional complaint in Germany (initiator: AK Vorrat DE)	2
Number of NGO *litigation* activities mentioned in total: 19 (13)[142]	

Source: Own illustration based on qualitative (online) media outlet analysis (EUobserver, EURACTIV, Politico Europe, The Parliament Magazine).

Nevertheless, as table 17 demonstrates, the actual court cases of NGOs are mentioned a lot of times by EU media outlets. The 2014 CJEU decision is mentioned 71 times in 66 different documents. The 2020 CJEU ruling, of course, a far more recent ruling, is mentioned nine times in nine different articles. In total, EU media outlets referred to CJEU's rulings of NGOs' cases 92 times. The organisation DRi is mentioned 8 times as plaintiff in this context, while the involvement of PI and LQDN is highlighted 9 times. The Liga voor Mensenrechten as plaintiff in the Belgian data retention case is not noted in this context. All four articles of The Parliament Magazine cover the issue of data retention in connection with the 2014 CJEU ruling. The role of the NGO DRi is not reflected by the magazine.

Table 17. Case 1 – Reference to NGOs' Court Cases Against Data Retention before the CJEU in EU Media Outlets (2001-2020)

	Mentioning of 2014 CJEU decision	Mentioning of DRi in case context	Mentioning of 2020 CJEU decision	Mentioning of PI, LQDN et al. in case context
EUobserver	29	3	2	1
EURACTIV	19 (15)	3	4	2
Politico Europe	19 (18)	2	3	1
The Parliament Magazine	4	-	-	-
In total: 92	71 (66)	8	9	4

Source: Own illustration based on qualitative (online) media outlet analysis (EUobserver, EURACTIV, Politico Europe, The Parliament Magazine). The total number of articles that refer to NGOs' court cases are displayed in brackets. This number deviates from the number of NGO's court cases mentioned since sometimes a case is mentioned several times in the same article.

[142] These acts of *litigation* were mentioned twenty times in 13 different media articles.

The analysis of EU media articles also showed that national court rulings on data retention were thematised 34 times. The ruling of the Federal Court of Germany alone was mentioned 18 times. The AK Vorrat DE is never mentioned in this context nor are other national-based groups/NGOs mentioned in references on jurisdictional cases. Only in one article, it is referred to the 2014 CJEU 2014 ruling as the "*Digital Rights Ireland* decision" (PRISM scandal threatens EU-US 'Safe Harbour' agreement – EURACT, S. 2: 2610; emphasis in the original). The Tele2/Watson ruling is four times the story of EU media articles (one article of EURACTIV, one article published by EUobserver and two articles of Politico Europe). The involvement of PI and the Open Rights Group is not mentioned (see table 15 that gives an overview of data retention cases before the CJEU).

The court cases of the groups DRi and AK Vorrat AT, however, led to some noteworthy reactions in the EU institutional venue. In the EP debate, discussing the impact of the CJEU decision of 2014, a few MEPs directly referred to the NGOs' action, also demonstrated their appreciation of the organisation's engagement. Paul Murphy, the member of GUE/NGL, stressed: "Let us remember who we need to thank here: which is activists across Europe, including in Ireland, for taking up these issues, for struggling, for taking a court case in Ireland against the state, by Digital Rights Ireland, questioning the legality of Irish data retention legislation" (European Parliament 2014). A member of the Christian democrats commented: "I think there is great credit due to Digital Rights Ireland which took this matter to the High Court and also the Constitutional Court in Austria which referred it onwards" (European Parliament 2014). Cornelia Ernst, member of GUE/NGL, also showed acknowledgment for NGOs' actions in her plenary speech: "Im Namen meiner Fraktion möchte ich allen Netzaktivistinnen und Netzaktivisten aus Österreich und Irland danken, aber auch den vielen Unterstützerinnen und Unterstützern aus Europa, die diese Klage tatsächlich befördert haben" (European Parliament 2014). Directly after the CJEU's judgment, the left group published a press statement, integrating a comment by EDRi's director Joe McNamee (GUE/NGL - The Left in the European Parliament 2014). The Greens/EFA commissioned a study to shed light on the judicial decision of 2014 and examine its consequences (Cole and Boehm 2014, 20).

During the Commission's evaluation conference, that was held when several national laws were already ruled unconstitutional, the national court decisions however received little *awareness*. Next to a representative of AK Vorrat DE, only one participant from Hungary pointed to the ruling of the German constitutional court (European Commission 2011a). The Commission's evaluation report does discuss the constitutional rulings, it even points to a legal action "in one Member State (Ireland) by a civil rights group" (European Commission 2011b, 30), but rather assesses the consequences for the (re-)transposition of these laws and not for European fundamental rights.

The EU media outlet analysis has shown that there is interest in the court proceedings on data retention. However, the actual organisers and in some cases co-organisers – privacy NGOs – are not mentioned. Accordingly, *awareness* of the issue is present in the media realm, but not linked to the NGOs as initiators. The above-illustrated quotes from the parliamentary debate showed that NGOs received some credits by MEPs for their action. The attention was given mainly by parliamentarians from the left group. The next section highlights that this is not a coincidence since some alliances exist.

Mobilisation

As already noted, NGOs' *litigation* strategy fostered *mobilisation* to a higher extent. To get a better picture of the *mobilisation* connected to NGOs' legal actions, it is helpful to distinguish between the increasing motivation by European citizens to support NGOs and the mutual reinforcement within the NGO landscape.

A support of the wider citizenry was visible in the legal actions initiated by AK Vorrat DE, AK Vorrat AT as well as in the joint activity of EDRi observer NURPA, datapanik.org, EDRi member Liga voor Mensenrechten and the LDH. A distinction can be made here between financial support and support from citizens through their participation. The German data retention working group was supported by over 30.000 citizens that contributed with mandates to the "[l]argest class-action lawsuit in German history" (German Working Group on Data Retention 2008b). The AK Vorrat Austria was able to collect the signatures of more than 11.000 citizens in its *litigation* campaign (epicenter.works 2012a). The Belgian case introduced by NURPA et al. was financially backed. The NGOs introduced a crowdfunding campaign to make a legal action possible. Shortly after the activity was started, the coalition of Belgian privacy groups announced: "The success encountered by the campaign – the € 5,000 goal was exceeded in a couple of weeks – has shown how much citizens value their privacy" (Net Users' Rights Protection Association 2015). A similar scenario occurred in the Czech Republic. EDRi member IuRe also received the desired aid in a crowdfunding campaign to challenge the second implementation law (Donio n.d.). These legal actions of NGOs also show links to political and professional groups. IuRe was for example supported by more than 50 Czech parliamentarians to overturn the first transposition law (European Digital Rights n.d.f). The act of *litigation* at Austrian's national level was supported by green party members (Die Presse 2012). The link became especially visible when the group filed the constitutional complaint in cooperation with a green politician and spokesperson for justice, Albert Steinhauser (epicenter.works n.d.b). In the context of the German constitutional complaint single members of the green party also joined the action. However, the party also initiated a constitutional

complainant on their own.[143] In Germany, there was another constitutional complaint initiated by NGOs, which points to more solidarity on the part of civil society. In 2015, the AK Vorrat DE and Digitalcourage challenged the second German transposition law (which was then suspended) with the support of (prominent) journalists, artists, privacy activists and lawyers. The chairman of the union ver.di (M - Menschen Machen Medien 2016), two politicians of the German Left party and a member of the Greens as well as the chairman of the International League for Human Rights[144] were in on it (Ebelt 2016). When one studies the table 14 (Court Challenges Resulted in Annulment of Data Retention Laws in the EU Member States (2008-2015)) another insight becomes visible. At national level of the Netherlands, businesses joined NGOs in using the strategy of *litigation*. One actor stands out from the coalition of NGOs (Stichting Privacy First), journalists, lawyers and businesses. Part of this group is BIT B.V., a service for internet infrastructure which already supported EDRi in its petition against data retention (2005) as the analysis of NGOs' *voice* strategy demonstrated. In the Netherlands' neighbor country, a similar connection can be identified. At Germany's national level, another well-known cooperation partner of NGOs, the association eco, brought a case together with another actor from the industry before an administrative court in 2017. Hence, the *litigation* strategy seems to be gaining acceptance throughout the net community.

Mutual reinforcement within the NGO landscape can be highlighted with recourse to different acts of *litigation*. The groups PI and CDT intervened in the French case (initiated by LQDN). In the joined cases Tele2/Watson, PI was together with EDRi member Open Rights Group an intervener in the case of two British MPs (Privacy International 2016b). In press articles, their argumentation against data retention and the British Investigatory Powers Act (2014) was supported by Amnesty International (Bowcott 2015). The US-based organisation EFF (2014) gives the following insight on DRi's *litigation* strategy: "Coalition matters: DRI benefited greatly from their EDRI membership and their ability to share information with other groups in Europe. DRI's data retention case was ultimately merged with a similar one from Austria, which helped signal to the ECJ that this was a matter of importance throughout Europe". In addition to this, two other examples connected to NGOs' *litigation* strategy – that need a little bit more space for explanation – give further insights on the interplay of the network of privacy actors. They both show how intensively the network of privacy actors – IT blogs, internet firms and NGOs – works together and how these organisations not only support but also inspire each other. The first example gives an insight into how the court case against data retention in France developed. This is one of the cases on which the CJEU ruled in 2020. The second example illustrates how the different *acts of litigation* of NGOs are interconnected.

[143] The German liberal party made the same move.
[144] This person was also involvement in the constitutional complaint of 2007 at the German national level.

The move of DRi to challenge data retention in combination with the success of the court case motivated other organisations to become legally active against data retention. One of the founders of LQDN, Félix Tréguer, made a statement after the CJEU's decision of 2014 that greatly highlights the relation between the different court cases (La Quadrature du Net 2014; emphasis in the original):

> *This landmark decision is a victory for all defenders of privacy who have been fighting mandatory data retention across Europe since 2006 against the bulk retention of communications. […] This ruling is an invitation for everyone to continue the fight against surveillance by all appropriate means, be they technical, political or legal. One legislative step at a time, our governments had drifted away from the rule of law and now is the time to remind them that fundamental rights are the cornerstones of our democracies and non-negotiable.*

After this, LQDN started to collect legal expertise. Together with two representatives of internet providers' interests – Fédération des Fournisseurs d'Accès à Internet Associatifs (Fédération FDN) and the French Data Network – it founded the policy workgroup Exégètes Amateurs. The groups' self-description entails a reference to the reason for its founding: "to litigate against mass surveillance, data retention, and State censorship on the Internet (in France and at the European Union-level)" (Les Exégètes Amateurs 2018b). Hence, the founding of this group and the strategy of *litigation* were greatly intertwined. The complaint against French data retention was the first legal action initiated by LQDN (Moody 2015a). Shortly before the working group of privacy activists and internet provider representatives brought the case before the French Council of State, LQDN shared an article of the internet blog techdirt, which focused on a leak of an EP's legal service document. In the leaked document, the legal service discussed the possibility of legal actions against data retention: "*all existing agreements [of data retention] currently in place remains valid, however, citizens can request the Commission to look into the validity of these agreements, or they can choose to take legal action to test their validity"* (Legal Service of the EP in Moody 2015b). Techdirt, however, received the information from EDRi member Access Now (Massé 2015a). The article of Access Now referring to this document concluded with this remark: "2015 is turning out to be the year of data retention in Europe. It is now up to us all – activists, civil society groups, lawyers, lawmakers – to ensure that any proposal put forward is both in line with the EU Charter of Fundamental Rights and the principles of proportionality and necessity" (Massé 2015a). In their blog article, LQDN (2015) raised several questions as a response to the leak: "if the Directive itself is invalid, where does that leave all the EU agreements and laws that require data to be retained? What exactly is their legal status now that the Directive has been struck down? Are they invalid too?"

Then in 2020, les Exégètes Amateurs were supported by PI in its legal action. Hence, the London-based NGO not only referred an own case to the UK Investigatory Powers Tribunal but also overtook the role as intervener together with the US-based NGO CDT in the French

case (Privacy International n.d.d). The CJEU decided to handle the NGO complaints as joined cases, together with a case from Belgium (Case C-623/17, joined cases C-511/18, C-512/18 and C-520/18). The Liga voor Mensenrechten now overtook the role as complainant in Belgium for a second time. After the NGO's successful filed a complaint before the Belgian Constitutional Court in 2015, the government introduced a further data retention law in response to the Brussels attacks (Liga voor Mensenrechten 2020):

> The law was however slightly adapted and again voted in Belgium, prompting the Liga to again file a case before the Constitutional Court. On the 8th of October 2020, the Court of Justice again found that retaining metadata on all citizens in Belgium violated their right to privacy. Only time will tell if we can expect a data retention III case in the future.

This excerpt demonstrates what a feat it was for the organisations to pursue this strategy. Moreover, it already points to the *contestation* connected to NGOs' *litigation* strategy. But before going into detail, the second example is now presented.

A further case that is handling the issue of data retention, which was not brought before the CJEU is "Breyer v Germany (Case C-582/14)". This case was debated before the European Court of Human Rights (ECtHR) and was introduced by Patrick Breyer as the name implies. The notion behind this action is that (German) telecommunication companies should abstain from storing the data of pre-paid SIM card users and instead make sure to protect the anonymity of these customers (Breyer 2020). Breyer gained the support of two interveners, the NGOs PI and Article 19 (2020b). The latter organisation has made it its mission to stand up for the right to freedom of expression. The reader will learn more about this NGO in the case study on the EU Terrorist Content Regulation (chapter 8). As the case was dismissed by the ECtHR, EDRi (2020b) drew a connection to the cases of PI, LQDN and the Liga voor Mensenrechten, which were still pending before the CJEU at that time: "some of the arguments put forward by the majority of judges in the present ECtHR Breyer case (such as the "efficiency" for law enforcement argument) may help the applicants to overturn the arguments of the majority in this case".

Two results can be drawn from scrutinising NGOs' *litigation* strategy: First, the public felt motivated to support NGOs in their aims to challenge the transposition laws legally. They helped these organisations in two ways: By making an allowance – financially and with their signature (or mandates). Second, the *litigation* strategy depended on the mutual support of NGOs and net community actors. The outcome of lawsuits pointed the way for further legal actions by NGOs – as the case of DRi or 'Breyer v Germany' indicated. The quotes of NGOs' articles also highlight that these organisations did not hold back with their intentions to go to the CJEU, even debating it publicly and calling on others to follow their example. In the next

section, it will become evident that the *litigation* strategy of NGOs is almost inseparable from the dimension of *contestation*. A fact that already has become slightly visible in this section.

Contestation

In each of their court cases NGOs articulated their position against data retention. Hence, the action of *litigation* is directly linked to a contravening position. These legal actions led to further discussions in other realms, too. In which venues, NGOs' *litigation* strategy led to more opposing positions and what argumentation these organisations pursued is now emphasised.

The legal action of AK Vorrat DE is defined by the argument that the transposition law is unconstitutional. This is also stated right at the beginning of the complaint document: "weil eine systematische, verdachtslose Speicherung personenbezogener Daten auf Vorrat mit den Grundrechten des Grundgesetzes offensichtlich unvereinbar ist" (Starostik, 12). This objection was also raised before other national courts such as in Bulgaria, Romania or Czech Republic. On the public side of its *litigation* action, the German working group on data retention (2008b) advocated for the following interest: "'The sovereignty of the individual over their personal data is a prerequisite to claiming one's liberties.'" In their 2016 appeal on a constitutional issue, the NGO Digitalcourage and AK Vorrat DE campaigned against surveillance in the first place. The organisations connected this argument to the fear of general suspicion as this comment of Patrick Breyer demonstrates: "Die Vorratsdatenspeicherung ist das erste Überwachunggesetz [sic!], das sich gegen die ganze Bevölkerung richtet. Das ist der Dammbruch'" (Breyer 2016). The message of the AK Vorrat AT to convince citizens to support its action was strongly intertwined with the argument that data retention risks the right to privacy.[145] Moreover, in their note to Austrian citizens the NGO questioned the directive's compliance with the EU principles necessity and proportionality (epicenter.works 2012b). The DRi justified its act of *litigation* by stating that the data retention directive creates a situation in which involved firms "spy on all customers" (Digital Rights Ireland 2006a). Moreover, the Irish NGO argued: "We say that this kind of mass surveillance is a breach of Human Rights, as recognised in the European Convention on Human Rights and the EU Charter on Fundamental Rights which all EU member states have endorsed" (Digital Rights Ireland 2006a). In the court proceedings, several EU institutional actors and authorities as well as national governments[146] participated as interveners. The European Commission, Council and European Parliament can be named

[145] This excerpt derived from the webpage of epicenter.works (2012b) highlights this very well: "Deshalb stellt die verdachtsunabhängige Vorratsdatenspeicherung einen massiven Eingriff in das Grundrecht auf Privatsphäre (Artikel 8 der europäischen Menschenrechtskonvention im Verfassungsrang) dar."
[146] According to Granger and Irion (2014, 839) these are the involved member states: "The Governments of Ireland, Austria, Spain, France, Italy, Poland, Portugal and the United Kingdom."

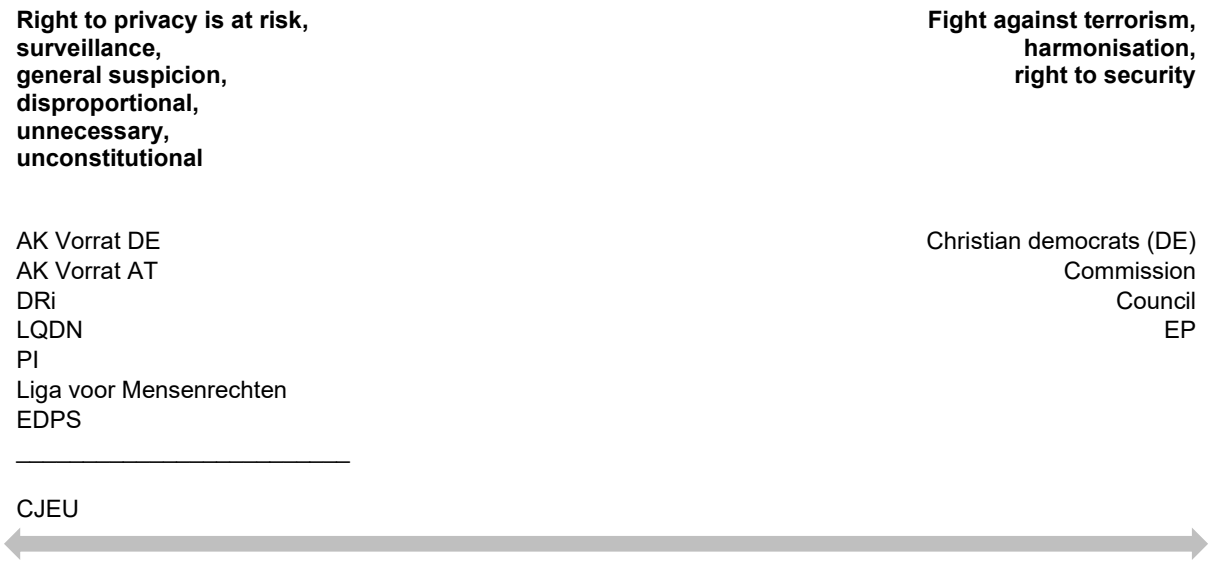
as institutions involved. The EDPS (2013) was also invited to contribute his perspective before the European court. The data protection authority finished his statement with a plain signal:

> Directive 2006/24/EC does not comply with these requirements [laid down in the EU Charter of Fundamental Rights]. We mentioned that the directive requires the retention of data of ALL EU citizens whereas its effectiveness is not fully demonstrated, it makes detailed profiling possible, and there are no specified security requirements. It is not sufficient for the EU legislator to adopt an instrument that allows for wide limitations on the exercise of fundamental rights and freedoms, without respecting the essence of those rights, and then basically assume that the 28 national legislators will repair this flaw.

Similar arguments could be derived from the opinion of the Advocate General.[147] The CJEU (2014; emphasis in the original), who then annulled the directive in 2014 did this with an unambiguous view on the state of the right to privacy: "The Court takes the view that, **by requiring the retention of those data and by allowing the competent national authorities to access those data, the directive interferes in a particularly serious manner with the fundamental rights to respect for private life and to the protection of personal data.**" The EDPS (2015a, 34) referred to the decision as a "wake-up call". In the European Parliament, the success of DRi sparked a new debate on data retention. Former arguments in favour of and against data retention (see subchapter 6.2.2.1 *Voice*) defined the discussion. Not all parliamentarians welcomed the result of DRi's action as enthusiastically as the MEPs cited in the analysis of *awareness*. Two German MEPs from the Christian democrat group – Manfred Weber and Axel Voss – claimed for a reintroduction of data retention. They based their justification for a new European data retention law on three arguments. First, they framed data retention as an indispensable tool against terrorism: "Wir brauchen auch im Kampf gegen Terror und organisierte Kriminalität die Verbindungsdaten. Das sind nach wie vor wertvolle Informationen" (Manfred Weber in European Parliament 2014). Second, they perceived it as essential to maintain harmonised rules in the EU, to prevent a situation of "nationalen Wildwuchs" (Manfred Weber in European Parliament 2014). Third, data retention is perceived as a mean to uphold the right of security by the (German) Christian democrats: "Ich kann es aber auch nicht akzeptieren, weil es neben dem Recht auf Freiheit eben in Artikel 6 der Charta der Europäischen Grundrechte auch ein Recht auf Sicherheit gibt, wie der EuGH das auch festgestellt hat. Die Bekämpfung schwerer Kriminalität dient eben auch der Gewährleistung der öffentlichen Sicherheit" (Axel Voss in European Parliament 2014). This was not the last time a proponent raised this argument. The reader will reencounter this justification in the context of the 2020 CJEU decision. The positions expressed so far are summarised in figure 19 (below).

[147] For example, this jurists (Court of Justice of the European Union 2013) noted: "the use of those data may make it possible to create a both faithful and exhaustive map of a large portion of a person's conduct strictly forming part of his private life, or even a complete and accurate picture of his private identity."

Figure 19. Case 1 – Litigation: Opposing Positions on the EU DRD (1)



Source: Own illustration. This is only a snippet of the conflict parties and the discussion.

The press statement of the CJEU (2020; emphasis in the original), informing of its ruling on the joined cases issued by NGOs from Belgium, UK and France, started this way: "**The Court of Justice confirms that EU law precludes national legislation".** The European court argued further that mass data retention is incompatible with EU law**.** With these statements, the court repeated in 2020 its opinion of 2016, expressed in its ruling on the Tele2/Watson joined cases. In the British case ("Watson"), the Open Rights Group and PI overtook the role as intervening parties (as highlighted under *mobilisation*). The two groups argued together with two British MPs that (mass) data retention without concrete suspicion contradicts EU law. Furthermore, they uphold again the right to privacy, arguing that UK's national law violates the necessity and proportunality principle. First and foremost, the based their argumentation on the 2014 ruling of the CJEU, highlighting that UK's data retention plans are not in line with this decision, especially since clear requirements for the access of data are missing (High Court of Justice 2014). Amnesty International publicly commented the secanrio as follows: "'It shouldn't be left to concerned MPs and campaign organisations to show that it's totally unacceptable to rush through draconian powers which allow government agents to spy on citizens without proper safeguards'" (Bowcott 2015). The decision was also assessed by the UK Home Office security minister, who greatly criticised the decision of the European court (Bowcott 2015):

> 'We disagree absolutely with this judgment and will seek an appeal. Communications data is not just crucial in the investigation of serious crime. It is also a fundamental part of investigating other crimes which still have a severe impact, such as stalking and harassment, as well as locating missing people, including vulnerable people who have threatened to commit suicide.'

The Tele2/Watson ruling also exemplifies another contravening position, namely the dissatisfaction of a Swedish telecommunication company (Tele 2 2016), who based their legal

action on the following argument: “Our customers highly value their privacy and that is the reason for us pushing this so far.”

The very existence of the 2020 CJEU decision highlights, that these opposing positions were not dissolved with the ruling of four years ago. The NGO PI for example saw a further need to make use of the act of *litigation*. Hence, *contestation* did not recede throughout the history of the court cases. Rather opposing camps manifested: On the one side, NGOs and data protection authorities argued in favour of privacy. On the other side, involved member states campaigned for security. The fact that these conflict parties were increasingly clinging to these positions can be demonstrated by studying the CJEU’s press release on its 2020 ruling as well as NGOs reactions to the opinion of the Advocate General. The European court (Court of Justice of the European Union 2020) introduced the member states perspective by making this statement: “The resulting case-law […] has caused concerns on the part of certain States that they may have been deprived of an instrument which they consider necessary to safeguard national security and to combat crime.”

The Advocate General’s opinion was published ten months before the actual decision of the CJEU. In this context, NGOs framed their introduced proceedings as a battle between privacy and security. This can be exemplified by a reaction of the complainant PI. A staff of the organisation that is one of EDRi’s founders stated about the court’s opinion: “We welcome today’s opinion from the Advocate General and hope it will be persuasive to the Court. The opinion is a win for privacy” (Privacy International 2020a). EDRi also published two articles on the crafted opinion of the CJEU personnel. It first stressed, “Once again, the Advocate General of the CJEU has firmly sided to defend the right to privacy” (European Digital Rights 2020e) and then titled “Data retention: “National security” is not a blank cheque” (European Digital Rights 2020a). In this court proceedings of PI, Liga voor Mensenrechten and LQDN, the EDPS was also invited to present his point of view. The data protection authority did so by referring to the issue of security. Before the CJEU made its decision, the EDPS (2019, 2) expressed his interpretation of article 6 of the EU charter: “The EDPS understands that this provision is intended to protect individual liberty and security against the State, not to guarantee it through the State.” The discussion thus started to develop an elementary character about the relation between state and security.

The actual jurisprudence of the European court was then only partially celebrated by NGOs. PI (2020b) titled “UK, French and Belgian mass surveillance regimes must respect privacy, even in the context of national security”, while LQDN (2020) was rather reluctant, calling the result of its *litigation* act a “victory in defeat”. This comment referred to the CJEU’s conceded possibility to retain data – following the principle of proportionality and the articles of the EU

Charter – in cases of “a serious threat to national security” (Court of Justice of the European Union 2020). The *litigation* acts of NGOs, however, led to further *contestation* as the conclusion (chapter ten) of this thesis will point out. The opposing positions driven by the *litigation* strategy of the London-based, French and Belgian NGOs are summarised in figure 20.

In summary, the acts of *litigation* in several cases led to increases in *contestation*. Although, the CJEU ruled multiple times on data retention and agreed with NGOs claims on privacy, necessity and proportionality – see for example the 2014 Digital rights ruling or the 2016 decision on Tele2/Watson – the *contestation* did not decrease. This is mainly due to the fact that member states adhere to their national laws. The complaints of PI, LQDN and Liga voor Mensenrechten rather contributed to a further increase in *contestation* than resulting in a situation of de-escalation. However, *contestation* increasingly disappears from the public sphere and moves into the realm of political actors. More precisely, it is taking place between data protection experts (NGOs, EDPS) and political elites (member states’ governments). The content of the debate also changed progressively. In 2020, it is characterised by an almost (political) philosophical debate about the definition of the state as a security provider.

Figure 20. Case 1 – Litigation: Opposing Positions on the EU DRD (2)

Right to privacy, repeal of national laws	**(National) security precludes EU law, terrorism as an exception**
NGOs (PI, LQDN, Liga voor Mensenrechten) EDPS	France (Belgium, UK)

Source: Own illustration. This is only a snippet of the conflict parties and the discussion.

This was the last strategy of NGOs to be examined in more depth in the context of the data retention case. In order to get a better overview of the findings of the first case study – especially in relation to the role of NGOs in politicisation – and to assess the case in the light of the subquestions of this thesis, an interim conclusion follows now.

6.3 Interim Conclusion

In the context of the first within-case analysis, NGOs role in politicising the EU data retention directive was scrutinised. This subchapter will consider the insights of the case study with reference to the partial research questions, that were presented in chapter 1 (introduction). The interim conclusion starts with responding to the first question, which focuses on the character of the role of NGOs. Then, it addresses the questions about NGOs' strategies. Afterwards, conclusions are drawn from the case study on the locations, the objects and conditions of politicisation. Before taking a closer look at these organisations, the most pressing question should be answered: Did NGOs play a role in politicising the EU data retention directive? This question can be answered unequivocally. The case study showed that NGOs indeed contributed to the politicisation of the legislative act and can even be labelled as *politiciser*.

The study of the 2006 adopted counter-terrorism policy emphasised the engagement of NGOs with a focus on digital and privacy rights. A noticeable observation regarding these politicising NGOs is, that they have their presence in either of the following EU member states: Belgium (EDRi), Austria (AK Vorrat AT), Germany (Digitalcourage), France (LQDN) and UK (PI, Statewatch). Thus, all NGOs are based in central and not South, Eastern or Baltic European member states. However, this image can be expanded by considering the *litigation* strategy of NGOs. In this context the engagement of NGOs in further member states – some being part of the 2004 enlargement of the EU – becomes also visible. Legally active NGOs had their presence in Ireland (DRi) and Czech Republic (IuRe). Moreover, a supporting role was overtaken by a Polish NGO (Panoptykon Foundation). In contrast to the before listed NGOs, these cannot be described as coordinating organisations. The NGO DRi for example never initiated a letter campaign at EU level or published a report on data retention.

Significant *addressees* for NGOs were the European Commission and the European Parliament. Regarding the Commission, NGOs directed their concerns to the DGs with a focus on home affairs, digital and justice matters. Next to the Commissioners who represent these issue areas, the First- and Vice-President were contacted by these organisations. Addressees in the EP were the President of this institution, the presidents of the political groups and MEPs (liberals, greens, left). Interestingly, NGOs only contacted the Council once, in the 2002 Global Internet Campaign. Afterwards, they only tried to establish direct contact via letter to Commissioners as well as parliamentarians.[148] Still, in the move of bringing cases to their respective national courts, NGOs stressed their goal of contacting the CJEU.

[148] See "Appendix 9. Case 1 – NGO actions categorised as *access*".

All three strategies – *voice*, *access*, *litigation* – could be identified in the case study. The *voice* strategy of NGOs was implemented by organising protests, demonstrations, petitions and the polling of (German) citizens as well as the distribution of confidential (leaked) EU documents. NGOs also contacted the public in publishing reports on data retention. The organisation's *access* strategy was defined by several letter campaigns. *Litigation* as a strategy was characterised by the introduction of proceedings before (constitutional) courts. In connection to these proceedings, civil rights defenders started crowdfunding campaigns and collected written support of citizens. Taken this information together, NGOs have not been afraid to spend large amounts of money (for example to initiate court proceedings) and human resources to organise demonstrations or other louder actions. Although the crowdfunding campaigns show that financial resources were not directly available. However, these strategies fostered politicisation to a different extend.

The *voice* strategy of NGOs had a greater impact on *mobilisation* and *contestation*. The protests, petitions and demonstrations did not culminate in a wider *awareness* of the issue in the EU media realm. The exception is the action of leaking. Due to this "noisy" action – the publication of a legal service document – the politicisation process started at EU level. The NGO Statewatch was responsible for this *politicisation move*. Before this move, NGO action was already visible, but only slightly recognised by the media and rather ignored by political actors. Statewatch's leak led to immediate reactions of political actors – e.g. the invitation of a roundtable event – and opened up the possibility for NGOs to discuss the issue on a larger scale. After the leak, media showed more interest in NGOs and their actions. The reports of NGO, which were directed to the public, had diverse effects. The "shadow evaluation report" of EDRi led to an increase of attention in the political (greens) as well as public (EU media outlets) venue and fostered the necessity debate around data retention. Other reports, like EDRi's data retention booklet or another one published by PI, had almost no impact on the recognition of the issue and did not trigger any debate. The survey conducted by AK Vorrat DE pointed to opposing positions among the public regarding the monitoring of telephone communication. It underlined one of the main arguments of the group, the right to confidentiality.

The *access* strategy turned out to be successful for raising *awareness*, *mobilisation* and *contestation*. Two letter campaigns had an immediate effect on politicisation. First, the letter campaign introduced by AK Vorrat DE during the Commission's evaluation of the directive (2010). Second, the "stopdataretention.eu" campaign (2017-2018). Due to NGOs letter campaign in 2010, a *politicisation boost* was recognisable in the EU institutional arena. The Commission reacted with an immediate response to the privacy groups' letter, which expressed a cooperation between digital rights organisations and professional groups (e.g.

lawyers, psychologists, journalists). The concerns of these stakeholders then sparked a debate on the necessity and effectiveness of the directive in the political realm. The EDPS as well as MEPs (ALDE and Green/EFA) joined the points of criticism of NGOs. The *politicisation boost* driven by the "stopdataretention.eu" campaign was lower compared to the situation in 2010. NGOs were able to raise attention for their claims mainly in French, German and some US-based IT blogs. The *mobilisation* took a different form than in 2010, since NGOs' main cooperation partners were not professional groups but businesses. The privacy organisations allied with an EU-funded Horizon 2020 project, that consisted of network community actors.

Litigation as a strategy most notably had the effect that the issue remained visible in the European Parliament. Due to the court proceeding initiated by DRi, MEPs again paid attention to the issue. Furthermore, a debate about the necessary character of the legislation emerged. Brussels news magazines were interested in the court cases but not in NGOs as plaintiffs. Rather, they paid attention to the CJEU as an institutional actor. *Mobilisation* became visible in those situations where NGOs gained support from citizens – either financially or by participation. This was the case in the member states Belgium, Czech Republic, Austria, and Germany. In the latter two, the support was at highest. Through NGOs *litigation* strategy *contestation* arose several times. Most recently (in 2020), this strategy caused a debate between political elites (government of France) and privacy experts (NGOs, EDPS) on the importance of the state as provider of security. In consequence, politicisation is still present, although to a far lesser extent. How strong NGOs appeared in the dimensions of politicisation (*awareness*, *mobilisation*, *contestation*) over the long term (2001-2020) is summarised by table 18.

NGO driven politicisation took place at diverse levels and in distinct arenas. At the EU institutional level, NGO actions led to a parliamentary debate (after the CJEU 2014 decision) and evolved in the context of the Commission's evaluation process. Hence, the institutional arena was affected. NGOs were only able to enter the EU media arena a few times to disseminate their position. Even movement in the protest arena at EU level was visible through EDRi's petition (2005) and the "stopdataretention" campaign (2018). The judicial arena at EU level was also addressed due to several NGO court proceedings (initiated by DRi, PI, LQDN, Liga voor Mensenrechten). In addition, politicisation was also prevalent at the global and national level. In 2002, NGO' *mobilisation* was visible through the Global Internet Campaign. At the national level, politicisation was particularly prevalent in Germany and Austria. An involvement of the media arena, the protest arena and the citizen arena became visible. At least in three member states (Germany, Austria and UK) public polls demonstrated citizens' dissatisfaction with the EU data retention plans. In Germany and Austria, the inclusion of the institutional arena also became apparent. At German level due to a minor interpellation of a

political group. The judicial arena was addressed in several member states (e.g. Belgium, the Netherlands, Czech Republic).

Table 18. Case 1 – NGO Strategies and Effects on Dimensions of Politicisation

Strategy	*Awareness*	*Mobilisation*	*Contestation*
Voice	**Medium:** Some in the EU media realm, high in the venue of IT blogs, green MEPs and in the EU institutional venue.	**High:** Support from citizenry – AT and DE – and internet infrastructure businesses, professional groups and unions, human rights organisations, German politicians – green, left, liberals, pirates – and the EDPS.	**High:** Opposing positions in the public realm on monitoring telephone communication and costs: NGOs, businesses, citizenry, greens vs EU institutions (COM, Council).
Access	**High:** In the EU institutional (COM) realm and venue of IT blogs.	**High:** Support from professional groups (mainly based at German national level) and internet infrastructure businesses (mainly based in the Netherlands).	**High:** Opposing positions in the venue of EU institutions on necessity and effectiveness of the directive: NGOs, businesses, data protection authorities (EDPS, Art. 29), MEPs (ALDE, Greens/EFA) vs EU institutions (COM, Council), agencies (Europol, Eurojust), member states' law enforcement.
Litigation	**Medium:** Court proceedings are recognised by EU media, but NGOs only hardly perceived as complaints. MEPs paid tribute to DRi's litigation act.	**High:** Financial support of citizens and by participation. Politicians (greens) as well as professional groups and unions at national level (AT, DE) backed up NGO's legal actions. Strong support among European net community.	**High:** Opposing positions in the public realm – AT and DE – on the lawfulness (constitutional character and proportionality) of the directive. Later between experts (NGOs and EDPS) and member states (France) in the legal realm on the function of the government as a security provider.

Source: Own illustration.

The first case was characterised by a politics, policy and polity politicisation. Hence, the three potential objects of politicisation highlighted by scholars are present. First, NGOs criticised that the Council intends to disregard the role of the EP in decision-making and stressed the need for a new Commission proposal under the first pillar (politics politicisation). Then the content of the DRD was highly politicised (policy politicisation). This becomes evident concerning the opposing points on the effectiveness and necessity of the directive. At least, the EU DRD became a symbol for a far greater debate, one focusing on the balances between (national) security and privacy. Thus, member states as provider of security were challenged (polity politicisation). This politicisation manifested itself in the debate on the interpretation of article 6 of the EU Charta. Interestingly, the French government responded with a polity politicisation as well. The member state challenged the CJEU's competences and the institution's role in European security.

Factors that were conductive for NGO politicisation in this first case, were the issue of mass data retention as well as the cultural context of certain member states (Germany, Austria, UK and France). It also seems that the participation of newly founded NGOs triggered politicisation. They were invited by political actors and institutions. Trigger events seem to have an effect on the political discussions and the pace of policy-making but did not directly lead to an increase in the involvement NGOs' work. That the issue was debated as a directive, did result in politicisation at national as well as EU level.

Data retention is an issue that is being discussed over a period of more than twenty years. As additional information demonstrated, the issue is still pending in 2021 after various court decisions. Member states are holding on to data retention for reasons of national security. The Commission is neither implementing infringement proceedings, which were demanded by NGOs, nor has it published a new proposal for a further EU legislation on data retention.[149] The latter being a claim of member states. The next chapter focuses on a policy that raises parallels to the one examined in this part of the thesis: The EU Passenger Name Record directive. Like the before studied directive, the policy concentrates storing data without a concrete suspicion. Hence, it is a directive that also handles bulk data retention. This time, however, as the title of the directive indicates, not the communication data of EU citizens is collected but the data of those who book a flight to travel by airplane. It seems reasonable to assume that politicisation evolves in a similar way. Chapter 7 will show whether this initial impression can be confirmed.

[149] Commission official (1&2) stated that the institution is "aware of the sensitivity of the topic".

7 The EU Passenger Name Record (PNR) Directive

The EU PNR directive was quickly adopted in the aftermath of the 2015 Paris terrorist attacks. The debate around the legislation increased shortly after the devastating events affecting the satirical magazine Charlie Hebdo. As was already highlighted in the last within-case analysis, the two issues data retention and PNR are closely connected. This is due to the circumstance that the CJEU decided on the future of the EU data retention law in 2014. NGOs' selection of arguments indicates a close connection to the former examined policy. A main point of these groups against the EU PNR directive is "(mass) data retention". Historically, the two legislative acts face some parallels, too. Such as data retention, the issue of PNR evolved at the EU level after the 9/11 attacks. In contrast to the data retention directive, the PNR issue exists in further formats: The EU-US PNR agreement, the EU-Australia PNR agreement, the EU-Canada PNR agreement – to list a few. The international agreements all have in common that they increased reluctance by MEPs and data protection authorities in Europe. In addition to that the debate around the PNR directive was sometimes affected or in some cases even stopped by discussions on these foreign security pacts. Hence, the time of origin of these agreements will be included in the "Chronological Overview" (chapter 7.1). Before going into the history of the legislation, the content of the EU PNR directive is reviewed. Afterwards the subchapter on the analysis of NGOs contribution in the (potential) politicisation follows. This within-case analysis is structured as the one presented before (see chapter 6.2).

What is the directive about?

The directive regulates the retention and exchange of traveller's data in the European Union. It requires airline companies to transfer data that is already stored by these firms – e.g. for billing purposes – to member states' law enforcement authorities. The collection of this data is restricted to the "purposes of preventing, detecting, investigating and prosecuting terrorist offences and serious crime" (Official Journal of the European Union 2016, Art.1.2, 137). In the same vein, the directive entails provisions for the protection of basic rights, like the right to privacy. In this regard the preamble refers to the CJEU 2014 ruling on data retention and stresses the importance of the respect of fundamental rights and certain principles such as proportionality (Official Journal of the European Union 2016, 134).

The aim of the directive is "to ensure security, to protect the life and safety of persons, and to create a legal framework for the protection of PNR data with regard to their processing by competent authorities" (Official Journal of the European Union 2016, 132). The directive's preamble links to the exchange of advance passenger information (API), that is already

determined in a Council directive of 2004.[150] The PNR directive advises air carriers to pass this kind of data forward if these companies not already doing so. While PNR data is more extensive than API, as will be demonstrated in the next paragraph, it does not cover identity documents. Information like the identity card number is retained under the label API by the EU. The preamble of the PNR directive illustrates why the EU institutions think that API is not sufficient for law enforcement investigations: “The use of PNR data together with API data has added value in assisting Member States in verifying the identity of an individual, thus reinforcing the law enforcement value of that result and minimising the risk of carrying out checks and investigations on innocent people” (Official Journal of the European Union 2016, 133).

The term PNR covers a whole range of data. The directive’s annex lists 19 different kinds of information that are collected by air carriers for business reasons. The list contains information such as personal contact details, dates of the passenger’s journey, the name of the flight guest’s travel agency, the passenger’s amount of luggage or where this person was seated during the flight (Official Journal of the European Union 2016, 148). A passenger’s record is created when a flight reservation is made. The introduction of the law stresses that “[s]uch a list should not be based on a person’s race or ethnic origin, religion or belief, political or any other opinion, trade union membership, health, sexual life or sexual orientation” (Official Journal of the European Union 2016, 133). In this context, the difference between extra-EU flights and intra-EU flights is important to highlight. First and foremost, the directive covers extra-EU flights, i.e. flights that take place between a member state and a third state. It is however also possible for member states to advice air carriers to transfer PNR data from intra-EU flights. The exchange of intra-EU flights passenger data, collected by air carriers in flights taking part between one member state and another member state, is only allowed with a statement directed to the Commission. Article 2 of the directive stresses “If a Member State decides to apply this Directive to intra-EU flights, it shall notify the Commission in writing” (Official Journal of the European Union 2016, 137). A further exception set in the directive was the transfer of PNR data to third states. this was permitted, albeit on a “case-by-case basis” and with authority oversight (Official Journal of the European Union 2016, 142). In contrast, the transfer of passenger information to Europol and an exchange of those data between member states is explicitly required by the directive (Official Journal of the European Union 2016, 134).

The law obliges air carriers to “push” (Official Journal of the European Union 2016, 133) this data forward to member states’ law enforcement authorities. Hence, the transfer should

[150] See Official Journal of the European Union (2004).

proceed automatically, without a special request from the authorities. To facilitate this process and to analyse the received PNR data, each member state is advised to establish a passenger information unit (PIU) (Official Journal of the European Union 2016, Art. 4, 138). This PIU can be located in an already existing authority within a member state or a newly established entity. It is also possible for member states to share a PIU. Each PIU has a data protection officer in place, who oversees among others the lawfulness of retained data and decides in cases of non-compliance to refer it to a further national authority (Official Journal of the European Union 2016, 139). This person is also notified in the case that PNR data is exchanged with a third state (Official Journal of the European Union 2016, 142). Passenger information is retained for five years within a PIU. After the first six months, the PIU's staff is responsible for eliminating all personal information of a record (Official Journal of the European Union 2016, 136). In the case that air companies do not fulfil their duty of passing data forward, member states are able to raise a lump sum (Official Journal of the European Union 2016, 144).

Member states are encouraged to transpose the directive until the end of May 2018 (Official Journal of the European Union 2016, 144). According to Article 19, it is envisaged that the Commission should conduct a review of the directive by the end of 2020. The text does not exclude the possibility that this review could result into a reform of the directive, which then falls under the Commissions responsibility. To support the Commission in the review process, member states are asked to transfer statistical data to the institution.

7.1 Chronological Overview of the Political Process (2001-2020)

The idea to implement a European PNR scheme attracted actual interest among member states and EU institutions in 2003. In this year, the Kingdom of Spain tabled a proposal for a Council directive obliging airlines to exchange data of travellers who entered member states' soil with law enforcement authorities. Above that, the Commission (2003b) uttered its support in a subsequent communication "Transfer of Air Passenger Name Record (PNR) Data: A Global EU Approach", favouring the launch of an EU-wide PNR scheme. The content of the Spanish proposal was not uncontested among member states. While it was introduced with the intent to tackle "illegal immigration effectively" (Council of the European Union 2003a, 2), some member states – like the UK – suggested to implement the law with a focus on (counter-)terrorism (Council of the European Union 2003b). In the directive's formulation phase, member states wavered between the purpose of collecting data only from third-country nationals or including the data of all people traveling into the EU. In the end, they selected the latter option. The result of these discussions was the Council directive 2004/82/EC (Official Journal of the European Union 2004), which was officially adopted in April 2004 after the Madrid bombings and comprised the forwarding of API data by airlines to member states' entities. Moreover, the Commission started to work on a proposal for an EU PNR approach.

In 2005, the matter was pushed in two different ways. First, head of states called on the Commission to table a proposal for an EU PNR system. They expressed their opinion in the Hague Programme: "In this context the European Council recalls its invitation to the Commission to bring forward a proposal for a common EU approach to the use of passengers data for border and aviation security and other law enforcement purposes" (Official Journal of the European Union 2005, 8).

Second, an EU-US PNR agreement was on its way to be adopted. However, this was not without criticism from MEPs, who argued due to data protection concerns relentlessly against this international pact. The agreement between the two states on the transfer of PNR data was adopted in 2006 and then annulled a year later by the CJEU. The criticism of the MEPs was transformed in a complaint before the European court, which decided to repeal the EU-US understanding.[151] The MEPs were right about the data protection risks. Another reason was the incorrect legal basis, which later became a major argument in Ireland's case against the DRD. In 2007, the same year of the CJEU's decision on the agreement, the Commission published a Council framework decision on PNR. This was a response to the Hague Programme statement and to member states' first attempts to test PNR schemes within their

[151] The background of this history is explained in greater detail in chapter 5.2.4, which highlights the EU-US PNR agreements role for the Parliament's interinstitutional standing.

own territory. In 2008, information got public that the Netherlands and the United Kingdom has already carried out “pilot projects” (Goldirova 2008) in connection with the collection of passenger data. However, the efforts of the member states were stopped by the parliament, as it refused to vote on the Commission’s proposal. A year after this rejection, a new request from the European Council followed. This time the Commission’s task to formulate and introduce a new EU PNR proposal was embedded in the Stockholm Programme. The former version of the proposal was no longer up to date. The preamble of the 2016 PNR directive covers the situation as follows: “upon entry into force of the Treaty of Lisbon on 1 December 2009, the Commission proposal, which had not been adopted by the Council by that date, became obsolete” (Official Journal of the European Union 2016, 132). Although, the Commission published a new proposal in 2011, this should not remain the last call from the European Council on this matter. The UK – next to France and Denmark – supported the idea of a second Commission proposal and saw it as an opportunity to harmonise the transmission of PNR data within the EU. Later, in 2014, the debate on (internal) PNR data exchange even increased a disagreement between UK and Germany. Since the latter positioned itself against the recording of traveller’s data, due to the EU’s principle of freedom of movement, UK warned that it would implement a ban, disallowing German airlines to land on British soil (Nielsen 2014b). However, before this debate arose, several other events took place.

The year 2011 was concluded with the adoption of an EU-Australia PNR agreement. A further external PNR exchange was finalised in 2012. The EU and US negotiated a second agreement, which was then accepted by the EP. While a solution for the EU-US agreement was found, the EP’s position did not change with regard to the idea of having an EU PNR scheme. In 2013, the LIBE Committee rejected the second Commission proposal. However, the discussion took a different direction after the January 2015 Paris terrorist attacks. The media declared a “French U-turn on PNR” was at hand: “In France on Tuesday, Manuel Valls called for the European Parliament to vote in favour of an EU-wide PNR system. […] The Prime Minister received a stirring round of applause from French MPs, despite performing a U-turn on his previous position” (EURACTIV.com 2015).[152]

The change in position was not only expressed in the national realm, but also echoed at the EU level. Due to the insistence of the French MEP and former French Minister of Justice, Rachida Dati (EPP) the EP adopted a resolution, supporting the future of PNR in Europe.[153] In sum, after the events in 2015 the situation took a 180 degree turn. While six months earlier there was still no agreement between the EP and the Council forthcoming, and the European

[152] In contrast, scholars rather made the German conservative pressure responsible for this shift of opinion (Servent and MacKenzie 2017).
[153] See chapter 5.2.4 for more details.

Council did not feel compelled to make another call for the adoption of the Commission's proposal, there was now a decisive change. However, what took also place in 2014, and had direct effects on the negotiations between EP and Council, was the CJEU ruling on data retention and the MEPs action to refer the EU-Canada agreement to the CJEU. The deal was not yet finalised, but MEPs wanted to check the data protection standards before its official adoption. Therefore, it was kind of surprising that the LIBE Committee adopted the proposal for a PNR directive with 32 votes in favour and 27 against by the end of 2015 (European Parliament 2016a).

The process of the law's adoption was sluggish. A turf battle between the Parliament and the Council on the GDPR caused delays regarding the EP's vote on the directive.[154] The official vote on the PNR directive eventually took place in April 2016 a few weeks after the Brussels bombings. The legislation was adopted with 461 votes in favour, 179 against and nine abstentions (European Parliament 2016a). The main drivers of the vote were the christian-democrats, socialists, liberals as well as the European Conservatives and Reformists (ECR) (see table 19 below). MEP Timothy Kirkhope, the rapporteur on the PNR law, welcomed the decision and stressed (European Parliament 2016d):

> 'We have adopted an important new tool for fighting terrorists and traffickers. By collecting, sharing and analysing PNR information our intelligence agencies can detect patterns of suspicious behaviour to be followed up. PNR is not a silver bullet, but countries that have national PNR systems have shown time and again that it is highly effective'

The British member of ECR group overtook the position as the EP's negotiator in 2011. Hence, he also fulfilled this job when the LIBE Committee voted against the Commission proposal in 2013. The Council adopted the law with 27 member states voting in favour and Denmark abstaining from the vote (Council of the European Union 2016a). While Denmark decided to opt-out on this matter, the UK and Ireland made use of their opt-in choice (Council of the European Union 2016a).[155] In 2017, Denmark introduced its own PNR system. In contrast to the EU PNR directive, the Danish law was developed as an illegal immigration instead of a counter-terrorism tool (European Digital Rights 2014a). In the same year, the CJEU ruled against the EU-Canada PNR agreement. The European court argued: "Although the systematic transfer, retention and use of all passenger data are, in essence, permissible, several provisions of the draft agreement do not meet requirements stemming from the fundamental rights of the European Union" (Court of Justice of the European Union 2017).

[154] MEPs of the liberals, greens, lefts and socialists rejected the proposal of the EPP and ECR groups to vote on the PNR law due to their fear, member states would then refuse to agree to the data package (Barbière 2016).
[155] These member states negotiated the possibility to withdraw from JHA matters with the EU. Hence, it is not obligatory for them to participate in the approval of the PNR directive.

Table 19. Results of European Parliament Vote on the EU PNR Directive

Political group	In favour	Against	Abstention
Total	*461*	*179*	*9*
ALDE	48	14	2
EPP	185		
Greens/EFA		45	
GUE/NGL		46	
ECR	64	1	
NI	4	7	2
S&D	152	23	3
ENF	4	28	2
EFDD	4	15	

Source: Own illustration based on European Parliament (2016c). Displays the number of MEPs, who voted in favour and against the data retention directive as well as abstained.

The PNR directive is currently transposed in most member states. In 2018, the Commission introduced an infringement procedure against Spain and took the state two years later to the CJEU, since it failed to transpose the directive (European Commission 2020e). Shortly after the directive's transposition deadline expired, 24 member states declared to include the processing of intra-EU flights. Among these states were France, Belgium, Germany and the UK (European Commission 2018c). In 2020, the review process of the European Commission is ongoing, unifying insights on the usefulness as well as effectiveness of PNR data from law enforcement practitioners, NGOs and air carriers. A summary of the main events is given by figure 21.

In the next subchapter, one will see that these opinions greatly differ and that actors disagree on the future of the directive. In addition, conflicting positions become visible in the analysis of the dimension *contestation*. In the next step, the contribution of NGOs in politicisation will be analysed.

Figure 21. Timeline of the EU PNR Directive (2001-2020)

	2001	2003	2004	2005	2006	2007	2011	2012	2014	2015	2016	2017
Terrorist attacks	9/11		Madrid train bombing (March)	London terror attack (Jul)						Paris terror attacks (Jan/ Nov)	Brussels bombings (March)	
Legislative acts		Proposal for API directive	Adoption of API directive		Adoption of 1st EU-US PNR agreement (AG)	Proposal for a Council framework decision on EU PNR (Nov)	Proposal for an EU PNR directive (Feb)	EU-Australia PNR AG & 2nd EU-US PNR AG	EU-Canada PNR AG		Official publication of EU PNR directive (May)	
CJEU decisions						CJEU withdraws EU-US PNR agreement			Ruling on EU DRD			Objection against EU-Canada PNR AG

Source: Own illustration based on analysis of case.

7.2 Analysis of the Contribution of NGOs in the Politicisation Process

This subchapter constitutes the heart of the analysis of the PNR directive. The relationship between the NGOs strategies and the (potential) occurrence of politicisation process(es) will be examined in detail. To analyse how these actions fostered politicisation, an overview of NGO's participation is given first. Hence, it is demonstrated which NGOs were the main players in this case. Thereafter, the appearance of three NGO strategies – *voice*, *access*, *litigation* – is examined. It is scrutinised if these strategies – or possibly a combination of these strategies – contributed to a politicisation of this specific counter-terrorism policy.

7.2.1 Participation of NGOs

Looking at the policy process of the PNR directive, the thesis differentiates between main NGO players and NGOs as supporting actors. EDRi and Statewatch can be described as one of the main players in this second case. Statewatch was already active in contesting the collection of traveller's data at the beginning of the early 2000s. On the NGO's website, one can find a large database on the PNR subject, which started in 2003 and is still regularly updated. This so-called "observatory" of PNR legislations in Europe gives two different insights. On the one side, the importance of the issue for Statewatch is demonstrated since the NGO dedicated a whole collection of information to it – that covers by the time of writing this thesis almost 20 years. On the other side, it underlines the NGO's self-perception as a "monitor" or rather "watch dog" of state activities in Europe. In contrast to Statewatch, the Brussels-based NGO EDRi started to focus on the issue only at the time of the Commission's publication of the second PNR proposal (2011) and after the EP adopted the EU-US PNR agreement. Especially the second action seems to be a matter for NGOs' increased involvement in the policy process. EDRi's first reaction was a letter directed to the LIBE Committee with the recommendation to reject the second PNR proposal (European Digital Rights n.d.e). A campaign against the EU PNR scheme was launched in 2014 by the umbrella organisation, when the member states' attitudes – especially Germany's position – towards the policy proposal started to change. The participation of EDRi in the policy process became even more apparent, when the EP decided to vote on the matter until the end of 2015. Consequently, while Statewatch was more active in the agenda setting phase, EDRi increased its actions in the state of policy formulation and adoption. The German NGO digiges started such as EDRi public actions against PNR at the time of the second proposal's publication. A staff member of digiges launched a "NoPNR" campaign, which in the following served not only as a label for a political but also legal NGO movement. As will be demonstrated later, three national NGOs are present in the case study as litigators. Their activities started in the implementation phase of the directive. The LDH (not

a member of EDRi) brought its case before the Belgian constitutional court not long after the directive's adoption. The NGO already gained experience in challenging the matter of PNR since it brought a case against the realisation of the EU-US agreement before the Belgian constitutional court in 2010 (EURACTIV.com 2010).[156] The German NGO GFF and the Austrian NGO epicenter.works, the latter already known to the reader from the data retention case, build an alliance regarding the act of *litigation*. While each of the three NGOs' actions started at national level, their cases are pending in 2021 before the CJEU. Supporting actors were the German AK Vorrat, the Brussels-based NGO Access Now, the Panoptykon Foundation and the German NGO Digitalcourage. Access Now Europe and the Polish Panoptykon Foundation helped EDRi in its action to get in contact with MEPs, convincing them to vote against the processing of traveller's data.[157] Now, it is studied if and how other NGO actions connected to the three distinct strategies – *voice*, *access*, *litigation* – fostered a process of politicisation.

7.2.2 Connection of NGO Strategies and Dimensions of Politicisation

This section concentrates on a two-step approach to assess what role NGOs played in politicising the EU PNR directive. In a first step, it is analysed how NGOs used a certain strategy – be it *voice*, *access* or *litigation*. Then, in a second step, it is examined how the respective strategy had an impact on the three dimensions of politicisation: *awareness*, *mobilisation* and *contestation*. The interim conclusion, highlights whether NGOs contributed to the politicisation process and if yes, which strategy – or even combination of strategies – fostered politicisation at the EU level. The structure of the subchapters is based on the NGO strategies. The analysis starts with the examination of NGOs' *voice* strategy. And continues with *access* and *litigation* activities of these organisations.

7.2.2.1 Voice

In this case, NGO activities relied heavily on the strategy of *voice*. "Louder" actions of NGOs that were present in connection with the PNR directive were the leaking of documents, email

[156] See further information from the FRA (2011, 61; emphasis in the original): "Fundamental rights concerns have also arisen in relation to international agreements on the exchange of PNR data. On 1 March 2010, a Belgian human rights NGO (*Ligue des Droits de L´Homme*) brought a case before the constitutional court of Belgium claiming that the domestic legislation of 30 November 2009, which implemented the 2007 EU-US PNR Agreement, violated data protection standards."

[157] In 2015, EDRi joined forces with the European Association for the Defense of Human Rights (AEDH), but only for a short period of time. The activism of the human rights NGO finished as soon as the directive was officially adopted by the EU institutions. Their cooperation also rather focused on the directive on combating terrorism than on PNR. The issue of PNR was addressed due to its placement in this directive and not in the context of the planned EU PNR scheme. To avoid contentual overlaps, this cooperation is excluded from the analysis. It can be mentioned that outputs of the cooperation with EDRi and AEDH were examined but had no visible effect on politicisation.

and telephone campaigns, action days, protests and statements directed to the press. Above that, a video and a postcard campaign were also organised by NGOs to prevent MEPs from voting in favour of the directive. This section will look at these actions in detail.

The main campaign against the EU PNR directive was launched by the German NGO digiges. One of the group members, Alexander Sander[158], founded the NoPNR campaign in 2013. A first appearance of the campaign was visible on the facebook website of digies. In general, the campaign's slogan was also used for social media of communication of NGOs by combinig it with a hashtag. Especially on twitter, these groups link their public statements as well as actions regarding the directive to #NoPNR. Moreover, a website was introduced by epicenter.works and GFF under the link "https://nopnr.eu". On this website, one can find information on the history of PNR in Europe, a description of what this specific record contains and more recently all facts about the acts of *litigation* introduced by the two NGOs. This leads to a point, that is later considered and discussed in more detail: The strategies *voice* and *litigation* are closely intertwined in this case. Taken together, the NoPNR campaign was used as a kind of framework for further actions and smaller campaigns. The organisation digiges also launched a postcard and video campaign under the name of NoPNR. The postcard campaign was the result of a cooperation between digiges and EDRi. On the website "indiegogo" the two NGOs initiated a call to get financial aid for this campaign. Their goal was to send as many postcards as possible to MEPs before the parliament vote in 2016. The message directed to potential donors was clearly formulated: "**We want to tell them [MEPs] why this proposal will not bring more security, but it will involve massive and expensive surveillance and profiling of all air travellers!** To make this happen, we want to raise 2 000 euro to print and send these postcards" (Indiegogo n.d.; emphasis in the original). The video campaign by digiges was also organised with the purpose to involve the (German) citizenry. It was started in January 2016 on the website of digiges and on social media platforms. In this regard YouTube was used as a medium to distribute the videos of NGO members (Dachwitz 2016). In sum, it can be described as a "join-in" type of action.[159] Another action matching this characteristic, is the introduction of a "last-minute" telephone campaign by digiges (Steven 2016). The NGO provided a description on its website how citizens can call their MEPs – without costs – and advised them to vote "no" in the parliamentary voting (Steven 2016). Besides that, a series of protests taking place at different German airports were organised. Main initiator behind this action was digiges, who was for example responsible for a protest at the airport Berlin Tegel (A. Sander 2015). In addition, EDRi tried to gain public attention by expressing their opinion on the PNR project in a rather sarcastic way. They nominated the EU

[158] Alexander Sander is a former staff member of digiges and observing member of EDRi.
[159] "Join in" in this context means that citizens or other activists could jump in and participate easily.

measure for the 2015 Brussels “Big Brother Awards” (European Digital Rights 2015b). This was not the first “noisy” reaction by this NGO. In 2012, it made its position considering the EU PNR system already public in a “surveillance booklet” (Mcnamee et al.).[160] Among other things, the booklet informed the general citizenry on the consequences of the directive’s adoption.[161]

A further very present action – belonging to the strategy of *voice* – was the re-publication or leaking of documents. The main NGO representative of this action was Statewatch. At different times during the history of the PNR political process Statewatch leaked documents that revealed for example Council discussions or the stance of the Commission. The NGO’s leaks covered for example the second Commission’s proposal for an EU PNR directive and the institution’s invitation of member states to reconsider negotiations with the Parliament after the 2015 Paris attacks, captured in the document “EU PNR – the way forward” (Statewatch 2015a). Moreover, Statewatch brought compromise documents of trilogue negotiations[162] and the member states’ intention to collect and process data of train passengers to the public light. The NGO also re-published the Commission’s funding of national PNR schemes. In addition, a Statewatch analysis was dedicated to the Commission’s proposal. The report illustrates discussions between member states on EU PNR, that partly took place behind closed doors, and the NGO’s arguments against the project (Hynes 2011).

As addressed earlier, the action of *litigation* was somewhat connected to the *voice* strategies of NGOs. This becomes again evident through the organisation of two parallel press conferences taking place in Germany and Austria. In Germany the GFF was initiator of the event. In Austria, it was organised by epicenter.works. Both NGOs announced their cooperation and decision to challenge the directive legally before the CJEU – this was at least their stated goal – in two distinct press conferences, informing the public about their legal moves. This activity will however not be analysed under *voice* but further examined when it comes to the consideration of NGOs’ legal actions. The press conference was only a first step in the NGOs’ plan of “strategic litigation” (epicenter.works 2019b). The analysis below starts with the dimension *awareness* before it turns to *mobilisation* and *contestation* in this second case.

[160] “The purpose of this booklet is to briefly outline current EU surveillance and security measures in order to give an insight into their scale and cumulative effect” (Mcnamee et al.).
[161] This statement shows that the wider public (lay people) is addressed by the booklet: “Imagine, for instance, that you need to fly to another country. […] When buying a flight ticket, under the proposed Passenger Name Record (PNR) Directive and bilateral agreements, data ranging from credit card details to what you have chose [sic!] to have for lunch are stored, communicated nationally and internationally and automatically processed in order to profile citizens as possible terrorists or people-traffickers” (Mcnamee et al., 3).
[162] In this regard it distributed a leak that was made public by Politico (Statewatch 2015b).

Awareness

First, the effects of the NGOs *voice* actions on the dimension of *awareness* are considered. Before looking at the reception of NGOs in EU media outlets, it is important to highlight how the issue of the EU PNR directive was reflected in the realm of Brussel's media in general. Over the period of 2001-2020, the introduction of an EU PNR scheme was mentioned in 209 articles (a more detailed description is at hand in table 20). An increasing attention was visible since 2007. However, a real peak in media reporting on the topic is visible in 2015. While in 2014 news outlets concentrated on the EU PNR topic in 15 articles, the reporting widened in 2015 with 94 articles discussing the issue. These developments are covered by figure 22, which explicitly illustrates this peak in media reporting.

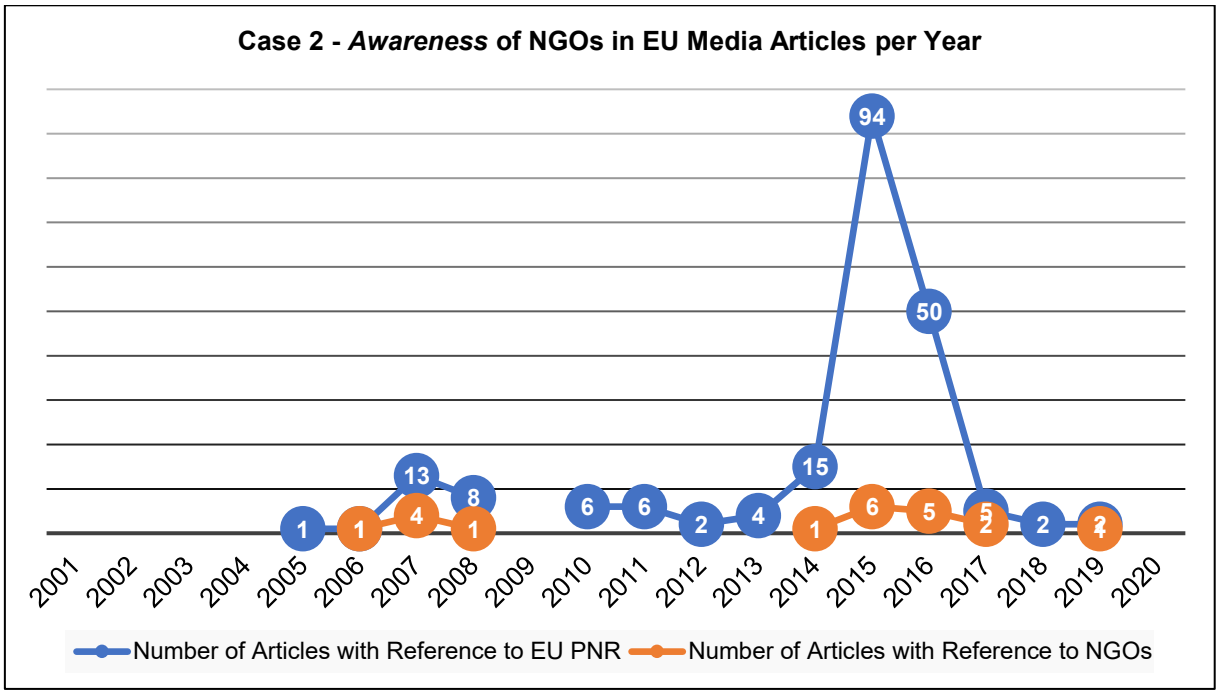
Table 20. Case 2 – Reference to the EU PNR Directive in EU Media Outlets (2001-2020)

EUobserver	EURACTIV	Politico Europe	The Parliament Magazine	In total
84	55	57	12	208

Source: Own illustration based on qualitative (online) media outlet analysis.

The term NGO is used six times in EU news articles. Moreover, these articles refer to civil rights groups or civil liberty groups in eight cases and speak of civil rights or civil liberty defenders in nine articles. The label "privacy activists" is used in one article by Euractiv (Stupp 2016). Nevertheless, it is important to stress that not in all articles which refer to civil liberty/rights defenders the connection to NGOs or their staff becomes clear. The NGO scene studied in the context of the thesis can in some of these articles – using those broader terms – only hardly be identified. These listed labels could for example also cover politicians. This is why the timeline (figure 22) only refers to NGOs that were mentioned by name. However, the inclusion of those broader terms in the analysis would not have changed the overall result. Either way, it can be said that media reception of NGOs was very low. The number of NGOs mentioned by name is 24. In total, 21 different documents referred to the NGOs' positions and actions. How this reporting on NGOs evolved over the years, is covered by figure 22. The graphic visually underlines the fact that NGOs have received very little attention from the EU media. A peak in mentioning NGOs by name can only be seen in 2007, when the first Commission proposal was published and in the time of the policy formulation as well as adoption phase between 2015 and 2016.

Figure 22. Case 2 – Timeline: Mentioning of NGOs in EU Media Articles per Year (2001-2020)



Source: Own illustration based on qualitative (online) media outlet analysis (EUobserver, EURACTIV, Politico Europe, The Parliament Magazine). The figure only refers to the number of articles (21) that explicitly mentioned NGOs by name.

EDRi and Statewatch are the most recognised actors of the NGO scene. Only little attention is given to Access Now and AK Vorrat DE. Surprisingly, EDRi-member Bits of Freedom was given the platform to comment on the Commission's proposal in one article. The group was however not actively engaged in actions against the PNR directive as the subchapter on participation (7.2.1) demonstrated. Table 21 summarises the mentioning of NGOs (by name) by EU media outlet articles. It illustrates as well that Euractiv is the outlet that concentrates the most on NGOs' opinion with 12 direct references. Then, EUobsever follows wit mentioning NGOs in 9 times in 8 articles. Almost non-visible are NGOs in Politico Europe and The Parliament Magazine.

Table 21. Case 2 – Mentioning of NGOs by EU Media Outlet Articles (2001-2020)

Name of NGO / EU Media Outlets	EDRi	Statewatch	digiges	LDH	epicenter.works	GFF	Access Now	AK Vorrat DE	Bits of Freedom	In total (by media outlet):
EUobserver	2	7 (6)	-	-	-	-	-	-	-	9 (8)
EURACTIV	5	4 (3)	-	-	-	-	1	1	-	12 (11)
Politico Europe	-	1	-	-	-	-	-	-	1	2
The Parliament Magazine	-	-	-	-	-	-	1	-	-	1
In total (by NGO):	7	12 (10)	0	0	0	0	2	1	1	**24 (22)**

Source: Own illustration based on qualitative (online) media outlet analysis (EUobserver, EURACTIV, Politico Europe, The Parliament Magazine). The total number of articles in which NGOs are mentioned is displayed in brackets. In some cases, NGOs are mentioned several times in one and the same article, which is why the number deviates from the total number of named NGOs.

Analysing the presence of *voice* activities in EU media outlets of NGOs, does not lead to many new insights. The only actions linked to the strategy of *voice* that were mentioned by EU news were two leaks of Statewatch (see table 22). Both leaks referred to member state's intention to collect other travel data besides the one generated by booking and taking a flight. These two leaks are covered by one article "EU May Extend 'Passenger Name Records' To Rail And Sea" published by Eurobserver (Teffer 2019a). In sum, it can be stated that NGO's media reception was low or to put in a different way, their view and engagement was hardly noticeable in Brussel's news reporting. Hence, *voice* activities did not foster politicisation in this arena. There was little interest in hearing the views of EU citizens on the issue. Only one Eurobarometer poll focused on the issue in detail (European Commission 2008a).

Table 22. Case 2 – Reference to NGOs' Voice Activities in EU Media Outlets per Article (2007-2020)

The kind of NGO action mentioned	**Number of NGO action mentioned by media articles**
Leaks	2
NGO document added as source	1
Number of NGO *voice* activities mentioned in total: 3	

Source: Own illustration based on qualitative (online) media outlet analysis (EUobserver, EURACTIV, Politico Europe, The Parliament Magazine).

The politicisation process was initiated by a *move* of the NGO Statewatch in January 2013. With the re-publication of the information "Commission makes €50 million available for the development of 'big brother' PNR databases - before legislation has even been agreed" (Statewatch 2013) the civil rights watchdog triggered reactions of several actors from the political realm. Martin Ehrenhauser and Alexander Alvaro both responded by addressing a parliamentary question to the Commission. The Austrian non-party MEP Ehrenhauser

(European Parliament 2013b) asked: “How does the Commission respond to the charge of going over the heads of the European Parliament and the Council by creating a fait accompli even though no decision concerning EU PNR has yet been taken?” His liberal colleague Alvaro (European Parliament 2013c) addressed the Commission with a similar question: “Is the Commission aware of the fact that its role under the Treaties is to propose legislation and not to present the legislative bodies with a fait accompli?” Interestingly, the two politicians used the same expression as Statewatch, who first reported on the Commission’s behaviour as a “fait accompli” (Statewatch 2013). A leaked letter from the Commission demonstrated that Ehrenhauser and Alvaro were not the only MEPs contacting the EU institution after the blog article was published. The chairman of the LIBE Committee, Spanish MEP Juan Fernando López Aguilar, drafted a letter to the Commission, requesting further details on the issue and an explanation of the funding. In a further blog article Statewatch (2014) covered this (re-)action as “confusion” in the EP. Commissioner Malmström’s statement was then sent to the LIBE Committee in March 2013. In her letter, the Commissioner called for a rapid adoption of the directive (Cecilia Malmström, European Commissioner for Home Affairs 2013). The discussion on the Commission’s funding however partly ended with the rejection of the PNR proposal by the LIBE Committee in April 2013. Three interviewees emphasised that Statewatch’s re-publication of the document was not the reason for the rejection of the proposal by the Committee’s members, but increasingly helped to focus MEP’s attention on the issue of PNR in general and the funding of PNR projects by the Commission in specific.[163]

Then again, it was Statewatch (2014) who raised the topic a year later by publishing a second leak in its article “Travel surveillance: by the back door”. The leak itself was not directly addressed by any actor. Nevertheless, the content of the leak was discussed in several articles published by EUobserver and Politico.[164] These news outlets however did not mention the NGO in this context. Although, one of the articles by EUobserver was only published a month after Statewatch distributed the leaked document and the title “EU funds airline data-sharing despite legal concerns” (Nielsen 2014a) linked to the main criticism of the NGO. A real connection between the publication of the leak and the writing of this article cannot be established. Later, in 2015, Statewatch’s blog articles covering the leak served as primary sources in four distinct texts reporting on the EU PNR directive’s political (and historical) process. The Airport Technology (Grey 2015), the Register (J. Baker 2015), a briefing of Jan-Philipp Albrecht (2015a) as well as a briefing of the European Parliament Research Service (Bąkowski and Voronova 2015) included Statewatch’s leaks as evidence for the Commission’s

[163] Interview with NGO staff (8), NGO staff (14) and Council official (2). Council official (2) said that the leak led to “turmoil” in the EP.
[164] See for example Keating (January 22, 2015).

activity during the formulation stage. However, the NGO did not stop at two attempts to make the issue accessible to the European public.

In 2016, shortly before the parliamentary vote, Statewatch drew attention to the topic by sharing the funding structure behind the directive. It published a Council document, that illustrated the benefits of the Passenger Name Record Data Exchange Pilot project. The project, which was supported by the Commission and the Ministry of Hungary, intended to practice traveller's data exchange across member states' borders, i.e. between national PIUs (Statewatch 2016). The *awareness* of the leak was not enormously higher compared to the two described before, but this time, the audience that responded to the leak was more diverse. Personals and groups from the political and public venue reacted. A few German news outlets and blogs reported on the issue. The German Zeit Online (Beuth 2016) as well as the tech-blogs Netzpolitik.org (Reuter 2016a, 2016b) and heise online (Krempl 2016) each published articles. In addition to that, MEP Sophie in't Veld raised the topic in a parliamentary question. Among others, she asked the Commission: "Can the Commission inform Parliament about the implementation of the fund of EUR 50 million earmarked for the set-up of PNR systems, and of the follow-up fund on the interconnectivity of PNR systems, in terms of uptake by the Member States, the procurement procedures, the actual spending and the progress in the creation of the national PNR systems?" (European Parliament 2016b).

As highlighted earlier, the NGO not only leaked documents on the Commission's funding, but also the document "EU PNR – the way forward", information of trialogue negotiations and on the possible extension of the content of passengers' record. While the leak on trialogue negotiations was ignored, the latter – as already stressed before – was covered in one article by EUobsever (Teffer 2019a). The online newspaper used the news as an angle for a further article but then only referred to Statewatch as a "privacy watchdog" (Teffer 2019b), hyperlinking the before published article but not mentioning the NGO by name. Besides this, only the blog Travelnews (2019) showed interest in the leaked information. In contrast, the leak on the Commission's call to push the matter at EU level triggered a few more reactions. It was shared by MEP Jan-Philipp Albrecht in two distinct blog posts (Albrecht 2015b; Greens/EFA 2015), distributed by the blog Grün Digital (Grün Digital 2015) and Netzpolitik.org (Meister 2015) as well as PC World (Essers 2015). Politico (Panichi 2015) indeed reported that "the risks of PNR were back in the public eye, after the leak of a Commission document detailing what might be in a revised proposal" but neither mentioned Statewatch nor link to the NGO's blog.

Some degree of *awareness* can also be attributed to EDRi's EU surveillance booklet and Statewatch's analysis. EDRi's coverage of PNR as a form of profiling as well as Statewatch's civil rights concerns were integrated in two briefings published by the European Parliament's

Think Thank (Bąkowski and Voronova 2015; Voronova 2015). The video campaign of digiges was only covered by one article of Netzpolitik.org and the protest of the NGO scenery at German airports was hardly recognised by national media (Krempl 2015b; Möller 2015; Tageszeitung 2015).[165] Other *voice* activities of NGOs had no considerable effect on *awareness*, but as one will see in the next section, slightly fostered *mobilisation*.

Mobilisation

The NoPNR campaign is such a *voice* activity that has not led to an impact on the dimension of *awareness* but on *mobilisation*. Neither the slogan nor the campaign were recognised by the media. The usage of the hashtag #NoPNR on twitter shows at least some support by NGOs, civil society actors as well as politicians. NGOs – or be it the staff of these organisations – who used the hashtag created by digiges on twitter were EDRi, Access Now, Statewatch, GFF, epicenter.works and Digitalcourage. All of them members of the umbrella network. As highlighted before, GFF and epicenter.works conducted their legal actions under this slogan. Further actors that used the #NoPNR were "Wastunjetzt", "Privacy Leipzig", "StopWatchingUs Köln" and "SaveYourPrivacy e.V.". These privacy groups are located in different German cities. As this section will further demonstrate, these are all associations that supported digiges in the action of airport protests. Moreover, actors from the net community like Netzpolitik.org (Twitter 2012a), the German compact member Katharina Nocun (Twitter 2014) or Austrian author Barbara Wimmer (Twitter 2017a) – who both participated later in NGOs' *litigation* – made use of #NoPNR as well. Actors from the political realm who distributed statements and information under this hashtag are the German Pirate Party and its member Patrick Breyer (Twitter 2019b), politicians from the Greens – Malte Spitz (Twitter 2015b), Konstantin von Notz (Twitter 2015a) and Jan-Philipp Albrecht (Twitter 2017b) – from the Left – Andrej Hunko (Twitter 2019a) – as well as from the liberals. Considering the last political group, it is interesting to note that Alexander Alvaro used the hashtag to declare "Meine schriftliche Anfrage an die EU Kommission zur PNR Ausschreibung ist jetzt auch online" (Twitter 2013). The MEP belonging to the ALDE group used the NGO hashtag to announce that his parliamentary question, scrutinised above under *awareness*, is now accessible for the wider public. Next to Alvaro, Martin Ehrenhauser also used the hashtag in 2012 to show his disagreement with the EU PNR plans (Twitter 2012b). Accordingly, it can be stated that these actors not only recognised NGO statements, but that support after Statewatch's *politicisation move* is also visible.

[165] That German media was not really interested in covering the airport protest can be stressed by this comment in an article of Freiheit Statt Angst (2015): "Dieses mal [sic!] war sogar die Berliner Abendschau vom rbb gekommen, wollte dann aber nicht solange warten bis wir ihnen ein schönes Bild präsentieren konnten."

Leaks from the NGO Statewatch were only distributed by EDRi and some of its members. Hence, there was no visible support from civil society actors from outside of the privacy network. EDRi (2013, 2014b) dedicated a blog article to Statewatch's first and second leak that handles the Commission's funding of PNR projects. Access Now (Massé 2015b) as well as digiges (Steven 2015b) shared the leak of the Commission's paper "EU PNR – The way forward". Netzpolitik.org, however, gave NGOs and their staff the possibility to publish articles on its website. The civil rights group digiges for example summarised the main criticism considering the planned directive (Reuter 2016a) and Kirsten Fiedler (2015), member of EDRi, informed about the postcard campaign.

Taking this and other join-in actions of NGOs into account one can stress that *mobilisation* was in place, but only to a little extend. The postcard campaign was financially supported with 430 Euro. Nevertheless, the estimated goal was 2000 Euro (Indiegogo n.d.). Thus, only a quarter of the desired amount was collected. The video campaign was not joined by the general citizenry. However, the videos already posted by digiges at the start of the campaign show that the NGO was supported by former EDPS Peter Schaar – already familiar from the first case – as well as staff of CCC and Netzpolitik.org (Dachwitz 2016). German activist Arne Semsrott was also backing the NGO initiative (Dachwitz 2016). Such as the video campaign, the airport protests triggered no activism by the wider public. Yet, there are a few notable supporters here as well, which allows a glimpse of the community and the network in which these NGOs operate. On Netzpolitik.org two articles informed about the planned airport protests and called for citizen's action.[166] Digitalcourage (Radio Utopie 2015) as well as Freiheit Statt Angst drew attention to this event in advance or reported on it in blogposts afterwards. Aktion Freiheit Statt Angst (2015) gave the following insight on the event: "Der Aktionstag am 28. März wird unterstützt von einem breiten Anti-Überwachungsbündnis von #StopWatchingUs Köln, Digitale Gesellschaft, AK Vorrat Berlin, Aktion Freiheit statt Angst, goVeto!, Digitalcourage, Bündnis Privatsphäre Leipzig, FIfF, No-Spy.org, SaveYourPrivacy und #wastun gegen Überwachung." These groups all came together under the headline "Verfolgungsprofile". The protests show that general participation is few and far between, but *mobilisation* between smaller German national privacy associations and NGOs exists. Considering the EU PNR directive's nomination at the Big Brother Awards it can be stressed that this was not backed up by the public. The prize was not given to the PNR directive. Instead, it was awarded to "surveillance measures in schools" (European Digital Rights 2015a).

[166] See for example Netzpolitik.org (Rudl 2015): "Dem können wir uns nur anschließen und beispielsweise die Aktion der Initiative Verfolgungsprofile in Erinnerung rufen, die am 11. April zu einer bundesweiten Aktion an Flughäfen gegen die Fluggastdatenspeicherung aufruft."

Contestation

As already mentioned, the issue of creating a passenger name record was present in one Flash Eurobarometer on data protection in 2008 (European Commission 2008a). The paragraph handling this issue indicates that "[a] majority of respondents agreed that it should be possible to monitor passenger flight details (82%) […] when this served to combat terrorism" (European Commission 2008a, 6). More than 40 percent of the interviewed even agreed that further restrictions are not needed to store this data (European Commission 2008a, 47). Thus, they stated that criteria such as enhanced data protection or being under suspicion were not necessary (European Commission 2008a, 47). No greater disagreement could be identified in European public opinion polls.[167] In contrast, the various *voice* activities of NGOs reveal different points of criticism or to be more specific opposing positions among the (net) community with regard to the directive.

The leaks of Statewatch on the Commission's funding of national PNR systems, each demonstrate a common point of the NGO's criticism. Be it the 2013 leak on the start of the Commission's financing, the leak "by the back door" – that followed a year later – or the one focusing on the support of the Ministry of Hungary, in every article that accompanied the publication of the secret documents Statewatch highlighted the missing legal basis of the PNR schemes. In its first article the NGO (Statewatch 2013) brought its position forward as follows: "Despite its controversial nature, some interested parties are pushing ahead with the development of the PNR system - despite the fact there is not yet a legal basis for it." Furthermore, it related its criticism to other previously carried out financing of the Commission: "The behind-the-scenes development of ambitious technological projects whilst legislative negotiations are ongoing is not unknown in the EU" (Statewatch 2013). The Commission (European Parliament 2013a) on the other side justified the introduction of the PNR projects in its answer to the parliamentary question of Martin Ehrenhauser: "The call for proposals and the Commission proposal for an EU PNR system share the same dual objective, namely to foster the processing of PNR data as an effective tool to fight serious crime and terrorism in the EU." In her letter to the chairman of the LIBE Committee, Commissioner Malmström (2013) even offers the MEPs a solution to prevent scattered national PNR systems as a consequence of its own financing: "If the co-legislators adopt a Directive on an EU PNR system as proposed by the Commission, the national PNR systems might become part of an EU PNR system,

[167] The monitoring of passengers was in two further Eurobarometer polls on data protection (European Commission 2011c, 2015b) addressed – but only treated superficially and in the context of other topics. In these polls citizens were asked "Nowadays, cameras, cards and websites record your behaviour, for a range of reasons. Are you very concerned, fairly concerned, not very concerned or not at all concerned about your behaviour being recorded…? In a public space (street, subway, airport, etc.)" (European Commission 2011c, 46). However, in both polls the most of interviews were not afraid about their actions being monitored in these settings (European Commission 2011c, 46, 2015b, 51).

provided the conditions of a future EU PNR Directive are met by the national components." In its second leak, the NGO Statewatch added two further points of criticism to its main complaint considering the legal basis. It clearly frames the directive as a surveillance measure and perceives it to be in contrast to the EU's principle of proportionality: "Critics say that the monitoring by law enforcement authorities of all air travel is a disproportionate measure, and that the ultimate effect of such widespread surveillance is to turn everyone into a suspect" (Statewatch 2014). In its 2014 report on the "financing for Union action within the framework of the Internal Security Fund", the Commission (European Commission 2014b, 10) however argues that the purpose of paying for this infrastructure is "the long-term goal of establishing an information exchange and cooperation network between all national PIUs." In the same year, the European Council (2014)made a call on the EP and Council to adopt the directive. The head of states emphasised: "The European Council strongly believes that determined action is required to stem the flow of foreign fighters" (European Council 2014, 6).

The third leak again demonstrates that NGOs position stands in contrast to the one of EU institutions. While the President of the European Council[168] and the Hungarian delegation repeated the argument of harmonisation, the letter emphasised the avoidance of "'PNR islands'" (Council of the European Union 2016b, 2), NGOs added a warning to its opinion of a missing legal basis. The organisations feared that the EU PNR system could be expanded to other areas: "Once the system for the surveillance of air travel is in place, calls are likely to increase for its extension to other forms of mass transport such as rail and ferry" (Statewatch 2016). Statewatch once again reiterates this point of criticism in an article from 2019, when member states explained to expand the directive's scope to other means of transportation. According to the leaked document member states have the following opinion on an expansion of processed data: "**83% wants to broader it to maritime, 76% to railway, and 67% to road traffic**" (Statewatch 2019; emphasis in the original).

The leak of the document "EU PNR – the way forward" shows the inclusion of slightly different conflict parties. While the NGO Statewatch was responsible for the leak of the file, it did not comment on its content. Criticism on the Commission's plans was this time raised by Jan-Philipp Albrecht. On his website (Greens/EFA 2015) as well as in an interview in The Guardian (Travis 2015), the MEP spoke against the directive. He stressed that "[t]his leak makes clear that the Commission is planning to serve up a re-heated version of the existing, stalled proposal for an EU air passenger data surveillance system (PNR)" (Greens/EFA 2015). The green politician is not alone in making this assessment. The EDPS, Giovanni Buttarelli, told

[168] Donald Tusk, President of the Council, expressed the following opinion to Brussel's news outlet Euractiv (January 14, 2015): "'If we do not manage to establish a single European PNR, we will end up with 28 national systems; a patchwork with holes. They would interfere with the privacy of citizens but would not properly protect their security,'".

the online newspaper EUobserver (Boros and Ferguson 2018) that the planned EU PNR scheme is "'a step into the surveillance society'". Furthermore, the data protectionist stressed a "re-thinking" regarding the legislation in a further statement published after the November 2015 Paris attacks (European Data Protection Supervisor 2015b).

Philipp Albrecht's criticism however did not stop there. The MEP perceived the Commission's action as "an affront to the democratic process, with the European Parliament already having rejected this scheme due to concerns about its impact on the fundamental rights of EU citizens" (Greens/EFA 2015). He further complained in an interview with The Guardian that the Commission is ignoring the CJEU ruling on data retention and in this context explicitly disregards information that highlights "data retention without any link to a certain risk or suspicion isn't proportionate" (Travis 2015). The Commission (n.d.a, 1) on the other side, speaks of reaching a "workable compromise between the positions expressed so far by the political groups of the European Parliament" in the document leaked by Statewatch. Moreover, Commissioner Avramopoulos (2015) stated that the directive is a necessary measure for the "[i]dentification of travel routes of terrorists".

Looking at the #NoPNR twitter website, one can see that the measure is equated with (mass) surveillance, (unlawful) blanket data retention, general suspicion and ineffectiveness. The use of this vocabulary is ubiquitous in NGO contributions, but also in the comments of their supporters. The accusation of placing all passengers under general suspicion is raised by Katharina Nocun in her tweet "Urlauber sind die neuen Terroristen" (Twitter 2014). An example for how the effectiveness of the directive is challenged can be given by a tweet of the left politician Andrej Hunko (Twitter 2019a) who argues: "Auch dort wird klar, dass die immense Datensammlung sinnlos ist und sogar am eigentlichen Ziel, nämlich der Terrorismusbekämpfung, vorbeigeht".

Just like this broader campaign, the smaller protest actions of NGOs mirror the communities' opposing positions. The common denominators of these positions are the criticism of the directive as a surveillance and data retention measure. Beyond that, slight nuances in the positions of NGOs can be seen. In digiges' video campaign (Dachwitz 2016) as well as its "last-minute" telephone campaign (Steven 2016), the NGO stresses the need for data protection, the importance of the right to privacy as well as the right to freedom of movement. The airport protests in contrast focus on the PNR directive as a profiling measure. Digitalcourage (Radio Utopie 2015), who support digiges in distributing the news of the event, highlights in this regard: "Die Daten, zu denen auch Kontonummer, Essenswünsche und Informationen über den Gesundheitszustand gehören, ergeben umfangreiche persönliche Profile." The profiling argument is also used by EDRi to justify the directive's nomination for

the Big Brother Award (European Digital Rights 2015b). Furthermore, in its launch of the postcard campaign the NGO adds a whole list of “problems of the EU PNR proposal” (European Digital Rights 2015f). Next to already familiar points like PNR as a form of (unlawful) data retention, its ineffectiveness or disproportionateness, the umbrella-organisation also argues that PNR is very costly and data protection is absent: “In the text, it is unclear how and when data will be processed” (European Digital Rights 2015f). During the time of the postcard campaign launch, Vice-President Timmermans and Commissioner Avramopoulos send a letter to Martin Schulz, President of the EP, declaring: “The collection of PNR from a person that takes an international flight - and is therefore already registered for border control purposes - reveals, in principle, less about that person's privacy than having his or her phone calls or internet connections registered.” (2015) Thus, while NGOs see the PNR legislation as a data protection hostile measure, often perceive it as a duplicate of the data retention directive, it is in the Commission’s view not comparable to the former adopted policy at least with regard to privacy intrusiveness.

As mentioned before, the EU surveillance booklet published by EDRi as well as the Statewatch analysis was covered in two briefings published by the European Parliamentary Research Service. One of these briefings (Bąkowski and Voronova 2015) highlighted main criticism of the watchdog NGO: “Statewatch is one of many stakeholders to conclude that the proposal not only interferes with the right to a private life and to the protection of personal data, but also contradicts citizens' right to freedom of movement.” The other listed the umbrella organisation EDRi under the headline “Stakeholder views” as “against”, while air carrier companies and association were on the “in favour” side (Voronova 2015). This alone demonstrates a conflict of interest between representatives of businesses and civil rights. In the next section it becomes visible that this *voice* activity is not the only action recognised by the research service, but that the Think Tank especially captured the NGO’s *access* strategy.

The analysis of *voice* made an important characteristic of politicisation in this case observable: The issue is not of importance to and does not meet the resistance of the wider European public. Instead, rather MEPs and political activists pay attention to NGOs’ actions. The study of *awareness* and *mobilisation* highlights this in specific. The *politicisation move* of Statewatch was mainly recognised by parliamentarians. There is only little attention given by Brussels magazine to these non-institutional actors. Remarkable is that there actually is an interest on the counter-terrorism project itself, but that these news outlets do rather not consider NGOs and their positions in connection to EU PNR. The analysis of *mobilisation* illustrated that NGO actions to motivate the public were in place, but people did not join. In contrast to *awareness* and *mobilisation* which were very low, *contestation* could be identified to a higher extend. The list of arguments on both sides – the side of opponents as well as proponents – is very long

(see figure 23). These insights will be further stressed by the analysis of *access*, that follows now.

Figure 23. Case 2 – Voice: Opposing Positions on the EU PNR Directive

Missing legal basis, **ineffective,** **disproportionate,** **(mass) surveillance system,** **(unlawful) data retention,** **risks to civil rights** **(privacy, data protection, freedom of movement)**	**Harmonisation,** **effective,** **extension of data collection,** **threat of foreign fighters,** **less privacy intrusive then former policies**
Statewatch Jan-Philipp Albrecht EDPS EDRi Katharina Nocun Andrej Hunko digiges Digitalcourage	Commission: Malmström, Timmermanns, Avramopoulos European Council: Donald Tusk, Hungarian delegation

Source: Own illustration. This is only a snippet of the conflict parties and the discussion.

7.2.2.2 Access

The *access* strategy of NGOs was not present to the same extent as the groups' use of *voice* and *litigation*. Only on some occasions, NGOs took the path of establishing – or rather trying to establish – *access* with EU institutions and authorities to pursue their goals. One activity that falls under this strategy is a letter drafted by EDRi in 2012. The document summarises the NGOs expert opinion on the PNR proposal and demonstrates that their view is in line with important EU data protection authorities (European Digital Rights n.d.e). These comments include a paragraph in which EDRi lists their favoured amendments discussed in the LIBE Committee and advises this parliamentary body to not accept the directive.

An event that took place a little bit earlier, shortly after the Commission published the second proposal, was the work and lobby weekend organised by AK Vorrat in Brussels or as EDRi (2011a) framed it: The "European action week on airline passenger surveillance". What at first sounds like a *voice* action, can however be counted as *access* as the actual aim of the week was to get in touch with politicians. The week concentrated first and foremost on the EU-US

PNR agreement, but meetings and exchanges between MEPs and different NGO members were organised, who also focused on the possible introduction of an EU PNR scheme.[169]

A further action that can be named in this vein, is a list of amendments provided by EDRi and its members Access Now and Panoptykon Foundation in 2015. The document covered the original Commission's text as well as amendments introduced by the rapporteurs. These amendments were assessed by the NGOs, including an own appraisal system and comment columns. The comments referred to NGOs expert opinion and sometimes contained additional information or links (European Digital Rights, Panoptykon Foundation, and Access Now 2015). This list was published and distributed by these NGOs at the time of the trialogue negotiations. A "PNR letter" that accompanied this document entailed a direct statement to members of the LIBE Committee: "Now, more than ever, we need leadership and not politics in order to fight terrorism. We strongly urge members of the LIBE Committee to look at the facts and reject again the EU PNR proposal" (European Digital Rights 2015e). A blogpost by EDRi also showed that representatives of EDRi and Access Now contacted MEPs by e-mail a year before the vote on the directive took place. They shared the template of this e-mail in the blog article. Part of this message were "an infographic comparing these proposals" and links to further NGO sources (European Digital Rights 2015e). During the same time, the NGOs distributed a briefing note, that summarised main historic events – such as the Commission's funding – and assessed the "lawfulness of the proposal" (European Digital Rights, Access Now, and Panoptykon Foundation 2015a). A personal meeting between EDRi and leaders of political groups took place in 2015. It was arranged to hand over "(ironic) certificates" to the respective MEPs for supporting the directive and to express their disappointment on the LIBE vote in a sarcastic way (European Digital Rights 2016b). A further act to get *access* to internal negotiations and in contact with representatives of EU institutions, was the feedback provided by NGOs on the directive. It was sent to the Commission in 2020, when it was time to evaluate the implementation and effectiveness of the legislation. In the next step, it is examined how these actions belonging to NGOs' *access* strategy fostered any of the dimension of politicisation.

Awareness

In this case study, there was almost no media attention on NGOs' *access* activities. While in the former chapter on the data retention directive, it became visible that NGO reports or letters were occasionally added as a source, this was not the case with regard to the groups' position

[169] The focus on inside lobbying is especially highlighted in this statement made in the wiki of AK Vorrat DE (n.d.a): "The idea behind this is to get people from europe together to talk, (net)work and lobby against the planned Passenger-Name-Record-Directive (PNR-DR)."

on the EU PNR law (please see table 23 in this regard). In total, two different *access* activities of NGOs were recognised by the Brussel's media. First, EDRi's handing over of the certificates to political group leaders. Second, the umbrella organisation's PNR briefing note. The latter was, however, mentioned by EDRi and Access Now in their own article published by Euractiv. Thus, media was rather not interested in NGOs' *access* goods.

Table 23. Case 2 – Reference to NGOs' Access Activities in EU Media Outlets per Article (2007-2020)

The kind of NGO action mentioned	Number of NGO action mentioned by media articles
Handing over of ironic certificates	1
PNR briefing	1
Number of NGO *access* activities mentioned in total: 2	

Source: Own illustration based on qualitative (online) media outlet analysis (EUobserver, EURACTIV, Politico Europe, The Parliament Magazine).

Although, no attention to these documents were given in the public venue, some actors working in the EU institutions did consider the texts published by NGOs. The EDRi PNR letter, its briefing note as well as the comments on the Commission proposal of 2012 were recognised by the European Parliament Research Service. Next to EDRi's surveillance booklet and Statewatch's analysis, the documents were added as background information for the NGO's position. No other action that can be attributed to the *access* strategy of NGOs attracted attention. On the contrary, despite NGOs' critical feedback, the Commission (European Commission 2020b, 11) was quite pleased with the counter-terrorism policy after the evaluation process: "The Commission's assessment of the first two years of application of the Directive is overall positive. The main conclusion of the review is that the Directive is contributing positively to its key objective of ensuring the establishment of effective PNR systems in the Member States, as an instrument to combat terrorism and serious crime." Furthermore, NGOs were not invited to any exchanges on the directive's assessment by the Commission.

Mobilisation

A slight increase in *mobilisation* was noticeable when the European lobby week was organised by NGO members. The initiator of the event was AK Vorrat Germany. As with their action against data retention, they used a wiki to clarify participation and allocation of resources. The wiki illustrates that three members of AK Vorrat DE, EDRi-director Joe McNamee, Alexander Sander – founder of the NoPNR campaign – as well as a member of the Belgian NGO Liga voor Mensenrechten were part of the action. There were only little resources for organising the

event. A contribution in the wiki pointed out, that accruing costs, e.g. for transport and hotels, could not be covered (German Working Group on Data Retention n.d.a). With the list of participation, it is possible to identify some relations to political groups, too. Two policy advisors of the greens, one working for Jan-Philipp Albrecht, were involved in the action week. The schedule of the lobby week further demonstrates that a direct meeting with this MEP of Green/EFA took place as well as an exchange with the policy advisor of MEP Sophie in't Veld (ALDE member). Moreover, a meeting with a policy advisor working for the EPP group is listed in the NGOs' timetable.

Mobilisation is then again slightly visible in the publication of the feedback on the EU policies evaluation. The document was compiled by EDRi and its members Access Now, epicenter.works, Statewatch, IT-Pol Denmark in cooperation with US-PNR expert Edward Hasbrouck[170] and the Danish think tank Foundation for Information and Policy Research. Access documents or rather goods were not wider distributed or shared among the net community or political actors.

The briefings of the European Parliament Research Service also indicate no major *mobilisation* on the issue. Solely criticism from the Meijers committee[171] and two associations representing travel agencies' interests are presented (Voronova 2015). However, no cooperation between these actors and NGOs is evident. The points of criticism of these actors will now be examined together with the NGOs' view under the next section.

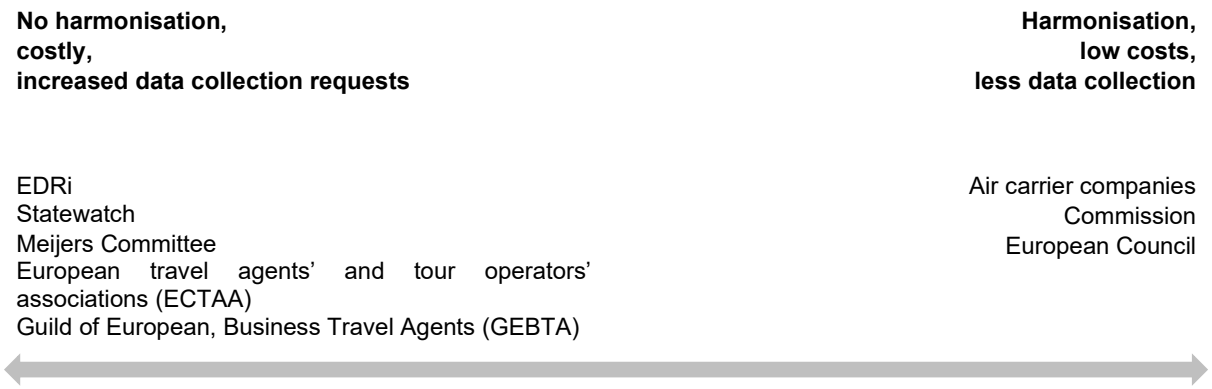
Contestation

The last subchapters identified that *access* actions of NGOs led to almost no *awareness* and hardly observable *mobilisation*. The *contestation* in place did not differ from that. The documents and positions of NGOs covered by the European Parliament think tank are cases in point. They illustrate that NGOs do contravene with the opinion of airlines, who favour the idea of harmonised PNR system that is associated by these businesses with less data collection and lower costs. The Association of European Airlines and the International and Air Transport Association (2014) refer to the directive as a less "burdensome" situation. The think tank's briefing points out that the travel agencies perception of the issue is exactly the other way around. They fear "costs and obligations" (Bąkowski and Voronova 2015, 6). With this argumentation, they are on the same side as EDRi (2015f), who speaks of increasing costs in its launch of the postcard campaign – as highlighted in the last subchapter – but also in its evaluation feedback: "Implementing new PNR agreements with third countries would result in

[170] The civil rights activist also participated in a testimony in the EP on the US PNR system (Hasbrouck 2010).
[171] This is a group of experts, working in different areas of research, that evaluates EU policy proposals.

significant costs for Member States as the number of data requests will eventually rise" (European Digital Rights 2020c). The Meijers Committee (Meijers Committee 2011, 2) also mentioned that "financial costs" should not remain an underestimated issue. The cost debate, which is closely interwoven with the question of harmonisation and the appropriate extent of data collection, that the conflict not only affects EU institutions and NGOs, but that business is divided over the issue, too. While air carriers welcome more regulation by the EU, travel agencies fear the consequences of stronger rules on passenger data collection. These pro and contra points are emphasised by figure 24.

Figure 24. Case 2 – Access: Opposing Positions on the EU PNR Directive (1)



Source: Own illustration. This is only a snippet of the conflict parties and the discussion.

The NGOs' *access* activities – such as EDRi's PNR briefing or letter, the feedback for the Commission's evaluation or the wiki on the European action week – do however stress more conflicting points concerning the directive. The wiki again highlights that the measure is perceived as a form of data retention. Moreover, the privacy groups contravene the idea of using the push-method to exchange data between air carriers and law enforcement authorities: "While it is expected to dispense with the so-called 'pull method' in favor of 'push' techniques, that is, the data is transmitted only upon request. However, there is concern that a disproportionate amount in legal use is made of this (concerning EU-PNR)" (German Working Group on Data Retention n.d.f). Next to already familiar points of criticism on the directive – like its ineffectiveness, missing data protection or its use as a profiling measure – the feedback on the commission's evaluation emphasises that NGOs and the participating experts see a "lack of harmonisation" (European Digital Rights 2020c). They argue that the EU has not achieved its own objective after adopting the directive. Furthermore, the PNR letter published by EDRi and its members Access Now and Panoptykon Foundation (2015b) illustrates their disagreement with the Commission's decision of covering intra-EU flights: "the draft report suggests adding intra-EU flights to the PNR system, considerably increasing the scope of the travel surveillance of Europeans citizens and directly infringing upon their right to free movement within the Union". This point was also considered for a long time by the German

government. Only in 2015 it abandoned the argument that the inclusion of intra-EU flights would pose a threat to the right of freedom.[172] This argument was also originally one of the reasons, why Germany and the UK were in conflict on the EU law in 2011 as the chapter on the chronological overview of the political process indicated.[173] While the UK was supported by France in its call to include intra-EU flights, Germany's opinion was backed up by Austria, Malta, Luxembourg and Slovenia (Council of the European Union 2011a, 12). Moreover, the risk to traveller's free movement was also the main argument by the GUE/NGL group to reject the Commission's proposal – in the LIBE Committee vote of 2013 (European Parliament 2010) as well as in the parliamentary vote of 2016 (Ernst 2014). This opposing argument was also raised by the Meijers Committee and scientific experts (Bigo et al. 2015a). The Committee (Meijers Committee 2011, 1) declared: "Considering the risks of violation of the right to non-discrimination, privacy and data protection, the freedom of movement of EU citizens and lawfully resident third-country nationals, and the high costs for the individual Member States and air transport organisations, the Meijers Committee recommends the withdrawal of the proposed PNR Directive". As this quote demonstrates, NGOs and the Meijers Committee were not only on the same side of argumentation with regarding the cost debate but also when it came to position on freedom of movement (figure 25 relates to this debate and actor constellations). Between 2011 and 2016 (during the main debate around the second PNR proposal), the freedom of movement was always the top answer of citizens when they were asked what they associate with the EU.[174] However, no further connection to the discussion on the EU PNR directive can be established in this context.

Figure 25. Case 2 – Access: Opposing Positions on the EU PNR Directive (2)

Contra intra-EU flights/freedom of movement	**Pro intra-EU flights**
EDRi	UK
GUE/NGL	FR
Meijers Committee	
DE, AT, SI, LU, MT (2011)	
academics	

Source: Own illustration. This is only a snippet of the conflict parties and the discussion.

The analysis of NGOs' *access* strategy can be briefly summarised. The strategy did not lead to a higher *awareness*, *mobilisation* nor *contestation*. As with the first examined strategy, the interest of Brussels media was almost non-existent in NGOs' activities. The scrutinisation of

[172] Please see this joint statement of interior ministers after the January 2015 attacks: RPUE - Représentation Permanente de la France auprès de l'Union européenne (n.d.).Germany along with other member states explicitly refer to an inclusion of intra-EU flights.
[173] More background information on this controversy is given by the following articles published by Euractiv (March 31, 2011, April 12, 2011).
[174] See Standard Eurobarometer 75 to Standard Eurobarometer 86 published by the European Commission.

mobilisation only slightly indicated a cooperation of NGOs and MEPs from Green/EFA and ALDE. Only some diverging opinions present in the realm of businesses as well as certain experts could be identified. The involvement and actions of NGOs did not increase the number of diverging positions. The next part on NGOs' *litigation* strategy will illustrate a different image of politicisation. Here, dimensions can be identified to a higher extent.

7.2.2.3 Litigation

In the context of the EU PNR directive, three different acts of *litigation* can be highlighted. All complainants were human and privacy NGOs based at member states' national level. The Belgian NGO LDH issued a case in mid-2017. Two years later, it was decided that this court case should be transferred from the Belgian constitutional court to the CJEU (van Durme 2019). Before the EU court, the NGO was represented by a lawyer from Brussels.

A further *litigation* strategy was pursued by the NGOs GFF and epicenter.works. Their cooperation goes beyond national borders and both complaints were timed. Interestingly, it was not the digiges, founder of the NoPNR campaign, that became organiser of the legal action in Germany. The website of GFF provides an overview for this scenario. The NGO perceives itself as an expert in strategic *litigation* as chapter 4.2 stressed. While the GFF is coordinator of the *litigation* act, Alexander Sander, member of digiges, is one of the plaintiffs. This information will play a role in the analysis of *mobilisation*. As the section will demonstrate, the net activist is not the only supporter of the legal action. Especially the *litigation* activity of epicenter.works is backed up by some familiar political actors.

The two coordinating NGOs describe their intended *litigation* strategy on their respective websites. The GFF introduced a civil lawsuit as well as an administrative appeal. The NGO (No PNR n.d.) highlights this as "a two-track legal approach": "On the one hand, we take administrative action against the Federal Criminal Police Office, which is the Passenger Information Unit in Germany. We demand that they cease processing passenger data and delete it instead. On the other hand, we file civil lawsuits against the airlines transmitting data records." The group epicenter.works took a different way to challenge the legislation. The NGO referred its legal complaint to the Austrian data protection authority with the intention that this case will be rejected by this institution. As this civil rights group indicates, this rejection would make a lawsuit before the Austrian Constitutional Court possible and hence, increases the chances that the CJEU rules on the issue (epicenter.works 2019e). Above that, epicenter.works (2019c) published a guideline on its website for all individuals or rather "passengers" who want to take legal action against the recording of their data. In 2020, the NGOs' *litigation* strategies proved to be successful. The case was referred to the

CJEU. In total, it can be differentiated between these court cases before the CJEU: Case C-817/19 introduced by Ligue des droits humains and the joined cases C-148/20, C-149/20, and C-150/20 tabled by GFF and epicenter.works. It has already been anticipated that the *litigation* strategy of NGOs contributed to politicising the issue. How these legal actions triggered *awareness*, *mobilisation* and *contestation* – and especially where – is now presented.

Awareness

Without a doubt, it can be stated that NGOs *litigation* strategy did not receive any attention in the Brussel's media. The Belgian, Austrian as well as the German PNR case were not mentioned by the EU news outlets (table 24 summarises this). That the national PNR cases and their transference to the CJEU received no attention by Brussels media, can also be demonstrated by figure 22 that illustrates the timeline of the media reporting (please see the subchapter 7.2.2.1 on NGOs *voice* strategy). At the time the court cases were brought before the CJEU in 2020, no media coverage focusing on the PNR issue existed.[175] Albeit the press has repeatedly referred to the data retention rulings of the CJEU. The 2014 decision was mentioned more than 30 times in the context of the EU PNR directive media coverage and the German national ruling was addressed in two articles. This again highlights the closeness of the two topics.

Table 24. Case 2 – Reference to NGOs' Acts of Litigation in EU Media Outlets (2007-2020)

The kind of NGO action mentioned	Number of NGO action mentioned by media articles
Case C-817/19, Ligue des droits humains	-
Joined Cases C-148/20, C-149/20, and C-150/20, GFF and epicenter.works	-
Number of NGO acts of *litigation* mentioned in total: 0	

Source: Own illustration.

While media reporting in Brussels on the legal action of GFF and epicenter.works was absent, the situation at member states' level was very different. Austrian and German national media did show an increasing interest in the two acts of *litigation*. The organisation LDH was present in Belgium's media as a defender of civil rights against mass surveillance in the context of EU counter-terrorism measures – the topic of PNR was also debated in this context – but the NGOs court case was not thematised.[176]

[175] The media analysis only covered articles that are costless available on the websites of these EU outlets.
[176] See in this regard RTBF (December 05, 2015, December 10, 2015, June 06, 2017).

The *awareness* of Austrian and German media on the legal actions of GFF and epicenter.works increased with the two press conferences held by these organisations in May 2019. A day after the press conference numerous articles on the NGOs' *litigation* activities were published. German news portals like Zeit Online (Biermann 2019), TAZ (Rath 2019), SZ (J. Brühl 2019a), Der Spiegel (Beuth 2019) focused on the introduced court cases. In Austria Der Standard (Pichler 2019), the Kronen Zeitung (2019) and the radio station radio FM4 (Weiss 2019) reported on the issue. Der Standard (Pichler 2019) even pointed to the NoPNR campaign, that was disregarded by media so far: "Man hofft darauf, dass sich zahlreiche weitere Menschen der "No PNR"-Kampagne anschließen." There was also a lot of attention in IT-related online media. Netzpolitik.org (Mrohs 2019), Heise Online (Krempl 2019a), Teller Report (2019) and Golem.de (Greis 2019) covered the move of NGOs in blog articles. The two NGOs and their respective *litigation* acts again received media attention at Austrian and Germany, in the context of member states' call to extent the directive to other areas of transport (Der Standard (2019), Golem.de (Tremmel 2019), SZ (J. Brühl 2019b, 2019c), Computerbild (Sellmer 2019), ORF (ORF.at 2019)). The reach of epicenter.works short-time aim, to be rejected by the data protection authority of Austria, was covered by different articles as well (Der Standard (Riegler 2019), Netzpolitik.org (Biselli 2019)). As a staff member of EDRi proclaimed online, Politico dedicated a section to this news in its (not costless available) newsletter.[177] The further course of the NGOs court cases and legal campaign was then covered by three different types of media, whose proximity to NGOs will examined later. Netzpolitik.org (e.g.Monroy 2020; Rudl 2020) and radio FM4 (e.g. Moechel 2020, 2021) reported over a longer period of time (January 2020 – May 2021) on the state of the court cases.

In the political realm, the NGOs' *litigation* activities were mentioned in two different documents. First, the Belgian, Austrian and German court cases were highlighted in the Commission's report on the evaluation of the directive that was send to the EP and the Council. The Commission (2020b, 4) explained the situation in the three member states and added: "The Commission has submitted observations in the first of these proceedings [the Belgian case] and will do the same in the second course." Second, the cases were a discussed matter in a letter drafted by the Chair of the European Data Protection Board (EDPB) (Jelinek 2021b) to Sophie in't Veld. The letter was a response to the liberal MEP, who addressed the authority with its concerns on the positive result of the Commission's evaluation despite the three present legal actions before the CJEU. The Chair (Jelinek 2021b) summarised the situation as follows: "you [Sophie in't Veld] raised questions concerning the big discrepancy between the total number of persons being subject to the processing of PNR data in comparison to technical

[177] A screenshot was covered by the data pool on PNR created by epicenter.works (2019a).

hits and verified hits as well as the small number of case studies provided as qualitative evidence." The data protectionist's answer was very clear and leaves no room for interpretation. The institutional body is also not a supporter of the directive as it turns out: "Your questions regarding the PNR evaluation report get to the heart of the matter and reflect concerns which the EDPB also continues to share" (Jelinek 2021b). As the reader can already imagine, the position of these two actors will therefore be of greater significance for the analysis of the dimension *contestation*. However, the next section will demonstrate, that Sophie in't Veld also plays an important role as mobiliser. The MEP is a main plaintiff in the case brought to the CJEU by epicenter.works.

Mobilisation

In the description of the *litigation* strategy of NGOs, it was already pointed out that GFF and epicenter.works have a coordinating function in this legal scenario. They represent certain plaintiffs before the court and its members are involved as plaintiffs themselves. The Austrian as well as the German NGO are supported by a few prominent societal as well as political actors. In the legal action of epicenter.works more than fifteen persons are involved as plaintiffs. The examination of the professional background of these plaintiffs allows a few conclusions to be drawn about the nature and characteristic of the network operating here. First of all, as already emphasised, liberal MEP Sophie in't Veld is listed as one of the plaintiffs. She is however not the only politician being part of the complainant. Supporters are also Austrian national politicians from the Greens, liberals and the JETZT party. Evelyn Regner, member of the S&D, is part of the listed plaintiffs as well. The group is also supported in its *litigation* act by several activists and representatives of the net community. For example, the Austrian writers Barbara Wimmer and Sara Hassan. The former focuses on topics considering privacy and data protection in her daily work, while the latter publishes articles about anti-racism and sexual harassment. Additionaly, Christof Tschohl, one of the founders of the Austrian AK Vorrat, participates in the legal strategy as well. The jurist is a staff member of epicenter.works. The involvement of the Dutch MEP in't Veld demonstrates that not all plaintiffs are Austrians. For example, a Greek politician is participating as well. (No PNR n.d.)[178]

The diverse backgrounds of plaintiffs not only with regard to their professions but also with regard to their member state affiliation becomes also visible in GFF's legal action. The NGO highlights the circumstance, that complainants from various EU countries are involved. Next to Alexander Sander, whose participation was mentioned earlier, the Dutch green MEP Kathalijne Buitenweg is part of GFF's action. Moreover, the German privacy activist and book

[178] All information on the background of the plaintiffs is available on the NoPNR.eu webpage.

author Kübra Gümüşay, German lawyer Franziska Nedelmann and Italien citizen as well as former head of unit at the LIBE Committee Emilio De Capitani overtook the position as supporters.

As one article of Euractiv (2007) demonstrates, Sophie in't Veld and Kathalijne Buitenweg spoke already in 2007 publicly against the PNR directive. While the Dutch liberal's main argument was "'We should not forget that it is not only lives that we are trying to protect from terrorists but our democracy too'", the Dutch green MEP described the Commission's idea as "'unnecessary and incoherent'" (EURACTIV.com 2007). If these views are recurring in the court cases and are visible in the NGOs' argumentation before the CJEU, will be clarified in the next section.

Contestation

That the *litigation* strategy of GFF and epicenter.works affects the dimension of *contestation* can easily be demonstrated in the NGO's announcement "Let's kill the next Data Retention Law" at the Chaos Computer Congress in 2019 (Hötzendorfer and Moini). The title of a presentation of two staff members and lawyers of these NGOs do not only emphasise a main opposing argument, the equitation of this legislation with the EU data retention directive, it also shows the NGO's hostility towards the EU PNR project – since "killing" it, is the only solution. In the next section, NGOs' arguments before the national courts and the CJEU are considered in detail. After that these arguments are linked to other present opposing positions of those involved.

A legal document of the court case issued by LDH illustrates the main basis of argumentation of this organisation, which is built on three civil rights concerns. The NGO argues that the EU law is risking the right to privacy, the right to data protection and the freedom of movement (Belgian Constitutional Court 2019, 1). The subtone of LDH allows conclusions to be drawn about the "data retention" and "general suspicion" argument of NGOs, as the document entails this proposition: "The applicant objects to the general character of the collection, transferral and processing of the PNR data, which concern all passengers, as well as the very broad nature of these data" (Belgian Constitutional Court 2019, 1). Very similar is the argumentation before the German and Austrian national courts by epicenter.works and GFF. They also stress the importance of data protection, privacy and freedom of movement (Gesellschaft für Freiheitsrechte 2019a). Their comparison of the PNR legislation with the data retention directive was already a few times emphasised. In addition, as the following quote of Malte Spitz demonstrates, the GFF (2020b) fears a violation of the principle of proportionality: "'Alle

Fluggäste in ganz Europa als Verdächtige zu behandeln, ist völlig unverhältnismäßig. Die Rasterfahndung am Himmel muss beendet werden‘.”

The “general suspicion” argument becomes visible in this quote as well. In addition, the GFF and epicenter.works are both concerned that the right to non-discrimination is violated by the EU law. Epicenter.works (2019e) expresses this concern with the following words: “This data is very extensive […] This lack of transparency entails also the danger that discrimination cannot be recognised by the system itself, and is thus concealed […] This is a method called predictive policing. It's a grid search, without cause. This practice goes much further than data retention, which is itself contrary to fundamental rights.”

Moreover, doubts regarding the effectiveness and usefulness of the directive also persists among the plaintiffs as for example this paragraph of an article drafted by Emilio De Capitani demonstrates. The head of the unit of the LIBE Committee commented on the EU measure shortly after Statewatch’s leak of “EU PNR – the way forward” became public (De Capitani 2015):

> Do you not consider that 28 national PNR (following each one its own profiling tactics) will be useless at European level where in any case only 2% of the Europol data deal with terrorist and are fed by only 4 of the 28 EU Countries ? […] Read the [PNR proposal’s] text below and (maybe) you will change your mind. But if you still consider that the PNR is the silver bullet to fight terrorists I have a used car that can be of your interest.

As previously highlighted, due to her concerns regarding the effectiveness and proportionality of the directive, the liberal MEP Sophie in’t Veld contacted the EDPB. The Chair of the institution shares the MEP’s concerns. This is not only visible in the EDPB’s response to the Dutch politician but also in a letter of the data protection authority sent to the Commission: “the EDPB takes the view that the necessity and proportionality of collecting and processing PNR data for each of the purposes set out in the Directive […] is not sufficiently substantiated and demonstrated” (Jelinek 2021a).

The Commission on the other side is highly in favour of the directive. Its evaluation report illustrates this. Especially the institution’s belief in the usefulness and the effectiveness of the measure becomes recognisable in different sections of the report. As highlighted before, in its conclusion the institution speaks of “effective PNR systems in the Member States” (European Commission 2020b, 11). This argumentation is of course closely intertwined with the law’s aim of establishing harmonisation among the member states’ systems. Furthermore, the Commission does not see any problem with the usefulness of the directive, nor with the disproportionate interference with citizens’ data as this paragraph reads: “The review shows several elements confirming the necessity and proportionality of collecting and processing PNR data for the purposes of the PNR Directive” (European Commission 2020b, 6). The report

does give some insights on the member states views, too. The inclusion of intra-EU flights was adopted by almost all member states. Only Spain, which has not yet implemented the directive, is an exception. Accordingly, the previously controversial topic between member states has now been positively accepted. The inclusion of intra-EU flights is regarded by those states "as an important law enforcement tool to track the movements of known suspects and to identify suspicious travel patterns of unknown individuals who may be involved in criminal/terrorist activities travelling within the Schengen zone" (European Commission 2020b, 10). Furthermore, there are still considerations to extend the system, not only to other means of transport, but also to new sectors, as the report states. According to the document, member states take the view that the events following the COVID-19 pandemic stressed the use of the collected PNR data for the health sector as well (European Commission 2020b, 11). The discussion shows, while NGOs and data protection representatives argue against the survival of this directive, the member states and Commission are already considering how to broaden the concept of security regarding the application of the directive.

Airline carriers who also provided feedback to the Commission took a rather different stance. They argued in favour of more and especially clearer rules concerning the data collection. These businesses required information with regard to the application of the GDPR and transparent regularities considering the exchange of data with third countries from the Commission.[179] The keyword in the air carriers' statements is "legal certainty" (International and Air Transport Association 2020, 1). None of the businesses stated they were per se against the EU PNR directive.

It remains to be seen whether the CJEU, with its forthcoming ruling on the three cases, will bring clarity to these different views (summarised in figure 26 below). A former member of the GFF, who attended the first hearing of the CJEU, summarises the importance of the rulings as follows: "As such, the CJEU has to deal with one of the first EU-wide, large-scale use cases of predictive policing. If the court were to essentially approve of this paradigm shift, a radical expansion of technology-driven surveillance to all sorts of ordinary human behavior, regardless of individual prior suspicion or imminent threat, could ensue" (Thönnes 2021). Thus, whatever the Court's decision is, a rapid decline in *contestation* seems to be rather unlikely.

[179] All Feedbacks of air carriers are listed on the European Commission's website. See European Commission (2020a).

Figure 26. Case 2 – Litigation: Opposing Positions on the EU PNR Directive

Risks to civil rights (privacy, data protection, freedom of movement, non-discrimination), ineffective/useless, disproportionate, (unlawful) data retention, general suspicion	**Effective/useful (harmonised system), proportional, extension to other areas (transport, security)**
LDH GFF Epicenter.works Sophie in't Veld Emilio De Capitani EDPB	Commission Member States

Source: Own illustration. This is only a snippet of the conflict parties and the discussion.

This case analysis closes with the observation that NGOs were able to politicise the EU PNR directive by using *litigation* at Germany's and Austria's national level. In specific, the media arena of German and Austrian newspapers as well as IT blogs was affected. Furthermore, NGOs were able to mobilise political activists and work with already committed MEPs as well as experts. The acts of *litigation* first and foremost made the diverging positions regarding the effectiveness of the legislative project visible. While it is regarded as a response to terrorism by member states and the Commission, data protection representatives challenge this understanding. They put it on the same level as (mass) data retention. The politicisation at hand was however only temporary. This key characteristic of the case needs some further attention. The subsequent interim conclusion will again address this aspect.

7.3 Interim Conclusion

This second analysis focused on the potential politicisation of the EU PNR directive by NGOs. Before it is illustrated if NGOs politicised the issue and if yes, what strategies were essential for these organisations in drawing the EU legislation into the public realm, it is first given an overview of the main NGOs engaging in the political process. This overview is structured according to the office locations of the involved NGOs. The content of this interim conclusion is driven by the subquestions of this thesis.

In this case, Belgium- or rather Brussels-based NGOs were highly active. Of course, EDRi as umbrella organisation can be named in this context, but also Access Now or Liga voor Mensenrechten. Access Now for example cooperated with EDRi in article or letter publications. The Flemish Liga voor Mensenrechten was only active in the PNR lobby week. Later, its

Francophone counterpart was involved as main Belgian plaintiff. Interestingly, the LDH is the only group in this overview that has no EDRi membership status. The next group of active NGOs is based in Germany. This includes digiges, GFF, Digitalcourage. Moreover, the working group on data retention appeared as well. While the German AK Vorrat only briefly concentrated on the issue, a lot of engagement was visible with regard to digiges. Digitalcourage was rather active as supporter of digiges and GFF then overtook the role as main litigator. More NGO engagement was also visible in Austria, UK, Poland and Denmark. In Austria epicenter.works was present as second litigating NGO. The UK-based NGO Statewatch was active in leaking "secret" documents – a function that it already fulfilled in the first case. Other NGOs such as Access Now or the Panoptykon Foundation went about the task of supporting EDRi. The Danish IT-Pol cooperated with those three organisations in writing the report for the Commission's evaluation.

To answer the question of whether politicisation is present in this case, it makes sense to first concentrate on the three dimensions *awareness*, *mobilisation* and *contestation*. The analysis demonstrated that there is almost no *awareness* of NGOs' actions and positions visible in EU news outlets. The Brussels-media only occasionally pointed to these organisations in their articles and did not cover them as main opposers of the EU PNR directive. The general interest of the newspapers in the PNR issue was however rather high as the analysis highlighted. In contrast, *awareness* for NGOs actions was present among MEPs. The ALDE members Alexander Alvaro and Sophie in't Veld, non-attached member Martin Ehrenhauser or Green/EFA member Jan-Philipp Albrecht for example gave attention to these organisations. Moreover, it was rather the German and Austrian national media as well as net community that showed interest in the NGOs engagement. This interest of political and network policy actors is also reflected in the *mobilisation* dimension. NGOs actions were supported by net activists, privacy associations and politicians with data protection focus on their daily work. The topic as well as the group of supporters remained inclusive. However, the rather little *awareness* and *mobilisation* did not have the effect of making the issue less controversial. The list of criticism by NGOs, politicians and societal actions is long as the analysis of *contestation* demonstrated. The EU PNR directive is a political project that is already debated for almost twenty years as the chronological overview demonstrated and some of the highlighted points of critics are present for this period, too. Diverse positions against the directive raised by NGOs, data protection authorities, MEPs and travel agencies exists. These actors are opposed by EU institutions and air carriers as supporters of the EU PNR scheme. In sum, politicisation driven by NGOs is observable but only to a (timely) limited extent.

The examination of the policy process highlighted that especially two NGO strategies had an effect on politicisation. First, the *voice* strategy fostered the dimensions of politicisation. In this

regard it needs to be emphasised that not the whole strategy but rather a certain NGO activity – that can be categorised as "noisy" – was successful. The re-publication of a Commission's document by Statewatch can be regarded as a *politicisation move*. It increased *awareness* for the Commission's funding among MEPs and the action led to these politicians engaging in discourse with the Commission. It was then also noticeable that these politicians used the NoPNR hashtag on twitter. Hence, they supported the NGO campaign, although only to a small extent. Moreover, opposing positions between EU institutions were present. On the one side criticism of European parliament members was raised, while on the other the Commission emphasised the need of the EU PNR legislation. Second, the *litigation* strategy can be stressed in this regard. NGOs were successful in increasing *awareness*, *mobilisation* and *contestation* with their acts of *litigation*. The peak in national media interest can be linked to this strategy. Moreover, political actors and EU authorities as well as institutions referred to the NGOs legal actions in written statements. *Mobilisation* increased since NGOs were now supported by actors inside EU institutions as several MEPs participated in the action. Engagement was also noticeable outside of political bodies: Actors from the Austrian and German net communities became involved but also those who rather work on questions of racism and (non-)discrimination felt addressed by the NGO action. The *litigation* strategy did not only have the effect, that the EU law was debated before national courts and recently before the CJEU, but also led to discussions between institutions and political actors. The exchange between the EDPB and Sophie in't Veld can be mentioned here. The former also addressed the Commission in this context. While the leak moved the issue on the EU political agenda, the NGOs court cases *boosted politicisation* in the EU institutional arena as well as judicial arena. A peak of politicisation was also observable in the national media arena. These were also the main locations where politicisation took place in this case in general. The media arena at EU level was only slightly affected by NGOs politicisation. The court proceedings were for example never mentioned in the Brussels media realm. The *access* strategy of NGOs had no greater impact on politicisation. This is also exemplified by table 25 (below).

Regarding the strategies of NGOs, it can also be stressed that they heavily build their actions on the *voice* and *litigation* strategy. The resources of these NGOs were however low. The missing budget for the European action week highlights this. Another case in point is the outsourcing of the German lawsuit to the GFF, an NGO that is specialised in these legal procedures but that was not active in the formulation phase of the directive. An important insight of the case was the rather low success of NGOs *voice* activities. The campaigns – the "noisiest" actions of these organisations – did not promote politicisation. The *awareness* and *mobilisation* of the NoPNR, video, telephone as well as postcard campaign was low. One interviewee also explained that it was difficult to organise these campaigns since (human)

resources were missing due to the parallel discussions on the GDPR.[180] No wider support is visible except for some familiar actors from the net community. None of these campaigns – even the NoPNR – received greater attention by EU or national media. An interesting insight from the analysis is, that the NGOs court cases make it impossible for the European Commission as well as the member states to put the issue aside, despite the positive evaluation of the directive.

Table 25. Case 2 – NGO Strategies and Effects on Dimensions of Politicisation

Strategy	***Awareness***	***Mobilisation***	***Contestation***
Voice	**Low:** MEPs of ALDE, NI, greens (Alvaro, Ehrenhauser, Albrecht, in't Veld) and EP think tank.	**Low:** German privacy associations; net activists (DE &AT), DE Pirate Party, left, greens; ALDE/NI MEPs; Netzpolitik.org, former EDPS.	**Medium**: Opposing positions between EU institutions (EP – greens, left and liberals, Ehrenhauser – and EDPS on the one side, COM & MS on the other). Some opposing voices at national level: left, net activists.
Access	**Low:** EP Think tank.	**Low:** US Expert Hasbrouck, ALDE, Green/EFA.	**Low:** Opposing points issued by single businesses and human rights experts as well as NGOs.
Litigation	**Medium:** National media, EDBP, Sophie in't Veld, EU COM evaluation report.	**Medium:** Political actors and societal activists (with net community background) at German and AT national level.	**Medium:** Diverging positions among NGOs, data protection authorities and data protection representatives before courts and in EU institutions.

Source: Own illustration.

MEPs were important *addressees* in this case, especially those who participated in the LIBE Committee.[181] These MEPs are characterised more by their closeness to the data protection issue than by their political orientation. The analysis of NGOs' *litigation* strategy strengthens this impression. A case in point is the involvement of the former head of unit at the LIBE Committee. The Council of the EU was not directly contacted by NGOs. An exchange with the Commission was only visible when NGOs sent their feedback to evaluate the directive. Hence, these institutions were not significant anchors for NGOs' interests. As will later become more apparent, this as a sole attribution of this case.

[180] NGO staff (4) highlighted this.
[181] See in this context "Appendix 10. Case 2 – NGO actions categorised as *access*".

A question that arises inevitably here is, who supported whom. Was it the non-governmental actors supporting MEPs who were already politicsing the EU-US PNR agreement, or are the NGOs rather backed up by these political decision-makers? The former narrative of the process can at least not be completely ruled out. Especially when one scrutinises the political deal or rather "exchange" regarding the GDPR, that was explained in the chronological overview. Another point that stresses the former interpretation of the case, is the fact, that most politicisation took place in the political realm. Only those MEPs who generally work on the issue reacted to NGOs. Politico (C. Brand 2010) referred for example to Sophie in't Veld as a MEP who "has made enemies by championing privacy", pointing explicitly to her role in the adoption process of the EU-US PNR agreement.[182]

The politicisation in this case was mainly characterised by policy politicisation. The criticism of actors focused on the issue itself. Questions regarding the effectiveness, proportionality and necessity of the policy were raised. Only within a short window of time, politicisation was characterised by politics politicisation. This politics politicisation was connected to Statewatch's *politicisation move*. The NGO questioned the correctness of the Commission's funding in the context of the fact, that an official adoption of the EU PNR proposal was missing.

Discussing favourable conditions, it was notable that again the political-cultural context of Austria and Germany was supporting for NGOs actions. Especially in bringing a case before a (EU) court and finding (individual) allies. The issue of mass data retention, the type of NGOs involved as well as form of the legislative act did not facilitate politicisation to a higher extent. Trigger events were present, but they only slightly increased the involvement of NGOs. It was much more the hasty policy-making and adoption of the directive, that put these organisations on the agenda.

The next chapter will concentrate on the analysis of the third case. This case differs from the already scrutinised cases regarding three aspects. First, the content of the law is different. The legislation handles rather the deletion of (internet) data than the collection of (user) data. Second, a regulation and not a directive will be the focus of the within-case analysis. Third, the proposal of the EU terrorist content regulation was tabled in 2017 and the law was only recently adopted (in 2021). In consequence, the focus is on a rather new political security project of the EU. The political process is also rather short in contrast to the two examined directives. However, the analysis will illustrate that the emergence of the issue also has connections to 9/11.

[182] Additionally, interviewee NGO staff (14) and Council official (2) also stressed the importance of the role of MEPs like Sophie in't Veld as drivers in the EU PNR policy process.

8 The EU Terrorist Content Online Regulation (Terreg)

The regulation was negotiated by EU institutions in turbulent times. The legislation not only experienced European parliament elections (2019) and the withdrawing of a member state (2020), which led to changes regarding the involvement of EU personnel, the negotiations between main EU institutions – the so-called trilogues – also went through some schedule postponements due to the Covid-19 pandemic. Still, Terreg was proposed in 2018 and adopted in 2021. Now, readers might have the assumption that this regulation is a law adopted on the fast track. Especially, when one compares the timeline of this policy to the one of the EU PNR directive. However, the discussion around this kind of counter-terrorism policy was not quite as short as one might think at the first glance. Elaborations on the EU's attempts with regard to illegal online content (chapter 5.1) emphasised this.

Before the focus is now on the regulation's political process that only started in 2018, the content of the EU law is presented. This chapter 8 follows an identical structure and approach as the two other case analyses. After the chronological overview is given, the NGOs' contribution to a (potential) politicisation process is examined. As a first step this involves the description of NGOs' participation in the political process. Then, in a second (more detailed) step, the NGO's strategies in relation with the three dimensions of politicisation (*awareness, mobilisation*, *contestation*) will be analysed.

What is the regulation about?

At the centre of this chapter is a regulation. This is a huge difference to the before analysed legislative acts. A regulation does not leave the member states any room for manoeuvre when it comes to implementation. In contrast to directives, regulations are automatically binding and apply immediately upon entry into force. This kind of legal act applies uniformly in all member states.

The "regulation (EU) 2021/784 […] on addressing the dissemination of terrorist content online" was published in the Official Journal of the European Union in May 2021. At its core, this regulation deals with the deletion of content by (internet) businesses. Since the EU or rather member states' law enforcement is not able to take this content off the internet itself, it appeals to the "societal responsibility" of these companies (Official Journal of the European Union 2021, 80). Companies affected by the law are "all providers of relevant services offered in the Union, irrespective of the country of their main establishment" (Official Journal of the European Union 2021, 82). The businesses engaging in internet activity – referred to as "hosting service providers" – need "to protect their services from misuse by terrorists" (Official Journal of the European Union 2021, 80). In doing so, it defines important basic terms and provides an

overview of the necessary procedural steps that need to be followed when a national authority orders a platform to delete specific content. As a matter of fact, the EU aims for harmonising these procedures with adopting the regulation. Mostly this include technical, bureaucratic and organisational measures to be taken. For example, what do to when a national authority recognises that terrorist content is at hand, the way of getting in contact with those businesses as well as what happens to the content when it has been deleted by these companies. The preamble of the regulation explains why the EU considers these efforts to be necessary in the first place. The regulation is introduced as being significant for the existence and maintenance of an "open and democratic society" (Official Journal of the European Union 2021, 79) as well as "the protection of public security" (Official Journal of the European Union 2021, 80).

As mentioned above, much of the regulation is about defining relevant terms. The preamble for example clarifies the relation between terrorist content and illegal content, two terms used by the EU to categorise internet material. The text states that the former "is part of a broader problem of illegal content online" (Official Journal of the European Union 2021, 79). The introductory text also gives an idea of what is meant by the term terrorist content. This specific content is framed as problematic, since it can lead to the incitement of people to join terrorist groups and "to facilitate and direct terrorist activity" (Official Journal of the European Union 2021, 79). Moreover, it is described as a "catalyst for the radicalisation of individuals" (Official Journal of the European Union 2021, 80). Article two of the legal binding document offers a concrete definition of the term that is linked to the rather general understanding. The definition of terrorist content is based on the EU directive on combating terrorism. According to the directive (EU) 2017/541[183], all information that leads to the committing of "terrorist offences" – a term that is also defined by this legislation – and to the "glorification" of these acts as well as the joining and support of a group that is categorised as terroristic falls under the definition (Official Journal of the European Union 2021, 90). The regulation also points to limits regarding its application. Text content sent by e-mail as well as exchanged via messaging services is not covered by this regulation (Official Journal of the European Union 2021, 81). In addition, "[m]aterial disseminated for educational, journalistic, artistic or research purposes or for awareness-raising purposes against terrorist activity should not be considered to be terrorist content" (Official Journal of the European Union 2021, 81).

To delete marked internet content, companies have an one-hour timespan (Official Journal of the European Union 2021, Article 3, 90). If they are not able to erase this information or material within this hour, the national authority that contacted the company in the first place must be notified. The regulation refers to these national bodies as "competent authorities" (Official

[183] The original source is Official Journal of the European Union (2017).

Journal of the European Union 2021, Article 12 and 13, 97). Each member state is responsible for selecting or creating this body. When a company is addressed by a national authority for the first time, it should be informed by this administration twelve hours before the first official removal referral is made (Official Journal of the European Union 2021, 82). When it is not possible to erase content for the responsible hosting service provider within the given hour, it has to explain the situation to the authority that sent the request (Official Journal of the European Union 2021, 82). Deleted content should be stored for a maximum period of six months, since it can "contribute to prosecuting terrorist offences or to preventing serious risks to public security" (Official Journal of the European Union 2021, 84).

The decision to use technical support to recognise and delete content is up to the companies active on the internet. Article five on "Specific measures" explicitly highlights that the businesses are not compelled to use "automated tools" (Official Journal of the European Union 2021, 93). In the regulation's preamble, this information is pointed out as well: "However, it should be possible for hosting service providers to use automated tools if they consider this to be appropriate and necessary to effectively address the misuse of their services for the dissemination of terrorist content" (Official Journal of the European Union 2021, 81).

Notifications to delete material can also be issued by member states where the affected company has no headquarter. These are covered by the regulation under the term "cross-border removal orders" (Official Journal of the European Union 2021, Article 4, 91). It is however the national authority's decision in which the company's office is based, if the marked content should be erased. The authority is in charge of examining "the removal order to determine whether it seriously or manifestly infringes this Regulation or the fundamental rights and freedoms guaranteed by the Charter" (Official Journal of the European Union 2021, 91). Europol, as already mentioned, also created an entity that issues request to delete certain internet content. The regulation states with regard to the interaction of these national units and the entity created at EU level that cooperation and consultations are welcome, especially to avoid double requests to erase material (Official Journal of the European Union 2021, 97). Jurisdiction falls under the member state in which a company's headquarter is located. If the company has no branch office in a member state, all member states have jurisdiction (Official Journal of the European Union 2021, Article 16, 98). The regulation highlights that member states can punish companies for disregarding removal requests. Each member state has decisional power on "adequate" penalty. This can include a mere warning or a lump sum. In the legal text, however, one condition is stressed: "Member states should ensure that penalties imposed for the infringement of this Regulation do not encourage the removal of material which is not terrorist content" (Official Journal of the European Union 2021, 87).

The regulation is active from beginning of June 2022. An evaluation by the Commission is planned for 2024. Until then the competent authorities as well as the affected businesses should write “transparency reports” on a yearly basis, to give the public insights on the number of erased content as well as the requests made by the national units (Official Journal of the European Union 2021, Article 7 and 8, 94-95).

Several times the significance of freedom of expression is emphasised in the document. At one point in the regulation’s preamble (2021, 80), it is explicitly highlighted that “[e]ffective online measures to address terrorist content online and the protection of freedom of expression and information are not conflicting but complementary and mutually reinforcing goals.” The analysis of the regulation will demonstrate that the frequent emphasis on freedom of expression is closely intertwined with the debates that characterised the formulation phase of the law and negotiations between institutional and non-institutional actors. The analysis of NGOs’ role in politicisation follows right after the next subchapter that concentrates on the chronological overview of the political process. Here, it becomes also visible that freedom of expression was a main issue in the regulation’s context as actors like the UN rapporteur on freedom of opinion and expression were involved.

8.1 Chronological Overview of the Political Process (2015-2021)

This subchapter focuses on the emergence and development of the EU terrorist content online regulation. In September 2018, the proposal for the regulation was introduced by the European Commission (2018d). In the document it is stressed that the proposal can be regarded as an input from the European Commission to a meeting held by the European Council in Salzburg in the same month. In Salzburg, the regulation was declared to be of high priority for the Austrian Council presidency. Backing the Austrian cause, the German (07.-12.2020)[184] and the Portuguese Council presidency (01.-06.2021)[185] also pushed the legislative process forward. During the latter presidency, in April 2021, the proposal was formally adopted by the European Parliament. The opinion of three committees in the EP were included in the political process. The LIBE Committee, the Committee on Culture and Education (CULT Committee) and the Committee on the Internal Market and Consumer Protection (IMCO Committee) each submitted amendments and drafted statements on the regulation. As already mentioned, the regulation was published in May 2021 with an application by June 2022. However, some details of this political process should be further highlighted.

The MEPs' call to tackle terrorist online content was made right after the November 2015 attacks in Paris.[186] After the Parsons Green attack was committed in the UK, Prime Minister Theresa May claimed to introduce a two-hour deadline for internet companies to delete "extremist content" (Dickson 2017). In the aftermath of terrorist attacks in Barcelona (2017) Commissioner Avramopoulos (2018) wrote an article published by EUobserver; stressing: "We cannot tolerate terrorist content on online platforms. The threat is real and urgent - people have died because certain individuals became radicalised overnight from watching terrorist videos." The NetzDG was proposed by the German cabinet after an attack was perpetrated on a Christmas market in Berlin. However, the issue was not only present at EU and member states' national level but also discussed within the framework of the UN. In 2017, the UN Security Council adopted the Resolution 2354 (S/RES/2354(2017)) that emphasised risks regarding the misuse of the internet and social media by terrorist groups. A recommendation was therefore made to "[c]ontinue to identify and compile existing good practices in countering terrorist narratives (United Nations Security Council 2017, 3).

Between April and June 2018, the Commission held a public consultation on the issue of handling illegal internet content. Civil society representatives, academia, member states governments as well as companies with a focus on internet technology and digitalisation were

[184] On the website accompanying the Council Presidency (eu2020.de n.d.), the government stated: "Germany supports a swift conclusion of the regulation on preventing the dissemination of terrorist content online."
[185] "It's a priority for the Portuguese presidency of the Council of the EU to conclude the legislative process that will allow terrorist content placed on the Internet to be eliminated in just one hour" (Stolton, March 12, 2021).
[186] This article published by Euractiv also stresses this link: Stupp (November 26, 2015).

invited to contribute to the discussion of possible policies to overcome this challenge. Two interesting outcomes in the light of this case are shortly presented. First, more than three-fifths of contributing people did not perceive the internet as a threat nor "have [they] been a victim of any illegal activity online" (European Commission 2018a, 4). Second, less than 50 percent of these individuals saw a necessity for internet companies to delete tagged content (European Commission 2018a, 5). The results of this consultation were published shortly before the Commission introduced the proposal for an EU regulation to tackle terrorist internet content.

At the same day of the proposal's publication, Commissioner President Jean-Claude Juncker announced the legislative act in his letter of intent. The legislation was perceived as one of the policies "for delivery before the European parliament elections" (European Commission 2018e, 7). These would take place in May 2019. While the Council came rapidly to an opinion on the regulation, processes in the EP took more time. During inner-institutional negotiations in the EP, a terrorist attack in New Zealand's city Christchurch changed the political sentiment. The crime was recorded live and distributed on different internet services. New Zealand's prime minister launched together with the president of France the 'Christchurch call'. The call aimed "to eliminate terrorist and violent extremist content online" (christchurchcall.com n.d.). Emanuel Macron was already known for taking a hard line against internet companies (Plucinska 2018b).

When parliament elections took place, the trialogue meetings had not yet started. The elections – and then later UK's leaving of the EU – resulted in the appointment of new rapporteurs in the LIBE, CULT and IMCO Committee. For example, in the LIBE Committee the British MEP Daniel Dalton (ECR) was replaced by its Polish colleague Patryk Jaki (ECR). Moreover, the green MEP Jan-Philipp Albrecht, who had proven to be an important anchor point for NGOs in the last two case analyses, left the EP (Plucinska 2018a). Interestingly, Patrick Breyer – member of the AK Vorrat DE and hence, a person from within the digital NGO scene – was appointed as MEP and joined the political group Greens/EFA. The lawyer, who worked on the German data retention court case, moved in the European Parliament as representative of the Pirate Party. An important personnel change in the Commission was the replacement of JHA Commissioner Dimitris Avramopoulos by Ylva Johansson. Only some days after her appointment, the new Commissioner was urged by the elected President Ursula von der Leyen to continue efforts regarding terrorist content online.[187]

The trilogue meetings then officially started in October 2019. Two events in the year 2020 however influenced the pace of inter-institutional negotiations. The talks between the EP, the Council and the Commission were interrupted at the beginning of that year by the Covid-19

[187] See the statement of Ursula von der Leyen presented in subchapter 5.2.2.

pandemic and only slowly resuming in autumn. The terror attack in Vienna (November 2020) led to an increase of the pressure to find a political solution. After a video conference, member states' interior ministers stressed in a joint statement (Council of the European Union 2020): "We therefore aim to successfully complete the negotiations of the Regulation on terrorist content online (TCO) by the end of the year, while maintaining our strong ambition to create a new and effective operational instrument for the cross-border elimination of terrorist content." The Commission's (2020d) communication on "[a] Counter-terrorism Agenda for the EU" likewise identified a need to proceed with the negotiations on the regulation. In the document it was emphasised: "Adoption by the European Parliament and the Council is therefore a matter of urgency" (European Commission 2020d, 6).

In January 2021, the LIBE Committee agreed on the regulation with 54 votes in favour and thirteen against. One abstention was issued. (European Parliament 2021a) Green MEPs as well as members of GUE/NGL voted unified against the agreed text (Patrick Breyer n.d.). The regulation was adopted without vote in the European Parliament. During the EP's plenary debate Commissioner Johansson (European Commission 2021) highlighted "We may never be able to count how many. But this Regulation will save lives. We can be proud of this result."

The figure (27) that follows on the next page provides an overview of main events. In the next subchapter, it will be described who the civil rights organisations that were involved in the issue are and at which point in time they became active regarding the regulation. This is followed by the actual centrepiece of this chapter: The link between NGO strategies and politicisation will be explored.

Figure 27. Timeline of EU Terrorist Content Online Regulation (2015-2020)

Terrorist attacks	Paris terror attacks (Jan/ Nov)	Brussels bombings (March) Christmas Market attack Berlin (Dec)	Barcelona attacks (Aug)		Christchurch attack (March)	
Legislative acts				COM Terrorist Content Online Regulation proposal (Sep)	*EP elections (May)*	Adoption of Terrorist Content Online Regulation (May)
	2015	**2016**	**2017**	**2018**	**2019**	**2021**

Source: Own illustration based on analysis of case.

8.2 Analysis of the Contribution of NGOs in the Politicisation Process

It is important to emphasise that in this case not all strategies of NGOs are present. NGOs have not (yet) introduced legal means against the regulation. For this reason, only the two strategies *voice* and *access* are examined in connection with the three dimensions of politicisation (*awareness*, *mobilisation* and *contestation*). This is also the reasons why there is no subchapter on *litigation*. However, it cannot be ruled out that NGOs make use of this strategy in the future. Already before the regulation was officially adopted, the digital rights watchdog EDRi (2020h) declared:

> With such far-reaching censorship powers given to authorities, the absence of strong oversight and given the national and EU-level jurisprudence on freedom of expression, it is hard to see how the future Regulation would stand in court and not be overturned. Notably, the power to censor content online within an hour, without prior judicial authorisation, might not be in line with the principles of necessity and proportionality enshrined in the Charter of Fundamental Rights.

This directly leads to the next subchapter on participation of NGOs. In this case, the reader will be confronted by actions introduced by all too familiar NGOs. The involvement of the umbrella network EDRi who also plays a role in the regulation's context is an example for this. In addition to that, some new, hitherto unknown actors from the NGO scenery will enter the stage, too. A characteristic of this case is that not only NGOs with a focus on digital rights are active, but that participation of human rights organisations can be observed in the political process as well. In addition, some of the involved NGOs are part of the international arena.

8.2.1 Participation of NGOs

In this case, it becomes again apparent that it is the digital rights NGO scene that takes a leading role in this specific EU counter-terrorism policy process. EDRi and its members were the first who became active in opposing the EU's plans to regulate terrorist internet content. EDRi already worked closely on the issue before the Commission's proposal was published officially. In late 2017, the NGO stressed several times its disagreement with the Commission's plan to combat internet content categorised as "illegal" and gave the public access to confidential negotiations at EU level (European Digital Rights 2017a). Regarding its members, early actions in 2018 are visible by LQDN and Access Now Europe. The former's involvement however receded at EU level once the LIBE Committee adopted the legislative text. The NGO brought a campaign website on Terreg into being, which was not further updated after the committee issued its agreement (see La Quadrature du Net n.d.b). Participation in the policy process was also observable by EDRi members that might not be that well-known to the reader of this thesis. Article 19, only on some occasions active in the data retention case, now overtook a greater role. This member was responsible for some joint letter publications.

EDRi member EFF, likewise active in the international realm, worked on the policy issue as well. In Germany, increasing interest in the issue was visible by digiges. The NGO Statewatch should also be named. This EDRi member was also active in the policy process, but to a far lesser extent than the other organisations. Its involvement will be hardly noticeable in the next subchapters, which makes an interesting difference compared to the NGOs' participation in the other cases. Statewatch can rather be described as a supporting actor than a main NGO player in Terreg's policy process.

Contrary to Statewatch's involvement regarding the examined directives, its website was not used as a platform for leaked documents but served as a place to publish statements articulated by other NGOs. One of these groups that made use of Statewatch as a platform is the civil rights organisation Liberties. The NGO overtook a greater, coordinating role in this case. As highlighted in chapter four, the organisation is not an official member of EDRi. Thus, this NGO differs from those already mentioned. Three further participating NGOs who are notable and not a part of the EDRi network were CDT, WITNESS and Counter Extremism Project (CEP). Like Liberties, the organisations CDT and WITNESS overtook a coordinating role. It will be observable that CDT Europe has some relations to business groups. The CEP as already anticipated represents a counterpart of the digital rights NGO scene.

In the next subchapter the participation of a lot more NGOs will be recognisable. At some point in the policy process, more than 60 NGOs cooperated. In some actions, also the support of old-established NGOs like Amnesty International, HRW, the CPJ or EDRi-observer RSF will be visible. The increasing participation of NGOs is expressed in the study of the dimension *mobilisation*. The connection of NGOs strategies and dimensions of politicisation will be the focus of the next subchapter.

8.2.2 Connection of NGO Strategies and Dimensions of Politicisation

In this analysis of NGO actions, it will be visible that these groups overwhelmingly relied on the strategy of establishing *access*. This *access* strategy was mainly characterised by NGOs' publication and distribution of so-called "civil society" or "joint" letters. The next two subchapters will highlight this in detail. First, NGOs' *voice* actions will be examined. Second, the use of actions associated with NGOs' *access* strategy will be illustrated. Each analysis starts with an overview of the activities pursued and finishes with a scrutinisation of the extent to which these distinct activities fostered *awareness*, *mobilisation* and *contestation*.

8.2.2.1 Voice

That making “noise” is not the primary strategy of NGOs in this case, becomes quickly visible. In the policy process of the Terreg, NGOs made little or no use of organising protests, petitions or broader public campaigns to increase attention on their positions. Rather it seems that the undertaken *voice* actions served to support the NGOs’ *access* strategy. This becomes especially evident in studying NGOs’ blog articles. The publication of those contributions is rather used to embed letters to EU institutions and politicians as well as to underline the content of these letters. The articles’ publication serves rather not the purpose to encourage the public to participate in (“join-in”) activities. Another important point that should be stressed before illustrating the single *voice* actions is the positive attitude of NGOs towards EP committees in their blog articles. EDRi published several articles complimenting the CULT, IMCO and LIBE Committee on their work. At one point in the legislative process, EDRi (2019c) titled “Terrorist Content Regulation: Successful ‘damage control’ by LIBE Committee”.

Individual actions that can be named under the label *voice* strategy are NGOs’ leaks, a video contribution, a campaign page and an e-mail campaign. The main NGOs behind the leaking of confidential documents were EDRi and Statewatch. The former digital rights organisation leaked a recommendation of the Commission (European Digital Rights n.d.b), while the latter was responsible for publishing an opinion of three UN special rapporteurs (Kaye, Cannataci, and Ní Aoláin 2018). A video contribution with the title “Terrorist Content Online proposal: A step towards pre-emptive censorship” was recorded by the Senior Policy Advisor of EDRi (2018f). The French NGO La Quadrature Du Net brought an own campaign page on Terreg into being. Next to information on the legislative act, the public could find detailed instructions on how to call an MEP (La Quadrature du Net n.d.b). The instructions entailed a prepared list of arguments for those willing to reach for the phone. MEP’s contact details could be selected randomly or filtered according to a member state and/or a political group. A similar activity was introduced by a German-based NGO. Liberties (2020) called for public support in sending an email to politicians: “If you disagree with this proposal, please send the following template letter through our engine […] to the EU Trilogue delegation members now.“

The analysis of the impact of NGOs *voice* strategy on politicisation starts with a scrutinisation of *awareness*. Under this point it will be first studied what the media reception of NGOs looked like in general with regard to Terreg, before the focus is narrowed on the specific relation between the organisations’ *voice* activities and this dimension of politicisation.

Awareness

The media content analysis demonstrates that in total 104 articles concentrated on the EU terrorist content online regulation. Euractiv was the news outlet most interested in the issue as table 26 shows. Next to EUobserver it is also the only magazine that shed light on the active NGO scene (see table 26). The media reporting started slowly in 2017 and picked up in 2018. While in 2017 ten articles were published on the issue, in 2018 twice the number of articles had been drafted taking the regulation into account. The number of articles in 2019 and 2020 remained almost on the same level. In 2019, 29 articles thematised Terreg. In 2020, the counter-terrorism policy was the subject of 27 articles. Attention by EU media outlets decreased in the year of the regulation's adoption (2021). This development is visually summarised by figure 28.

Table 26. Case 3 – Reference to the EU Terreg[188] in EU Media Outlets (2015-2021)

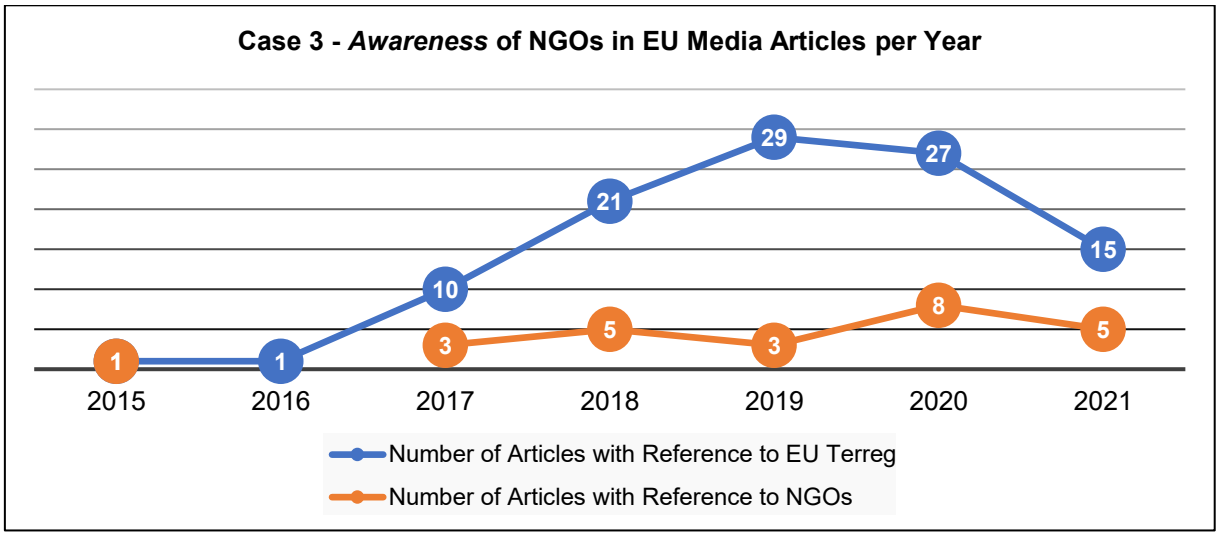
EUobserver	EURACTIV	Politico Europe	The Parliament Magazine	In total
14	63	24	3	104

Source: Own illustration based on qualitative (online) media outlet analysis.

Table 27 illustrates that NGOs were mentioned 42 times in 38 different articles between 2015 and 2021. EDRi is the NGO that was mentioned the most by Euractiv and EUobserver. Access Now and Liberties are both referred to five times by these Brussels media outlets. It is also notable that Statewatch and digiges are mentioned in news articles. Statewatch is only mentioned once, which makes a great difference to the NGOs appearance in the media regarding the two other case studies. This validates the statement that the NGO's role is marginal in the policy process of Terreg. digiges also received attention in the media reporting on Terreg, as one article published by Euractiv covers the NGO's position. More "prominent" NGOs like Amnesty International, the Committee to Protect Journalists, Ligue des Droits de l'Homme and RSF were also included in articles by Euractiv. A further notable point is, that the Counter Extremism Project, an organisation that is not part of the digital rights community – and that does not cooperate with already familiar NGOs as will be shown later – was mentioned in seven articles (one of EUobserver, six of Euractiv). The issue was covered by one Eurobarometer survey in 2018 (European Commission 2018b) and one poll conducted by the data analytics company YouGov (n.d.). in 2020.

[188] Articles which referred to both terms "illegal content" and "terrorist content" are included. Articles in which solely "illegal content" is addressed are not included. To be part of the EU media content analysis, a connection to "terrorist content" needs to be visible in news articles. Articles that refer solely to "hate speech" are not included in the analysis. This avoids for example the inclusion of articles focusing on the EU Digital Services Act in the analysis.

Figure 28. Case 3 – Timeline: Mentioning of NGOs in EU Media Articles per Year (2015-2021)



Source: Own illustration based on qualitative (online) media outlet analysis (EUobserver, EURACTIV, Politico Europe, The Parliament Magazine). The figure only refers to the number of articles (25) that explicitly mentioned NGOs by name.

Table 27. Case 3 – Mentioning of NGOs in EU Media Outlet Articles (2015-2021)

Name of NGO / EU Media Outlets	EDRi	Statewatch	digiges	Access Now	Liberties	CDT	LQDN	CEP	Amnesty Internat.	RSF	CPJ	LDH	In total (by media outlet):
EUobserver	4 (3)	1	-	1	3 (2)	-	-	1	-	-	-	-	10 (8)
EURACTIV	9 (8)	-	2 (1)	4	2	1	1	6	2	2	1	1	32 (30)
Politico Europe	-	-	-	-	-	-	-	-	-	-	-	-	0
The Parliament Magazine	-	-	-	-	-	-	-	-	-	-	-	-	0
In total (by NGO):	13 (11)	1	2 (1)	5	5 (4)	1	1	7	2	3	1	1	**42 (38)**

Source: Own illustration based on qualitative (online) media outlet analysis (EUobserver, EURACTIV, Politico Europe, The Parliament Magazine). The total number of articles in which NGOs are mentioned is displayed in brackets. In some cases, NGOs are mentioned several times in one and the same article, which is why the number deviates from the total number of named NGOs.

The politicisation process basically started with a *move* by the NGO EDRi. In February 2018 the organisation leaked a confidential recommendation of the European Commission, that discussed how to proceed with illegal content. However, this recommendation was particularly important to the NGO because it was the first time that the Commission referred to the term "terrorist content". The leak was the subject of three successive articles published in Euractiv (Stupp 2018a, 2018b, 2018c). Moreover, it was distributed by Netzpolitik.org (Fanta and Rudl 2018) and FM4.orf (Moechel 2018). The attention around the document however quickly receded. So, this process only starts with a very slight peak of *awareness*. A higher peak

followed a few months later. It was also caused by a leak. The distributor of the confidential file was not EDRi but another actor from the (net) community.

Netzpolitik.org (Rudl 2018c), who was highlighted as an ally of EDRi and the like in the two other case analyses, published a so-called “wish list” of the German and French interior ministers. Two ministers had drafted a letter to the Commission asking the institution to prepare a proposal for a regulation to handle terrorist content. A further notable aspect of that letter was the interior ministers’ claim to delete content within one hour (Rudl 2018c). EDRi (2018e) picked up this news by Netzpolitik.org and distributed it in the article “LEAK: France & Germany demand more censorship from internet companies”. A raise in *awareness* was visible in the German media realm. Different newspapers and broadcasts (J. Brühl 2018; D. Domscheit-Berg and A. Domscheit-Berg 2018; Dornis and J. Brühl 2018; Drebes and Fiene 2018; Mitteldeutscher Rundfunk 2018; WELT 2018) as well as online IT and tech magazines (eco 2018; Greis 2018) covered the action of Netzpolitik.org. Furthermore, the French ZDNet (L. Adam 2018), a technology website like Netzpolitik.org, reported on the publication of the secret document as well. Nevertheless, this attention quickly expired again. What EDRi did then, was to keep the issue in the public realm. It published two further articles on the issue (European Digital Rights 2018a, 2018b). The official publication of the regulation by the Commission also contributed to the boost of reporting by NGOs and IT blogs. EDRi (European Digital Rights 2018c), Netzpolitik.org (Rudl 2018b) and LQDN (2018b) were striving to keep *awareness* around the issue high. EDRi’s position on the Commission’s proposal was only covered in one further article published by Euractiv. In contrast, the Counter Extremism Project’s opinion on the proposal received more attention by Euractiv. Three articles referred to the opinion of the London-based NGO (Stolton 2018a, 2018b, 2018c). That media interest on the NGOs’ position however stopped to evolve and remained low, can be supported by figure 28 which illustrates the timeline of EU media reporting around Terreg. In 2018, when more than twenty articles were published with a focus on Terreg, NGOs and their positions only appeared in five of these contributions. All these articles were written by a journalist of Euractiv. Three of these alone responded to EDRi’s leak as demonstrated above.

A third and final increase in *awareness* caused by a *voice* action was visible in 2020. Again, the activity was defined by the leaking of a secret file. And again, the distributor of the leak was not a civil rights organisation, but the EU-insider magazine Politico. It published a confidential document on the trilogue negotiations of EU institutions. The leak was carried further into the public by Article 19 (2020a) and the Committee to Protect Journalists (2020). Moreover, the Green/EFA MEP Patrick Breyer (2020) as well as Daphne Keller (Twitter 2020a) a scholar at Stanford University, addressed the leak. Thus, the responders to this leak were mainly actors

that are closely intertwined with EDRi and its members as one will see at a later point in the analysis. The discussion on the leak and media interest in this issue quickly faded again.

Other abovementioned *voice* actions of NGOs were not taken up by the media or other actors. The video contribution for example was watched less than a hundred times. That *voice* actions of NGOs did not trigger *awareness* to a higher extent can also be demonstrated by table 28. The only NGO *voice* action that was observed here by EU news outlets was the leak initiated by EDRi. Nevertheless, the situation around the last leak stresses the existence of an important partner of NGOs. The cooperation between the privacy groups and Patrick Breyer will now play a role in examining *mobilisation*.

Table 28. Case 3 – Reference to NGOs' Voice Activities in EU Media Outlets per Article (2018-2021)

The kind of NGO action mentioned	Number of NGO action mentioned by media articles
Leaks	3
Number of NGO *voice* activities mentioned in total: 3	

Source: Own illustration based on qualitative (online) media outlet analysis (EUobserver, EURACTIV, Politico Europe, The Parliament Magazine).

Mobilisation

In this case, it is not possible to demonstrate that a specific *voice* action introduced by NGOs has led to an increase in *mobilisation*. Rather, alliances that already existed became more visible. The cooperation between Netzpolitik.org and NGOs (EDRi, LQDN) in the policy process of Terreg is a case in point. Furthermore, the close cooperation of actors within the EDRi-network becomes again apparent. For example, the public claim made by the French NGO LQDN to call MEPs was disseminated by EDRi (2021b) and the German-based organisation Digitalcourage (Ebelt 2019a). Above that, a link between Patrick Breyer and EDRi is at hand. This link becomes not evident by an action initiated through an article written by the CEP. The NGO's Senior Advisor (Creighton 2020) highlights in a contribution published on the website of Euractiv: "EDRi (the digital rights advocacy group), with the support of the German pirate MEP Patrick Breyer, have helped perpetuate myths surrounding the negotiations on the proposal to remove terrorist content online (TCO)." As one can derive from this quote, these two NGOs – EDRi and the CEP – stand on opposing sites. This difference in their positions will be of importance in examining the dimension *contestation*. Before this analysis takes place, a remark needs to be made on *mobilisation* in this case. That there is no *mobilisation* triggered by NGOs' *voice* actions does not mean that there is no peak in *mobilisation* at all in Terreg's policy process. On the contrary, an increase of cooperation between NGOs and other actors

becomes evident in the next subchapter that focuses on the organisations' *access* strategy.

Contestation

A Eurobarometer report of 2018 that accompanied the Commission's public consultation phase highlights that 90 percent of the interviewed considered "arrangements […] to limit the spread of illegal content on the Internet" (European Commission 2018b, 4) as necessary. Moreover, the report shows a great public support for deleting tagged material: "Nine in ten respondents agree Internet hosting services should immediately remove content flagged as illegal by public or law enforcement authorities (90%)" (European Commission 2018b, 5). The survey also indicates that the actual number of respondents affected by terrorist content while surfing the web is very small (European Commission 2018b, 24). A YouGov (n.d.) report commissioned by MEP Patrick Breyer showed that more than 40 percent of the persons interviewed in 2020 said that the deletion of terrorist content was a law enforcement task. More than 35 percent were in favour of automated tools to delete this material online (YouGov n.d.). Additional data from 2008[189] underlines the lack of broader public opposition regarding the deletion of terrorist content. In 2008, two different surveys took up the issue of "Monitoring of people's Internet usage" (European Commission 2008a, 49, 2008b, 49). One was created with a focus on data protection (European Commission 2008a), the other with attention to the opinion of data controllers (European Commission 2008b). The term "data controllers" refers to the personnel that is "responsible for data protection within the participating organisations" (European Commission 2008b, 4–5). The report examining this survey stressed that "[m]ost respondents agreed with the public authorities' assessment that the Internet was an efficient and dangerous tool for the preparation of terrorist attacks and that it should be monitored. After people's flight details, respondents were the most likely to agree to the monitoring of Internet usage (73%), with just about a quarter (23%) dismissing this possibility" (European Commission 2008b, 48). The survey on data protection with an interest in the European citizenry's opinion on that matter, indicated a similar trend. The analytical report on the poll stressed that Europeans favour action to safeguard the internet from terrorist usage (European Commission 2008a, 48):

> The assessment of public authorities that the Internet was an efficient and dangerous tool for the preparation of terrorist attacks, and that it should therefore be monitored, was shared by most Europeans. After the monitoring of personal details of flight passengers, respondents were the most likely to agree that the monitoring of this action should be possible (75%), with only one in five completely dismissing the possibility of monitoring Internet usage (19%).

As it will be illustrated in the following, the *contestation* in this case triggered from NGOs' *voice* strategy is quite different in nature compared to the cases data retention and PNR. When EDRi

[189] Even though these surveys do not fit into the analysis period, they provide an important insight into this trend and should therefore not be excluded.

leaked the Commission's recommendation on illegal content, the NGO directed a clear message to the public: "the Commission seeks to defend its attack on freedom of expression, privacy and the rule of law by using the threat of terrorism" (European Digital Rights 2018d). While the Commission did not want to comment on the leak, as it is the institution's normal procedure with leaked information, the European Digital Media Association (EDiMA), that represents tech organisations, responded publicly. The association, based like EDRi in Brussels, stated before Euractiv (Stupp 2018c): "'Our sector accepts the urgency but needs to balance the responsibility to protect users while upholding fundamental rights – a one-hour turn-around time in such cases could harm the effectiveness of service providers' take-down systems rather than help'". Hence, it chose a rather different path of argumentation than the NGO. EDRi, however, stuck to its point of criticism that the Commission used the 'threat of terrorism' as an excuse to adopt a new counter-terrorism policy. In response to the statement, that internet companies are too slow in deleting terrorist content[190] and the JHA ministers' suggestion to take recourse on automatic means, EDRi (2018b) stressed: "The European Commission is talking 'tough on terror'. Again." Moreover, the umbrella organisation highlighted "[t]he alleged urgency and importance of this proposal need to be seen in the context of the upcoming European elections and terrorism as a leading election topic in recent years" (European Digital Rights 2018c). With this argumentation, they were not completely alone. Patrick Breyer (2020; emphasis in the original) raised the following point as a crucial argument against Terreg: "**Freedom of expression would be limited** as 'law and order' politicians have political content taken down by labelling it 'terrorist', even if hosted in a country where it is perfectly legal."

The leak was also commented by Netzpolitik.org and LQDN, the former being responsible of the document's publication. The IT blog and the French NGO framed the plan of the JHA ministers as "censorship" of the internet. Netzpolitik,org (Rudl 2018c) introduced this argument by drawing a distopian image of the European society: "Sollte der Vorschlag einer Gesetzesinitiative umgesetzt werden, liefe das einerseits auf den verbindlichen Aufbau einer europaweiten Zensurinfrastruktur hinaus, die – wie der Brief andeutet – bald auf andere Inhalte ausgeweitet werden könnte." LQDN (2018b; emphasis in the original) described the idea as "**counterproductive**" and feared that the "**main effect would be to destroy the only version of Internet compatible with our basic freedoms**". The title of the NGO's blog article summarised the organisation's main point of criticism very well: "Antiterrorist Censorship: The EU Commission Wants to Kill the Decentralized Internet" (La Quadrature du Net 2018b).

[190] "Nach alledem ist deutlich geworden, dass die Unternehmen immer noch zu lange brauchen, um rechtswidrige terroristische Inhalte von ihren Plattformen zu entfernen. Trotz der konsequenten Bemühungen der Kommission ist die Kooperationsbereitschaft bei den Plattformen bislang unterschiedlich ausgeprägt und insgesamt unzureichend" (Rudl 2018c).

While there was no reaction from the political realm but civil society took a stand. The Counter Extremism Project opposed the position of the privacy groups in several statements in Euractiv. In one of these, the NGO highlighted: “Arguing against the deployment of automated tools to cut off the spread of harmful content online at the source in the noble pursuit of ‘protecting the free internet’ is misleading. The internet is *not* free” (Creighton 2020; emphasis in the original). Furthermore, the director of the NGO told Euractiv (Stolton 2018a): “’Reliable enforcement and automated technology so that content can be taken down within one hour of upload needs to be included in the proposed draft’”. With this kind of argumentation, the NGO was on the side of the Commission, who made in four different statements of responsible Commissioners, published at the day of the proposal’s introduction, its position very clear. The European Commission’s (2018f) press release illustrates the opinion of Juncker who stresses that the one hour-deadline is “*the critical window in which the greatest damage is done”.* According to Commissioner Avramopoulos a *“need to increase […] speed”* exists (European Commission 2018f). Julian King highlights in his opinion that “*voluntary efforts […] has not been enough*” and the Commissioner for Digital Economy and Society – Mariya Gabriel – stresses the goal “*to build a safer, human-centric internet based on our values*" (European Commission 2018f). (emphases in the original)

EDRi responded to the Counter Extremism Project in an own article published at Euractiv. The privacy advocacy questioned the effectiveness and appropriateness of the proposed legislation. The NGO also revisited the issue of proactive measures and spoke of a lack of scientific support for the measures undertaken (Berthélémy and Naranjo 2020):

> Unfortunately, the European Commission and many other stakeholders seem convinced that automated tools offer the easy fix they were looking for in order to solve a very complex problem. […] Pretending that the removal of terrorist content online should be the number one priority of the EU in the fight against terrorism is also the scientific literature on violent radicalisation factors.

In sum, the NGO’s *voice* actions did not lead to a wider discussion in public space. It was rather two civil rights representatives arguing on the adequacy of measures in the media realm. To be more precisely, the opposing positions between EDRi and the NGO CEP were argued out in the daily newspaper Euractiv. Figure 29 (below) summarises this situation.[191] A possible reason why *contestation* remained low was given by Liberties in one article published by Eurobserver. The NGO’s statement can also be regarded as an explanation for the lack of “noisy” means during the policy process of Terreg (Butler and Toth 2022):[192]

[191] That EDRi and CEP stand on opposing sides was stressed in several interviews. The interviews with Commission official (5), NGO staff (13) and MEP (1) highlighted this situation.
[192] This was also reflected in different interviews with experts: NGO staff (4), NGO staff (7) and NGO staff (13) highlighted difficulties with the framing of the issue. NGO staff (4) stressed: “Everything that contains the word terrorism […] it is very difficult to do anything, to campaign, to write about it, get people active”. NGO staff (7) responded in this way to the issue “Yes, who would be against stopping terrorism?”.

> Sometimes politicians carefully choose a title or shorthand for a law or policy in a way that fires up their base and makes it awkward for opponents to get their message out. […] Digital rights groups, including Liberties, criticised the [Terreg] proposal because its provisions are so sweeping that it is likely to muzzle free speech and public debate over the internet. But every time an NGO criticised the proposal for its foreseeable shortcomings, we almost automatically had to distract from our message by adding the qualifier that we support the fight against terrorism. Rather than focusing our messaging on how the internet is key to democracy, activists ended up repeating the EU's framing that this law would combat terrorism while defending ourselves for protecting free speech. The label given to the proposal is deliberate: this law fights terrorism. And who's going to disagree with that?

The analysis of NGOs *voice* strategy shows that these organisations were able to draw the issue several times in the public realm but not to keep it there. The effects on *awareness*, *mobilisation* and *contestation* – if any occurred at all – did not last for long. The question is now, if the NGOs' use of the *access* strategy paints a different picture. To find this out will be the focus of the next subchapter.

Figure 29. Case 3 – Voice: Opposing Positions on Terreg

Source: Own illustration. This is only a snippet of the conflict parties and the discussion.

8.2.2.2 Access

During the policy process of the EU terrorist content online regulation, civil rights organisations relied heavily on the *access* strategy. They drafted alone more than fifteen open letters to different representatives of EU institutions. The European Commission and the JHA ministers were the organisations' addressees at the start of the policy process. During the formulation phase of Terreg MEPs became the main recipient of NGOs messages. In particular those parliamentarians who hold a seat in one of the committees IMCO, CULT or LIBE. In Brussels, the NGOs CDT, EDRi, and Access Now overtook a coordinating function in drafting the open letters. At the German national level, the NGOs Liberties and digiges became active in publishing letters. At the French member state level, LQDN fulfilled a coordinating role. WITNESS, a globally active organisation, was initiator of a letter supported by signatures of NGOs, institutions and individuals distributed world-wide. In addition to the NGOs' letter campaign, the Brussel-based groups also organised a roundtable event with UN Special Rapporteur Fionnuala Ní Aoláin (Access Now 2019a). Next, it will be analysed in how far these

actions summarised under *access* fostered an increase in *awareness*, *mobilisation* and *contestation*.

Awareness

The awareness of the NGOs' letter campaign in the media venue was few and far between (table 29 illustrates this visually). Some attention was given to NGOs by the news magazine Euractiv, who mentioned six open letters in its coverage of the policy process of Terreg. EUobserver on the other hand only highlighted one NGO letter in its reporting. The most recognised open letter was the one coordinated by Liberties shortly before the parliamentary vote. It was mentioned in three different articles published by Euractiv and was also recognised at German level by Netzpolitik.org (Rudl 2021) and Deutsche Welle (Marshall 2021).The NGOs meeting with the UN special rapporteur was not covered at all by the Brussels media. Although, the letters themselves were not mentioned in great detail, there was at least some change with regard to the media *awareness* of (national) NGOs as stakeholders. One example is an article published by Euractiv. It referred to interview snippets with a staff member of the German-based organisation digiges (Schulz 2019). That the NGO Liberties was able to publish a story about the regulation's adoption process in EUobserver (Butler and Toth 2022) can be regarded as another example.

Table 29. Case 3 – Reference to NGOs' Access Activities in EU Media Outlets per Article (2015-2021)

The kind of NGO action mentioned	Number of NGO action mentioned by media articles
NGO letter campaign	7
Number of NGO *access* activities mentioned in total: 7	

Source: Own illustration based on qualitative (online) media outlet analysis (EUobserver, EURACTIV, Politico Europe, The Parliament Magazine).

Outside of the Brussels media realm, there was only little attention to the NGOs' open letters. The European Commission included a letter CDT and EDRi drafted with businesses – among others EDiMA – in its analysis of stakeholders' views during the proposal's impact assessment (Center for Democracy and Technology 2018b). The open letter goes back to the time when EDRi received the news of the Commission's recommendation on illegal content. A letter coordinated by WITNESS was covered by a briefing of the European Parliaments Think Thank (Luyten 2021). Daphne Keller (2019), an US law expert that will be further introduced under the next two dimensions, distributed a letter driven by the Brussels-based organisations CDT and Access Now. Only three MEPs pointed to NGOs' letter campaign. These politicians have in common to all be members of the Pirate Party. Patrick Breyer and Felix Reda, two German

parliamentarians, shared the NGOs' letters on their respective websites. The latter mentioned politician, who was rapporteur in the IMCO Committee until the European elections in 2019 took place, distributed a letter coordinated by Access Now (Reda 2019a). The Czech Pirate Party member and one of the Vice-Presidents of the EP Marcel Kolaja stressed the organisations' position in a plenary debate (European Parliament 2021c) as well as in an interview conducted by the news agency Reuters (Chee 2021). The expressed *mobilisation* through the NGO letter campaign was far higher.

Mobilisation

With each letter drafted by NGOs the list of supporters increased. Privacy NGOs – as outlined in the introductory section of the subchapter on *access* – were the driving force in the letter campaign. The term "privacy NGOs" applies in this context especially to the EDRi-network and its cooperating partners Liberties and CDT. During the policy process of Terreg, the privacy NGOs' letters were supported by human rights organisations, academics as well as associations representing journalists' interests. Taken together, four rather business driven letters (Center for Democracy and Technology 2018b, 2020; DIGITALEUROPE 2019; European Digital Rights 2019a), two letters mainly supported by French organisations (La Quadrature du Net 2018a, 2021b), two letters drafted by German privacy organisations (Niekrenz 2019), two letters (Center for Democracy and Technology 2018a; Civil Liberties Union 2020) with an overwhelmingly participation of actors based in different EU member states and four letters (Hidvegi 2019; Kayyali 2019; European Digital Rights 2020f; Civil Liberties Union 2021) signed by globally dispersed actors were sent out. The NGO-business letters usually contained around ten signatures. The signatures being present in the open letters from the French member state level varied. One letter was supported by more than sixty organisations, the other by only ten signatories. Seven different groups were involved in writing and signing the German letters. The letters undersigned by a majority of member state-based organisations contained an average of 25 signatures. The three letters with an international focus had 26, 40 and 60 supporters respectively.

The open letters characterised by a cooperation between NGOs and businesses especially showed the following alliances. EDRi, CDT and occasionally Access Now worked together with EDiMA, Allied for Startups, the Computer & Communications Industry Association, Cloud Infrastructure Service Providers in Europe (CISPE), the pan-European association of Internet Services Providers Associations and DIGITALEUROPE. All these businesses share the common nominator to be representatives of digital infrastructure and computer technology.

Bitkom and eco, already active in the data retention case, were also partner in signing some of these letters.

At the member states' level, it is observable that NGOs were active and supported in Germany and France. In Germany, a familiar squad of digital rights representatives cooperated to show opposition with regard to the Commission's proposal at national level. The initiating NGO was digiges. Under the signing groups Digitalcourage and the CCC were for example present, but also Freiheit statt Angst and the Forum InformatikerInnen für Frieden und gesellschaftliche Verantwortung. All of these should be very familiar to the reader from the data retention case. At French level, action of drafting letters was especially driven by LQDN. Here, the supporting actors are no strangers either. FDN and FFDN can be mentioned. Wikimedia France and Ligue de droits de l'Homme can be cited as well. One letter coordinated by LQDN (2018a) points to relationships between the NGO and French internet companies and journalists' associations. Moreover, the privacy advocate gained support by the international NGO HRW.

The letters signed by organisations mostly located in EU member states painted the following picture. Next to almost EDRi members – for example Digital Rights Ireland contributed with its signature – interest groups representing the opinion of a free internet like the Index on Censorship or the Free Knowledge Advocacy Group EU participated. RSF, in 2021 EDRi-observer, appeared as a supporting organisation as well. The letters also highlighted a link to two academics from the Stanford Law School. Daphne Keller, Director of Intermediary Liability at the Center for Internet and Society, was one of them. She also signed one further letter that indicated broad international support.

The letters that were rather oriented towards the international realm, were signed by research centers, individuals, businesses and human as well as digital rights organisations based in Africa, Middle East, South America, the USA and Asia. To give the reader an idea, research institutes based in Palestine, Egypt and Nepal as well as individual researchers working at the University of California or the Brimingham Center for Media and Culture Research were listed in one letter. In one case, Kent Walker, Senior Vice President Global Affairs at Google, also contributed with his signature. Furthermore, organisations founded with the same intention as the European privacy groups – like the Latin-American organisation Derechos digitales or the American Civil Liberties Union – were supporters. Among the signatories were also many advocates for the freedom of press. In this context, the Association of European Journalists, the European Federation of Journalists or Southeast Asian Press Alliance can be mentioned. Amnesty International and the International Commission of Jurists (ICJ) were listed as signatories, too. The letter published by Liberties in the final phase of negotiations around Terreg had the support of four signatories with a head office located in the USA, 19 (self-

perceived) international organisations and more than 40 organisations from European states. This diverse group of supporters is united by one aim, as the next section on *contestation* demonstrates. The participating signatories all uphold the right of freedom of expression.

Felix Reda and Marcel Kolaja were active in supporting NGOs to reach this aim. The German MEP recorded a video together with Liberties to stress the concerns of human and civil rights organisations (Twitter 2020b). Marcel Kolaja expressed in his speech during the parliamentary debate on Terreg: “Far too often, anti-terrorist legislation around the world is used against social protesters, minorities, environmental activists or refugees: a risk that has been pointed out to Members of the European Parliament by the UN Special Rapporteur, NGOs and journalists” (European Parliament 2021d).

This part showed that NGOs were able to *mobilise* support in different venues. They were able to build alliances with businesses, academics and journalists. However, the greatest participation came from the NGOs’ own “colleagues”. Mobilised were especially those organisations whose work was touched by the EU terrorist content regulation. The statement by MEP Marcel Kolaja highlights this. The fear of NGOs that the regulation will affect their own work in a negative way will like the dispute on the right to freedom of expression become evident in the subsequent analysis of *contestation*.

Contestation

The NGO letter campaign led to an increase in *contestation*. It makes many of the stakeholder’s arguments accessible and visible to the public. The opposition at place is located at different political levels and driven by diverse actors as illustrated under *mobilisation*. As already stressed, the main point of concern of these organisations and individuals is that the regulation could pose a threat to freedom of expression. This becomes for example evident in the open letters but also in other accompanying statements of coordinating as well as participating actors. A few examples of these critical comments on the state of freedom of expression are given first. Subsequently, further points of criticism by privacy NGOs, journalists and businesses will be examined.

In the following, four examples of statements on the regulations impact on freedom of expression by privacy NGOs and their supporters are presented. A statement by WITNESS can be regarded as representative for demands of NGOs and civil society at the global level. The NGO that draws in its daily work on video material to detect human rights violations, declares in a letter that was published during EU trilogue negotiations (Kayyali 2019):

> The undersigned organizations and individuals are dedicated to ensuring justice for human rights abuses around the world and to upholding human rights, including the right to freedom of expression. We rely on online platforms to both find and share evidence of these abuses and to counter official misinformation from repressive governments. We write to urge you to oppose the proposed 'regulation on preventing the dissemination of terrorist content online'.

The NGO Access Now, that is a member of EDRi and works closely with its head office based in Brussels together, addressed the Terreg in its report "Counter-terrorism policies and human rights: Lessons from a digital rights perspective" to the UN Special Rapporteur Fionnuala Ní Aoláin. The NGO (Andreou, Micek, and Oribhabor 2019, 3) stated that "[t]he Regulation, as proposed by the Commission, would introduce serious risks of arbitrariness and have grave consequences for freedom of expression and information, as well as for civil society organizations, investigative journalism, and academic research, among other fields." Daphne Keller (Twitter 2020a), who belongs to the latter group as a scientist based in the USA, frames the EU institutions' proposition on Twitter as "an extreme piece of legislation" that "raises serious questions about privacy/surveillance and about bias and disparate impact". The NGO Article 19, that is also part of the EDRi network, uses almost the same terms to describe the regulation's impact as Keller. The organisation highlights the political plans in a briefing addressed to MEPs as "an extremely regressive piece of legislation that fails to protect human rights, in particular the rights to freedom of expression and privacy and data protection" (ARTICLE 19 2020a). EDRi (2020f; emphasis in the original) was especially concerned "***that certain protected forms of expression, such as educational, artistic, journalistic and research materials are exempted from the proposal, and that it includes feasible measures to ensure how this can be successfully implemented***". This is only a brief sample of how and in what contexts these civil rights defenders uphold the right to freedom of expression in the light of the debate around the regulation. The actual list of statements referring to this basic human right could be much longer. However, going through further statements is not as important as pointing out that NGOs and their alliances were not the only actors who spoke out for the right to freedom of expression. In a letter, together with businesses EDRi (2019a; emphasis in the original) notes: "*Similar concerns on the provisions of this draft Regulation have been expressed by international institutions, including the EU Fundamental Rights Agency (FRA), the three UN Special Rapporteurs in a joint opinion and the European Data Protection Supervisor (EDPS)*." Likewise, NGOs, these authorities criticised that the right to freedom of expression is ill-considered in the Commission's proposal.

The open letter campaign by NGOs illustrated further points of criticism, which are all (more or less) connected to this main concern on freedom of expression. These points of critique can be summarised under the following catchphrases: automated tools, definition of terrorist content, competent authorities/judicial oversight, cross-border referrals, blueprint. Several of

these points of criticism were also shared by the before-mentioned international authorities as will be demonstrated now.

The debate on freedom of expression is closely linked to the Commission's proposition to use "proactive measures" to handle terrorist content. In the original text of the Commission's (European Commission 2018d, 17) proposal, the institution describes these means as "an essential element in tackling terrorist content online". This led to strong protest by NGOs and their staff. digiges member Elisabeth Niekrenz (2019) explains the underlying problem connected to the use of automated tools: "'Plattformbetreiber könnten dazu verpflichtet sein, durch Uploadfilter Inhalte vor Veröffentlichung mittels Algorithmen darauf zu überprüfen, ob sie terroristische Inhalte enthalten und gegebenenfalls zurückzuhalten.'" The main fear by these organisations was that the use of automated tools by companies would lead to a situation of 'over-filtering' or as these organisations name it "over-removal" (European Digital Rights 2019a) of internet content. The NGO Liberties addressed this concern during the trilogue negotiations in a letter. The NGOs' executive director, coordinator of the letter, made an own proposal how to handle the issue (Civil Liberties Union 2020; emphasis in the original): "*We suggest that internet hosting providers should be able to choose measures to implement to avoid access to terrorist content online. Mandatory automated filters are not legal under EU law. Mandatory upload filters compromise freedom of expression, freedom to access information and personal data protection."* In a further letter to MEPs, EDRi (2019d) explains that these automated tools are not sensitive for "contextual differences". This is also why the NGO highlights specific material – like the one for educational or artistic purposes – as particularly worthy of protection. The fear of "over-removal" of internet content is connected to another point of criticism raised by the privacy groups and their allies. EDRi (2019a) perceives the one-hour timeframe for companies as "extremely short". This assessment is supported by different actors from the industry. In a letter of internet luminaries – among others the Mozilla Foundation, Wikimedia Foundation, Netzpolitik.org and EFF contributed – the one-hour deadline was perceived as "unworkable" (M. Baker et al. 2019). The internet businesses (M. Baker et al. 2019) attested that "[t]he obligation to remove content within a mere 60 minutes of notification will likely lead to significant over-removal of lawful content and place a catastrophic compliance burden on micro, small, and medium-sized companies offering services within Europe". The same view was also taken by DIGITALEUROPE. The representative of the European digital technology industry also spoke of an "over-removal of lawful content" and connected civil rights risks with the guideline (DIGITALEUROPE 2019). German Pirate Party member Felix Reda, working as rapporteur in the IMCO Committee, argued that this deadline can be equated with an obligation to use automated tools. The MEP stressed a situation of "**[t]errorism filters through the back door**" (Reda 2019b; emphasis in

the original) as a likely outcome. The EDPS (2018, 7; emphasis in the original) declared that these measures "should only be used in a **cautious and targeted** way". A different problem existed for cloud services. CISPE argued in a contribution published by Euractiv that the regulation "asks Europe's cloud infrastructure providers to do the impossible" (Schmutz 2018). The chairman of the association describes that these firms cannot decide what content is available and what material should be erased. Thus, these companies are not able to implement the requirements given through the regulation technically wise.

A further point of contention for NGOs was the definition of terrorist content in the Commission's proposal. A letter coordinated by CDT argues that the definition is not in accordance with the directive on combating terrorism. The NGO Liberties (2020; emphasis in the original) and others "*suggest to narrow the definition of terrorist content and strictly define material that is unlawful."* These concerns on the broad definition are shared by the EDPS, the FRA and the three UN rapporteurs. While the EDPS (2018, 5; emphasis in the original) wishes that the definition of terrorist content is "**consistent and closely aligned** in the two legal texts"[193], the three UN rapporteurs (Kaye, Cannataci, and Ní Aoláin 2018, 2) fear that "the overly broad definition of terrorist content in the Proposal […] may encompass legitimate expression protected under international human rights law." The international authorities point directly to the restriction of the work of human rights advocates as a possible consequence (Kaye, Cannataci, and Ní Aoláin 2018, 3).

Two further contentious points were the role of competent authorities and the cross-border referrals for NGOs. Regarding the former point NGOs stressed that the questions who can be regarded as a competent authority and what characteristics needs to be fulfilled by these personnel are not sufficiently answered. The NGOs often articulate this position not only under the term competent authorities but also under the expression "lack of judicial oversight" as a letter of Liberties (Civil Liberties Union 2021) highlights: "we nevertheless believe that only courts or independent administrative authorities subject to judicial review should have a mandate to issue removal orders." The ill-defined role of competent authorities was also an important matter for the ICJ. The association of judges and lawyers addressed the EU institutions with the following statement (International Commission of Jurists 2020):

> The power of a non-judicial authority of a Member State to issue orders binding upon public and private entities of another Member State, without prior judicial approval on the constitutionality and lawfulness of the order and of the rights in each jurisdiction, will seriously undermine mutual trust among jurisdictions, a core principle for the functioning of the EU Area of Freedom, Security and Justice.

[193] With the expression 'two legal texts' the data protection authority points to the EU directive on combating terrorism and the EU terrorist content online regulation.

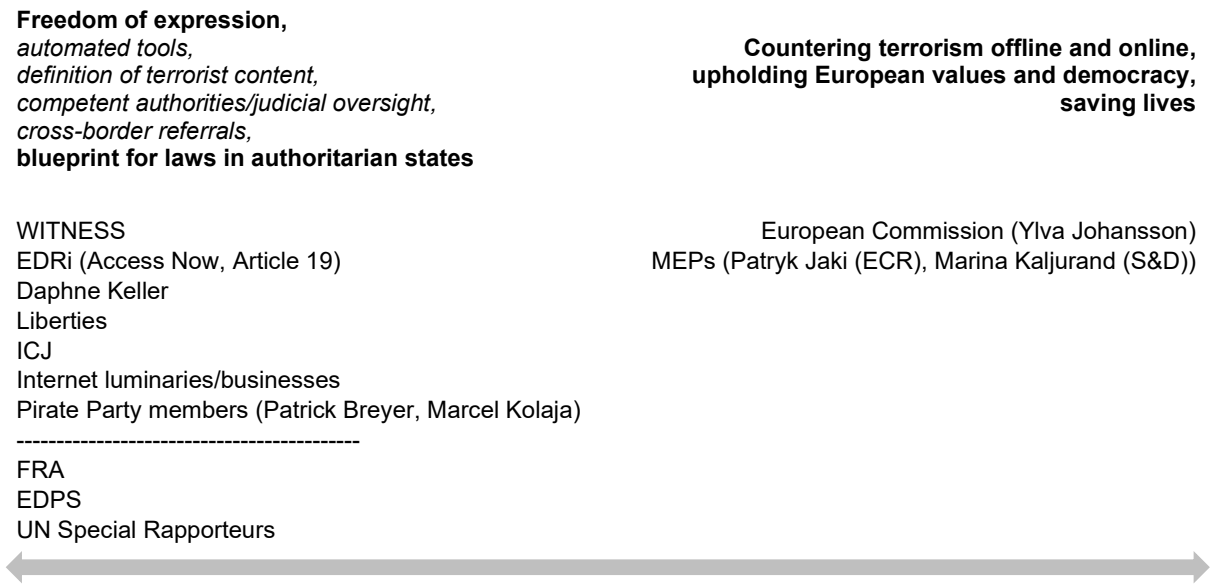
The debate around cross-border referrals was driven by NGOs' concerns that a less liberal member state could be responsible for deleting internet content that is considered lawful in another member state. This quotation of a staff member of Liberties in an article published by EDRi (2021a; emphasis in the original) summarises the fears of NGOs very well: "**'The Regulation allows an EU state to request the removal, within the hour, of content hosted in another country on the grounds that it is 'terrorist' content. What this means is that somebody like Viktor Orban could ask for the removal of content uploaded in another country because it criticises his government.'**" This argument is also shared by Pirate Party members like Patrick Breyer and Marcel Kolaja. Like the NGO staff member, the MEP Patrick Breyer (2021b) uses the Hungarian government for an example to demonstrate the regulation's consequences: "The fact that Victor Orbán will be able to have digital content deleted throughout the EU opens the door to politically motivated internet censorship". His Czech party colleague Kolaja states before Reuters (Chee 2021): "'We really are risking censorship across Europe. Hungarian and Polish governments already demonstrated they have no issues removing content that they disagree with'". The FRA also perceives the possibility to remove content across borders critical. It therefore suggests that the directive should ensure that measures of protection are included by the policymakers to not violate the rights of internet users (European Union Agency For Fundamental Rights 2019b, 30).

One point that is not greatly discussed but still visible in the argumentation of same actors is the possible use of the Terreg as a blueprint for laws in authoritarian states. The international organisation WITNESS (Kayyali 2019) raises this concern in its letter to members of the LIBE Committee: "In addition to devastating the processes being used to create and preserve human rights content, this regulation will harm some of the most vulnerable groups in the world by inspiring dangerous copycat regulation that will be used to silence essential voices of dissent." In this context it argues that the German national law on hate speech (NetzDG) was already copied by Russia, which would make a similar scenario likely with regard to the EU regulation. MEP Marcel Kolaja also raises the blueprint argument in a comment on Terreg. The comment underlines again the cooperation between Kolaja and NGOs that was already illustrated under the dimension *mobilisation*: "'*This regulation can indeed strengthen the position of authoritarians. European Pirates as well as dozens of NGOs were pointing out the issue for a long time, but most political groups ignored our warnings. We are likely to see Europe undermine its fundamental values*'" (Patrick Breyer 2021a; emphasis in the original).

This list of positions against the EU regulation was confronted by two basic arguments of the legislation's proponents: the threat perception derived from terrorist's use of the internet and the protection of European values. The plenary debate in the EP showed that these proponents were many. Besides Marcel Kolaja only two further speakers – a French green member and a

German liberal politician – spoke against the counter-terrorism policy. More than fifteen other MEPs pleaded orally for an adoption of the regulation during the plenary debate (European Parliament 2021b). The rapporteur Patryk Jaki was one of these speakers. He stressed that "[t]he internet has become the most important safe haven and tool for terrorists today" (European Parliament 2021d). S&D member Marina Kaljurand used a sentence often uttered by the Commission to stress the necessity of the regulation: "there is no place for terrorism, neither in the offline nor in the online world" (European Parliament 2021d). In a press release the MEP referred to the opponent's criticism on cross-border referrals: "The online world does not recognise borders so it is also essential that cross-border cooperation on content removal in the EU is legally watertight" (Socialists & Democrats 2021). JHA Commissioner, Ylva Johansson, took the plenary debate in the EP as an occasion to react to the main concern on freedom of expression raised by civil rights defenders. She declared in her speech: "Journalists are among the first targets and first victims of terrorists. And the freedom of expression, their first casualty" (European Commission 2021). Moreover, the Commissioner stated that "[t]his Regulation upholds our values and fundamental rights. By fighting terrorists who attack our freedoms and our democracies" (European Commission 2021). A central argument in her speech was however the one already presented in the chapter 8.1 on the chronological overview of the policy process. The Commissioner considered that the regulation will contribute to the protection and saving of lives in the EU. Therefore, she assesses that "[t]his Regulation strikes a major blow against terrorism, but it is only one of many steps in the fight against terrorism, offline, and online" (European Commission 2021). Figure 30 (below) gives an overview of the opposing positions present regarding the EU terrorist content online regulation.

Figure 30. Case 3 – Access: Opposing Positions on Terreg (1)



Source: Own illustration. This is only a snippet of the conflict parties and the discussion.[194]

At the French national level, a different discussion took place (it is displayed by figure 31). The NGO LQDN (2018a) used the occasion of the debate around Terreg at EU level to address President Emmanuel Macron in a letter and to protect the "European digital ecosystem". The privacy group criticised that "[t]his Regulation will therefore dramatically reduce Europe's digital diversity and will submit the rest to a handful of companies which are already in a near-monopolistic situation, and whose hegemony should be disputed rather than reinforced" (La Quadrature du Net 2018a). With its criticism they not only responded to the Commission's proposal but also to a speech of Macron held at the Internet Governance Forum. In this speech, the French President (Internet Governance Forum 2018) doubted the realisation of net neutrality and highlighted the following development: "Today, when I look at our democracies, the Internet is much better used by those on the extremes. It is used more for hate speech or dissemination of terrorist content than by many others. This is the reality and we must face up to it." Like LQDN also the tech company Mozilla used the debate on Terreg to address that the "health of the internet ecosystem" is endangered (O. Bennett 2018). Hence, the *access* activities by LQDN point to a rather broader conflict on the design of the internet that was also visible in the NGO's "noisy" actions.

[194] These conflictive points were also reflected in two interviews: Interview with Council official (1) and Commission official (5).

Figure 31. Case 3 – Access: Opposing Positions on Terreg (2)

Source: Own illustration. This is only a snippet of the conflict parties and the discussion.

The analysis of NGOs *access* strategy shows that the list of opposing positions is long. The arguments brought forward by NGOs are supported by a few political actors – mainly members of the Pirate Party – and international authorities. The public venue was however not affected by the NGOs letter campaign. The privacy groups were not able to initiate a wider public debate on Terreg. The interim conclusion will demonstrate that politicisation was despite the numerous points of criticism, illustrated in this section, few. Before this general outcome of the analysis is explained in more detail, one observation needs to be shared at this point.

The analysis of NGOs *voice* strategy already emphasised that the framing of the issue was rather difficult for NGOs. The dispute between EDRi and the Counter-Extremism Project highlighted the political sensibility of the issue in greater detail. That NGOs were rather careful in positioning themselves during the policy process was, however, not only visible in the groups *voice* actions but also in their letter campaign. Often civil society organisations started their letters with adding that they are not against the regulation's aims per se. Two examples to illustrate this are given now. EDRi (2019a; emphasis in the original) started for example a letter by using these words: "*We believe that illegal terrorist content is unequivocally unacceptable offline and online*." Another example is the indication of Access Now (Hidvegi 2019; emphasis in the original) that "*[c]ountering terrorist violence is a shared priority*". This again exemplifies the difficulty NGOs had in making the regulation their own issue.

8.3 Interim Conclusion

This subchapter will summarise the insights from the analysis of the EU terrorist content online regulation and respond to the subquestions of the thesis. The policy process started in 2018 but debates on how to handle the issue go far back. Hence, the regulation is an outcome of several attempts by EU institutions to get on top of internet companies' attitude regarding illegally considered content. Terreg is the first concrete policy on the subject, albeit others are in the making in 2021. If one compares the introductory part on the regulation and the section on *contestation* under the discussion of NGOs' *access* strategy, one important observation can be made. A lot of the points of contention uttered by the digital and human rights organisations

were considered by EU institutions in the final draft of the regulation. Automated tools were not included as obligatory for businesses, a disclaimer on educational and artistic material is added and exemptions for smaller firms were introduced. The one-hour deadline in contrast persisted. Yet, NGOs were able to convince the EU legislators to change some of the regulation's content. However, this change of position of policymakers was not linked to a higher politicisation of the issue by NGOs – this is further explained below. In this case study, it became apparent that the groups mainly relied on an *access* strategy that was driven by the formulation of open letters.[195] The few *voice* actions that were visible were mainly characterised by the leaking of documents. Hence, the resources spend by NGOs were very few. There was no organisation of a "noisy" campaign or (street) protests linked to Terreg visible.

Politicisation was not completely absent but only present to some extent. NGOs were responsible for pulling the issue into the public light. EDRi's leaking of the Commission's recommendation can be regarded as a *politicisation move*. The NGO, however, failed to create a higher *awareness* for its position. Although a further leak by Netzpolitik.org followed, of which EDRi and its members made good use of, the privacy NGO was not able to keep the issue in the public realm. Likewise, political attention of NGOs' actions was also low. The organisations' activities were only recognised by members of the Pirate Party who at the same time turned out to be the cooperation partners of these organisations. In Brussels' media realm, only one news magazine – Euractiv – was interested in the NGOs' position. In Politico NGOs' role in the policy process was not mentioned. While these groups were not able to increase support with the use of *voice* activities, the *access* strategy proved to be successful.

The open letters expressed a support of actors from the internet industry, academics, journalists and NGOs with a human rights focus. This leads to the following assumption. Only those organisations and individuals who were personally or rather professionally affected by the regulation felt addressed. The *mobilisation* increased in the realm of human rights organisations and journalists – who work with online streams and video technology – whose objective was threatened by the potential use of automated tools to filter (terrorist) content. Moreover, those companies whose business agenda was directly touched by the regulation – hosting service providers – allied with civil rights organisations. It was however not the wider public – the European citizenry – that joined the privacy NGOs' concerns. Furthermore, MEPs were not greatly interested in discussing the issue. Patrick Breyer and his colleagues Felix Reda as well as Marcel Kolaja are an exception in this scenario.[196] The counter-terrorism policy

[195] Interviews with NGO staff (4), NGO staff (11) and NGO staff (13) emphasised this approach.
[196] Interview with Council official (1) underlined this role of MEPs from the Pirate Party.

was adopted by the EP without a final vote. The *mobilisation* – and hence politicisation – took only place in the venue of (affected) experts.

The examination of the dimension *contestation* supports this assumption. The Eurobarometer polls showed no resistance from the interviewed European public towards further regulation and control of internet content. On the contrary, the respondents rather agreed that there is a need for hosting service providers to manage illegal content online. The conflict between EDRi and the CEP also exemplifies that the NGOs' actions lack wider support. Even a dispute in the realm of civil society organisations emerged. This can also be read as a reason why *voice* actions were rarely present. The digital rights NGOs had difficulties in framing their position. The NGO letter campaign showed that there were however numerous points of concern with regard to the regulation. These opposing positions were not only shared by human rights organisations but also international authorities. Table 30 summarises these insights on how strongly NGOs appeared in *contestation* and the other two dimensions of politicisation.

Table 30. Case 3 – NGO Strategies and Effects on Dimensions of Politicisation

Strategy	***Awareness***	***Mobilisation***	***Contestation***
Voice	**Low:** Only recognised by Euractiv.	**Low:** Netzpolitik.org and MEP from Pirate Party.	**Low:** Opposing positions in the NGO realm.
Access	**Low:** Only recognised by Euractiv and participating actors.	**High:** Support of international (human rights) NGOs, businesses, academics, journalists and Pirate Party members.	**High:** Opposing positions between NGOs, businesses, journalists, scholars and EU institutions (Council, EP, COM).

Source: Own illustration.

This case is characterised by a politicisation process that kept going down and only was stable when NGOs choose to use a rather quietly (*access*) strategy. Although this excluded a wider *awareness* on the issue, *mobilisation* as well as *contestation* raised. The main NGOs responsible were EDRi, CDT and Liberties. Thus, two Brussels-based organisations and one with a presence in Berlin can be labelled as *politiciser*. Support was also visible from NGOs located at the German and French national level. NGOs with a presence in Eastern, South or Baltic EU member states were not involved. The letter campaign resulted in support by international NGOs and academics based in the US. Thus, NGOs' actions entered the following levels: the national (France, Germany), the EU and the global.

At EU level, NGOs' actions affected the media arena, the protest arena as well as the institutional arena. In Brussels, it was first and foremost business-oriented interest groups with a focus on digitalisation and technology (e.g. EDiMA, DIGITALEUROPE, CISPE) who became

mobilised. At national level, a very slight increase was visible in Germany's and France's media arena consisting of IT blogs. At global level, it was the protest arena of human rights NGOs and digitalisation experts who got involved.

Addressees for NGOs varied during the policy process of Terreg.[197] At the beginning, the Commission was the organisations' main addressee. This was due to two circumstances: The institution was responsible for publishing the proposal and started a public consultation phase on illegal content. Here, it was for the first time visible that NGOs contacted (among others) the Commissioner for the Security Union. In the formulation phase, the three committees (and the respective rapporteurs) in the EP became an anchor for NGOs' interest. During the trilogues, NGO letters were addressed to the JHA Council, member states' representatives and MEPs in a more general sense. It also happened that a letter was sent to all the actors participating in the interinstitutional negotiations. At this stage, direct contact to the European Commission was rather an exception.

In this case study, the NGO-driven politicisation concentrated on policy. Consequently, polity and politics as objects of politicisation were not addressed. After NGOs left behind their aim, that there should be no regulation at all, they concentrated on contentual details of the regulation (e.g the one-hour deadline, automated tools).

A rather remarkable observation in this case is the difficulties NGOs had with presenting a convincing frame – a so-called counter-frame – that opposes the one of EU institutions. This result of the case study leads directly to the discussion of conditions. It was observable that the deletion of internet (user) content was not triggering reactions by the EU citizenry. Regarding trigger events, the information that the Christchurch attack rather did not affect the regulation's policy process, but the 2015 attacks indeed did, needs to be respected.[198] Conducive was also the involvement of transnational NGOs as well as the environment of Germany and France for politicisation.

In chapter nine a cross-case comparison is conducted. Among other things, the focus of the examination is on the conditions of politicisation. Here, these observations are put into relation to the insights provided by the case analysis one and two.

[197] Please take a look at "Appendix 11. Case 3 – NGO actions categorised as *access*".
[198] Interviews with Council official (1), Commission official (5) and NGO staff (13) demonstrate that the attack rather did not serve as a driver for the policy process of the regulation. Council official (1) emphasised the role of the 2015 attacks.

9 Research Results of Case Studies and Comparative Analysis

The last three chapters (6-8) concentrated on the analysis of Brussels-based and national NGOs in EU counter-terrorism. Each chapter was dedicated to a different EU policy in this area: The EU data retention directive (case 1), the EU PNR directive (case 2) and the EU terrorist content regulation (case 3). Taken together, these policies covered the time of 2001 until 2021. These legislations were debated successively, but also partly in parallel at EU level. The long-time span resulting from the study of the three policies provides some interesting results on questions that are still insufficiently answered in politicisation research.

In this chapter, findings from the cross-case comparison are presented with recourse to the theoretical debate about politicisation (see chapter 2.2). The subquestions of the thesis are taken again into account, this time in a comparative perspective. The following structure of this chapter results from the above-described intentions: *9.1 Characteristics of NGO-driven Politicisation Processes, 9.2 Conditions of Politicisation.* Chapter 9.1 concentrates on insights on the character of NGOs and their potential occurrence in politicisation processes, reflecting the strategies they use to politicise, information on the arenas and levels involved and the objects of politicisation (subquestions 1-4 highlighted in the introduction). Chapter 9.2 contrasts facilitating factors that were discussed in the context of EU security and might have contributed to the NGO-driven politicisation (additional question presented in the introduction). As will now be illustrated, not only do NGOs take on different roles, but also the character of politicisation differs across the cases.

9.1 Characteristics of NGO-driven Politicisation Processes

This first section concentrates on the main topic of this thesis: The role of NGOs in politicising EU security. It will compare the NGOs' participation in the three cases and assess whether these organisations engaged in politicisation at all. This is how subchapter 9.1 is structured: 1) *Role of NGOs*, 2) *Strategies of Politicisation*, 3) *Locations of Politicisation*, 4) *Objects of Politicisation*. The key findings of chapter 9.1 are displayed by table 31 (below). This table underlines the distinct features of politicisation in the three cases. It can be read along the next four sections.

Table 31. Overview of NGO-Driven Politicisation in Case Studies (1-3)

Summary		**The EU Data Retention Directive**	**The EU PNR Directive**	**The EU Terrorist Content Regulation**
Role of NGOs		*Politiciser*	*Supporting (failed) politiciser*	*Noiseless politiciser*
Addressees		EU Commission, EP	EP (LIBE Committee)	EP (MEPs, LIBE Committee), Council of the EU
Characteristics of the Politicisation Process	Type of Politicisation	*Fully-fledged politicisation*	*(Unsustainable) elite politicisation*	*Expert politicisation*
	Politicisation Move	*Voice* (leak)	*Voice* (re-publication)	*Voice* (leak)
	Politicisation Boost	*Access* (letter), *litigation* (case before CJEU), a*ccess* (letter)	*Litigation* (coordinated court proceedings)	*Access* (letter)
Dimensions of Politicisation		Medium (A) – High (M) – High (C)	Low (A) – Low (M) – Medium (C)	Low (A) – Medium (M) – Medium (C)
Locations	Levels	National, EU, global	National, EU	EU, global, (national)
	Arenas	Media, protest, citizen, institutional, judicial	Media, institutional, judicial	Media, protest, institutional
Objects		Politics, policy, polity	Politics, policy	Policy

Source: Own illustration. Abbreviations explained: *Awareness* (A), *Mobilisation* (M), *Contestation* (C).

1) *Role of NGOs in Politicisation*

In this part, the character of NGOs and their occurrence in politicisation is portrayed. To learn more about the involved organisations and what characterises them, different sub-topics are discussed: A) *Types of NGOs*, B) *NGOs as politicisers*, C) *addressees of NGOs at EU level*, D) *the politicisation move*, E) *NGOs' appearance in dimensions of politicisation*. The section that handles the link between NGOs and the *politicisation move*, also takes recourse to the ideal-typical NGO-driven politicisation process highlighted in subchapter 3.1.4.

A) *Types of NGOs:* Brussels-based and national NGOs were present in every single case study. These NGOs were in most of the cases privacy and digital rights advocates. In some instances, NGOs with a human rights, civil liberties or freedom of expression focus were involved. The appearance of a NGO with the purpose of combating extremism, in the context of the third case, can be regarded as an exception. Across the three case studies NGOs with

an office in (geographically) central European member states are overtaking a coordinating role. A more detailed comparison of these cases gives some additional insights. In the first case, a participation of NGOs from several member states was observable. Main activism came from NGOs who have their presence in Belgium (e.g. EDRi, CDT), Austria (e.g. epicenter.works), Germany (e.g. Digitalcourage, digiges), the Netherlands (e.g. Bits of Freedom) and the UK (e.g. Statewatch, PI, Open Rights Group). A closer examination of the policy process around the DRD – especially of the *litigation* strategy – disclosed that NGOs based in Ireland (DRi), France (e.g. LQDN), Poland (Panoptykon Foundation) and Czech Republic (IuRe) were also participating. Consequently, NGO participation is also present in a few Eastern European member states. This observation cannot be shared considering the EU PNR directive and the EU Terreg. In the second case study, the group of participating NGOs was a lot smaller. Here, the majority of engaging organisations is based either in Belgium (e.g. Access Now Europe, LDH) or Germany (e.g. digiges, GFF). Through the later course of the policy process around the EU PNR project, an Austrian group (epicenter.works) gained prominence. Activism was also visible from a Polish organisation (Panoptykon Foundation) and a NGO registered in the UK (Statewatch). The third case was characterised by the engagement of NGOs who have their presence in one of the following four member states: Belgium (e.g. EDRi), UK (e.g. Counter Extremism Project), Germany (e.g. digiges) and France (e.g. LQDN).

Evidently some names of NGOs are reoccurring. These NGOs (e.g. EDRi, digiges, Statewatch, LQDN, epicenter.works) participated in more than one, partly in all three policy processes. In some instances, these NGOs were responsible for starting or *boosting* politicisation, but not always with success. These listed NGOs (only with one exception) always took the opposing side regarding the EU's counter-terrorism plans.[199]

B) *NGOs as politicisers:* This thesis has used vocabulary of politicisation research to approach an understanding of the potential roles of NGOs. The terms *politiciser* and *addressee* have been of particular importance. With recourse to this vocabulary, it can now be said that some NGOs can certainly be labelled as *politiciser*. However, a difference exists across the cases. In the first case, the initiation and maintenance of politicisation can be recognisably traced back to NGOs. It was expressed by causing an increase in all three dimensions of politicisation at both, the national and EU level. The *awareness* of EU media of NGOs and their positions was at highest when NGOs were able to mobilise the wider public – at least in two different member states (Germany and Austria) – and triggered a debate about the effectiveness and necessity between EU institutions and data protection experts. In the context of the EU PNR

[199] This position can be further underlined by the following statement made by NGO staff (4): "For us, all the security files in general are not the most sexy ones for some reason."

directive, several attempts to politicise were observable, but these organisations were not able to reach the European citizenry. Rather they were able to mobilise data protection experts and MEPs – those who already concentrated on the issue. There was only one small phase of *awareness* at Germany's and Austria's national level. This raises the impression that the civil rights defenders can be described as *failed politiciser*. At best this result can be exemplified by the numerous campaigns and demonstrations which gained no interest – either from citizens or from the media. The issue remained in a domain of a few activists. Besides, another reading of the case is likely. At several points in the case analysis, it became clear that the political actors (MEPs) can rather be named as key *politicisers*. Hence, NGOs overtook the role as supporters of the "real" *politiciser*. The view that these non-institutional actors are *supporting politicisers* in this scenario does not exclude the 'failed' aspect.

The third case study, focusing on the regulation, presented a different picture. Here, NGOs indeed triggered a discussion in the public realm. This was however not a "welcomed" one. The narrative that they had triggered by their actions rather placed them on the side of the perpetrators of terrorist attacks. Even a dispute between NGOs representing digital rights and countering extremism was in place. The NGO-driven politicisation that then followed was characterised by direct contact to politicians and not by "noisy" campaigns. Therefore, the role of NGOs in this case can be labelled as *noiseless politiciser.* A finding in all the three cases is, that NGOs often appear in combination with IT media as *politiciser*. This was for example observable in the third case, where the German blog Netzpolitik.org as well as the NGO EDRi tried to gain further attention on the issue. This links to already existing research, which highlighted these two actors as potential drivers of politicisation (see the discussion presented in subchapter 2.2.2).

C) *Addressees of NGOs at the EU level:* Comparing the three cases, one can see a clear difference of NGOs' *addressees*. In the first case, these organisations tend to engage in direct contact with the European Commission and the European Parliament. The second case is characterised by the fact that NGOs stay in communication exclusively with the LIBE Committee. In the third case, the European Parliament constitutes the organisations' preferred *addressee*. This includes MEPs in a more general sense and the three committees CULT, IMCO and LIBE. Here, the Commission was rather not directly contacted by the civil rights defenders. Interestingly, the organisations contacted the Council of the EU to a greater extent.[200]

[200] To get a better overview, a consideration of the following tables in the appendix is recommended: "Appendix 9. Case 1 – NGO actions categorised as *access*", "Appendix 10. Case 2 – NGO actions categorised as *access*", "Appendix 11. Case 3 – NGO actions categorised as *access*".

Across the cases, NGOs try to establish contact with different Commissioners. Often it was also the President, First Vice-President or Vice-Presidents who were addressed by NGOs' letter campaigns. A greater focus lay on those Commissioners who worked on justice or migration and home affairs matters. Interestingly, the Commissioner for a Security Union was only addressed once (in a letter that addressed several other Commissioners, too). It seems that the creation of new political positions did not increase NGOs room to manoeuvre at EU level. The move to get in direct conversation with the JHA Commissioner Malmström on the EU DRD, turned out to be successful for NGOs. More often, however, these attempts led to nothing. It was rather MEPs from the liberals, greens and social democrats that turned out to be fruitful *addressees* for NGOs. Just as during the formulation and adoption phase of the EU DRD and the EU PNR, it was a MEP of ALDE to whom NGOs established direct exchange. In the EU DRD case, the MEP was for example contacted when NGOs together with businesses transferred the signatures of their petition. The liaison with Members of the Greens/EFA and social democrats for example invited NGOs and businesses to a workshop event in the EP, which clearly shows the liaison between the groups. In the EU PNR case, a social democrat and a liberal MEP even participated in the *litigation* strategy of NGOs. In the Terreg case, the organisations established a relation to MEPs of Green/EFA. All these MEPs belong to the Pirate Party at Germany's and Czech Republic's national level.

The examination of NGOs' *litigation* strategy, however, gives an additional insight for research concentrating on relations between these groups and EU institutions. NGOs were eager to bring a case before the CJEU. This was noticeable in the EU DRD as well the EU PNR case. When these groups made their first move regarding their legal actions, they always addressed their actual goal in bringing a case before the European court. Furthermore, the opinion of the Advocate General was especially of importance for these groups. They indirectly addressed the view of this authority in blog articles. The study of courts completed the picture of NGOs' addressees.

D) *The politicisation move (and ideal-typical NGO-driven politicisation process):* The findings of the three case studies clearly demonstrated that 'something like' a politicisation process exists. First of all, the assumption that politicisation is not linear is highly evident. In all three cases, smaller and higher peaks of politicisation were noticeable. Moreover, it was observable that politicisation peaks went along with a higher presence of these groups. The stronger involvement of the NGO scenery in the evaluation phase of the EU DRD exemplifies this. Comparing the three cases, the EU DRD case can be seen as representative for a *fully-fledged politicisation*.[201] The type prevalent in the second case study can be considered as

[201] This expression is inspired by the discussion on types of politicisation (see chapter 2.2.1).

(unsustainable) elite politicisation. Although, some controversy could be identified, NGOs were not able to keep these debates up. Statewatch for example tried three times to make the issue of the Commission's financing of national PNR schemes a public matter. However these attempts either did not last long or failed. The *litigation* campaign of GFF and epicenter.works did also only lead to a timely limited politicisation. The persons involved in the act of litigation were MEPs, prominent activists and one Parliament official. In contrast, in the third case *expert politicisation* was in place. It was possible for NGOs to mobilise partnering human rights organisations and to keep up controversy for shorter moments of time.

In each of the cases, indicators for a *politicisation move* were at hand, i.e. NGOs made information available that was hitherto debated behind shut doors (or not publicly regarded) and 'immediate reactions' by other actors followed. Across the three cases, this *politicisation move* was characterised by a *voice* action. A common denominator in two cases (EU data retention and EU terrorist content online regulation) was the leaking of confidential documents. In case two, the *politicisation move* was defined by a re-publication of a Commission's document that fell into oblivion.[202] Consequently, the move of making unavailable information accessible to the wider public was linked to the *fully-fledged* as well as *expert politicisation*. To trigger politicisation after it receded i.e. to *boost* politicisation, the strategies *access* and *litigation* were relevant. In the first as well as the third case, NGOs' letter campaigns contributed to a *politicisation boost*. Moreover, the action of *litigation* (whether intended or not) also incited a politicisation of the EU DRD. In the second case, *litigation* triggered the above-described small phase of *awareness* at member states' national level (Austria and Germany). Interestingly, in the third case, in which *expert politicisation* was in place, it was triggered by NGOs' use of *access*.

These findings have several implications for the ideal-typical process of NGO-driven politicisation (figure 3). Thus, the assumption that the start of a politicisation process is characterised by "noisier" means can be confirmed. In the first and the second case, the media attention was recognisable. In the first case, immediate reactions were then followed by other media outlets (IT blogs and Brussels media) and NGOs were invited to a roundtable event. The invitation came from a political group that could be considered as an ally of NGOs. In the third case, *awareness* among IT blogs increased, too. A different scenario was in place in the second case, where the re-publication of a document led to no media attention but *awareness* and *mobilisation* of MEPs. Another mentionable insight is, that with the first step not only *awareness* and *mobilisation* increased, but also *contestation*. The action of a *politicisation move* cannot easily be distinguished from *contestation* because NGOs did this move, since

[202] Interview with NGO staff (8) and NGO staff (14).

they had an opposing opinion on data retention, EU PNR and the handling of online terrorist content. The second step of the ideal-typical process was defined by the options that *politicisation boosts* can be initiated via *voice*, *access* and *litigation*. In case one, three *boosts* could be identified. In case two and three, the politicisation process was characterised by one of these *boosts* (see table 31). It was the strategy of sending letters to EU representatives and bringing a case before a court, that triggered politicisation as mentioned earlier. *Voice* was not that effective in this second step. More boosts did not automatically lead to the appearance of more opposing actors. In the first case, it was observable that involved camps and conflictive views became more manifested over the time, the number of actors and arguments even decreased. Step one and step two of the ideal-type process were linked to distinct indicators of the operationalisation. This differentiation turned out to be helpful. It was not the wider participation of EU citizenry, nor cases before courts or public opinion polls that were identifiable in step one of these processes.

E) *NGOs' appearance in dimensions of politicisation:* NGOs do appear in *awareness*, *mobilisation* and *contestation*. Table 32 highlights the findings of the case studies (derived from the interim conclusions). This table can first be read from the left to the right side. For each case, it is listed how the strategies affected *awareness*, *mobilisation* and *contestation* (please read then from up to down). The last line summarises these findings.

Table 32. Summary of Dimensions Across the Case Studies (1-3)

Case	**EU DRD**	**EU PNR directive**	**EU Terreg**
Strategies	*Voice – Access – Litigation*	*Voice – Access – Litigation*	*Voice – Access*
Effect on *Awareness* (A)	Medium – High – Medium	Low – Low – Medium	Low – Low
Effect on *Mobilisation* (M)	High – High – High	Low – Low – Medium	Low – High
Effect on *Contestation* (C)	High – High – High	Medium – Low – Medium	Low – High
Summary	**Medium (A)** **High (M)** **High (C)**	**Low (A)** **Low (M)** **Medium (C)**	**Low (A)** **Medium (M)** **Medium (C)**

Source: Own illustration.

In case one, where a *fully-fledged politicisation process* took place, the dimensions ranged from medium (*awareness*) to high (*mobilisation* and *contestation*). The *(unsustainable) elite politicisation process* (case two) was defined by low *awareness* and *mobilisation* as well as medium *contestation*. In *expert politicisation* (case three), *awareness* was low, but *mobilisation* and *contestation* can be summarised as medium. Across the cases, NGOs had difficulties with

getting the media's attention. They succeeded more in the data retention case, but leaving the IT blogs aside, it was hard for them to gain attention for the PNR issue as well as to their opinion regarding the handling of terrorist content. The case studies demonstrate that NGOs' potential is not to raise *awareness*. These organisations had a stronger appearance with regard to *mobilisation* and *contestation*. In the first case, these organisations were successful to mobilise citizens, especially in Austria and Germany. In the third case, they were able to get other practitioners who were affected by the regulation involved in their *access* strategy. These organisations appeared in *contestation* comparatively strongly. In each of the case studies, these groups overtook an opposing position toward the EU's political plans.

The strategies of NGOs had varying effects on the dimensions of politicisation (see table 32). *Voice* was in the data retention case relatively successful in raising *awareness*, *mobilisation* and *contestation* but had almost no effect on these dimensions in the EU PNR and terrorist content online case. *Access* turned out to be effective in the first case. It was moreover profitable in raising *mobilisation* and *contestation* in the third case but had no effect in the PNR case. *Litigation* had medium to high effects on the dimensions in the first and second case. To politicise an issue, the strategy of *litigation* seems more reliable than *voice*. Below, the effects of these strategies on politicisation are further compared across the cases.

The section highlighted that NGOs take distinct roles in politicisation. They can appear as *politiciser*, *failed politiciser* or *noiseless politiciser*. Predominant NGOs were those working on privacy issues and data protection, being based in Belgium, Germany, Austria, France, Netherlands and UK. The main *addressees* of these NGOs were the European Parliament (MEPs, LIBE committee), the Commission (e.g. Commissioner who work in JHA, justice and digital matters) and in some instances the Council. NGOs are involved in the *politicisation move*, that was either defined by the leaking of confidential documents or the re-publication of a not publicly discussed document. These NGOs appeared less in *awareness* but were managed to initiate *mobilisation* and *contestation* to a higher extent.

2) *Strategies of NGOs*

First and foremost, it can be stated that the analytical linkage of NGO strategies and politicisation paid off. Through this connection, a better understanding of politicisation emerged. In addition, it exemplified how these actors interact to achieve their interests. As mentioned above, a common feature across the three cases is, that the strategy of *voice* was responsible for the start of a politicisation process. The leaking of non-published or the publication of unnoticed EU institutional information was essential in this situation. The leak

had two functions for NGOs: First, they made the information accessible to the wider (European) public. Second, the leaked information increased the pressure on policy makers. The intention of NGOs that politicians felt obliged to respond was however only partly fulfilled. Mostly, it was the opposers of the political undertaking that spoke out. This can be demonstrated by looking at the first and second case. In both scenarios, a MEP of ALDE reacted to the news. In the EU DRD case, this MEP responded in the role of the shadow rapporteur. In the EU PNR case, the MEP reacted with a parliamentary question. He was accompanied by another non-attached member of the EP. In the first and second case, the UK-based NGO Statewatch was responsible for the *politicisation move*. In the third case, the umbrella organisation EDRi overtook this position. It is important to highlight, that the leaking of non-published information – as it was at hand in the first and third case – led to more and wider reactions than the re-publication of an already known but non-publicly discussed document. The strategy of *access* and *litigation* could not be associated to a *politicisation move* but to a *politicisation boost*. These strategies were successful when the *awareness* around the issue was already in place or threatened to elapse. The coordinated court proceedings of NGOs in the second case (EU PNR), was such an act that brought the issue back on the political agenda.

The examination of the strategies' effects on dimensions of politicisation, highlights one difference regarding *access*. The strategy had an effect on politicisation in the third case but can be described as low in impact regarding the second case. Two reasons might explain this outcome of the PNR case: 1) Less direct lobbying of NGOs was in place. 2) There was almost no letter directly addressed to MEPs (see appendixes 10 and 11). This information will be again of importance in the discussion of favourable conditions.

Scrutinising the effects of NGO strategies on politicisation led also to a better understanding of the use and combination of these activities. The case study on the Terreg highlighted how NGOs changed their strategy from *voice* to *access* after a "undesired" backlash in the civil society realm. The examination of the EU PNR policy process illustrated that strategies can also be closely intertwined. After NGOs' #NoPNR campaign proved to be unsuccessful at national level and in the public realm, they linked and re-framed it as a *litigation* campaign. Here, *litigation* had an explicit public side. The coordinated press conferences of those NGOs suing in court (GFF and epicenter.works) underline this. In the EU DRD case, an *access* strategy with "noisy" and legal elements was in place. NGOs intended to directly get into contact with the EU Commission by issuing complaints and drafting a public statement. Finally, *litigation* often had a public side as this strategy is very costly. The cost factor was repeatedly recognisable in statements by NGO representatives. To pursue a legal strategy, NGOs often linked it to crowdfunding activities. In the EU DRD case, three of these activities – at the

national level of Austria, Belgium and Czech Republic – can be stressed. Even four, if one adds the indirect call of DRi addressed to the visitor of its webpage.

3) *Locations of Politicisation (Audiences of NGOs)*

Table 33. Locations of Politicisation Across the Cases (1-3)

Arena	National Level	EU Level	Global Level
Media	Case 1 (DE, UK, AT, FR), Case 2 (DE, AT), [Case 3 (DE, FR)]	Case 1, Case 2, Case 3	
Protest	Case 1 (DE, AT, BE, CZ)	Case 1, Case 3	Case 1, Case 3
Citizen	Case 1 (DE, AT, UK)		
Institutional	Case 1 (DE, AT)	Case 1, Case 2, Case 3	
Judicial	Case 1 (DE, BE, RO, NL, CZ)	Case 1, Case 2	

Source: Own illustration. Case 1: The EU data retention directive (*fully-fledged politicisation*). Case 2: The EU PNR directive (*(unsustainable) elite politicisation*). Case 3: The EU terrorist content online regulation (*expert politicisation*). The results on the locations of politicisation are independent from the NGO strategy used in this context.

The operationalisation of politicisation, presented in the third chapter, allows to study distinct arenas: The media arena, the protest arena, the citizen arena, the institutional arena and the judicial "court" arena. The focus of this thesis is primary on the EU level. However, discoveries on the national and global level will be discussed under this section as well.[203] The study of locations (arenas and levels) underlines the aforementioned assessment of the three different types of politicisation processes in place. The analysis of locations permits at the same time to make some assumptions about who the *audiences* of NGOs might be. Table 33 presents a starting point for the consideration of identified locations of politicisation (arenas and levels) across the cases (1-3).

Since the main focus is on the EU level, findings connected to this level are presented first. In the first case, NGOs were able to move politicisation in several arenas. They affected the Brussels media arena, the protest arena, the institutional as well as the judicial arena. In the

[203] This means the arenas at national and global level were not examined in detail. The observations made are rather additionally insights. This comes, however, with some limitations. For example, the media reception of NGOs *litigation* campaign at national level in the data retention case was not analysed in detail. Rather discoveries made by coincidence are shared.

second case, in contrast, they were only able to move the issue into the media arena, the institutional arena and the judicial arena. Still, the media attention on NGOs actions was in this case the lowest. The third case is characterised by NGO politicisation in the EU media realm, the protest arena as well as the institutional arena. A great difference between the three cases is, that NGOs were able to affect the protest arena in the EU DRD case and the EU Terreg case, whereas this arena remained "untouched" in the EU PNR case. Two times, NGOs increased politicisation on the data retention directive in the EU protest arena. First, in 2005 due to a petition initiated together with business interested groups. Second, a complaint campaign mobilised net community representatives in 2018. In the third case, NGO driven politicisation was observable in the protest arena of business-oriented interest groups.

Taking the national and global level into account, more information on locations of politicisation is given. The data retention case started at the global level before NGOs solely concentrated on the EU level. At global level, the protest arena was affected in 2002 due to NGOs' Global Internet Campaign. Then, two years later the "Invasive, Illusory, Illegal, and Illegitimate" campaign at EU level started. In parallel, some activism existed at Germany's national level. Later, increased NGO participation became apparent at member states' national levels. This concerns especially the media arena, the protest arena, the citizen arena, the institutional arena and judicial arena of Germany, Belgium, the Netherlands and Czech Republic. In the second case, NGO activism started at the EU level. Only the *litigation* campaign of two NGOs moved the issue in the national media arena (of Germany and Austria). Although some activists and prominent people joined the NGO strategy, the total number of those involved remained rather small and the broader civil society could not be motivated to act. It is therefore not possible to speak of a politicisation of the protest arena nor the citizen arena at national level. In the third case, politicisation driven by NGOs started at the EU level. Afterwards the national level of Germany and France as well as the global level were included. It was however barely visible in the national media arena (DE, FR). As those businesses and human rights organisations who work with video technology got involved, this had a significant influence on the protest arena at global level. Even some scholars based in the US supported the organisations. NGOs tried to move their concerns in the global institutional arena, too, by meeting with the UN rapporteur. However, no politicisation was triggered afterwards.

Consequently, in the first case, the number of arenas and levels involved is at highest (see table 33). It is also the only case in which the national citizen arena and protest arena is affected by NGOs' actions. The involvement of these arenas underpins the assessment of a *fully-fledged politicisation process* in place. In case 2, where NGO politicisation was only slightly visible and failed to stay, the public sphere was only affected to a minor extent. The issue emerged at EU level, but the spill-over to the national level was very low. This again

stresses the *elite*-type and the unsustainability of the process. Case 3 was characterised by *expert politicisation*. The involvement of the protest arena at EU and global level combined with the knowledge that NGOs heavily relied in their actions on direct political bargaining reinforces the assumption that this kind of politicisation was in place.

The analysis of distinct locations revealed some actors who could be described as *audiences*. At national level, it was first and foremost IT blogs and news websites focusing on digitalisation that reacted to NGOs actions. This support did exist especially in Germany, Austria, UK and France. The EU DRD and the EU Terreg cases also highlighted that journalist as well as lawyers paid increasingly attention to these organisations. A response to NGOs' position was for example given by the Committee to Protect Journalists. At EU level, at least temporarily in the first case, it became observable that the EDPS (and other data protection authorities) followed the (written) NGO statements. In the EU PNR case as well as the EU Terreg case, scholars – focusing on EU law, EU security or technology/digitalisation – reacted to NGOs positions and included them in their own studies. In the third case, it became also evident that the actions of the privacy NGO scenes are scrutinised by a rather newly founded organisation (the Counter Extremism Project).

4) *Objects of Politicisation*

In all three cases, policy was the key object of politicisation. Albeit in the first case politics as well as polity as a politicisation object were also present. NGO-driven politicisation considering the EU DRD started since the organisations criticised the Council for making data retention a member states' issue and excluding the European parliament (politics). Then, after the Commission decided to propose a directive, the content of this legislative act became the object of politicisation (policy). Later, noticeable in the three NGO court proceedings of 2020, polity became the centre of politicisation. The non-governmental organisations along with data protection authorities questioned the role of member states as security provider for European citizens. In particular, the interpretation of article 6 of the EU Charta of Fundamental Rights became a bone of contention between the parties of the conflict. Hence, it's the legitimacy of governments engagement in EU security that is questioned. In the case study on the EU PNR directive, policy politicisation manifested itself in a debate of the Commission's funding of national projects although a legal basis for these PNR schemes was missing. The politicisation that then followed concentrated on the necessity, effectiveness, and proportionality of the legislation. The content of the decision became of importance (policy politicisation). Within the context of the third case, polity and politics politicisation were not present. The example of the EU regulation rather shows policy politicisation. This was about the question if automated tools

and a one-hour deadline, among others, can be regarded as an appropriate response to terrorist attacks. The statement that politics is rather not an object of politicisation cannot be shared with reference to these observations. Although, it needs to be highlighted that policy was the primary object of politicisation. The assumed trend from policy to polity politicisation can be confirmed regarding the findings of the EU DRD case.

The next subchapter concentrates on the potential conditions that might have been conductive for the distinct politicisation processes. The identification of different types of politicisation provides a good starting point to discuss these facilitation factors.

9.2 Favourable Conditions of NGO-Driven Politicisation Processes

This subchapter concentrates on the question of conditions or so-called drivers of politicisation. The findings of the three case studies pointed to different types of politicisation processes: *Fully-fledged politicisation*, *(unsustainable) elite politicisation* and *expert politicisation*. Among other things, it is discussed, if the conditions highlighted by scholars (see 2.2.3) offer an explanation for the differences (types and intensity of politicisation) across the cases.

In politicisation research that concentrates on EU security in particular, different factors are proposed as potential drivers of these processes: A) *Authority transfer and sovereignty concern*, B) *authority and capacity of the politiciser,* C) *intrusiveness and relevance for the audience*, D) *trigger events* and E) *cultural and institutional context*. The three legislative acts – or rather this particular constellation of cases – deliver important insights on the 'authority transfer hypothesis', the 'authority and capacity of the politiciser', 'intrusiveness and relevance for the audience' and the 'cultural and institutional context'. These conditions are considered to a different extent in politicisation research. The authority transfer hypothesis is the 'most popular' scrutinised driver of politicisation. In contrast, little is known about the intrusiveness of an issue for the audience. In this context, it makes sense to point again to the call made by Angelucci and Isernia (2020). These researchers stress, that it is urgently necessary to learn more about how an issue generates the occurrence of distinct politicisation processes (Angelucci and Isernia 2020, 83). It is now illustrated, which of these conditions indeed mattered in the context of the EU data retention directive, the EU PNR directive and the EU terrorist content online regulation. In addition, other possible drivers of politicisation processes are presented. Some aspects, as will be illustrated below, need the attention of scholars in the future.

The cases have distinct features that may explain the variation of politicisation across the cases and can be linked to the scientific discussion on potential conditions. These features are

summarised by table 34. In the first and second case, a directive defined the political opportunity structure in which NGOs interacted, whereas in the last case a regulation constitutes the framework. The directive as a legislative act allows member states some leeway in its implementation, whereas the regulation directly applies at member state level. Moreover, the section on locations under 9.1 stressed that the activism of NGOs occurred at different levels first (national, EU, global). Regarding the incentive of an issue, two legislative acts focus on the collection of mass data while the other handles the deletion of user content. Taking the cases regarding their features linked to the capacity of the *politiciser* into consideration, two cases are in place where national and EU NGOs are dominantly active and one in which transnational NGOs appear. In all cases, so-called trigger events were in place. Connected to the cultural and institutional context, it is important to highlight, that the data retention and PNR issue were mainly debated in Germany and Austria, while the terrorist content regulation appeared to be a matter in Germany and France. Altogether, case one and two are characterised by very similar premises regarding these conditions of politicisation. Case three offers a distinct image, though.

Table 34. Potential Conditions of Politicisation and Features of the Case Studies (1-3)

Case	**Political opportunity structure (authority transfer)**	**Issue (incentive to politicise)**	**NGOs (capacity of the politiciser)**	**Trigger events**	**Cultural and institutional context**
EU data retention directive	directive, activism started at global level	mass data	national/EU	9/11, Madrid (2004), London (2005), Paris (2015), Brussels (2016)	Germany, Austria, (France and UK); EU
EU PNR directive	directive, activism started at EU level	mass data	national/EU	9/11, Madrid (2004), London (2005), Paris (2015), Brussels (2016)	Germany, Austria, (Belgium, UK); EU
EU terrorist content online regulation	regulation, activism started at EU level	user content	EU/ transnational	Paris (2015), Brussels (2016), Berlin (2016), Barcelona (2016), Christchurch (2019)	Germany, France; EU

Source: Own illustration.

A) *Authority transfer and sovereignty concern*

Comparing the three kinds of legislative acts, the directive was associated with higher politicisation at national level. This was not only visible in the data retention case but can also be illustrated by NGOs activity linked to EU PNR. Even when politicisation was not ignited here, attempts by NGOs were clearly visible at the German national level. The politicisation at EU level in the third case was however not higher than the one in the first case. The directive as a certain kind of legislative act also had what it takes to incite politicisation at EU level. Neither can it necessarily be said that NGOs are more likely to be in direct contact with EU institutions when it comes to a regulation. During the formulation phase of the data retention directive as well as in the regulation, NGOs tended to address EU institutions directly. In the third case, the intensity of direct communication was then higher due to the political sensitivity of the project but not because of the form of legislation.

Before the *full politicisation* started in the first case, activism of NGOs was already visible at global level due to the adoption of the legal basis (ePrivacy directive) of the 2005 legislation act on data retention. The organisation of the Global Internet Campaign of NGOs demonstrates this. It might have been easier for NGOs to then become active as *politicisers* on data retention, with the knowledge that the international context 'supports' and perceives this as an important matter. The *expert* as well as *elite* process appeared at EU level first. Compared to the first case, politicisation was existent to a far lower extent. Therefore, it seems plausible to assume that a transfer of an issue to the EU level or pe-existing activism at another level assists these organisations in politicising a topic.

B) *Authority and capacity of the politiciser*

Regarding the authority of the *politiciser*, it was observable that newly founded national NGOs – prevalent in the first case – were able to trigger higher *boosts* of politicisation in the political realm than transnational ones, who were actively engaged in the third case. However, in order to get the attention of journalists and to be added in their articles, better-known names of transnational actors were beneficial. Some of the national NGOs from the first case participated also the in the third case (e.g. AK Vorrat AT as epicenter.works). Here, they were not able to convince the European citizenry of the importance of the issue. So it may be that such groups that are newly formed and thus have a 'moment of surprise' on their side have a greater opportunity to politicise the issue, but this 'momentum' does not seem to last long. Their presence was less effective with regard to the EU PNR directive.

Next to this, the three case analyses demonstrated that NGO's ability to politicise is also linked to the resources available. In the NGO scene 'resources' means financial aid, staff members,

a permanent office, a network and expert knowledge. In the data retention case, the financial constitution, expert knowledge and a network were crucial for DRi's ability to litigate. *Litigation* was presented as a very costly affair – not only by DRi but also by other NGOs. This is also why not all NGOs who work in the field were able to participate in this legal strategy.[204] DRi was able to pursue this strategy as members of the organisation, trained legal professionals, worked without payment. A permanent office in Brussels was not crucial for DRi's work, but the Irish NGO stressed that its relation to EDRi, who have such a representation, was essential.[205] The PNR case highlights the importance of staff members. As during the directive's adaptation phase the resources of some NGOs were limited due to other EU measures being debated at the same time.[206] This had an impact on the scope of campaign work (*voice* strategy). In the data retention case, on the other hand, where a lot of volunteer work (coordinated by a wiki) was in place, this problem was kind of circumvented.

C) *Intrusiveness and relevance for the audience*

An essential factor that contributed to the different types of politicisation present in the cases (*fully-fledged politicisation*, *(unsustainable) elite politicisation*, *expert politicisation*) was the incentive an issue offers to politicise. A comparison of the first and third case shows that the deletion of user content as an issue was not very conducive for politicisation. It was not the common users (citizen arena) who felt affected by the issue, but the businesses and human rights organisations (protest arena) who work with these techniques. In the first case, on the contrary, that was defined by the law enforcements' use of mass data – that was collected anyway by telecommunication companies – politicisation was visible in the citizen arena. Interestingly, in the second case, a case that was dominated by a similar topic, higher politicisation in the citizen arena failed to appear – albeit the mass data collected by air companies covers information like the bank account number of EU and third-states citizens. This insight could therefore rather speak for the fact that it is not the issue that is decisive. However, this is not the case. As will be demonstrated, the assumption, that the 'structure' of a topic is important is key in this regard.[207]

The data retention directive was labelled as a "Dammbruch" (see subchapter 6.2.2.3 *Litigation*) It affected the privacy of so many EU citizens to a very high extent. Citizens were reluctant to get into contact with psychologists and doctors. Journalists were afraid of losing their sources

[204] Interviews with NGO staff (12), NGO staff (9) and NGO staff (4) illustrated this.
[205] In general, the network of EDRi was several times regarded as important. Interview with NGO staff (9) and NGO staff (13).
[206] Interview with NGO staff (4). See also the statement of NGO staff (10) with regard to resources: "Letztendlich können auch informelle kleine Gruppen Campaigning Arbeit machen, aber nur bis zu einem bestimmten Level der Arbeitsintensität, dann müssen es aus meiner Sicht professionelle Strukturen sein."
[207] Interviews with NGO staff (9), NGO staff (10) and MEP (1) support this assessment.

and being prevented from doing their work. The audience joining NGOs at German and Austrian level as well as the polls conducted highlight this. The issue of data retention from a citizen perspective was regarded as more intrusive than the collection of passenger data. The processing of traveller data is also an issue that only affects those who book a flight. Taking a flight, can be argued, is still a privilege or an exception. It is far less common for people to book a flight than to use their mobile phone to make a call or send a message. Another fact that could also play a role in why people did not feel so affected by the EU PNR issue was that the purpose of the flight (e.g. vacation) can be equated with accepting the collection of data. So, people might be more inclined to accept the storage of their data if the situation as such is not considered unpleasant. It seems to be more invasive (to one's privacy) to know that one's call to counselling is being recorded than giving up some personal information for the flight from Berlin to Rome. Booking a seat in an air carrier for a holiday or business meeting might be of such importance or so rare, that forfeiting the right to privacy is permissible.[208] An additional factor could be, that people do still have the 9/11 terrorist attacks in their minds and are thus more willing to have their right to data protection restricted.[209] The argumentation of NGO staff (10) highlights this very well:

> Ich mein Kommunikationsdaten sind noch mal mehr im Privatleben vielleicht drin oder täglicher. Es ist immer und ständig jederzeit alle. Das kann sein, dass sich Menschen dadurch stärker betroffen fühlen. Und es kann auch sein, dass einfach bei Fluggastdatenspeicherung der Gewöhnungseffekt schon so groß ist. Das Leute es für normal halten, wenn solche ähm solche Daten aufgenommen und gespeichert werden. Und was vielleicht auch sein kann, ist, dass Leute sich tatsächlich, das ist dieses Argument der gefühlten Sicherheit nach diesen Terroranschlägen, sicherer fühlen, weil niemand will mit, also in einem Flugzeug sitzen, was vielleicht entführt wird. So, kann es auch sein, dass es dann nen konkreter vorgestellten Bezug zu einem möglichen Szenario des Risikos gibt.

The spreading of terrorist internet content is as such not acceptable for EU citizens as Eurobarometer surveys indicated. Citizens do not want to encounter this kind of content when they or their kids scroll through feeds of YouTube or Facebook. The lack of politicisation in the citizen arena can be justified by this. The urge to stop the distribution of this content is higher than the interest in protecting data and privacy rights. In order to study (NGO-driven) politicisation, it might pay off to shift the focus on issues that are particularly impactful or intrusive for a large number of people. Nevertheless, this third case study has also emphasised another aspect: The importance of NGOs' to be able to frame an issue properly to function as a driver of politicisation. The regulation was especially hard to frame for NGOs due to its title that directly referred to "terrorist content". This not only influenced the selection of the strategy at the end [210], but as the evidence shows, also had an impact on the kind of politicisation in

[208] Contributions from the field of climate research, for example, show that people are only willing to change their behaviour up to a certain point. Giving up meat consumption, for example, is not one of them.
[209] This explanation was also stressed in an expert interview with NGO staff (10) and NGO staff (9).
[210] Several interviewees pointed to this: NGO staff (4), NGO staff (7) and NGO staff (13).

place. Conversely, if an issue is easier to frame for NGOs, it seems to be easier to politicise. In the data retention case, the framing with recourse to the right of confidentiality worked very well at the German level (and resulted in an alliance with affected professional groups).

D) *Trigger events*

The case studies also offer some insights on the discussion of trigger events as a motor for politicisation. Acts of terrorism as trigger events per se did not increase NGO-driven politicisation.[211] Rather, it was the reaction and legislative responses of EU institutions – and member states' governments in particular – that drove such processes. These events created pressure on political actors to act. This pressure then translated into new measures, which in turn are often regarded by NGOs as hasty and not well considered in terms of civil rights. Thus, a greater momentum of exchange between civil society and political actors on adequate measures would have been necessary in order not to ignite the debate on both sides. Actually, acts of terrorism make framing for non-governmental organisations as well as their (educational) work more difficult.[212] In general, NGO employees stress that "being against counter-terrorism is not super sexy", it includes problems like being regarded as supporters of terrorists.[213] This leads directly to the discussion of the cultural and institutional context, in which NGOs operate.

E) *Cultural and institutional context*

Considering the condition of cultural and institutional factors, an increased NGO-driven politicisation in the member states Germany, Austria, France and UK can be emphasised. Also these member states showed the highest support by civil society for these groups. Consequently, these states seem to provide a facilitating context for the engagement of privacy organisations. Germany's history of two authoritarian regimes might be one explanation for the high participation and presence of NGOs.[214] The high NGO engagement in Austria and Germany (evident in case one and two) is explained by interviewees due to the shared "Kulturraum"[215] as well as the accessibility to the constitutional courts.[216] Another reason might be the weighting of the votes of the member states Germany, UK and France in the Council of the EU – at least before the system changed from 2014 onwards. Furthermore, it could also

[211] This was for example emphasised by two interviewees: Council official (1) and Commission official (5) argued that the Christchurch attack did not work as a driver for the policy process of the terrorist content online regulation.
[212] Interview with NGO staff (12).
[213] The quoted statement was made by NGO staff (2). Similar comments were made by NGO staff (1), NGO staff (4) and NGO staff (13).
[214] This view was supported by distinct interviews: NGO staff (10), NGO staff (12) and NGO staff (9).
[215] Interview with NGO staff (9): "Und da ist in Österreich auch immer sehr nahe auf Deutschland geschaut worden, dass ein Kulturraum ist."
[216] Interview with NGO staff (7).

be that these countries present the ‘safest’ environment for NGOs. The quote above indicates that certain governments or societies exists, in which NGO engagement against counter-terrorism measures is not perceived as welcomed. That might also explain, why NGO participation from certain member states was not apparent. When these NGOs have already a difficult standing in their state, since governments’ attitudes towards their engagement in general are critically, it might even become dangerous for them to engage in (this sub-field of) security. At the end, these organisations might become categorised as ‘terrorist’.

Taking the institutional context at EU level into account, the European Commission was the most politicised institution by NGOs. So far, however, it can be said that this institution has characteristics that make a higher politicisation of NGOs more likely. Zürn, Binder and Ecker-Ehrhardt (2012, 97) “expect that international authorities that are more intrusive or affect individuals directly should be more politicized.” Scrutinising the three cases, a mix of both seem to apply. The European Commission seems to be the anchor of NGOs’ politicisation, since it is the one who proposes these measures in the first place. Above that, it is precisely in such situations, where the institution remained silent (as in the data retention case since 2016), that the room for NGOs manoeuvre to politicise has grown. Thus, it is likely that NGOs intentions to politicise increase when they fail to get into direct contact with institutional bodies or the more, they seem to fail in fulfilling their interests. The assumption that politicisation is dependent on the (lack of) success of NGOs requires more research.

Another factor that could be conducive for the occurrence of politicisation, but also needs more attention of scholars, is the (in-)transparency of political institutions and actors on an issue. In all three cases, it was observable that NGOs’ *politicisation move* was linked to a leak. In some of these instances the leak expressed that information had been withheld from the public or was otherwise not made available. This points to the mistrust between institutional bodies and civil society. Further research could therefore be devoted to the link between the lack of transparency or mistrust and the occurrence of politicisation processes.

Overall, it can be said that the one factor definitely contributing to politicisation is the intrusive nature of an issue. It also became apparent that the capacity of the NGOs in terms of sufficient financial and human resources (also the linkage to a network of NGOs) was a facilitating condition for politicisation. The political-security culture of certain member states (e.g. Germany and Austria) can be regarded as more favourable for the participation and activism of NGOs than others. More research is necessary on terrorist attacks as trigger events as well as the authority of the *politiciser*. At this point of research, it cannot clearly be said, if the assumption of Schneckener and Hegemann (2017), that such actors who cannot be considered as long-established in the field have more potential regarding politicisation, is true.

The discussion on the opportunity structure showed, that the directive was associated with *full politicisation* in the first case, this was however, not due to the type of legislative act. In this case pre-activism of NGOs on the forerunner of the directive existed that might have worked as a facilitator. The main assumption that derives from this insight – that a transfer from the global to the EU level leads to higher politicisation – also needs to be further scrutinised.

The next subchapter gives an overview of the main research findings of this thesis. It will discuss research desiderata as well as limits of the contribution. The above-presented discussion of potential contributions will be again of importance not only with recourse to points of reference to further research, but it accentuates where NGOs' involvement in politicisation might be expectable in the future.

10 Conclusion and Outlook

This thesis concentrates on the role of Brussels-based and national NGOs in politicising European security. There is no research that connects these three subjects (role of NGOs, politicisation and EU security). The role of NGOs in politicisation is highly undertheorised. A subfield that is especially suffering from a lack of research is EU counter-terrorism. This thesis highlights the importance of scrutinising NGOs as actors in this field and perceiving them as such. A key contribution of the study is the introduction of an innovative theoretical framework that combines insights from politicisation research with ideas present in interest group literature. Chapter ten serves to summarise significant results of this thesis with recourse to the main research question, while addressing project limitations and debating (potential) consequences of politicisation. This concluding section is also devoted to highlight (further) contributions to research on NGOs and politicisation and to compile lessons learned from studying EU counter-terrorism as a policy field. Before this thesis closes with a "moral claim", that not only is directed to scholars but also policy makers and those who are working in the media, an outlook on further research is given.

Research Findings

The startling picture of an underrepresentation of research on NGOs in EU security as well as politicisation led to the following research question: "*What role do NGOs play in politicising European security?"* In this thesis, a qualitative, interpretative approach was chosen to study national and Brussels-based NGOs' emergence and appearance, which contrasts with the previous studies of politicisation research, which have been conducted mainly on a quantitative basis. The cases selected are all part of EU counter-terrorism policies: 1) The EU data retention directive, 2) the EU PNR directive, 3) the EU terrorist content online regulation. The approach comprises elements of *Prozessanalyse* and qualitative content analysis of EU media outlets. A triangulation of data is implemented using A) primary sources (e.g. Eurobarometer surveys and national polls, media articles, EU official documents and NGO reports), B) secondary literature C) insights collected from expert interviews to provide a rich foundation for the reconstruction of politicisation processes in each single case. The basis for the three within-case studies is a theoretical framework that combines insights from politicisation literature – among others the three dimensions *awareness*, *mobilisation* and *contestation* – with strategies of NGOs – *voice*, *access*, *litigation* – presented in contributions on interest group influence. To evaluate the degree of politicisation in the three case studies, a comparative assessment is made that confronts main peaks of politicisation. With responding to the introduced question, the thesis is not only interested in examining if NGOs play a role in

politicisation but wants to go one step further and comprehend what kind of role these actors take in these processes. The aim is to deepen the understanding of politicisation as a concept and to analyse the role of national as well as Brussels-based NGOs within this context.

As the three case studies illustrated, NGOs can overtake different roles in politicisation. They can be regarded as *politicisers* (EU data retention directive), *supporting politicisers* (EU PNR directive) or *noiseless politicisers* (EU terrorist content online regulation). As the analysis of *politicisation moves* highlighted, NGOs are not only partaking in these non-linear processes but can also be regarded as initiators of politicisation. Likewise, the comparison of the case studies (chapter nine) demonstrates that the role of these specific non-institutional actors comes with certain limits. The appearance of NGOs and their involvement in politicisation processes is highly context-dependent, i.e. influenced by external factors. This context-dependency of NGOs' role is an essential insight of the study of three EU counter-terrorism policies:

> The role of NGOs depends on whether a favourable political-security culture is in place, whether the issue is conducive ("intrusiveness") and provides an anchor for framing as well as whether NGOs have sufficient (financial and human) resources to become active as *politicisers*.

This thesis offers a first step in theorising the role of NGOs. It is however difficult to embed the research results in the bigger context of EU security and this needs to be treated with caution. The transference (and generalisability) of results comes with certain pitfalls since the EU counter-terrorism field is defined by its own characteristics and institutional opportunity structure (chapter five highlights this). The representativeness for other EU security subfields like migration and border security remains difficult. At the same time, the presented insights provide points of orientation for further research. For example, regarding the scientific discussions on consequences of politicisation.

Consequences of NGO Politicisation at EU Level

Politicisation research presents several ideas of potential consequences of these processes. Yet, little is known about the verisimilitude of these statements. The three case studies, as will now be highlighted, overturn some of the assumptions made by scholars.

It should be noted that the NGO-driven politicisation in the three counter-terrorism policy processes certainly had the potential to democratise this subfield of European security. This becomes observable in the data retention case. The *politicisation move* of the NGO Statewatch

triggered the *awareness*, *mobilisation* and *contestation* of the issue at EU level, which then resulted in the founding of a new party (pirates) and groups (AK Vorrat DE, epicenter.works) at the national level of several member states. Politicisation does have the potential to increase the emergence of multiple positions and new actors. From a normative point of view, the existing politicisation was even a desirable one, as the committed non-institutional actors advocated for a stronger application of the EU Charter of Fundamental Rights. Thus, the demands did not have an anti-European character and security was connected to a discussion of values. However, many of these promising potentials of politicisation were lost due to a consequence that was described as very likely in research but that did not actually occur.

The trio consisting of Zürn, Binder and Ecker-Ehrhardt (2012) as well as Rauh (2019) stressed the likeliness that institutions might open their doors for civil society engagement and the interest of NGOs once politicisation is in place. As the data retention case best illustrates, this does not apply to the area of EU counter-terrorism. In the evaluation phase, NGOs were able to get a seat at the Commission's negotiation table through the *boost* of politicisation. Afterwards no greater reaction to NGOs' claims was visible nor did the activism of these organisations lead to a higher transparency. On the contrary, NGOs had to rely on the platform AsktheEU to obtain documents. However, these inquiries were only answered inadequately from the organisations' point of view. NGO staff also report a difficult relationship with DG JHA, characterised by a reluctance to engage in direct contact and little transparency.[217] In addition, the European Commission is in the process of drafting a new legislative proposal to meet the interests of the member states. Hence, the reading of Bossong and Hegemann (2019), who equated consequences of politicisation with the restriction of citizen's freedoms, seems to be more accurate.

All in all, many potentials for promoting democracy are being sacrificed because EU counter-terrorism is still being handled as a field dominated by member states.[218] In the case of data retention, the Commission's stance has clearly contributed to this view. Even if this conflicts with their external image, as can be seen in relation to the institution's counter-radicalisation policy. The RAN, which concentrates on the inclusion of local actors, is a case in point. Eventually, it can be said that the existing politicisation can be described as 'good', but it has not led to greater attention concerning the role of NGOs.

[217] Interview with NGO staff (1). NGO staff (6) told that it was especially difficult to get in contact with the Juncker Commission. Commission official (4) stressed that the openness to get in contact with NGOs highly depends on the Commissioner (in this case for JHA), who is in place.
[218] Interviewee Commission officials (1, 2, 4) stressed the role of intelligent services, who are outside of the EU treaty and argue in favour of the retention of data.

One final problem connected to the scientific discussion on consequences of politicisation persists. As already indicated, the politicisation pursued by NGOs had qualities that can certainly be described as attractive for democratisation. However, the assessment could have been quite different if the NGOs had actually been able to overturn the regulation on terrorist content. The EU's concern not to show such specific content on the internet was supported by the wider society and evaluated as a 'good' outcome by partners at the global level. The question that remains and becomes again evident is: What is a 'desirable' outcome? This contribution cannot give a sufficient response to this question, but an aspect should be highlighted that is so far not articulated by current research contributions: Politicisation can be undertaken with good intentions, but these intentions may have unanticipated or unintended consequences (or "the road to hell is paved with good intentions"[219]). Further scientific works should respect this aspect when examining potential consequences of politicisation or reconsidering the normative desirability of those processes.

In the next step, the main contributions of this thesis for NGO research, politicisation literature and scholars (or students) as well as practitioners studying EU counter-terrorism are regarded. Then research desiderata that can be derived from this thesis are exemplified.

Contributions for NGO Research and Politicisation Literature

The dissertation started with an introduction of the main research question as well as subquestions. The responses that each case study offers with regard to these subquestions provide takeaways for NGO and politicisation research. Overall, three implications for NGO research and five contributions for the studying of politicisation can be noted:

1) This study gives an overview of NGOs and their (*four main*) characteristics working in the field of EU counter-terrorism as a subfield of European security. The thesis introduces the history, portfolios and activities of groups who are present in the field for over twenty years. An important insight is that key drivers in the NGO landscape are not human rights organisations, as presented in the peacebuilding or "war on terrorism" literature, but rather those that have a focus on the rights to privacy and/or are specialised in data protection (*first characteristic*). Hence, they have rather a civil rights perspective. Quite prominent NGOs like Amnesty International or HRW are rather overtaking a supporting or partnering role. Accordingly, it is an almost unknown network of NGOs that follows and intervenes in the policymaking of the EU in the area of counter-terrorism. These vocal groups are located in central European states like Austria, Germany, France, Belgium, the Netherlands and UK (*second characteristic*). The

[219] Foo Fighters (2021): Chasing Birds. In: Medicine at Midnight.

thesis stresses that the founding of these organisations (and their offices) is deeply intertwined with the creation of the EU counter-terrorism field (*third characteristic*). The portrayed and examined organisations never occur as supporters of member states' plans in the field. This diametric constellation is present in every case study (*fourth characteristic*).

2) The thesis shows how the theorised strategies of NGOs (and interest groups) play out in reality and how they can be (further) differentiated. The review of interest group literature underlined that little is known about *litigation* as a legal strategy. This thesis gives a good impression how NGOs use this kind of activity to increase their room for manoeuvre, especially after the implementation phase of a policy. The action of leaking has been identified as essential for NGOs' work in the proposal and formulation phase of a policy. A holistic examination of these strategies is needed to learn more about NGOs' approaches and objectives. Analysing only one single strategy could lead to a false impression. Moreover, the three case studies demonstrate that a clear separation of the lobbying and legal strategies does not correspond to the reality of NGO's work. A fact that will be addressed under the section focusing on research desiderata.

3) The studying of three EU counter-terrorism policies highlighted entry points of NGOs that were disregarded so far. NGO-EU research mainly focuses on the organisations' relation to main EU institutions. The mapping of NGOs strategies and interactions, however, highlighted that besides these institutions other bodies at EU level are regarded as a similar important anchor for exchange. Entry points of NGOs were in this regard for example the European Data Protection Supervisor, the European Union Agency for Fundamental Rights or the Meijers Committee. The thesis also confirmed some already made statements and observations about NGOs' points of exchange at EU level. Thus, the EP and LIBE Committee have proven to be particularly important for NGOs' work. The same observation can be made with respect to the European Commission. Here, however, the connection of NGOs to this institution is strongly dependent on the staffing of the Commissioners. The general view that there is little exchange between the Council and NGOs can be confirmed.

The following insights can be derived from this thesis for scholars of politicisation. Some of them are closely intertwined with the implications illustrated for NGO research:

1) Politicisation of security policy is observable. There are two diverging opinions in the literature focusing on this specific phenomenon. Whereas one group of scholars is rather sceptical about the politicisation of this field or connect it to depoliticisation, the other group identifies a trend of politicisation of European security. The case study on data retention is favouring the latter. It demonstrates that politicisation processes in the context of security can occur. Yet, the second and third case study show that this is still a delicate and complicated

matter. The identified trend that politicisation of European security exists holds true. That means in turn that this thesis challenges the abovementioned opposing standpoint. While that is the case, it cannot be denied that security policy is a field in which the appearance of those processes seems to be scarce. A constellation of contextual factors needs to be in place, so that politicisation can unfold. The technocratic character of EU policy-making can for example hinder the expansion of these processes (see the section on lessons learned below).

2) The thesis started with the introduction of a theoretical framework to study NGO-driven politicisation that can be replicated in similar research contexts. The development of this framework was driven by the idea to substantiate the existent operationalisation of politicisation. This conceptualisation and especially its application has helped to dispel some statements of politicisation. The case studies painted politicisation as a non-linear process that is characterised by *boosts*. The application of the *politicisation move* contributed to the identification of the starting point of those processes. The linking between interest group literature and politicisation research (dimensions) made it possible to identify strategies of NGOs to politicise. The close linkage between a *politicisation move* and the action of leaking became identifiable, but also the drafting of a letter campaign and issuing a case before a national court had the power to bring an issue (back) onto the public agenda. In this context, it is important to stress that it paid off to examine politicisation in an in-depth, interpretative way. The theoretical framework benefited from the iterative research process and the flexible approach helped to reconstruct politicisation processes in each single case.

3) The findings of the study of different locations (arenas and levels) can be linked to some messages made by researchers on politicisation. First, a multi-level analysis of politicisation (see Zürn 2019) indeed pays off. The need to study politicisation across levels and arenas becomes highly visible in the thesis' context. The study of arenas delivers important insights to strengthen the argumentation regarding the diverse politicisation processes. Second, the result that the *fully-fledged politicisation process* was connected to the citizen arena, the protest arena and the media arena at the national, EU and global level, promotes the idea that politicisation increases as more arenas and levels are involved (Hagmann, Hegemann, and Neal 2018). A statement of Hegemann and Schneckener (2019, 11) becomes very true in the context of the above presented research findings: "Politicisation should increase when mobilisation moves beyond established institutional fora and informal circles representing the 'usual suspects' of politicians, technocrats and experts that enjoy privileged status in the security field." If a discussion in these arenas is missing, it seems to be difficult to accomplish a comprehensive, sustainable politicisation. The *elite*-type politicisation process was not lasting. Consequently, Grande and Hutter (2016; see the thesis' introduction) were correct in their assessment.

4) The three case studies have contributed to a better understanding of conceptual parts and terminology presented in connection to arenas and audiences. In the first part of this thesis, it has become apparent that these expressions are still very poorly conceptualised (chapter 3.1.1 and 3.1.3). By applying "arenas" and "audiences" in the study of politicisation processes, the understanding of this terminology however was expanded. Studying the protest arena at the national and EU/global level, different images appeared. At national level, examined NGOs took to the streets, while at EU level it was rather the united drafting of letters that was established. Therefore, a different notion of the protest arena in EU counter-terrorism arises.[220] It was illustrated that NGOs' audiences are for example journalists, lawyers and certain EU data protection authorities (EDPS).

5) Through the studying of three different counter-terrorism policies, it became obvious that the issue – its intrusive character – can be regarded as an essential driver of politicisation. The more people are affected by an issue and the more it affects the rights of these people – in the thesis' context the right to privacy, to data protection and confidentiality – the more likely it is that politicisation will occur. At the same time, the case analyses highlighted limits of politicisation or to frame it differently, certain drivers of depoliticisation. The more difficult it is for individuals, groups or organisations to frame an issue, the less likely it seems that politicisation processes will be initiated. This leads to a critical reflection of this research finding under the next section of "lessons learned".

Before these lessons are regarded, one note on the study of interest group influence needs to be made. This body of literature was extremely helpful to learn more about NGOs' strategies. The study of politicisation offers one interesting insight for those who conduct research on influence mechanisms. It can very clearly be stressed that politicisation and influence are not equitable. Politicisation – drawing an issue into the public sphere – is indeed possible without influence. The scrutinisation of emerging civil society groups in the data retention case has, however, emphasised that politicisation can be very effective for those who are not yet part of the political setting (or "establishment" as some scholars would say). This is a clear distinction from classic lobbying. By politicising an EU counter-terrorism policy, newly founded NGOs and civil society groups were able to establish a standing at national and EU level – an observation that will be addressed under research desiderata.

[220] It is important to highlight that by claiming an EU protest arena is in place, it is not expected that Brussels' residents go on the streets to protest, but that NGOs are able to bring European protest movements (critical voices) to the city or are able to organise a social media protest.

Lessons Learned from Studying the EU Counter-Terrorism Policy Field: For Practitioners, Scholars and Students

This critical reflection is dedicated to those who are interested in studying the field of EU counter-terrorism. Although the actual aim of this thesis was to understand the role of Brussels-based and national NGOs in politicisation, there were nevertheless some takeaways regarding the environment under study.

First, the statement that EU counter-terrorism as a subfield of European security suffers from a lack of transparency and comprehensiveness is still true. EU counter-terrorism is characterised by numerous measures and actors. The policy field is difficult to distinguish from other subfields – the PNR issue started for example as a migration topic – and is partly diffuse as well as constantly under change. It is defined by the Commission's financing of smaller projects (especially with regard to counter-radicalisation), the involvement of newly established working groups, bodies and fora. The Special Committee on Terrorism, the EU Internet Forum and the EU Internet Referral Unit can be named in this context – all established between 2015 and 2018. Moreover, it is characterised by technocratic solutions and conceptualisations. So, it is quite challenging to keep track of this evolving field. Greater transparency for researchers and citizens would therefore be desirable for the comprehensibility of policy making and would improve the democratic quality in EU security.

Second, the rising technocratic policy-making makes working for NGOs and other non-institutional actors more difficult. The case study on the terrorist content online regulation highlighted this. Since the discussion was mainly about technical details, laypeople did not feel addressed. The research findings of this thesis could even contribute to this trend. The author is aware of the fact that the information that lower politicisation was connected to NGOs' problems with framing the issue could be misused. Certain governmental or institutional actors could see a potential in fortifying the trend of technocratic policy-making in Europe. This trend would make the policy field even more unapproachable for those who work and concentrate on it, which in turn would have grave consequences on the democratic quality of security provision by the Union.

Third, member states are still the main actors in EU counter-terrorism. Some studies already shed light on the importance of other institutional actors in EU AFSJ. In this study, the trend of an increasing influence of the European Commission (for example) could not be confirmed. It is the member states who are deciding about the course of EU counter-terrorism measures in the first place. In 2022, the member states France and Belgium decided to ignore the ruling of the CJEU on data retention as well as PNR. Moreover, the very fact that data retention is still an issue at EU level is owed to the member states who consider it essential for law enforcement

investigations. This observation also became evident when member states (Germany and France) invited the Commission to find a solution for the handling of terrorist content online. The events after the data retention and PNR ruling shows that there is still a certain power structure in security that shows the limits of the CJEU (and jurisdiction) in the institutional setting of the EU. In sum, it can be stated that the principle of sovereignty is of importance in the subfield under study.

Fourth, it is questionable how appropriate or adequate the policy making of the EU in counter-terrorism actually has been. As the study of attitudes of EU citizens showed, data retention was never a favourable and requested response. In fact, it still clashes with the attitudes stated by EU citizens. PNR was also in the making when it turned out to be 'the policy solution' in 2015, while at the same time the EU-Canada PNR agreement was annulled by the CJEU.

Research Desiderata and Reflection on Limits of the Thesis

Embedded in chapter nine, one can identify many of points of orientation for further research on politicisation. These points are now addressed, while also scrutinising the limits of the thesis. This section shows that it will not only make sense to learn more about the conditions of politicisation through future research, but also to look at other subfields of European security or non-state actors.

First, the greatest potential of this thesis is to apply and extend the theoretical framework presented in chapter three to other research settings. This can be done, however, in different ways: a) *Studying NGOs in similar contexts*, b) *Studying NGOs in different contexts,* c) *Studying other non-state actors*. Why these desiderata are fruitful for future research is explained in the following passage:

a) *Studying NGOs in similar contexts*: In chapter nine, three cases were contrasted in order to be able to draw conclusions about the quality and degree of politicisation. However, the results cannot be seen as representative of the universe of EU security. It is possible, of course, that a higher degree of politicisation is common in other areas. In migration and border management, this is even very likely if one looks at the debates on Frontex, pushbacks and the EU's cooperation with external actors (Libyan coast guard). To compare the results of this thesis with other EU security fields would also contribute to a better assessment of *awareness*, *mobilisation* and *contestation*. For example, media *awareness* was highest in the case of data retention, but was it really that high compared to discussion on Frontex? Or is *contestation* also driven by a debate between privacy and security? It seems more likely that principles like freedom of movement and sovereignty are defining positions in this area. Studying EU border management would also give additional insights on litigation as a strategy of NGOs. In this

area, it is far more challenging to reach an EU court for NGOs.[221] Evaluating this NGO strategy again with a view on security would shed light on the following questions: What room does it offer for NGOs to act? What are the limits? How do NGOs and courts (e.g. European Court of Human Rights) interact in this field? It seems plausible to assume that this in turn reflects the standing of member states in this policy area.

b) *Studying NGOs in different contexts:* This second point is driven by the desire to learn more about NGOs in general. This study showed that mainly disregarded privacy NGOs are working in the policy field of EU counter-terrorism (and defining it) for twenty years. It is very likely that similar observations can be made regarding other policy fields. A few insights are already given on the NGO scenery in EU environmental, trade or LGBTQ equality policy, but research on the main drivers and alliances is in some cases still lacking. Shifting the view to these NGO-communities would also allow to learn more about their strategies and entry points. The thesis highlighted that *voice*, *access* and *litigation* are closely intertwined and that it therefore makes sense to not only scrutinise lobby activities of NGOs. It is questionable if these strategies are also closely connected to NGOs' work in other EU policy fields and if a similar procedure of these groups is at hand. Moreover, *litigation* was stressed as very important tool for NGOs - it became visible that some of these groups are focusing on this strategy solely.

The studying of NGOs in different contexts would also allow to shift the focus on these groups who are not against more regulation but rather do expect more regulation from EU institutions. In this thesis, organisations were against the EU's regulation. NGOs wanted less involvement from the EU in privacy and data protection matters. Those NGOs who want more regulation – understood as the EU is doing too little – could be for example encountered in European environmental protection. For years, organisations such as Greenpeace have been calling for a stronger EU policy with regard to climate protection, plastic production and factory farming. It is for example possible that NGOs in other areas work with similar strategies but pursue them in a more intense or offensive way, e.g. using shaming tactics more often or protests at different levels. This leads directly to the next point.

c) *Studying other non-state actors*: It seems fruitful to not only study NGOs in different settings but also to study other types of non-state actors. In 2015 and 2020, "tractor protests" in member states and before EU institutions' buildings were observable. Studying different non-state actors could contribute to our understanding of audiences and arenas. It stands to reason, for example, that the protest arena of farmers at EU level is a different one than the one of privacy NGOs examined in this thesis. Looking at the mentioned protests, the associations of farmers also seem to be more vocal in comparison to the NGOs under study. In this context, it might

[221] This argument is more detailed discussed in Liedlbauer (2021).

be fruitful to study visual data – like pictures taken at demonstrations – in a structured way. An undertaking that would have been beyond the scope of this thesis, but that seems to be beneficial in order to learn more about the audiences of these actors. Here, such individuals and groups ("laypeople") who feel but who are not necessarily directly addressed by the issue take part (on a voluntary basis in their free time). Furthermore, it would be desirable to study the media as an actor in its own right. Inspiration for this comes from the role of IT blogs in the three case studies but also from recent events in the field of EU migration. In the latter issue-area, media representatives become increasingly active as investigators by bringing human rights violations of refugees at EU member states' borders into the public eye (see reporting of The Guardian or ARD-Magazin) and address their reports to policy makers. In EU counter-terrorism, this investigating role was observable with respect to IT blogs, but not on the part of newspapers, (global) networks or broadcast producers.

Second, a starting point for new research is provided by the insights on conditions on politicisation. Even if it seems that the character of an issue is essential for politicisation, more attention should still be paid to this result. If we know more about the driver of these processes, it is far easier to select appropriate subjects of research to study politicisation. Conditions of politicisation that require more consideration are those listed: The importance of the ability to frame an issue, the (security-)culture context as well as the available resources. These were introduced above as main factors of NGO-driven politicisation processes, it is, however questionable whether these can be identified in other scenarios as well. The case studies also pointed to the possibility that actors who cannot be considered as long-established in the field have more potential regarding politicisation and that politicisation is dependent on the (lack of) success of NGOs. This not only provides an anchor for those interested in politicisation but also for those who are studying the influence of actors. More knowledge is also desirable on the lack of transparency or mistrust in a political system as drivers for politicisation. The comparative analysis also pointed to one mentionable outcome for those working with the authority transfer hypothesis: The pre-existence of NGO activism at global level went along with a higher presence of politicisation. To evaluate if this first insight is accurate, further investigation is necessary. The comparison of several cases of *full politicisation* could be supportive to learn more about this connection.

Third, one of the main concerns of this thesis was to learn more about the objects of politicisation. In the case study research, a politicisation of all three objects, addressed in the respective literature, was identified. However, it became apparent that in that case study, in which a polity politicisation was present, the process was more comprehensive (*fully-fledged*). A point of reference for future research that derives from this result, is the linkage between the state of a process and politicisation of polity as an object: Is it true that the more advanced a

politicisation process is, the more it focuses on polity? It makes sense to study this connection in more depth. This would not only help to select research topics related to politicisation more smoothly in the future, but also to deepen the knowledge about depoliticisation. Derived from this, it could apply that issues that do not address a polity politicisation can also be depoliticised more quickly.

Fourth, it is debatable, whether certain strategies of NGOs are related to distinct types of politicisation processes (*fully-fledged*, *(unsustainable) elite*, and *expert*). At least, it seems plausible to assume that a link between *expert politicisation* and the strategy of *access* can be made. This is based on the insight that NGOs were not successful with the *voice* strategy, but then intentionally decided to switch to *access*, which in turn was related to the higher involvement of experts. However, further analysis is needed to rule out any bias. Comparable to this situation are the insights on the effects of strategies on dimensions of politicisation. Here, the data basis is too limited for making wider assessments. It was noted that *litigation* was linked to a higher presence of *awareness*, *mobilisation* and *contestation* than *voice*. This could have direct implications for identifying the potential of NGOs.

As announced, this work intends to conclude with a “moral claim” addressing those who work in the media. The analysis of news articles has shown that there is still a lot of room for improvement with regard to the coverage of non-institutional actors when discussing EU security policy. Most of the actors cited represent one of the main EU institutions and can be labelled as part of the political establishment. Of course, there were exceptions, but the main trend cannot be dismissed. To promote democracy and diversity in Europe, it would be quite desirable to include a broader spectrum of actors.

This thesis is dedicated to expanding the knowledge of actors at the EU level. Understanding the role of non-governmental organisations contributed to shedding light on other European and transnational actors. Overall, it can be concluded that NGOs are active through *voice*, *access*, and *litigation* in politicising European security – but they are certainly not the only actors involved in politicisation. NGOs however have a unique position in EU security, and it is questionable if non-state actors like the media, interest groups or businesses share the characteristic that establishes this position. These organisations and their work are defined by the motto: “This is what we are for. We are fighting against.”[222]

[222] Interview with NGO staff (13).

References

Access Now. n.d.a. “#KeepItOn: Fighting Internet Shutdowns Around the World.” Accessed June 27, 2022. https://www.accessnow.org/keepiton/.

Access Now. n.d.b. “About Us: Access Now Defends and Extends the Digital Rights of Users at Risk Around the World.” Accessed June 27, 2022. https://www.accessnow.org/about-us/.

Access Now. n.d.c. “Funding.” Accessed June 27, 2022. https://www.accessnow.org/financials/.

Access Now. 2018. “Civil Society Calls for Evidence-Based Solutions to Disinformation.” Accessed June 27, 2022. https://www.accessnow.org/civil-society-calls-for-evidence-based-solutions-to-disinformation/.

Access Now. 2019a. “Debate with UN Special Rapporteur Fionnuala Ní Aoláin Hosted by S&D MEPs Josef Weidenholzer and Birgit Sippel - Access Now.” Accessed July 07, 2022. https://www.accessnow.org/debate-with-un-special-rapporteur-fionnuala-ni-aolain-hosted-by-sd-meps-josef-weidenholzer-and-birgit-sippel/.

Access Now. 2019b. “The European Human Rights Agenda in the Digital Age.” https://www.accessnow.org/cms/assets/uploads/2020/02/Access-Now_The-European-human-rights-agenda-in-the-digital-age_FINAL1.pdf.

Access Now. 2020. “Access Now Presents the European Human Rights Agenda for the Digital Age.” Accessed June 27, 2022. https://www.accessnow.org/access-now-presents-the-european-human-rights-agenda-for-the-digital-age/.

Access Now, Civil Liberties Union for Europe, and European Digital Rights. 2018. “Informing the "Disinformation" Debate.” https://dq4n3btxmr8c9.cloudfront.net/files/2r7-0S/online_disinformation.pdf. Joint Report.

Action for Annulment – Directive 2006/24/EC – Retention of Data Generated or Processed in Connection with the Provision of Electronic Communications Services – Choice of Legal Basis. European Court of Justice, February 10. Accessed https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:62006CJ0301&from=de.

Adam, Louis. 2018. “Contenus Terroristes: La France Et L’allemagne Exigent Une Censure Plus Rapide.” *ZDNET France*, June 8, 2018. https://www.zdnet.fr/actualites/contenus-terroristes-la-france-et-l-allemagne-exigent-une-censure-plus-rapide-39869355.htm.

Adam, Silke, and Michaela Maier. 2011. “National Parties as Politicizers of EU Integration? Party Campaign Communication in the Run-up to the 2009 European Parliament Election.” *European Union Politics* 12 (3): 431–53. https://doi.org/10.1177/1465116511410234.

“Advocate General’s Opinion in Joined Cases C-293/12 Digital Rights Ireland and C-594/12 Seitlinger and Others: According to the Advocate General, Mr Cruz Villalón, the Data Retention Directive Is Incompatible with the Charter of Fundamental Rights.” 2013. News release. December 12, 2013. https://curia.europa.eu/jcms/upload/docs/application/pdf/2013-12/cp130157en.pdf.

Aktion Freiheit Statt Angst. 2015. “Scannt Mein Gepäck: Erneute Protestaktionen Auf Deutschen Flughäfen.” Accessed July 03, 2022. https://www.aktion-freiheitstattangst.org/de/articles/4882-20150411-scannt-mein-gepaeck-nicht-mein-leben.htm.

Albrecht, Jan-Philipp. 2015a. “EU-Richtlinie Für Die Speicherung Und Auswertung Von Passagierdaten (Passenger Name Records, PNR) Für Zwecke Der Strafverfolgung.” https://gruen-digital.de/wp-content/uploads/2015/01/Briefing_PNR-EU_2015-1-281.pdf.

Albrecht, Jan-Philipp. 2015b. “PNR Ist Illegal.” Accessed July 03, 2022. https://www.janalbrecht.eu/2015/01/2015-01-29-pnr-ist-illegal/.

Alvaro, Alexander. 2011. “The Data Retention Directive Is Flawed for Europe.” *EURACTIV*, June 30, 2011. https://www.euractiv.com/section/digital/opinion/the-data-retention-directive-is-flawed-for-europe/.

Amnesty International. 2015. “Protest Vor Dem Bundestag Gegen Die Vorratsdatenspeicherung.” Accessed June 30, 2022. https://www.amnesty.de/presse/2015/10/16/protest-vor-dem-bundestag-gegen-die-vorratsdatenspeicherung.

Amnesty International. 2017. “Dangerously Disproportionate: The Ever-Expanding National Security State in Europe.” EUR 01/5342/2017. https://www.amnesty.org/download/Documents/EUR0153422017ENGLISH.PDF.

Anders, Lisa H., Henrik Scheller, and Thomas Tuntschew. 2017. “Die Politisierung der Europäischen Union und die Rolle der Parteien.” In *Parteien und Die Politisierung der Europäischen Union*, edited by Lisa H. Anders, Henrik Scheller, and Thomas Tuntschew, 1–35. Vergleichende Politikwissenschaft. Wiesbaden: Vieweg.

Andreas Krisch. 2011. “Fundamental Rights Checklist.” Letter to Commissioner Malmström. Accessed December 02, 2022. https://www.statewatch.org/media/documents/news/2011/sep/eu-mand-ret-ngo-letter-to-com.pdf.

Andreou, Christopher, Peter Micek, and Isedua Oribhabor. 2019. “Counter-Terrorism Policies and Human Rights: Lessons from a Digital Rights Perspective.” https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwiFx9OWxOb4AhXJtqQKHSmUATEQFnoECAgQAQ&url=https%3A%2F%2Fwww.ohchr.org%2FDocuments%2FIssues%2FTerrorism%2FSR%2FSubmissions%2FAccess%2520Now_GA74CT.docx&usg=AOvVaw1rn8Or-Dpsva_-aTVaKFZX.

Angelucci, Davide, and Pierangelo Isernia. 2020. “Politicization and Security Policy: Parties, Voters and the European Common Security and Defense Policy.” *European Union Politics* 21 (1): 64–86. https://doi.org/10.1177/1465116519851193.

Argomaniz, Javier. 2009. “When the EU Is the ‘Norm-taker’: The Passenger Name Records Agreement and the EU’s Internalization of US Border Security Norms.” *Journal of European Integration* 31 (1): 119–36. https://doi.org/10.1080/07036330802503981.

Argomaniz, Javier. 2010. “Before and After Lisbon: Legal Implementation as the ‘Achilles Heel’ in EU Counter-Terrorism?” *European Security* 19 (2): 297–316. https://doi.org/10.1080/09662839.2010.532209.

Argomaniz, Javier. 2011. *The EU and Counter-Terrorism: Politics, Polity and Policies After 9/11.* Contemporary terrorism studies. Milton Park, Abingdon, Oxon, New York: Routledge.

Argomaniz, Javier. 2015. “European Union Responses to Terrorist Use of the Internet.” *Cooperation and Conflict* 50 (2): 250–68. https://doi.org/10.1177/0010836714545690.

Argomaniz, Javier, Oldrich Bures, and Christian Kaunert. 2015. “A Decade of EU Counter-Terrorism and Intelligence: A Critical Assessment.” *Intelligence and National Security* 30 (2-3): 191–206. https://doi.org/10.1080/02684527.2014.988445.

Armstrong, James D., Valeria Bello, Julie Gilson, and Debora Spini, eds. 2011. *Civil Society and International Governance: The Role of Non-State Actors in Global and Regional Regulatory Frameworks.* Europe in the world 10. London: Routledge.

Arnbak, Axel. 2010. “What the European Commission Owes 500 Million Europeans.” *Privacy & Informatie* (6): 305. https://ssrn.com/abstract=2181482.

ARTICLE 19. n.d.a. “About Us.” Accessed June 27, 2022. https://www.article19.org/about-us/.

ARTICLE 19. n.d.b. “Governance and Funding.” Accessed June 27, 2022. https://www.article19.org/financials/.

ARTICLE 19. n.d.c. “International Annual Report 2020: Defending Freedom of Expression and Information Around the World.” https://www.article19.org/wp-content/uploads/2021/05/Annual-Report-2020-low-res-1.pdf.

ARTICLE 19. n.d.d. “United Nations Archives.” Accessed June 27, 2022. https://www.article19.org/issue/united-nations/.

ARTICLE 19. n.d.e. “Where We Work.” Accessed June 27, 2022. https://www.article19.org/where-we-work/.

ARTICLE 19. 2020a. “Comments on Leaked Draft Terrorist Content Regulation.” https://www.article19.org/wp-content/uploads/2020/04/Terrorism-Regulation-legal-briefing-020420-FINAL.pdf.

ARTICLE 19. 2020b. “European Court Ruling Is Blow for Ability to Communicate Anonymously - ARTICLE 19.” Accessed July 01, 2022. https://www.article19.org/resources/european-court-ruling-is-blow-for-ability-to-communicate-anonymously/.

ARTICLE 19. 2020c. “EU: A Call for Action to Combat SLAPPs.” Accessed June 27, 2022. https://www.article19.org/resources/eu-a-call-for-action-to-combat-slapps/.

ARTICLE 19. 2021a. “The Global Expression Report 2021: The State of Freedom of Expression Around the World.” https://www.article19.org/wp-content/uploads/2021/07/A19-GxR-2021-FINAL.pdf.

ARTICLE 19. 2021b. “At a Glance: Does the EU Digital Services Act Protect Freedom of Expression?” Accessed June 27, 2022. https://edri.org/our-work/does-the-eu-digital-services-act-protect-freedom-of-expression/.

ARTICLE 19 Netherlands. n.d. “Erosion of Media Freedom in Europe Casts a Shadow on Safety of Journalists.” Accessed June 27, 2022. https://www.article19.nl/.

Article 29 Data Protection Working Party. 2005. “Opinion 4/2005 on the Proposal for a Directive of the European Parliament and of the Council on the Retention of Data Processed in Connection with the Provision of Public Electronic Communication Services and Amending Directive 2002/58/EC (COM(2005)438 Final of 21.09.2005).” 1868/05/EN. https://ec.europa.eu/justice/article-29/documentation/opinion-recommendation/files/2005/wp113_en.pdf.

Article 29 Data Protection Working Party. 2006. “Opinion 3/2006 on the Directive 2006/24/EC of the European Parliament and of the Council on the Retention of Data Generated or Processed in Connection with the Provision of Publicly Available Electronic Communications Services or of Public Communications Networks and Amending Directive 2002/58/EC.” 654/06/EN. https://ec.europa.eu/justice/article-29/documentation/opinion-recommendation/files/2006/wp119_en.pdf.

Article 29 Data Protection Working Party. 2017. “Opinion 01/2017 on the Proposed Regulation for the EPrivacy Regulation (2002/58/EC).” WP 247. https://ec.europa.eu/newsroom/article29/items/610140.

AsktheEU.org. n.d. “About.” Accessed July 01, 2022. https://www.asktheeu.org/en/help/about.

AsktheEU.org. 2015. “Infringement Procedures Data Retention Directive - a Freedom of Information Request to Migration and Home Affairs.” Accessed July 01, 2022. https://www.asktheeu.org/en/request/infringement_procedures_data_ret#incoming-7830.

AsktheEU.org. 2019. “Correspondence on Data Retention - a Freedom of Information Request to Migration and Home Affairs.” Accessed July 01, 2022. https://www.asktheeu.org/en/request/correspondence_on_data_retention.

Association for Progressive Communications. n.d. “Zenzeleni Networks NPC.” Accessed July 01, 2022. https://www.apc.org/en/member/zenzeleni-networks-npc.

Association of European Airlines, and International and Air Transport Association. 2014. “Letter Addressed to Members of the European Parliament.” Accessed December 02, 2022. https://netzpolitik.org/wp-upload/2014-09_AEA_IATA_Joint_letter_on_EU_PNR.pdf.

Avramopoulos, Dimitris. 2015. “Speech of Commissioner Avramopoulos: Discussions on Fighting Terrorism at the Informal JHA Council in Riga: Press Conference at the Informal JHA Ministerial Meeting.” https://www.statewatch.org/media/documents/news/2015/feb/com-dg-home-comm-speech-riga.pdf. SPEECH/15/3900.

Avramopoulos, Dimitris. 2018. “Building a Europe More Resilient to Terrorism.” Accessed July 05, 2022. https://euobserver.com/opinion/142604.

Baglioni, Sebastian, and Achim Hurrelmann. 2016. “The Eurozone Crisis and Citizen Engagement in EU Affairs.” *West European Politics* 39 (1): 104–24. https://doi.org/10.1080/01402382.2015.1081507.

Baker, Jennifer. 2015. “Europe a Step Closer to Keeping Records on All Passengers Flying in and Out of the Continent.” *The Register*, July 15, 2015. https://www.theregister.com/2015/07/15/eu_pnr_vote/.

Baker, Mitchell, Tim Berners-Lee, Vint Cerf, Brewster Kahle, Jimmy Wales, Markus Beckedahl, Brian Behlendorf et al. 2019. “EU Terrorist Content Regulation Will Damage the Internet in Europe Without Meaningfully Contributing to the Fight Against Terrorism: Letter to Rapporteurs.” Accessed December 02, 2022. https://www.politico.eu/wp-content/uploads/2019/04/TCO-letter-to-rapporteurs.pdf.

Baker-Beall, Christopher. 2019. “The Threat of the ‘Returning Foreign Fighter’: The Securitization of EU Migration and Border Control Policy.” *Security Dialogue* 50 (5): 437–53. https://doi.org/10.1177/0967010619857048.

Bakker, Edwin. 2015. “EU Counter-Radicalization Policies: A Comprehensive and Consistent Approach?” *Intelligence and National Security* 30 (2-3): 281–305. https://doi.org/10.1080/02684527.2014.988442.

Bąkowski, Piotr, and Laura Puccio. 2015. “'Foreign Fighters': Member States' Responses and EU Action in an International Context.” News release. 2015. https://www.europarl.europa.eu/EPRS/EPRS-Briefing-548980-Foreign-fighters-FINAL.pdf.

Bąkowski, Piotr, and Sofija Voronova. 2015. “Briefing: The Proposed EU Passenger Name Records (PNR) Directive.” https://www.europarl.europa.eu/EPRS/EPRS-Briefing-554215-The-EU-PNR-Proposal-FINAL.pdf. Revived in the new security context.

Balzacq, Thierry. 2008a. “The External Dimension of EU Justice and Home Affairs: Tools, Processes, Outcomes.” 377. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1337009.

Balzacq, Thierry. 2008b. “The Policy Tools of Securitization: Information Exchange, EU Foreign and Interior Policies*.” *Journal of Common Market Studies* 46 (1): 75–100. https://doi.org/10.1111/j.1468-5965.2007.00768.x.

Banisar, David. 2008. “Speaking of Terror: A Survey of the Effects of Counter-Terrorism Legislation on Freedom of the Media in Europe.” https://www.eff.org/files/filenode/dataretention/speakingofterror_en.pdf.

Barbé, Esther, and Pol Morillas. 2019. “The EU Global Strategy: The Dynamics of a More Politicized and Politically Integrated Foreign Policy.” *Cambridge Review of International Affairs* 32 (6): 753–70. https://doi.org/10.1080/09557571.2019.1588227.

Barbière, Cécile. 2016. “MEPs Refuse to Vote on PNR Before Council Strengthens Data Protection.” Accessed September 03, 2021. https://www.euractiv.com/section/justice-home-affairs/news/meps-refuse-to-vote-on-pnr-before-council-strengthens-data-protection/.

Bauer, Michael W., Jörn Ege, and Stefan Becker. 2018. “The European Commission and the Disintegration of Europe – Taking Stock and Looking Ahead.” In *The European Commission in Turbulent Times: Assessing Organizational Change and Policy Impact*, edited by Jörn Ege, Michael W. Bauer, and Stefan Becker. 1st ed., 9–29. Schriftenreihe des Arbeitskreises Europäische Integration e.V 105. Baden-Baden: Nomos Verlagsgesellschaft.

Baumgartner, Frank R., and Beth L. Leech. 1998. *Basic Interests: The Importance of Groups in Politics and in Political Science.* Princeton: Princeton University Press.

Beckedahl, Markus. 2010. “Zivilgesellschaft Fordert Stopp Des Europaweiten Zwangs Zur Vorratsdatenspeicherung.” https://netzpolitik.org/2010/zivilgesellschaft-fordert-stopp-des-europaweiten-zwangs-zur-vorratsdatenspeicherung/.

Beckedahl, Markus. 2015. “Morgen Kann Man in Berlin Vor Der SPD Gegen Die Vorratsdatenspeicherung Demonstrieren.” Accessed June 30, 2022. https://netzpolitik.org/2015/morgen-kann-man-in-berlin-vor-der-spd-gegen-die-vorratsdatenspeicherung-demonstrieren/.

Beisel, Karoline Meta. 2019. “EU-Justizminister Wollen Vorratsdatenspeicherung Wiederbeleben.” *Süddeutsche Zeitung*, June 6, 2019. https://www.sueddeutsche.de/digital/eu-justizminister-vds-vorratsdatenspeicherung-1.4475658.

Bellamy, Richard, and Sandra Kröger. 2016. “The Politicization of European Integration: National Parliaments and the Democratic Disconnect.” *Comparative European Politics* 14 (2): 125–30. https://doi.org/10.1057/cep.2015.39.

Bendiek, Annegret. 2006. “EU Strategy on Counter-Terrorism: Steps Towards a Coherent Network Policy.” *SWP-Studie 2006/S 21*.

Bendrath, Ralf. 2005. “Kampagne Gegen Datenspeicherzwang Hat 25.000 Unterschriften Gesammelt.” Accessed June 30, 2022. https://netzpolitik.org/2005/kampagne-gegen-datenspeicherzwang-hat-25000-unterschriften-gesammelt/.

Bennett, Colin J. 2008. *The Privacy Advocates: Resisting the Spread of Surveillance.* Cambridge, London: MIT Press.

Bennett, Owen. 2018. “The EU Terrorist Content Regulation – a Threat to the Ecosystem and Our Users’ Rights.” Accessed July 07, 2022. https://blog.mozilla.org/netpolicy/2018/11/21/the-eu-terrorist-content-regulation-a-threat-to-the-ecosystem-and-our-users-rights/.

Berthélémy, Chloé, and Diego Naranjo. 2020. “Blind Faith in Technology Diverts EU Efforts to Fight Terrorism.” *EURACTIV*, April 29, 2020. https://www.euractiv.com/section/digital/opinion/blind-faith-in-technology-diverts-eu-efforts-to-fight-terrorism/.

Betsill, Michele M., and Elisabeth Corell, eds. 2010. *NGO Diplomacy: The Influence of Nongovernmental Organizations in International Environmental Negotiations.* Cambridge: MIT Press.

Beuth, Patrick. 2016. “Vorratsdatenspeicherung: Die EU Probt Schon Mal Den Tausch Von Fluggastdaten.” *Die Zeit*, April 5, 2016. https://www.zeit.de/digital/datenschutz/2016-04/vorratsdatenspeicherung-fluggastdaten-pnr-austausch-pilotprojekte.

Beuth, Patrick. 2019. “Überwachung Von Passagieren: Bürgerrechtler Klagen Gegen Fluggastdaten-Speicherung.” *Der Spiegel*, May 14, 2019. https://www.spiegel.de/netzwelt/netzpolitik/fluggastdaten-speicherung-aktivisten-wollen-eu-richtlinie-mit-klagen-kippen-a-1267331.html.

Beyers, Jan. 2004. “Voice and Access.” *European Union Politics* 5 (2): 211–40. https://doi.org/10.1177/1465116504042442.

Beyers, Jan. 2008. “Policy Issues, Organisational Format and the Political Strategies of Interest Organisations.” *West European Politics* 31 (6): 1188–1211. https://doi.org/10.1080/01402380802372654.

Beyers, Jan, and Caelesta Braun. 2014. “Ties That Count: Explaining Interest Group Access to Policymakers.” *Journal of Public Policy* 34 (1): 93–121. https://doi.org/10.1017/S0143814X13000263.

Beyers, Jan, Iskander De Bruycker, and Inger Baller. 2015. “The Alignment of Parties and Interest Groups in EU Legislative Politics. A Tale of Two Different Worlds?” *Journal of European Public Policy* 22 (4): 534–51. https://doi.org/10.1080/13501763.2015.1008551.

Bickerton, Christopher J., Dermot Hodson, and Uwe Puetter. 2015. “The New Intergovernmentalism: European Integration in the Post-Maastricht Era.” *Journal of Common Market Studies* 53 (4): 703–22. https://doi.org/10.1111/jcms.12212.

Biedenkopf, Katja, Oriol Costa, and Magdalena Góra. 2021. “Introduction: Shades of Contestation and Politicisation of CFSP.” *European Security* 30 (3): 325–43. https://doi.org/10.1080/09662839.2021.1964473.

Biermann, Kai. 2019. “Fluggastdaten: Darf Die Polizei Wissen, in Welchen Flieger Sie Steigen?” *Die Zeit*, May 14, 2019. https://www.zeit.de/digital/internet/2019-05/fluggastdaten-speicherung-eu-klage-politiker-aktivisten.

Bièvre, Dirk de, Patricia Garcia-Duran, Leif Johan Eliasson, and Oriol Costa. 2020. “Editorial: Politicization of EU Trade Policy Across Time and Space.” *Politics and Governance* 8 (1): 239–42. https://doi.org/10.17645/pag.v8i1.3055.

Bigo, Didier, Laurent Bonelli, Dario Chi, and Christian Olsson. 2007. “Mapping the Field of EU Internal Security Agencies.” http://www.open.ac.uk/researchprojects/iccm/files/iccm/Bigo_Bonelli_Chi_Olsson.pdf. Paper produced for the Changing Landscape of European Liberty and Security (CHALLENGE) Project of the Centre for European Policy Studies (CEPS).

Bigo, Didier, Evelien Brouwer, Sergio Carrera, Elspeth Guild, Emmanuel-Pierre Guittet, Julien Jeandesboz, Francesco Ragazzi, and Amandine Scherrer. 2015a. “The EU Counter-Terrorism Policy Responses to the Attacks in Paris: Towards an EU Security and Liberty Agenda.” CEPS Paper in Liberty and Security in Europe No 81/ February 2015. http://www.ceps.eu/system/files/LSE81Counterterrorism_0.pdf.

Bigo, Didier, Sergio Carrera, Elspeth Guild, Emmanuel-Pierre Guittet, Julien Jeandesboz, Valsamis Mitsilegas, Francesco Ragazzi, and Amandine Scherrer. 2015b. “The EU and Its Counter-Terrorism Policies After the Paris Attacks.” CEPS Paper in Liberty and Security in Europe 84. https://www.ceps.eu/ceps-publications/eu-and-its-counter-terrorism-policies-after-paris-attacks/.

Binder, Martin. 2008. “The Politicization of International Security Institutions: The UN Security Council and NGOs.” No. SP IV 2008-305. https://www.ssoar.info/ssoar/handle/document/19721. WZB Discussion Paper.

Biselli, Anna. 2019. “EU-Staaten Diskutieren Überwachung Von Schiffs- Und Zugreisenden.” Accessed July 04, 2022. https://netzpolitik.org/2019/eu-staaten-diskutieren-ueberwachung-von-schiffs-und-zugreisenden/#vorschaltbanner.

Blatter, Joachim, and Markus Haverland. 2012. *Designing Case Studies: Explanatory Approaches in Small-N Research.* Research methods series. Basingstoke: Palgrave Macmillan. http://site.ebrary.com/lib/alltitles/docDetail.action?docID=10568393.

Bogner, Alexander, Beate Littig, and Wolfgang Menz. 2014. *Interviews mit Experten: Eine praxisorientierte Einführung.* Lehrbuch. Wiesbaden: Springer VS.

Bojanski, Lukasz, Jane A. Hofbauer, and Natalia Mileszyk. 2014. “The European Charter of Fundamental Rights as a Living Instrument: Guidelines for a Civil Society.” https://bim.lbg.ac.at/sites/files/bim/attachments/cfreu_guidelines.pdf.

Boros, Crina, and Juliet Ferguson. 2018. “Private Jets - the Achilles Heel of EU Air Traffic Security?” Accessed July 03, 2022. https://euobserver.com/rule-of-law/142472.

Börzel, Tanja A., and Thomas Risse. 2018. “From the Euro to the Schengen Crises: European Integration Theories, Politicization, and Identity Politics.” *Journal of European Public Policy* 25 (1): 83–108. https://doi.org/10.1080/13501763.2017.1310281.

Bossong, Raphael. 2008. “The Action Plan on Combating Terrorism: A Flawed Instrument of EU Security Governance.” *Journal of Common Market Studies* 46 (1): 27–48. https://doi.org/10.1111/j.1468-5965.2007.00766.x.

Bossong, Raphael. 2013a. “EU Cooperation on Terrorism Prevention and Violent Radicalization: Frustrated Ambitions or New Forms of EU Security Governance?” *Cambridge Review of International Affairs*, 1–17. https://doi.org/10.1080/09557571.2013.839627.

Bossong, Raphael. 2013b. *The Evolution of EU Counter-Terrorism: European Security Policy After 9/11.* Contemporary terrorism studies. London: Routledge.

Bossong, Raphael, ed. 2019. *Terrorismus Als Herausforderung Der Europäischen Union.* 1. Auflage. Schriftenreihe des Arbeitskreises Europäische Integration e.V 107: Nomos.

Bossong, Raphael, and Hendrik Hegemann. 2019. “Internal Security.” In *Contemporary European Security*, edited by David J. Galbreath, Laura Chappell, and Jocelyn Mawdsley, 101–19. Abingdon, Oxon, New York, NY: Routledge.

Bouwen, Pieter. 2002. “Corporate Lobbying in the European Union: The Logic of Access.” *Journal of European Public Policy* 9 (3): 365–90. https://doi.org/10.1080/13501760210138796.

Bouwen, Pieter, and Margaret Mccown. 2007. “Lobbying Versus Litigation: Political and Legal Strategies of Interest Representation in the European Union.” *Journal of European Public Policy* 14 (3): 422–43. https://doi.org/10.1080/13501760701243798.

Bowcott, Owen. 2015. “High Court Rules Data Retention and Surveillance Legislation Unlawful.” *The Guardian*, July 17, 2015. https://www.theguardian.com/world/2015/jul/17/data-retention-and-surveillance-legislation-ruled-unlawful.

Bowe, Rebecca. 2012. “Austrian Activists Push Back Against EU Data Retention Directive.” Accessed July 01, 2022. https://www.eff.org/uk/deeplinks/2012/04/austrian-activists-push-back-against-eu-data-retention-directive.

Brand, Constant. 2010. “Liberal Crusader.” *POLITICO*, September 15, 2010. https://www.politico.eu/article/liberal-crusader/.

Brand, Ulrich, Alex Demirovic, Christoph Görg, and Joachim Hirsch, eds. 2001. *Nichtregierungsorganisationen in der Transformation des Staates.* Münster: Westfälisches Dampfboot.

Breyer, Patrick. n.d. “About Me / Contact.” Accessed June 30, 2022. https://www.patrick-breyer.de/en/about-me/.

Breyer, Patrick. 2016. “Verfassungsbeschwerde Gegen Die Vorratsdatenspeicherung Eingereicht.” Accessed July 01, 2022. https://www.patrick-breyer.de/verfassungsbeschwerde-gegen-die-vorratsdatenspeicherung-eingereicht/.

Breyer, Patrick. 2020. “European Court of Human Rights to Decide on Complaint Against Ban on Anonymous Prepaid Mobile Phone Cards.” Accessed July 01, 2022. https://www.patrick-

breyer.de/en/european-court-of-human-rights-to-decide-on-complaint-against-ban-on-anonymous-prepaid-mobile-phone-cards/?lang=en.

Brühl, Jannis. 2018. “Kommentar: Upload-Filter Gescheitert - Vorerst.” *Süddeutsche Zeitung*, July 5, 2018. https://www.sueddeutsche.de/digital/upload-filter-eu-parlament-kommentar-1.4042320?reduced=true.

Brühl, Jannis. 2019a. “PNR: Klagen Gegen Überwachung Von Fluggast-Überwachung.” *Süddeutsche Zeitung*, May 14, 2019. https://www.sueddeutsche.de/digital/ueberwachung-pnr-passagiere-luftfahrt-flughafen-bka-fluglinien-airline-1.4445671.

Brühl, Jannis. 2019b. “EU-Staaten Streiten Über Überwachung Von Zug-, Bus- Und Schiffsreisenden.” *Süddeutsche Zeitung*, July 17, 2019. https://www.sueddeutsche.de/digital/pnr-ueberwachung-eu-zuege-schiffe-busse-1.4526751.

Brühl, Jannis. 2019c. “Lambrecht Gegen Erfassung Von Zug- Und Busreisenden.” *Süddeutsche Zeitung*, July 18, 2019. https://www.sueddeutsche.de/digital/ueberwachung-zug-bus-fernbus-schiff-pnr-fluglinien-bka-lambrecht-1.4529860.

Brühl, Tanja. 2005. “Vom Einfluss der NGOs auf die internationale Politik: Das Beispiel biologische Vielfalt.” In Brunnengräber, Klein, and Walk 2005, 266–97.

Brunnengräber, Achim, Ansgar Klein, and Heike Walk, eds. 2005. *NGOs im Prozess der Globalisierung: Mächtige Zwerge - umstrittene Riesen.* Bürgergesellschaft und Demokratie Band 17. Wiesbaden: VS Verlag für Sozialwissenschaften.

Búrca, Gráinne de. 2013. “After the EU Charter of Fundamental Rights: The Court of Justice as a Human Rights Adjudicator?” *Maastricht Journal of European and Comparative Law* 20 (2): 168–84. https://doi.org/10.1177/1023263X1302000202.

Bures, Oldrich. 2006. “EU Counterterrorism Policy: A Paper Tiger?” *Terrorism and Political Violence* 18 (1): 57–78. https://doi.org/10.1080/09546550500174905.

Bures, Oldrich. 2011. *EU Counterterrorism Policy: A Paper Tiger?* Farnham: Ashgate.

Bures, Oldrich. 2016. “Intelligence Sharing and the Fight Against Terrorism in the Eu: Lessons Learned from Europol.” *European View* 15 (1): 57–66. https://doi.org/10.1007/s12290-016-0393-7.

Bures, Oldrich. 2018a. “EU Counter-Terrorism: Glas Half-Full or Half-Empty?” In Ripoll Servent and Trauner 2018, 157–68.

Bures, Oldrich. 2018b. “EU’s Response to Foreign Fighters: New Threat, Old Challenges?” *Terrorism and Political Violence*, 1–18. https://doi.org/10.1080/09546553.2017.1404456.

Busch, Heiner, and Matthias Monroy. 2017. “Statewatch Analysis: Who Drives EU Counter-Terrorism? On the Legislation of the European Union.” https://www.statewatch.org/media/documents/analyses/no-315-who-drives-eu-ct.pdf.

Busch-Heizmann, Anne. 2020. “Was Sind Uploadfilter? Neue Broschüre Der Digitalen Gesellschaft Klärt Auf.” Accessed June 28, 2022. https://digitalegesellschaft.de/2020/07/was-sind-uploadfilter-neue-broschuere-der-digitalen-gesellschaft-klaert-auf/.

Butler, Israel, and Valentin Toth. 2022. “How NOT to Frame Debate About Hungary's Toxic Anti-Gay Law.” Accessed July 05, 2022. https://euobserver.com/opinion/152236.

Campact e.V. 2014. “Datenschützer: Neue EU-Kommission Soll Vorratsdatenspeicherung Beerdigen.” *Presseportal.de*, September 30, 2014. https://www.presseportal.de/pm/64126/2843755.

Cappato, Marco. 2002. “Parliament U-Turn Threatens Safeguards.” *POLITICO*, September 11, 2002. https://www.politico.eu/article/parliament-u-turn-threatens-safeguards-2/.

Carpenter, Charli R. 2007. “Setting the Advocacy Agenda: Theorizing Issue Emergence and Nonemergence in Transnational Advocacy Networks.” *International Studies Quarterly* 51 (1): 99–120.

Carrera, Sergio, and Elspeth Guild. 2012. *Does the Stockholm Programme Matter? The Struggles over Ownership of AFSJ Multiannual Programming.* December 2012. CEPS Paper in Liberty and Security in Europe No. 51. Brussels, Belgium: Centre for European Policy Studies. https://www.ceps.eu/ceps-publications/does-stockholm-programme-matter-struggles-over-ownership-afsj-multiannual-programming/.

Carrera, Sergio, Elspeth Guild, and Valsamis Mitsilegas. 2017. *Reflections on the Terrorist Attacks in Barcelona: Constructing a Principled and Trust-Based EU Approach to Countering Terrorism.* CEPS Policy Insights, no. 2017-32. Accessed April 03, 2020. https://www.ceps.eu/ceps-publications/reflections-terrorist-attacks-barcelona-constructing-principled-and-trust-based-eu/.

Cecilia Malmström, European Commissioner for Home Affairs. 2011. Letter to Andreas Krisch, EDRi President. Accessed December 02, 2022. https://edri.org/files/malmstroem_letter31Oct2011.pdf.

Cecilia Malmström, European Commissioner for Home Affairs. 2013. Letter to Juan Fernando López Aguilar, Chairman of the LIBE Committee. Accessed December 02, 2022. https://www.statewatch.org/media/documents/news/2014/oct/eu-com-2013-03-14-malmstrom-pnr-letter.pdf.

Cecilia Malmström, Member of the European Commission responsible for Home Affairs. 2011. “SPEECH/11/280 Data Retention Directive – a Valuable Tool in Fighting Serious Crime and Terrorism, but in Need of Improvement: Press Conference on the Evaluation Report on the Data Retention Directive.” News release. April 18, 2011. https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_11_280.

Center for Democracy and Technology. n.d.a. “Advancing Democratic Values in a Digital World.” https://cdt.org/wp-content/uploads/2020/10/2020-10-05-CDT-Europe-1-pager-A4-EU.pdf.

Center for Democracy and Technology. n.d.b. “CDT Europe Board.” Accessed June 28, 2022. https://cdt.org/about/board/cdt-europe-board/.

Center for Democracy and Technology. n.d.c. “Europe Office.” Accessed June 28, 2022. https://cdt.org/eu/.

Center for Democracy and Technology. n.d.d. “Financials.” Accessed June 28, 2022. https://cdt.org/financials/.

Center for Democracy and Technology. n.d.e. “Who We Are.” Accessed June 28, 2022. https://cdt.org/who-we-are/.

Center for Democracy and Technology. 2012. “Introduction to Data Retention Mandates.” https://cdt.org/wp-content/uploads/pdfs/CDT_Data_Retention-Five_Pager.pdf.

Center for Democracy and Technology. 2018a. “Letter to Ministers of Justice and Home Affairs on the Proposed Regulation on Terrorist Content Online.” Accessed July 07, 2022. https://cdt.org/insights/letter-to-ministers-of-justice-and-home-affairs-on-the-proposed-regulation-on-terrorist-content-online/.

Center for Democracy and Technology. 2018b. “Letter to President Juncker, Vice President Ansip, Commissioner Gabriel, Commissioner Bieńkowska, Commissioner Jourová, Commissioner King, Commissioner Avramopoulos.” Accessed July 07, 2022. https://cdt.org/wp-content/uploads/2018/02/2018-02-12-Joint-letter-on-NA-Feb-2018-final.pdf.

Center for Democracy and Technology. 2020. “Letter to Representatives of the Council of the EU, the European Parliament and the European Commission.” Accessed July 07, 2022. https://cdt.org/wp-content/uploads/2020/09/2020-09-21-CDTEU-Terrorist-Content-Online-joint-letter.pdf.

Center, Electronic Privacy Information. 2022. “Data Retention.” Accessed June 25, 2022. https://archive.epic.org/privacy/intl/data_retention.html.

Charity Commission for England and Wales. n.d. “PRIVACY INTERNATIONAL - Charity 1147471.” Accessed June 28, 2022. https://register-of-charities.charitycommission.gov.uk/charity-search/-/charity-details/5023016/charity-overview.

Checkel, Jeffrey T. 2008. “Process Tracing.” In *Qualitative Methods in International Relations: A Pluralist Guide*, edited by Audie Klotz. 1. publ, 114–27. Research methods series. Basingstoke: Palgrave Macmillan.

Chee, Foo Yun. 2021. “Online Terrorist Content Law Wins EU Lawmakers' Backing Amid Rights Concerns.” *Reuters Media*, April 29, 2021. https://www.reuters.com/technology/online-terrorist-content-law-wins-eu-lawmakers-backing-amid-rights-concerns-2021-04-29/.

Chistyakova, Yulia. 2015. “Democratic Legitimacy, Effectiveness and Impact of EU Counter-Terrorism Measures.” In Londras and Doody 2015, 114–35.

christchurchcall.com. n.d. “Christchurch Call to Eliminate Terrorist and Violent Extremist Content Online.” Accessed July 05, 2022. https://www.christchurchcall.com/.

“Civil Liberties Committee Endorses Deal with the Council to Prevent Terrorist Content Online.” 2021a. News release. January 12, 2021. Accessed July 05, 2022. https://www.europarl.europa.eu/news/en/press-room/20210111IPR95316/civil-liberties-endorses-regulation-addressing-terrorist-content-online.

Civil Liberties Union. n.d.a. “About Us.” Accessed June 28, 2022. https://www.liberties.eu/en/about/about-us.

Civil Liberties Union. n.d.b. “Our Members.” Accessed June 28, 2022. https://www.liberties.eu/en/about/our-network#belgian-league-of-human-rights.

Civil Liberties Union. 2020. “Open Letter on Behalf of Civil Society Groups Regarding the Proposal for a Regulation on Terrorist Content Online.” Accessed July 07, 2022. https://dq4n3btxmr8c9.cloudfront.net/files/TiEbgO/TERREG_Openletter_Liberties_MEP_17Nov.pdf.

Civil Liberties Union. 2021. “Free Speech Advocates Urge EU Legislators to Vote 'No' to Automated Censorship Online.” Accessed July 07, 2022. https://www.liberties.eu/en/stories/terrorist-content-regulation-open-letter-to-meps/43410.

Civil Liberties Union for Europe. n.d.a. “Belgian League of Human Rights.” Accessed June 28, 2022. https://www.liberties.eu/en/about/our-network/belgian-league-of-human-rights.

Civil Liberties Union for Europe. n.d.b. “Key Projects: Report for the Period 2017-2019.” https://dq4n3btxmr8c9.cloudfront.net/files/H6gmGJ/Liberties_Annual_Report_2017_2019.pdf.

Civil Liberties Union for Europe. n.d.c. “Operating in the Year of the Covid-19 Pandemic: A Unique Year with Unique Challenges and Opportunities.” https://dq4n3btxmr8c9.cloudfront.net/files/OTAJe9/Liberties_Annual_Report_2020.pdf. 2020 Annual Report.

Civil Liberties Union for Europe. 2020. “Stop Upload Filters - Send Letter to EU Legislators.” Accessed July 05, 2022. https://www.liberties.eu/en/stories/terreg-letter-to-trialogue/317.

Clark, Ann M. 1995. “Non-Governmental Organizations and Their Influence on International Society.” *Journal of International Affairs* 48 (2): 507–25.

Clark, Ann M. 2001. *Diplomacy of Conscience: Amnesty International and Changing Human Rights Norms.* Princeton, New Jersey: Princeton University Press.

Clark, Ann M., Elisabeth J. Friedman, and Kathryn Hochstetler. 1998. “The Sovereign Limits of Global Civil Society: A Comparison of NGO Participation in UN World Conferences on the Environment, Human Rights, and Women.” *World Politics* 51 (1): 1–35.

Cole, Mark D., and Franziska Boehm. 2014. “EU Data Retention – Finally Abolished? – Eight Years in Light of Article 8.” *Kritische Vierteljahresschrift für Gesetzgebung und Rechtswissenschaft* 97 (1): 58–78. https://doi.org/10.5771/2193-7869-2014-1-58.

Commission of the European Communities. 2000. “Comission Discussion Paper: The Commission and Non-Governmental Organisations: Building a Stronger Partnership.” COM (2000) 11 final. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52000DC0011.

Committee to Protect Journalists. 2020. “EU Online Terrorist Content Legislation Risks Undermining Press Freedom.” March 11, 2020. https://cpj.org/2020/03/eu-online-terrorist-content-legislation-press-freedom/.

Commons Network. 2018. “Urgent Letter to the European Commission to Stop Illegal Data Retention.” Accessed July 01, 2022. https://www.commonsnetwork.org/2018/06/27/urgent-letter-to-the-european-commission-to-stop-illegal-data-retention/.

ComRes, and Burson Marsteller. 2018. “What Influences the Influencers? 2018 EU Media Survey.” Accessed July 07, 2022. https://comresglobal.com/wp-content/uploads/2018/06/Final_Presentation_BM.pdf.

Coolsaet, Rik. 2010. “EU Counterterrorism Strategy: Value Added or Chimera?” *International Affairs* 86 (4): 857–73. https://doi.org/10.1111/j.1468-2346.2010.00916.x.

Coolsaet, Rik. 2016. *'All Radicalisation Is Local.' the Genesis and Drawbacks of an Elusive Concept*. Accessed April 03, 2020. http://www.egmontinstitute.be/content/uploads/2016/05/ep84.pdf?type=pdf.

Costa, Oriol. 2019. “The Politicization of EU External Relations.” *Journal of European Public Policy* 26 (5): 790–802. https://doi.org/10.1080/13501763.2018.1478878.

“Council Adopts EU Passenger Name Record (PNR) Directive.” 2016a. News release. April 21, 2016. Accessed July 02, 2022. https://www.consilium.europa.eu/en/press/press-releases/2016/04/21/council-adopts-eu-pnr-directive/.

Council of the European Union. 2003a. “Legislative Acts and Other Instruments: Initiative of the Kingdom of Spain with a View to Adopting a Council Directive on the Obligation of Carriers to Communicate Passenger Data.” 7161/03. https://www.statewatch.org/media/documents/news/2003/mar/spainpassengers.pdf.

Council of the European Union. 2003b. “Note from General Secretariat to Strategic Committee on Immigration, Frontiers and Asylum: Compilation of Replies to the Questionnaire on the Initiative of the Kingdom of Spain with a View to Adopting a Council Directive on the Obligation of Carriers to Communicate Passenger Data (Telex No 4154 of 25 September 2003).” 13363/03. https://www.statewatch.org/media/documents/news/2003/nov/spainair13363.en03.pdf.

Council of the European Union. 2004a. “Note from the General Secretariat: Declaration on Combating Terrorism.” 7906/04. https://www.consilium.europa.eu/media/52165/st_7906_2004_init_en.pdf.

Council of the European Union. 2004b. “Note from Council to European Council: EU Plan of Action on Combating Terrorism.” 10586/04. https://data.consilium.europa.eu/doc/document/ST-10586-2004-INIT/en/pdf.

Council of the European Union. 2011a. “Proposal from Presidency to Working Party on General Matters, Including Evaluations: Proposal for a Directive of the Council and the European Parliament on the Use of Passenger Name Record Data for the Prevention, Detection, Investigation and Prosecution of Terrorist Offences and Serious Crime.” 8458/11. https://www.statewatch.org/media/documents/news/2011/may/eu-council-eu-pnr-8458-11.pdf.

Council of the European Union. 2011b. “Note from Commission Services to Working Party on Data Protection and Exchange Information: Consultation on Reform of Data Retention Directive: Emerging Themes and Next Steps.” 18620/11. https://www.statewatch.org/media/documents/news/2012/jan/eu-mand-ret-com-consult-18620-11.pdf.

Council of the European Union. 2016b. “Note from Hungarian Delegation to Working Party on Information Exchange and Data Protection (DAPIX): Passenger Name Record Data Exchange Pilot (PNRDEP) For Passenger Information Units - Proposal for the 5th IMS Action List.” 6857/16. https://www.statewatch.org/media/documents/news/2016/mar/eu-council-hu-pnr-exchange-project-06857-16.pdf.

Council of the European Union. 2017a. “Information Note from Legal Service to Permanent Representatives Committee: Judgment of the Court of 21 December 2016 in Joined Cases C-203/15 and C-698/15 (Tele2 and Watson).” 5884/17. https://netzpolitik.org/wp-upload/2017/05/rat_eu_legal_service_vds_20170201.pdf.

Council of the European Union. 2017b. “Outcome of Proceedings: From Working Party on General Matters, Including Evaluations (GENVAL) On 3 February 2017 to Delegations.” 6159/17. Summary of discussions.

Council of the European Union. 2017c. “Note from General Secretariat of the Council to Delegations: Retention of Electronic Communication Data.” 6726/1/17 REV 1. https://data.consilium.europa.eu/doc/document/ST-6726-2017-REV-1/en/pdf.

Council of the European Union. 2017d. “Working Document from EU Counter-Terrorism Coordinator to Delegations: Contribution to the Discussion on Data Retention.” WK 9699/2017 INIT. https://www.statewatch.org/media/documents/news/2017/nov/eu-council-ctc-working-paper-data-retention-possibilities-wk-9699-17.pdf.

Council of the European Union. 2017e. “Working Document from Europol to DAPIX (Friends of the Presidency - Data Retention): Proportionate Data Retention for Law Enforcement Purposes.” WK 9957/2017 INIT. https://www.statewatch.org/media/documents/news/2018/feb/eu-council-data-retention-europol-presentation-targeted-data-ret-wk-9957-17.pdf.

Council of the European Union. 2017f. “Working Document from Presidency to DAPIX (Friends of the Presidency - Data Retention): Availability of Data and Issues Related to Data Retention - Elements Relevant in the Context of E-Privacy = Exchange of Views.” WK 11127/2017 INIT. https://www.statewatch.org/media/documents/news/2018/feb/eu-council-data-retention-eprivacy-reg-context-wk-11127-17.pdf.

Council of the European Union. 2019. “Working Document from General Secretariat of the Council to Delegations: Data Retention - Situation in Member States.” WK 3103/2019 INIT. https://cdn.netzpolitik.org/wp-upload/2019/06/VDS-EU-Stand-Umsetzung.WK-3103-2019-INIT.pdf.

Council of the European Union. 2020. “Joint Statement by the EU Home Affairs Ministers on the Recent Terrorist Attacks in Europe.” News release. November 13, 2020. Accessed July

05, 2022. https://www.consilium.europa.eu/en/press/press-releases/2020/11/13/joint-statement-by-the-eu-home-affairs-ministers-on-the-recent-terrorist-attacks-in-europe/.

Counter Extremism Project. n.d. “About CEP.” Accessed June 28, 2022. https://www.counterextremism.com/about.

Counter Extremism Project. 2020. “EU Anti-Terror Law Facing Opposition from Big Tech.” Accessed July 05, 2022. https://www.counterextremism.com/blog/eu-anti-terror-law-facing-opposition-big-tech.

Creighton, Lucinda. 2020. “False Commentary and Blinkered Perspectives Hampering TCO Progress.” *EURACTIV*, April 27, 2020. https://www.euractiv.com/section/digital/opinion/false-commentary-and-blinkered-perspectives-hampering-tco-progress/.

Cronin, David. 2005. “EU Lawyers Judge Data Retention Scheme Illegal.” *POLITICO*, April 13, 2005. https://www.politico.eu/article/eu-lawyers-judge-data-retention-scheme-illegal/.

Cronin, David. 2005. “Commission to Adopt Data Retention Law.” *POLITICO*, August 31, 2005. https://www.politico.eu/article/commission-to-adopt-data-retention-law/.

Cross, Mai’a K. Davis. 2017. “Counter-Terrorism in the EU’s External Relations.” *Journal of European Integration* 39 (5): 609–24. https://doi.org/10.1080/07036337.2017.1327524.

Cullen, Drew. 2003. “2003 Big Brother Awards: The Winners.” *The Register*, March 25, 2003. https://www.theregister.com/2003/03/25/2003_big_brother_awards/.

Dachwitz, Ingo. 2016. “Wir Fordern: NoPNR! Videoaktion Gegen Die EU-Vorratsdatenspeicherung Von Reisedaten.” Accessed July 03, 2022. https://digitalegesellschaft.de/2016/01/nopnr-videoaktion/.

Dany, Charlotte. 2019. “Exploring the Political Agency of Humanitarian NGOs: Médecins Sans Frontières During the European Refugee Crisis.” *Global Society* 33 (2): 184–200. https://doi.org/10.1080/13600826.2019.1577804.

Davila Gordillo, Diana, and Francesco Ragazzi. 2017. “The Radicalisation Awareness Network: Producing the EU Counter-Radicalisation Discourse.” In *Constitutionalising the Security Union : Effectiveness, Rule of Law and Rights in Countering Terrorism and Crime*, edited by Sergio Carrera and Valsamis Mitsilegas, 54–63. Brussels: Centre for European Policy Studies (CEPS).

De Bruycker, Iskander. 2017. “Politicization and the Public Interest: When Do the Elites in Brussels Address Public Interests in EU Policy Debates?” *European Union Politics* 18 (4): 603–19. https://doi.org/10.1177/1465116517715525.

De Bruycker, Iskander, and Jan Beyers. 2019. “Lobbying Strategies and Success: Inside and Outside Lobbying in European Union Legislative Politics.” *European Political Science Review* 11 (1): 57–74. https://doi.org/10.1017/S1755773918000218.

De Capitani, Emilio. 2015. “Terrorists and Serious Criminals Beware ! Your Travel Data Can Tell Everything About You…”. Accessed July 04, 2022. https://free-group.eu/2015/01/27/terrorists-and-serious-criminal-beware-your-travel-data-can-tell-everything-about-you/.

De Goede, Marieke. 2008. “The Politics of Preemption and the War on Terror in Europe.” *European Journal of International Relations* 14 (1): 161–85. https://doi.org/10.1177/1354066107087764.

De Goede, Marieke. 2012. “The SWIFT Affair and the Global Politics of European Security.” *Journal of Common Market Studies* 50 (2): 214–30. https://doi.org/10.1111/j.1468-5965.2011.02219.x.

De Londras, Fiona. 2018. “Politicisation, Law and Rights in the Transnational Counter-Terrorism Space: Indications from the Regulation of Foreign Terrorist Fighters.” *ERIS – European Review of International Studies* 5 (3): 115–38.

De Streel, Alexandre, Elise Defreyne, Hervé Jacquemin, Michèle Ledger, and Alejandra Michel. 2020. “Online Platforms' Moderation of Illegal Content Online: Law, Practices and Options for Reform.” https://www.europarl.europa.eu/RegData/etudes/STUD/2020/652718/IPOL_STU(2020)652718_EN.pdf. Study Requested by the IMCO Committee.

De Wilde, Pieter. 2011. “No Polity for Old Politics? A Framework for Analyzing the Politicization of European Integration.” *Journal of European Integration* 33 (5): 559–75. https://doi.org/10.1080/07036337.2010.546849.

De Wilde, Pieter. 2012. “Politicisation of the EU Budget: Conflict and the Constraining Dissensus.” *West European Politics* 35 (5): 1075–94. https://doi.org/10.1080/01402382.2012.706411.

De Wilde, Pieter, Anna Leupold, and Henning Schmidtke. 2016. “Introduction: The Differentiated Politicisation of European Governance.” *West European Politics* 39 (1): 3–22. https://doi.org/10.1080/01402382.2015.1081505.

De Wilde, Pieter, and Christopher Lord. 2016. “Assessing Actually-Existing Trajectories of EU Politicisation.” *West European Politics* 39 (1): 145–63. https://doi.org/10.1080/01402382.2015.1081508.

De Wilde, Pieter, and Michael Zürn. 2012. “Can the Politicization of European Integration Be Reversed?” *Journal of Common Market Studies* 50 (1): 137–53.

Dembinski, Matthias. 2009. “NGOs and Security: The Case of the European Union.” In Joachim and Locher 2009, 154–68.

Dembinski, Matthias, and Jutta Joachim. 2008. “Von Der Zusammenarbeit Europäischer Regierungen Zum Europäischen Regieren? Nichtregierungsorganisationen in Der EU-Außenpolitik.” *Forschungsjournal NSB* 21 (2): 42–51. https://doi.org/10.1515/fjsb-2008-0206.

Demuth, Kerstin. 2017. “Schrödingers Vorratsdatenspeicherung – Bilder Vom Protest Am 29. Juni.” Accessed June 30, 2022. https://digitalcourage.de/blog/2017/schroedingers-vorratsdatenspeicherung-bilder-vom-protest-am-29-juni.

Den Boer, Monica. 2003a. “9/11 and the Europeanisation of Anti-Terrorism Policy: A Critical Assessment.” No. 6. https://institutdelors.eu/wp-content/uploads/2018/01/policypaper6.pdf.

Den Boer, Monica. 2003b. “The EU Counter-Terrorism Wave: Window of Opportunity or Profound Policy Transformation?” In *Confronting Terrorism: European Experiences, Threat Perceptions, and Policies*, edited by Marianne van Leeuwen, 185–206. Nijhoff law specials 56. The Hague: Kluwer Law Int.

Den Boer, Monica. 2014. “Police, Policy and Politics in Brussels: Scenarios for the Shift from Sovereignty to Solidarity.” *Cambridge Review of International Affairs* 27 (1): 48–65. https://doi.org/10.1080/09557571.2013.810588.

Den Boer, Monica, Claudia Hillebrand, and Andreas Nölke. 2008. “Legitimacy Under Pressure: The European Web of Counter-Terrorism Networks.” *Journal of Common Market Studies* 46 (1): 101–24.

Den Boer, Monica, and Jörg Monar. 2002. “Keynote Article: 11 September and the Challenge of Global Terrorism to the EU as a Security Actor.” *Journal of Common Market Studies* 40 (1): 11–28. https://doi.org/10.1111/1468-5965.40.s1.2.

Der Bayrische Staatsminister des Innern, Dr. Günther Beckstein. 2005. “Sitzung Der Ständigen Konferenz Der Innenminister Und -Senatoren Der Länder Am 8./9. Dezember 2005 in

Karlsruhe Und Vorkonferenz Der Staatssekretäre Und -Räte Am 23./24. November 2005 in Weingarten." https://www.innenministerkonferenz.de/IMK/DE/termine/to-beschluesse/05-12-09/05-12-09-anlage-nr-01.pdf?__blob=publicationFile&v=2.

Der Standard. 2019. "Fluggastdatenspeicherung: Von März Bis Mai Über 7,6 Millionen Datensätze Übermittelt." July 10, 2019. https://www.derstandard.at/story/2000106132772/fluggastdaten-von-maerz-bis-mai-ueber-7-6-millionen-datensaetze.

DER STANDARD. 2019. "Grundrechts-NGO Epicenter Works Kämpft Mit Finanziellen Problemen." June 27, 2019. https://www.derstandard.de/story/2000105533201/grundrechts-ngo-epicenter-works-kaempft-mit-finanziellen-problemen.

Deutsche Welle (www.dw.com). 2012. "Leaked updated data retention law draft reveals EU concerns." Accessed June 30, 2022. https://www.dw.com/en/leaked-updated-data-retention-law-draft-reveals-eu-concerns/a-15656970.

Deutscher Bundestag. 2008. "Antwort Der Bundesregierung: Auf Die Kleine Anfrage Der Abgeordneten Gisela Piltz, Jörg Van Essen, Dr. Max Stadler, Weiterer Abgeordneter Und Der Fraktion Der FDP - Drucksache 16/10952-." Drucksache 16/11139. https://dserver.bundestag.de/btd/16/111/1611139.pdf.

Deutscher Bundestag. 2022a. "Lobbyregister Für Die Interessenvertretung Gegenüber Dem Deutschen Bundestag Und Der Bundesregierung: Digitale Gesellschaft." Accessed June 28, 2022. https://www.lobbyregister.bundestag.de/suche/R000049/.

Deutscher Bundestag. 2022b. "Lobbyregister Für Die Interessenvertretung Gegenüber Dem Deutschen Bundestag Und Der Bundesregierung: Gesellschaft Für Freiheitsrechte E.V. (GFF)." https://www.lobbyregister.bundestag.de/suche/R001802/4914.

Dialer, Doris, and Margarethe Richter. 2019. "Lobbying in Europe: Professionals, Politicians, and Institutions Under General Suspicion?" In Dialer and Richter 2019, 1–17.

Dialer, Doris, and Margarethe Richter, eds. 2019. *Lobbying in the European Union: Strategies, Dynamics and Trends.* Cham: Springer.

Dickson, Annabelle. 2017. "Theresa May: Tech Firms Must Remove Extremist Content Within Two Hours." *POLITICO*, September 19, 2017. https://www.politico.eu/article/theresa-may-tech-firms-must-remove-extremist-content-within-two-hours/.

Didier Bigo, ed. 2007. *The Field of the EU Internal Security Agencies:* Centre d'études sur les conflits/l'Harmattan.

Die Presse. 2012. "Grüne Und AK Vorrat: Verfassungsklage Gegen Vorratsdaten." March 30, 2012. https://www.diepresse.com/744988/gruene-und-ak-vorrat-verfassungsklage-gegen-vorratsdaten.

Digital Rights Ireland. n.d.a. "About Digital Rights Ireland." Accessed June 28, 2022. https://www.digitalrights.ie/about/.

Digital Rights Ireland. n.d.b. "Donate to DRI." Accessed June 28, 2022. https://www.digitalrights.ie/support/.

Digital Rights Ireland. 2006a. "DRI Brings Legal Action over Mass Surveillance." Accessed July 01, 2022. https://www.digitalrights.ie/dri-brings-legal-action-over-mass-surveillance/.

Digital Rights Ireland. 2006b. "The DRI Legal Action - What Can You Do to Protect Your Rights?" Accessed July 01, 2022. https://www.digitalrights.ie/the-dri-legal-action-what-can-you-do-to-protect-your-rights/.

Digitalcourage. n.d. "Spende Für Den Arbeitskreis Gegen Vorratsdatenspeicherung." Accessed June 28, 2022. https://aktion.digitalcourage.de/akvorrat.

Digitalcourage. 2020. “Joint NGO Letter: No Data Retention in the EU!”. Accessed December 02, 2022. https://digitalcourage.de/sites/default/files/2020-10/joint-ngo-letter-data-retention-06-10-2020_0.pdf.

Digitalcourage. 2021. “Member in the Spotlight: Digitalcourage.” Accessed June 28, 2022. https://edri.org/our-work/member-spotlight-digitalcourage/.

Digitale Gesellschaft. n.d.a. “FAQ.” Accessed June 28, 2022. https://digitalegesellschaft.de/uber-uns/faq/.

Digitale Gesellschaft. n.d.b. “Idee.” Accessed June 28, 2022. https://digitalegesellschaft.de/uber-uns/idee/.

Digitale Gesellschaft. n.d.c. “Tätigkeitsbericht 2020.” https://digitalegesellschaft.de/wp-content/uploads/2021/09/DigiGes-Taetigkeitsbericht-2020-1.pdf.

Digitale Gesellschaft. n.d.d. “Transparenz.” Accessed June 28, 2022. https://digitalegesellschaft.de/uber-uns/transparenz/.

Digitale Gesellschaft. 2019. “Der Kampf Für Digitale Grundrechte Ist Nicht Umsonst. Auch in 2020 Nicht.” Accessed June 28, 2022. https://digitalegesellschaft.de/2019/12/der-kampf-fuer-digitale-grundrechte-ist-nicht-umsonst-auch-in-2020-nicht/.

DIGITALEUROPE. 2019. “Joint Letter on Terrorist Content Online Regulation.” Accessed July 07, 2022. https://www.digitaleurope.org/news/joint-letter-on-terrorist-content-online-regulation/.

Dittrich, Mirjam. 2005. “Facing the Global Terrorist Threat: A European Response.” 14. https://www.epc.eu/en/Publications/Facing-the-global-terrorist-th~22dbd4. EPC Working Paper.

Domscheit-Berg, Daniel, and Annke Domscheit-Berg. 2018. “Nach Zensursula Nun Zensorst.” *Frankfurter Rundschau*, June 7, 2018. https://www.fr.de/fr7/nach-zensursula-zensorst-11040147.html.

Donio. n.d. “Konec Plošnému Skladování Metadat O Našich Životech.” Accessed July 01, 2022. https://www.donio.cz/IuridicumRemedium.

Doody, Josephine. 2015. “The Institutional Framework of EU Counter-Terrorism.” In Londras and Doody 2015, 40–62.

Dornis, Valentin, and Jannis Brühl. 2018. “Terrorismus in Sozialen Netzwerken: Warum Ein Anti-Propaganda-Gesetz Heikel Ist.” *Süddeutsche Zeitung*, August 9, 2018. https://www.sueddeutsche.de/digital/terrorismus-in-sozialen-netzwerken-warum-ein-anti-propaganda-gesetz-heikel-ist-1.4086975?reduced=true.

Drebes, Jan, and Daniel Fiene. 2018. “EU-Gipfel: Staatschefs Wollen Upload-Filter Auf Hass Und Terroristische Inhalte Ausweiten.” *RP ONLINE*, June 30, 2018. https://rp-online.de/digitales/internet/eu-gipfel-staatschefs-wollen-upload-filter-auf-hass-und-terroristische-inhalte-ausweiten_aid-23731415.

Duina, Francesco. 2019. “Why the Excitement? Values, Identities, and the Politicization of EU Trade Policy with North America.” *Journal of European Public Policy* 26 (12): 1866–82. https://doi.org/10.1080/13501763.2019.1678056.

Dür, Andreas. 2008. “Interest Groups in the European Union: How Powerful Are They?” *West European Politics* 31 (6): 1212–30. https://doi.org/10.1080/01402380802372662.

Dür, Andreas, and Dirk de Bièvre. 2007. “The Question of Interest Group Influence.” *Journal of Public Policy* 27 (1): 1–12. https://doi.org/10.1017/S0143814X07000591.

Dür, Andreas, and Gemma Mateo. 2013. “Gaining Access or Going Public? Interest Group Strategies in Five European Countries.” *European Journal of Political Research* 52 (5): 660–86. https://doi.org/10.1111/1475-6765.12012.

Dür, Andreas, and Gemma Mateo. 2014. “Public Opinion and Interest Group Influence: How Citizen Groups Derailed the Anti-Counterfeiting Trade Agreement.” *Journal of European Public Policy* 21 (8): 1199–1217. https://doi.org/10.1080/13501763.2014.900893.

Ebelt, Friedemann. 2016. “Mit Recht: Klage Gegen Telefon- & Internetüberwachung Eingereicht.” Accessed July 01, 2022. https://digitalcourage.de/blog/2016/klage-gg-vds-eingereicht.

Ebelt, Friedemann. 2017. “Protest: Weg Mit Vorratsdatenspeicherung! (Do. 29. Juni 2017, Berlin).” Accessed June 30, 2022. https://digitalcourage.de/blog/2017/protest-vds-beginn.

Ebelt, Friedemann. 2019a. “Uploadfilter: Artikel 13 Ist Nicht Das Einzige Problem.” Accessed July 05, 2022. https://digitalcourage.de/blog/2019/uploadfilter-artikel13-und-terreg.

Ebelt, Friedemann. 2019b. “EU-Rat Will Anlasslose Vorratsdatenspeicherung – Deutschland Macht Mit.” News release. May 29, 2019. Accessed June 30, 2022. https://digitalcourage.de/pressemitteilungen/2019/eu-rat-vorratsdatenspeicherung-juni-2019.

Ebenhöh, Johannes. 2017. “Stellungnahme Im Begutachtungsverfahren Zum Ministerialentwurf Des Innenministeriums, Mit Dem Das Sicherheitspolizeigesetzes, Das Bundesstraßen-Mautgesetzes 2002, Die Straßenverkehrsordnung 1960 Und Das Telekommunikationsgesetzes 2003 Geändert Werden (326/ME).” https://www.parlament.gv.at/PAKT/VHG/XXV/SNME/SNME_14205/imfname_651025.pdf.

eco. 2018. “Innenminister-Plan Zur Löschung Terroristischer Inhalte Ist Realitätsfern Und Fördert Wahllose Löschkultur Im Internet - Eco.” Accessed July 05, 2022. https://www.eco.de/presse/innenminister-plan-zur-loeschung-terroristischer-inhalte-ist-realitaetsfern-und-foerdert-wahllose-loeschkultur-im-internet/.

Edwards, Geoffrey, and Christoph O. Meyer. 2008. “Introduction: Charting a Contested Transformation.” *Journal of Common Market Studies* 46 (1): 1–25. https://doi.org/10.1111/j.1468-5965.2007.00765.x.

Ekengren, Magnus. 2006. “New Security Challenges and the Need for New Forms of EU Cooperation: The Solidarity Declaration Against Terrorism and the Open Method of Coordination.” *European Security* 15 (1): 89–111. https://doi.org/10.1080/09662830600776728.

Electronic Frontier Foundation. 2014. “How Digital Rights Ireland Litigated Against the EU Data Retention Directive and Won.” Accessed June 28, 2022. https://www.eff.org/de/node/81899.

Elena Ornella Paciotti, MEP, Shadow Rapporteur - PES Group. 2002, May 28.

Eliantonio, Mariolina. 2018. “The Role of NGOs in Environmental Implementation Conflicts: ‘Stuck in the Middle’ Between Infringement Proceedings and Preliminary Rulings?” *Journal of European Integration* 40 (6): 753–67. https://doi.org/10.1080/07036337.2018.1500566.

Eliasson, Leif Johan, and Patricia Garcia-Duran Huet. 2019. *Civil Society, Rhetoric of Resistance, and Transatlantic Trade.* Cham: Springer International Publishing.

epicenter.works. n.d.a. “2019 Transparency Report.” https://en.epicenter.works/sites/default/files/engl-transparencyreport-2019_1.pdf.

epicenter.works. n.d.b. “Data Retention: Citizens Under General Suspicion.” Accessed July 01, 2022. https://en.epicenter.works/thema/data-retention.

epicenter.works. n.d.c. “HEAT: Handbook for the Evaluation of Anti-Terrorism Legislation.” https://epicenter.works/sites/default/files/heat_short_en.pdf.

epicenter.works. n.d.d. “Our History.” Accessed June 27, 2022. https://en.epicenter.works/history.

epicenter.works. 2012a. “11.139 BürgerInnen Klagen Gegen Die Vorratsdatenspeicherung.” Accessed July 01, 2022. https://epicenter.works/content/11139-buergerinnen-klagen-gegen-die-vorratsdatenspeicherung.

epicenter.works. 2012b. “Zeichnemit.At: 100.000 Unterschriften Gegen Die Vorratsdatenspeicherung!”. Accessed June 30, 2022. https://epicenter.works/content/zeichnemitat-100000-unterschriften-gegen-die-vorratsdatenspeicherung.

epicenter.works. 2019a. “Medienspiegel.” Accessed July 04, 2022. https://epicenter.works/sites/default/files/medienspiegel/screenshot_2019-09-16_at_17.13.04.png.

epicenter.works. *Nopnr.Eu - Wir Kippen Die Fluggastdatenspeicherung Pressekonferenz Von Epicenter.Works #NoPNR*, 2019b. YouTube Video. https://www.youtube.com/watch?v=h_WWuunt9QI.

epicenter.works. 2019c. “Schritt-Für-Schritt-Anleitung Für Deine Fluggastdatenbeschwerde.” Accessed July 04, 2022. https://epicenter.works/content/schritt-fuer-schritt-anleitung-fuer-deine-fluggastdatenbeschwerde.

epicenter.works. 2019d. “Strenge Rechnung, Gute Freunde.” Accessed June 27, 2022. https://epicenter.works/content/strenge-rechnung-gute-freunde.

epicenter.works. 2019e. “We're Going to Overturn the PNR Directive.” Accessed July 04, 2022. https://en.epicenter.works/content/were-going-to-overturn-the-pnr-directive-0.

epicenter.works. 2020. “10 Highlights Aus 10 Jahren Epicenter.Works.” Accessed June 27, 2022. https://epicenter.works/content/10-highlights-aus-10-jahren-epicenterworks.

Equipo Nizkor. 2004. “Invasive, Illusory, Illegal, and Illegitimate: Privacy International and EDRi Response to the Consultation on a Framework Decision on Data Retention.” Accessed July 01, 2022. http://www.derechos.org/nizkor/espana/doc/dataret1.html.

Ermert, Monika. 2005a. “Weiter Zoff Um EU-Pläne Zur Speicherung Von TK-Verbindungsdaten.” *heise online*, April 15, 2005. https://www.heise.de/newsticker/meldung/Weiter-Zoff-um-EU-Plaene-zur-Speicherung-von-TK-Verbindungsdaten-153439.html.

Ermert, Monika. 2005b. “Petition Gegen Vorratsspeicherung Von TK-Verbindungsdaten Findet Unterstützung.” *heise online*, August 11, 2005. https://www.heise.de/newsticker/meldung/Petition-gegen-Vorratsspeicherung-von-TK-Verbindungsdaten-findet-Unterstuetzung-122118.html.

Ernst, Cornelia. 2014. “EU Passenger Data Proposals Raise Serious Civil Liberties Fears.” Accessed July 04, 2022. https://www.theparliamentmagazine.eu/news/article/eu-passenger-data-proposals-raise-serious-civil-liberties-fears.

Essers, Loek. 2015. “EU Air Passenger Database About to Take Flight, but Critics Want It Grounded.” *PCWorld*, January 28, 2015. https://www.pcworld.com/article/431548/eu-air-passenger-database-about-to-take-flight-but-critics-want-it-grounded.html.

“EU Counter-Terrorism Policy: Proposing False Solutions to Create Pretence of Security at Odds with Citizens' Interest.” 2015. News release. January 28, 2015. Accessed July 03, 2022. https://www.greens-efa.eu/en/article/press/eu-counter-terrorism-policy-5720.

eu2020.de. n.d. “Strengthening Security for Our Citizens.” Accessed July 05, 2022. https://www.eu2020.de/eu2020-en/strengthening-the-security-of-citizens/2356974.

EuObserver. 2014. “EU Top Court Scraps Data Retention Law.” Accessed June 30, 2022. https://euobserver.com/tickers/123784.

EURACTIV. 2004. “From New York to Madrid: Technology as the Ultra-Solution to the Permanent State of Fear and Emergen.” April 1, 2004. https://www.euractiv.com/section/security/opinion/from-new-york-to-madrid-technology-as-the-ultra-solution-to-the-permanent-state-of-fear-and-emergen/.

EURACTIV.com. 2003. “Industry Turning Against European Data Retention Bill.” *EURACTIV*, June 6, 2003. https://www.euractiv.com/section/digital/news/industry-turning-against-european-data-retention-bill/.

EURACTIV.com. 2005a. “Global Security Policy Will "Roll Back Freedom", Says Report.” *EURACTIV*, April 21, 2005. https://www.euractiv.com/section/science-policymaking/news/global-security-policy-will-roll-back-freedom-says-report/.

EURACTIV.com. 2005b. “Parliament Will Have a Say on Data Retention.” June 2, 2005. https://www.euractiv.com/section/digital/news/parliament-will-have-a-say-on-data-retention/.

EURACTIV.com. 2005c. “Commission Wants Phone Data to Be Stored for One Year.” September 21, 2005. https://www.euractiv.com/section/digital/news/commission-wants-phone-data-to-be-stored-for-one-year/.

EURACTIV.com. 2005d. “EU Privacy Czar Slams Data Retention Scheme.” September 27, 2005. https://www.euractiv.com/section/digital/news/eu-privacy-czar-slams-data-retention-scheme/.

EURACTIV.com. 2005e. “Council Pressures Parliament on Data Retention.” November 10, 2005. https://www.euractiv.com/section/digital/news/council-pressures-parliament-on-data-retention/.

EURACTIV.com. 2005. “EP Committee Votes for Watered-down Data Storage.” November 24, 2005. https://www.euractiv.com/section/digital/news/ep-committee-votes-for-watered-down-data-storage/.

EURACTIV.com. 2007. “EU Seeks Access to Private Passenger Data to Combat Terrorism.” *EURACTIV*, November 7, 2007. https://www.euractiv.com/section/transport/news/eu-seeks-access-to-private-passenger-data-to-combat-terrorism/.

EURACTIV.com. 2010. “Parliament Set to Derail EU-US Anti-Terror Talks.” *EURACTIV*, June 10, 2010. https://www.euractiv.com/section/justice-home-affairs/news/parliament-set-to-derail-eu-us-anti-terror-talks/.

EURACTIV.com. 2011. “EU Rallies Behind UK on Collecting Air Passenger Data.” *EURACTIV*, March 31, 2011. https://www.euractiv.com/section/justice-home-affairs/news/eu-rallies-behind-uk-on-collecting-air-passenger-data/.

EURACTIV.com. 2011. “Countries Rally Behind UK on EU Flight Data Collection.” *EURACTIV*, April 12, 2011. https://www.euractiv.com/section/justice-home-affairs/news/countries-rally-behind-uk-on-eu-flight-data-collection/.

EURACTIV.com. 2011. “Commission Faces Battle on Data Retention.” *EURACTIV*, April 19, 2011. https://www.euractiv.com/section/digital/news/commission-faces-battle-on-data-retention/.

EURACTIV.com. 2015. “Donald Tusk Urges Parliament to Accept European PNR.” January 14, 2015. https://www.euractiv.com/section/justice-home-affairs/news/donald-tusk-urges-parliament-to-accept-european-pnr/.

EURACTIV.com. 2016. “EU Top Court Rules Against Bulk Retention of Emails.” December 22, 2016. https://www.euractiv.com/section/digital/news/eu-top-court-rules-against-bulk-retention-of-emails/.

EURACTIV.de. 2011. “Vorratsdaten: "Wildwuchs an Nationaler Willkür".” *EURACTIV*, April 18, 2011. https://www.euractiv.de/section/digitale-agenda/news/vorratsdaten-wildwuchs-an-nationaler-willkur/.

europa.eu. “Transparency Register: Access Now Europe.” Accessed March 18, 2022. https://ec.europa.eu/transparencyregister/public/consultation/displaylobbyist.do?id=241832823598-19.

europa.eu. 2021. “Transparency Register: European Digital Rights.” Accessed June 27, 2022. https://ec.europa.eu/transparencyregister/public/consultation/displaylobbyist.do?id=16311905144-06&locale=en#en.

europa.eu. 2022a. “Transparency Register: Privacy International.” Accessed June 28, 2022. https://ec.europa.eu/transparencyregister/public/consultation/displaylobbyist.do?id=78180074927-85.

europa.eu. 2022b. “Transparency Register: Civil Liberties Union for Europe.” https://ec.europa.eu/transparencyregister/public/consultation/displaylobbyist.do?id=544892227334-39.

europa.eu. 2022c. “Transparency Register: La Quadrature Du Net.” Accessed June 28, 2022. https://ec.europa.eu/transparencyregister/public/consultation/displaylobbyist.do?id=789158412311-88.

europa.eu. 2022d. “Transparency Register: Centre for Democracy & Technology, Europe.” Accessed June 28, 2022. https://ec.europa.eu/transparencyregister/public/consultation/displaylobbyist.do?id=57305017757-64.

europa.eu. 2022e. “Transparency Register: Digitalcourage E.V.” Accessed June 28, 2022. https://ec.europa.eu/transparencyregister/public/consultation/displaylobbyist.do?id=71927374943-68.

European Commission. “Day of Remembrance of Victims of Terrorism: Joint Statement of Vice-President Viviane Reding and Commissioner Cecilia Malmström.” MEMO/11/153. https://ec.europa.eu/commission/presscorner/detail/fr/MEMO_11_153.

European Commission. n.d.a. “EU PNR – the Way Forward: Following the Orientation Debate of 21 January 2015 on the European Agenda on Security.” https://www.statewatch.org/media/documents/news/2015/jan/eu-com-new-pnr-note.pdf.

European Commission. n.d.b. “Register of Commission Expert Groups and Other Similar Entities: European Digital Rights (EDRi).” Accessed June 27, 2022. https://ec.europa.eu/transparency/expert-groups-register/screen/members/consult?lang=en&memberId=67982&memberTypeId=3.

European Commission. 2003a. “Special Eurobarometer 196: Data Protection.” https://webgate.ec.europa.eu/ebsm/api/public/deliverable/download?doc=true&deliverableId=37558. Executive Summary.

European Commission. 2003b. “Communication from the Commission to the Council and the Parliament: Transfer of Air Passenger Name Record (PNR) Data.” COM(2003) 826 final. https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2003:0826:FIN:EN:PDF. A Global EU Approach.

European Commission. 2008a. “Data Protection in the European Union: Citizens' Perceptions.” Flash Eurobarometer Series 225. https://europa.eu/eurobarometer/surveys/detail/667. Analytical Report.

European Commission. 2008b. “Data Protection in the European Union: Data Controllers’ Perceptions.” Flash Eurobarometer Series 226. https://europa.eu/eurobarometer/surveys/detail/666. Analytical Report.

European Commission. 2011a. “Report on the Data Retention Conference: Taking on the Data Retention Directive.” home.a.3(2011)295871. https://www.bitsoffreedom.nl/wp-content/uploads/295871-Report-conference-DRD-3-December-2010-1.pdf.

European Commission. 2011b. “Report from the Commission to the Council and the European Parliament: Evaluation Report on the Data Retention Directive (Directive 2006/24/EC).” COM(2011) 225 final. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52011DC0225&from=EN.

European Commission. 2011c. “Special Eurobarometer 359: Attitudes on Data Protection and Electronic Identity in the European Union.” https://webgate.ec.europa.eu/ebsm/api/public/deliverable/download?doc=true&deliverableId=39344. Report.

European Commission. 2012. “Data Retention: Commission Takes Germany to Court Requesting That Fines Be Imposed.” https://ec.europa.eu/commission/presscorner/detail/en/IP_12_530.

European Commission. 2014a. “Report on the Data Retention Conference "Towards the Evaluation of the Data Retention Directive".” JLS F3/JV D(2009) 9330. https://epicenter.works/sites/default/files/VDS_Materialien/European%20Commission_DRD_Conference_report%20090514_.pdf.

European Commission. 2014b. “Annex to the Commission Implementing Decision Concerning the Adoption of the Work Programme for 2014 and the Financing for Union Actions Within the Framework of the Internal Security Fund – the Instrument for Financial Support for Police Cooperation, Preventing and Combating Crime, and Crisis Management.” C(2014) 5651 final. https://www.statewatch.org/media/documents/news/2014/oct/eu-com-2014-08-08-wp-isf-police-2014.pdf.

European Commission. 2015a. “European Commission Statement on National Data Retention Laws.” https://www.statewatch.org/media/documents/news/2015/sep/eu-com-data-ret-prel.pdf.

European Commission. 2015b. “Special Eurobarometer 431: Data Protection.” https://op.europa.eu/en/publication-detail/-/publication/f3401003-8450-11e5-b8b7-01aa75ed71a1/language-en. Report.

European Commission. 2016a. “Remarks by Commissioners Navracsics and Avramopoulos at the Press Conference on the Prevention of Radicalisation Leading to Violent Extremism.” https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_16_2200. SPEECH/16/2200.

European Commission. 2016b. “Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Commission Work Programme 2017.” COM (2016) 710 final. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52016DC0710. Delivering a Europe that protects, empowers and defends.

European Commission. 2017. “Special Eurobarometer 464b: Europeans’ Attitudes Towards Security.” https://webgate.ec.europa.eu/ebsm/api/public/deliverable/download?doc=true&deliverableId=63632. Report.

European Commission. 2018a. “Consultation Results: Summary Report of the Public Consultation on Measures to Further Improve the Effectiveness of the Fight Against Illegal Content Online.” https://digital-strategy.ec.europa.eu/en/summary-report-public-consultation-measures-further-improve-effectiveness-fight-against-illegal.

European Commission. 2018b. “Flash Eurobarometer 469: Illegal Content Online.” https://europa.eu/eurobarometer/surveys/detail/2201. Report.

European Commission. 2018c. “PNR: List of Member States Who Have Decided to Apply the Directive (EU) 2016/681 to Intra-EU Flights.” Accessed September 03, 2021. https://ec.europa.eu/home-affairs/news/list-member-states-applying-pnr-directive-intra-eu-flights_en.

European Commission. 2018d. “Proposal for a Regulation of the European Parliament and of the Council on Preventing the Dissemination of Terrorist Content Online a Contribution from the European Commission to the Leaders’ Meeting in Salzburg on 19-20 September 2018.” COM(2018) 640 final. https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52018PC0640.

European Commission. 2018e. “State of the Union 2018: Letter of Intent to President Antonio Tajani and to Chancellor Sebastian Kurz.” https://ec.europa.eu/info/sites/default/files/soteu2018-letter-of-intent_en.pdf.

European Commission. 2019a. “Communication from the Commission to the European Parliament, the European Council and the Council: Twentieth Progress Report Towards an Effective and Genuine Security Union.” COM(2019) 552 final. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52019DC0552.

European Commission. 2019b. “Ursula Von Der Leyen, President of the European Commission: Mission Letter to Ylva Johansson, Commissioner for Home Affairs.” https://ec.europa.eu/commission/commissioners/sites/default/files/commissioner_mission_letters/mission-letter-ylva-johansson_en.pdf.

European Commission. 2020a. “Air Travel – Sharing Passenger Name Data Within the EU and Beyond (Assessment): Have Your Say.” Accessed July 04, 2022. https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12531-Air-travel-sharing-passenger-name-data-within-the-EU-and-beyond-assessment-/feedback_en?p_id=8246782.

European Commission. 2020b. “Report from the Commission to the European Parliament and the Council: On the Review of Directive 2016/681 on the Use of Passenger Name Record (PNR) Data for the Prevention, Detection, Investigation and Prosecution of Terrorist Offences and Serious Crime.” COM(2020) 305 final. https://ec.europa.eu/home-affairs/system/files/2020-07/20200724_com-2020-305-review_en.pdf.

European Commission. 2020c. “Communication from the Commission on the EU Security Union Strategy.” COM(2020) 605 final. https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1596452256370&uri=CELEX:52020DC0605.

European Commission. 2020d. “Communication from the Commission: A Counter-Terrorism Agenda for the EU: Anticipate, Prevent, Protect, Respond.” COM(2020) 795 final. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0795.

European Commission. 2021. “Commissioner Johansson's Speech for the Plenary Debate on Preventing the Dissemination of Terrorist Content Online - European Commission.” Accessed July 05, 2022. https://ec.europa.eu/commission/commissioners/2019-2024/johansson/announcements/commissioner-johanssons-speech-plenary-debate-preventing-dissemination-terrorist-content-online_en.

European Council. 2014. “Cover Note from General Secretariat of the Council to Delegations: Special Meeting of the European Council (30 August 2014) - Conclusions.” EUCO 163/14. https://www.statewatch.org/media/documents/news/2014/aug/eu-council-conclusions-aug-14.pdf.

European Council. 2015. “Cover Note from General Secretariat of the Council to Delegations: European Council Meeting (17 and 18 December 2015) - Conclusions.” EUCO 28/15. https://www.consilium.europa.eu/media/21669/201512-euco-conclusions.pdf.

European Data Protection Supervisor. 2010. “Conference "Taking on the Data Retention Directive": "The Moment of Truth for the Data Retention Directive".” https://www.statewatch.org/media/documents/news/2010/dec/eu-edps-dp-speech-3-dec-10.pdf.

European Data Protection Supervisor. 2011. “Opinion of the European Data Protection Supervisor on the Evaluation Report from the Commission to the Council and the European Parliament on the Data Retention Directive (Directive 2006/24/EC).” https://edps.europa.eu/sites/default/files/publication/11-05-30_evaluation_report_drd_en.pdf.

European Data Protection Supervisor. 2013. “Public Hearing in Joint Cases C-239/12 and C-594/12 (9 July 2013): Pleading of the EDPS.” https://edps.europa.eu/sites/edp/files/publication/13-07-09_pleading_notes_joint_cases_c-23912_and_c-59412_en.pdf.

European Data Protection Supervisor. 2015a. “Annual Report 2014.” https://iapp.org/media/pdf/resource_center/edps_annual_report_2014.pdf.

European Data Protection Supervisor. 2015b. “EDPS Supports EU Legislator on Security but Recommends Re-Thinking on EU PNR.” News release. December 10, 2015. https://edps.europa.eu/sites/edp/files/edpsweb_press_releases/edps-2015-12-eu_pnr_en.pdf.

European Data Protection Supervisor. 2017. “Opinion 6/2017: EDPS Opinion on the Proposal for a Regulation on Privacy and Electronic Communications (EPrivacy Regulation).” https://edps.europa.eu/sites/edp/files/publication/17-04-24_eprivacy_en.pdf.

European Data Protection Supervisor. 2018. “Formal Comments of the EDPS on the Proposal for a Regulation of the European Parliament and of the Council on Preventing the Dissemination of Terrorist Content Online.” https://edps.europa.eu/sites/edp/files/publication/2018-02-13_edps_formal_comments_online_terrorism_regulation_en.pdf.

European Data Protection Supervisor. 2019. “Joint Hearing in Case C-623/17 (Privacy International) With Joined Cases C-511/18 and C-512/18 (La Quadrature Du Net and Others) And Case C-520/18 (Ordre Des Barreaux Francophones Et Germanophone and Others): Pleading Notes of the European Data Protection Supervisor (EDPS).” https://edps.europa.eu/sites/edp/files/publication/19-09-11_data_retention_pleading_en.pdf.

European Digital Rights. n.d.a. “Annual Report 2020.” https://edri.org/annual-report-2020/assets/downloads/EDRI_AR2020_Download.pdf.

European Digital Rights. n.d.b. “Leaked Document: Commission Recommendation of XX.2.2018 on Measures to Effectively Tackle Illegal Content Online.” https://edri.org/files/illegal_content_ec_draft_recommendation_201802.pdf.

European Digital Rights. n.d.c. “Network Strategy: 2020-2024.” https://edri.org/wp-content/uploads/2020/11/EDRi_Summary.pdf.

European Digital Rights. n.d.d. “Our Network.” Accessed June 27, 2022. https://edri.org/about-us/our-network/.

European Digital Rights. n.d.e. “Proposal for a Directive on the Use of Passenger Name Record Data for the Prevention, Detection, Investigation and Prosecution of Terrorist Offences and Serious Crime.” https://edri.org/files/101212-EU-PNR-EDRicomments.pdf.

European Digital Rights. n.d.f. “Victories.” Accessed July 01, 2022. https://edri.org/about-us/victories/.

European Digital Rights. 2005a. “21.000 Signatures Against Data Retention.” Accessed June 30, 2022. https://edri.org/our-work/edrigramnumber3-16signatures/.

European Digital Rights. 2005b. “Data Retention: Council Barks but Cannot Bite.” Accessed June 28, 2022. https://edri.org/our-work/edrigramnumber3-21retention/.

European Digital Rights. 2005c. “Final Push for Single EP Vote on Data Retention.” Accessed June 28, 2022. https://edri.org/our-work/edrigramnumber3-24epvote/.

European Digital Rights. 2005d. “Industry and Civil Society Agree Against Data Retention.” Accessed June 30, 2022. https://edri.org/our-work/edrigramnumber3-9retention/.

European Digital Rights. 2005e. “Secret Minutes EU Data Retention Meeting.” Accessed June 30, 2022. https://edri.org/our-work/edrigramnumber3-7retention/.

European Digital Rights. 2006a. “Data Retention Directive Adopted by JHA Council.” Accessed June 28, 2022. https://edri.org/our-work/edrigramnumber4-4dataretention/.

European Digital Rights. 2006b. “European Parliament Adopts Data Retention Directive.” Accessed June 30, 2022. https://edri.org/our-work/edrigramnumber4-1dataretention/.

European Digital Rights. 2006c. “Online Campaign Against Data Retention Started in Germany.” Accessed June 30, 2022. https://edri.org/our-work/edrigramnumber4-18de_dataretention/.

European Digital Rights. 2009. “ENDitorial: Dutch NGO Bits of Freedom Resumes Its Activities.” Accessed June 27, 2022. https://edri.org/our-work/edri-gramnumber7-16bof-launch-activities-2009/.

European Digital Rights. 2010a. “Data Retention - Time for Evidence-Based Decision Making.” Accessed July 01, 2022. https://edri.org/our-work/edrigramnumber8-13data-retention-challange/.

European Digital Rights. 2010b. “Lives Put at Risk by Communications Data Retention.” Accessed July 01, 2022. https://edri.org/our-work/edrigramnumber8-20data-retention-lives-risk/.

European Digital Rights. 2010c. “EDRi - the European Organisation for Digital Rights.” Accessed June 27, 2022. https://edri.org/our-work/edrigramnumber8-25-bonus-edrigrameuropean-organization-digital-rights/.

European Digital Rights. 2011a. “European Action Week on Airline Passenger Surveillance.” Accessed July 04, 2022. https://edri.org/our-work/edrigramnumber9-20action-week-pnr/.

European Digital Rights. 2011b. “Shadow Evaluation Report on the Data Retention Directive (2006/24/EC).” https://www.edri.org/files/shadow_drd_report_110417.pdf.

European Digital Rights. 2012. “ENDitorial: Member States Turn a Drama into a Crisis for Commissioner Malmström on Data Retention.” Accessed July 01, 2022. https://edri.org/our-work/edrigramnumber10-4data-retention-drama/.

European Digital Rights. 2013. “EU PNR Directive Gets Funding Before Being Adopted.” Accessed July 03, 2022. https://edri.org/our-work/edrigramnumber11-1eu-pnr-funding-before-adoption/.

European Digital Rights. 2014a. “Denmark Plans to Use PNR Data for Increased Schengen Border Control.” Accessed September 03, 2021. https://edri.org/our-work/denmark-pnr-schengen-border-control/.

European Digital Rights. 2014b. “PNR: Losing Rights and Paying for It.” Accessed July 03, 2022. https://edri.org/our-work/pnr-losing-rights-and-paying-for-it/.

European Digital Rights. 2015a. “Belgian Big Brother Awards 2015 Go to Surveillance Measures in Schools and Privacy-Invasive Apps.” Accessed July 03, 2022. https://edri.org/our-work/belgian-big-brother-awards-2015/.

European Digital Rights. 2015b. “EU Secret Profiling of Air Passengers Nominated for "Big Brother Awards".” Accessed July 03, 2022. https://edri.org/our-work/edri-nominates-the-european-air-passenger-data-scheme/.

European Digital Rights. 2015c. “European Commission & Data Retention - a Faulty Basis for Decision-Making*?” Accessed July 01, 2022. https://edri.org/our-work/data_retention_decision_making/.

European Digital Rights. 2015d. “European Commission Will “Monitor” Existing EU Data Retention Laws.” Accessed July 01, 2022. https://edri.org/our-work/european-commission-will-monitor-existing-eu-data-retention-laws/.

European Digital Rights. 2015e. “Surveillance of Air Passengers: Letter to Parliamentarians.” Accessed July 04, 2022. https://edri.org/our-work/surveillance-of-air-passengers-letter-to-parliamentarians/.

European Digital Rights. 2015f. “"We Still Need to Watch You, Really": PNR Back in the Parliament.” Accessed July 03, 2022. https://edri.org/our-work/pnr-back-in-the-ep/.

European Digital Rights. 2016a. “GFF Launches Its Strategic Litigation for Civil Rights.” Accessed June 28, 2022. https://edri.org/our-work/gff-launches-strategic-litigation-civil-rights/.

European Digital Rights. 2016b. “Press Release: Vote on Data Protection and Passenger Name Record Package.” Accessed July 04, 2022. https://edri.org/our-work/press-release-data-protection-and-passenger-name-record-package-to-be-voted-on-tomorrow/.

European Digital Rights. 2017a. “Commission’s Position on Tackling Illegal Content Online Is Contradictory and Dangerous for Free Speech.” Accessed July 05, 2022. https://edri.org/our-work/commissions-position-tackling-illegal-content-online-contradictory-dangerous-free-speech/.

European Digital Rights. 2017b. “Member Spotlight: Epicenter.Works.” Accessed June 27, 2022. https://edri.org/our-work/member-spotlight-epicenter-works/.

European Digital Rights. 2018a. “Anatomy of a Commission Press Campaign. Case Study: Terrorist Content Regulation.” Accessed July 05, 2022. https://edri.org/our-work/anatomy-of-a-commission-press-campaign-case-study-terrorist-content-regulation/.

European Digital Rights. 2018b. “ENDitorial: The European Commission Is Talking “Tough on Terror”. Again.” Accessed July 05, 2022. https://edri.org/our-work/enditorial-the-european-commission-is-talking-tough-on-terror-again/.

European Digital Rights. 2018c. “Joint Press Release: EU Terrorism Regulation - an EU Election Tactic.” Accessed July 05, 2022. https://edri.org/our-work/press-release-eu-terrorism-regulation-an-eu-election-tactic/.

European Digital Rights. 2018d. “LEAK: European Commission’s Reckless Draft Recommendation on "Illegal" Content.” Accessed July 05, 2022. https://edri.org/our-work/leak-european-commissions-reckless-draft-recommendation-illegal-content/.

European Digital Rights. 2018e. “LEAK: France & Germany Demand More Censorship from Internet Companies.” Accessed July 05, 2022. https://edri.org/our-work/leak-france-germany-demand-more-censorship-from-internet-companies/.

European Digital Rights. 2018f. “The EU Council's General Approach on Terrorist Content Online Proposal: A Step Towards Pre-Emptive Censorship.” Accessed July 05, 2022. https://edri.org/our-work/the-eu-councils-general-approach-on-terrorist-content-online-proposal-a-step-towards-pre-emptive-censorship/.

European Digital Rights. 2019a. “Open Letter: Regulation on Terrorist Content Online Endangers Freedom of Expression.” Accessed July 07, 2022. https://edri.org/our-work/open-letter-regulation-on-terrorist-content-online-endangers-freedom-of-expression/.

European Digital Rights. 2019b. “Terrorist Content Regulation: Document Pool - European Digital Rights (EDRi).” Accessed June 25, 2022. https://edri.org/our-work/terrorist-content-regulation-document-pool/.

European Digital Rights. 2019c. “Terrorist Content Regulation: Successful “Damage Control” by LIBE Committee.” Accessed July 05, 2022. https://edri.org/our-work/terrorist-content-libe-vote/.

European Digital Rights. 2019d. “Letter to Members of the European Parliament: Via Email.” Accessed December 02, 2022. https://cdt.org/wp-content/uploads/2019/02/Civil-Society-Letter-to-European-Parliament-on-Terrorism-Database.pdf.

European Digital Rights. 2020a. “Data Retention: “National Security” Is Not a Blank Cheque.” Accessed July 01, 2022. https://edri.org/our-work/data-retention-national-security-is-not-a-blank-cheque/.

European Digital Rights. 2020b. “ECtHR: Obligation on Companies to Identify All Phone Users Is Legal.” Accessed July 01, 2022. https://edri.org/our-work/ecthr-obligation-on-companies-to-identify-all-phone-users-is-legal/.

European Digital Rights. 2020c. “Feedback from the EDRi Network, Access Now, Edward Hasbrouck, Epicenter.Works, FiPR, IT-Pol Denmark, Statewatch on the Roadmap – Ares(2020)3918953 on the External Dimension of the EU Policy on Passenger Name Records.” https://epicenter.works/sites/default/files/joint_feedback_on_the_external_dimension_of_pnr.pdf.

European Digital Rights. 2020d. “Freedom Not Fear 2020.” Accessed June 30, 2022. https://edri.org/take-action/events/freedom-not-fear-2020/.

European Digital Rights. 2020e. “Indiscriminate Data Retention Considered Disproportionate, Once Again.” Accessed July 01, 2022. https://edri.org/our-work/indiscriminate-data-retention-considered-disproportionate-once-again/.

European Digital Rights. 2020f. “Open Letter: Civil Society Urges Member States to Respect the Principles of the Law in Terrorist Content Online Regulation.” Accessed July 07, 2022. https://edri.org/our-work/open-letter-civil-society-urges-member-states-to-respect-the-principles-of-the-law-in-terrorist-content-online-regulation/.

European Digital Rights. 2020g. “Commission Confirms Illegality of Data Retention Directive.” Accessed June 30, 2022. https://edri.org/our-work/edrigramnumber10-1commission-confirms-illegality-data-retention/.

European Digital Rights. 2020h. “Terrorist Content Online: Is This the End?” Accessed June 27, 2022. https://edri.org/our-work/terrorist-content-online-is-this-the-end/.

European Digital Rights. 2021a. “European Parliament Confirms New Online Censorship Powers.” Accessed July 07, 2022. https://edri.org/our-work/european-parliament-confirms-new-online-censorship-powers/.

European Digital Rights. 2021b. “La Quadrature Du Net Asks for Renewed Support to Challenge TERREG in France.” Accessed July 05, 2022. https://edri.org/our-work/la-quadrature-du-net-asks-for-renewed-support-to-challenge-terreg-in-france/.

European Digital Rights. 2022. “Funding.” Accessed June 27, 2022. https://edri.org/about-us/funding/.

European Digital Rights, Access Now, and Panoptykon Foundation. 2015a. “Proposal for a Directive on an EU Passenger Name Record: No Freedoms, No Security.” https://edri.org/files/PNR2015/PNRbrief-EDRi.pdf. (PNR Brief).

European Digital Rights, Access Now, and Panoptykon Foundation. 2015b. “Proposal for a Directive on an EU Passenger Name Record: No Freedoms, No Security.” https://edri.org/files/PNR2015/PNRletter-EDRi.pdf. (PNR Letter).

European Digital Rights, Panoptykon Foundation, and Access Now. 2015. “Amendments on the PNR Proposal.” https://edri.org/files/PNR2015/PNR%20Proposal-EDRi.pdf.

European Greens. n.d. “Stop Data-Retention in Europe! Resolution Accepted at the 12th EGP Council, Barcelona, Spain, March 19-21, 2010.” Accessed June 30, 2022. https://europeangreens.eu/content/stop-data-retention-europe.

European Network Against Racism. 2016. “Counter-Terrorism: EU and Member States Must Respect Human Rights.” Accessed November 21, 2022. https://www.enar-eu.org/counter-terrorism-eu-and-member-states-must-respect-human-rights/.

European Parliament. 2005a. “Draft Report on the Initiative by the French Republic, Ireland, the Kingdom of Sweden and the United Kingdom for a Draft Framework Decision on the Retention of Data Processed and Stored in Connection with the Provision of Publicly Available Electronic Communications Services or Data on Public Communications Networks for the Purpose of Prevention, Investigation, Detection and Prosecution of Crime and Criminal Offences Including Terrorism.” 2004/0813(CNS). https://www.statewatch.org/media/documents/news/2005/may/ep-data-ret-alvaro-report.pdf.

European Parliament. 2005b. “Debates - Data Retention.” Accessed June 30, 2022. https://www.europarl.europa.eu/doceo/document/CRE-6-2005-12-13-ITM-055_EN.html?redirect.

European Parliament. 2005c. “Minutes of Proceedings: Result of Roll-Call Votes - Annex.” https://www.statewatch.org/media/documents/news/2005/dec/ep-dat-ret-MEPs-voting.pdf.

European Parliament. 2010. “Debates - Passenger Name Record (PNR) (Debate).” Accessed July 04, 2022. https://www.europarl.europa.eu/doceo/document/CRE-7-2010-04-21-ITM-006_EN.html?redirect.

European Parliament. 2012. “Parliamentary Questions: Revision of the Current Data Retention Framework: Question for Oral Answer O-000125/2012 to the Commission.” Judith Sargentini, Carl Schlyter, Jan Philipp Albrecht, Eva Lichtenberger, Amelia Andersdotter, Christian Engström on behalf of the Verts/ALE Group. Accessed July 01, 2022. https://www.europarl.europa.eu/doceo/document/O-7-2012-000125_EN.html?redirect#_ftn1.

European Parliament. 2013a. “Parliamentary Questions: Answer Given by Ms Malmström on Behalf of the Commission.” Question reference: P-000343/2013. Accessed July 03, 2022. https://www.europarl.europa.eu/doceo/document/P-7-2013-000343-ASW_EN.html.

European Parliament. 2013b. “Parliamentary Questions: Tendering Procedure for PIUs.” Accessed July 03, 2022. https://www.europarl.europa.eu/doceo/document/P-7-2013-000343_EN.html?redirect.

European Parliament. 2013c. “Parliamentary Questions: EU Passenger Name Record - EUR 50 Million for Targeted Call for Proposal.” Accessed July 03, 2022. https://www.europarl.europa.eu/doceo/document/E-7-2013-000385_EN.html?redirect.

European Parliament. 2013d. “Creating the European Parliament Research Service - DG EPRS.” Accessed June 27, 2022. https://the-secretary-general.europarl.europa.eu/de/activities/creating-the-european-parliament-research-service-dg-eprs.

European Parliament. 2014. “Debates - European Court of Justice Judgment of 8 April Concerning Data Retention (C 293/12 and C 594/12).” Accessed June 28, 2022. https://www.europarl.europa.eu/doceo/document/CRE-7-2014-04-16-ITM-017_EN.html?redirect.

European Parliament. 2015a. “European Parliament Resolution of 11 February 2015 on Anti-Terrorism Measures.” (2015/2530(RSP)). https://www.europarl.europa.eu/doceo/document/TA-8-2015-0032_EN.html?redirect.

European Parliament. 2015b. “European Parliament Resolution of 25 November 2015 on the Prevention of Radicalisation and Recruitment of European Citizens by Terrorist Organisations.” (2015/2063(INI)). https://www.europarl.europa.eu/doceo/document/TA-8-2015-0410_EN.html?redirect,

European Parliament. 2016a. “EU Passenger Name Record (PNR) Directive: An Overview.” Accessed July 02, 2022. https://www.europarl.europa.eu/sides/getDoc.do?type=IM-PRESS&reference=20150123BKG12902&language=EN#title7.

European Parliament. 2016b. “Parliamentary Questions: Commission Funding of National Passenger Name Record (PNR) Systems.” Accessed July 03, 2022. https://www.europarl.europa.eu/doceo/document/E-8-2016-002866_EN.html?redirect.

European Parliament. 2016c. “Minutes of Proceedings: Result of Roll-Call Votes - Annex.” https://www.europarl.europa.eu/doceo/document/PV-8-2016-04-14-RCV_DE.pdf?redirect.

European Parliament. 2016d. “Parliament Backs EU Directive on Use of Passenger Name Records (PNR).” News release. April 14, 2016. Accessed July 02, 2022. https://www.europarl.europa.eu/news/da/press-room/20160407IPR21775/parliament-backs-eu-directive-on-use-of-passenger-name-records-pnr.

European Parliament. 2018. “Parliamentary Questions: EU Legal Framework in Tackling Crime: Data Retention.” Accessed June 28, 2022. https://www.europarl.europa.eu/doceo/document/P-8-2018-000013_EN.html?redirect.

European Parliament. 2019a. “2019 Election Results | 2019 European Election Results | European Parliament.” Accessed June 27, 2022. https://www.europarl.europa.eu/election-results-2019/en/european-results/2019-2024/.

European Parliament. 2019b. “Constitution of the 9th Legislature of the European Parliament: Press Release.” Accessed June 27, 2022. https://www.europarl.europa.eu/news/en/press-room/20190627IPR55404/constitution-of-the-9th-legislature-of-the-european-parliament.

European Parliament. 2021b. “Multimedia Per Debate.” Accessed July 07, 2022. https://www.europarl.europa.eu/plenary/en/debate-details.html?date=20210428&detailBy=date.

European Parliament. *Sitting of 28-04-2021: Plenary Session*. Current Speaker: Marcel Kolaja, 2021c. Video. Accessed July 07, 2022. https://www.europarl.europa.eu/plenary/en/vod.html?mode=unit&vodLanguage=EN&vodId=8f982013-1945-a59a-5607-e81816217628&date=20210428#.

European Parliament. 2021d. “Debates - Preventing the Dissemination of Terrorist Content Online.” Accessed July 07, 2022. https://www.europarl.europa.eu/doceo/document/CRE-9-2021-04-28-ITM-019_EN.html.

European Parliament. 2022. “MEPs by Member State and Political Group.” Accessed June 27, 2022. https://www.europarl.europa.eu/meps/en/search/table.

European Parliamentary Research Service. n.d. “The Work of EPRS: The First Three Years: 2014 to 2016.” https://www.europarl.europa.eu/EPRS/The_work_of_EPRS-2014_to_2016.pdf.

European Parliamentary Research Service. 2019. “The Power of the European Parliament: Examples of EP Impact During the 2014-19 Legislative Term.” 978-92-846-4798-9. https://www.europarl.europa.eu/RegData/etudes/IDAN/2019/637942/EPRS_IDA(2019)637942_EN.pdf.

European Parliamentary Research Service. 2020. “General Data Retention / Effects on Crime.” https://www.patrick-breyer.de/wp-content/uploads/2020/10/EPRS_103906-_General_data_retention___effects_on_crime_FINAL.docx.

European Union Agency For Fundamental Rights. 2011. “Annual Report: Fundamental Rights: Challenges and Achievements in 2010.” https://fra.europa.eu/sites/default/files/fra_uploads/1633-annual-report-2011_en.pdf.

European Union Agency For Fundamental Rights. 2019a. “Fundamental Rights Report 2019.” https://fra.europa.eu/sites/default/files/fra_uploads/fra-2019-fundamental-rights-report-2019_en.pdf.

European Union Agency For Fundamental Rights. 2019b. “Proposal for a Regulation on Preventing the Dissemination of Terrorist Content Online and Its Fundamental Rights Implications.” FRA Opinion 2/2019.

Europol. 2013. “TE-SAT 2013: EU Terrorism Situation and Trend Report.” https://www.europol.europa.eu/publications-events/main-reports/te-sat-2013-eu-terrorism-situation-and-trend-report.

Fae, Jane. 2011. “EU Data Retention Directive 'Flawed, Unlawful'.” April 18, 2011. https://www.theregister.com/2011/04/18/eu_data_retention_directive/.

Fanta, Alexander, and Tomas Rudl. 2018. “EU-Kommission Will Plattformen Die Löschung Von Illegalen Inhalten Ohne Netz Und Doppeltem Boden Empfehlen.” Accessed July 05, 2022. https://netzpolitik.org/2018/eu-kommission-will-plattformen-die-loeschung-von-illegalen-inhalten-ohne-netz-und-doppeltem-boden-empfehlen/.

Fazi, Elodie, and Jeremy Smith. 2006. *Civil Dialogue: Making It Work Better*. Study commissioned by the Civil Society Contact Group. Brussels.

Fernández Álvarez, Laura. 2016. “Juncker After Brussels Terror Attacks: ‘We Need a Security Union’.” Accessed June 27, 2022. https://www.euractiv.com/section/justice-home-affairs/video/juncker-after-brussels-terror-attacks-we-need-a-security-union/.

Fiedler, Kerstin. 2011. “EDRi Veröffentlicht Bericht Zur Vorratsdatenspeicherung.” Accessed June 30, 2022. https://netzpolitik.org/2011/edri-veroffentlicht-bericht-zur-vorratsdatenspeicherung/.

Fiedler, Kerstin. 2015. “Fluggastdaten: Breite Mobilisierung Gegen Die Totalüberwachung Von Reisenden.” Accessed July 03, 2022. https://netzpolitik.org/2015/fluggastdaten-breite-mobilisierung-gegen-die-totalueberwachung-von-reisenden/.

Fisher, William F. 1997. “Doing Good? The Politics and Antipolitics of NGO Practices.” *Annual Review of Anthropology* 26: 439–64.

Flick, Uwe. 2018. *An Introduction to Qualitative Research.* 6th edition. Los Angeles, London, New Delhi, Singapore, Washington, DC, Melbourne: SAGE.

Follesdal, Andreas, and Simon Hix. 2006. “Why There Is a Democratic Deficit in the EU: A Response to Majone and Moravcsik.” *Journal of Common Market Studies* 44 (3): 533–62. https://doi.org/10.1111/j.1468-5965.2006.00650.x.

“Forsa-Umfrage: Vorratsdatenspeicherung Verhindert Sensible Gespräche.” 2008a. News release. June 3, 2008.

Frantz, Christiane. 2007. “NGOs Als Transnationale Interessenvertreter Und Agenda Setter.” In *Entgrenzte Demokratie? Herausforderungen Für Die Politische Interessenvermittlung*,

edited by Otfried Jarren, Dominik Lachenmeier, and Adrian Steiner, 181–97. Baden-Baden: Nomos.

Frantz, Christiane, and Kerstin Martens. 2006. *Nichtregierungsorganisationen (NGOs).* Wiesbaden: VS Verlag für Sozialwissenschaften.

Funk, Marco, and Florian Trauner. 2016. “Transatlantic Counter-Terrorism Cooperation.” Issue Alert 15.

Furtak, Florian T. 2001. *Nichtregierungsorganisationen (NGOs) im politischen System der Europäischen Union: Strukturen, Beteiligungsmöglichkeiten, Einfluß.* Tuduv-Studien Reihe Politikwissenschaften Band 75. München: tuduv.

Furtak, Florian T. 2015. *Internationale Organisationen: Staatliche und nichtstaatliche Organisationen in der Weltpolitik.* Wiesbaden: Springer VS.

Gansbergen, Anna, and Ludger Pries. 2014. “Zwischen Festung Europa Und Raum Der Freiheit, Der Sicherheit Und Des Rechts: NGO-Netzwerke in Der Institutionalisierung Eines Europäischen Flüchtlingsregimes.” In *Routinen Der Krise - Krise Der Routinen: Verhandlungen Des 37. Kongresses Der Deutschen Gesellschaft Für Soziologie in Trier 2014*, edited by Karin Lange. Accessed March 28, 2020. http://publikationen.soziologie.de/index.php/kongressband_2014/article/view/122.

Gehlen, Dirk von. 2006. “Server Hört Die Signale.” Accessed June 30, 2022. https://www.jetzt.de/urheberrecht/server-hoert-die-signale-334824.

German Working Group on Data Retention. n.d.a. “20110527-30-Work-and-Lobby-Weekend-Pnr.” Accessed July 04, 2022. http://wiki.vorratsdatenspeicherung.de/20110527-30-Work-and-lobby-weekend-pnr.

German Working Group on Data Retention. n.d.b. “About Us.” Accessed June 28, 2022. http://www.vorratsdatenspeicherung.de/content/view/13/37/lang,en/.

German Working Group on Data Retention. n.d.c. “Aufruf Zur Demonstration Freiheit Statt Angst 2010 Am 11.09.2010 in Berlin, Potsdamer Platz, 13 Uhr.” Accessed June 30, 2022. http://www.vorratsdatenspeicherung.de/content/view/364/55/lang,de/.

German Working Group on Data Retention. n.d.d. “Europäische NGOs Gegen VDS.” Accessed June 28, 2022. http://wiki.vorratsdatenspeicherung.de/Europ%C3%A4ische_NGOs_gegen_VDS.

German Working Group on Data Retention. n.d.e. “Freedom Not Fear 2008.” Accessed June 30, 2022. http://wiki.vorratsdatenspeicherung.de/Freedom_Not_Fear_2008.

German Working Group on Data Retention. n.d.f. “Passenger Name Record.” Accessed July 04, 2022. http://wiki.vorratsdatenspeicherung.de/PNR#To-Do.

German Working Group on Data Retention. 2008b. “Historic Class-Action Lawsuit Filed Against Telecommunications Data Collection.” Accessed July 01, 2022. http://www.vorratsdatenspeicherung.de/content/view/202/79/lang,en/.

German Working Group on Data Retention. 2010a. “Unterstützer Freiheit Statt Angst 2010.” Accessed June 30, 2022. http://www.vorratsdatenspeicherung.de/content/view/375/171/lang,de/.

German Working Group on Data Retention. 2010b. “Letter to Cecilia Malmström, European Commissioner for Home Affairs.” Accessed December 02, 2022. http://www.vorratsdatenspeicherung.de/images/letter_malmstroem_2010-11-15_anon.pdf.

German Working Group on Data Retention. 2022. “Demonstrationen.” Accessed June 30, 2022. http://wiki.vorratsdatenspeicherung.de/Demonstrationen.

Gesellschaft für Freiheitsrechte. n.d.a. “Finances and Transparency.” Accessed June 28, 2022. https://freiheitsrechte.org/en/ueber-die-gff/finanzen-transparenz.

Gesellschaft für Freiheitsrechte. n.d.b. “Jahresbericht 2020.” https://legacy.freiheitsrechte.org/home/wp-content/uploads/2021/12/GFF_Jahresbericht_2020.pdf.

Gesellschaft für Freiheitsrechte. n.d.c. “Netzwerk.” Accessed June 28, 2022. https://freiheitsrechte.org/netzwerk.

Gesellschaft für Freiheitsrechte. 2019a. “Passenger Surveillance Brought Before Courts in Germany and Austria.” Accessed July 04, 2022. https://edri.org/our-work/passenger-surveillance-brought-before-courts-in-germany-and-austria/.

Gesellschaft für Freiheitsrechte. 2019b. ““Shrinking Space” Für Zivilgesellschaftliche Organisationen?” Accessed June 28, 2022. https://freiheitsrechte.org/themen/demokratie/gemeinnuetzigkeit/shrinking-space.

Gesellschaft für Freiheitsrechte. 2020a. “Member in the Spotlight: Gesellschaft Für Freiheitsrechte.” Accessed June 28, 2022. https://edri.org/our-work/member-in-the-spotlight-gesellschaft-fur-freiheitsrechte/.

Gesellschaft für Freiheitsrechte. 2020b. “Verwaltungsgericht Wiesbaden Hat „Erhebliche Zweifel“ an Rechtmäßigkeit Der Fluggastdaten-Richtlinie.” Accessed July 04, 2022. https://freiheitsrechte.org/ueber-die-gff/presse/pressemitteilungen-der-gesellschaft-fur-freiheitsrechte/pm-pnr-wiesbaden.

Gheyle, Niels. 2016. “Trade Policy with the Lights on - Linking Trade and Politicization.” https://doi.org/10.13140/RG.2.1.2056.2967.

Gheyle, Niels. 2019. “Conceptualizing the Parliamentarization and Politicization of European Policies.” *Politics and Governance* 7 (3): 227–36. https://doi.org/10.17645/pag.v7i3.2144.

Gheyle, Niels, and Ferdi de Ville. 2019. “Outside Lobbying and the Politicization of the Transatlantic Trade and Investment Partnership.” In Dialer and Richter 2019, 339–54.

Giannetto, Leila. 2019. “Lobbying EU Agencies from Within: Advocacy Groups in Frontex Consultative Forum on Fundamental Rights.” In Dialer and Richter 2019.

Global Internet Liberty Campaign. 2001. “Letter Urging European ISPs to Safeguard Privacy.” Accessed July 01, 2022. http://gilc.org/verhofstadt_letter.html.

Global Internet Liberty Campaign. 2002a. “Opposition to Data Retention Continues to Grow.” Accessed July 01, 2022. http://gilc.org/pr_53002.html.

Global Internet Liberty Campaign. 2002b. “Letter to Mr. Pat Cox on Data Retention.” Accessed July 01, 2022. http://gilc.org/cox_en.html.

Goldirova, Renata. 2008. “EU Endorses Idea of Collecting Air Passenger Data.” https://euobserver.com/justice/26539.

Götz, Norbert. 2008. “Reframing NGOs: The Identity of an International Relations Non-Starter.” *European Journal of International Relations* 14 (2): 231–58. https://doi.org/10.1177/1354066108089242.

Grande, Edgar, and Swen Hutter. 2016. “Introduction: European Integration and the Challenge of Politicisation.” In *Politicising Europe: Integration and Mass Politics*, edited by Edgar Grande, Hanspeter Kriesi, and Swen Hutter, 3–31. Cambridge: Cambridge University Press.

Grande, Edgar, and Hanspeter Kriesi. 2014. “The Restructuring of Political Conflict in Europe and the Politicization of European Integration.” In *European Public Spheres: Politics Is Back*, edited by Thomas Risse, 190–224. Contemporary European Politics. Cambridge: Cambridge University Press.

Granger, Marie-Pierre, and Kristina Irion. 2014. “The Court of Justice and the Data Retention Directive in *Digital Rights Ireland*: Telling Off the EU Legislator and Teaching a Lesson in Privacy and Data Protection.” *European law review* 39 (6): 835–50.

Green-Pedersen, Christoffer. 2012. “A Giant Fast Asleep? Party Incentives and the Politicisation of European Integration.” *Political Studies* 60 (1): 115–30. https://doi.org/10.1111/j.1467-9248.2011.00895.x.

Greenwood, Justin. 2003. *Interest Representation in the European Union.* The European Union series. Basingstoke: Palgrave Macmillan.

Greenwood, Justin, and Christilla Roederer-Rynning. 2019. “In the Shadow of Public Opinion: The European Parliament, Civil Society Organizations, and the Politicization of Trilogues.” *PaG* 7 (3): 316. https://doi.org/10.17645/pag.v7i3.2175.

Greis, Friedhelm. 2018. “Terrorinhalte: Seehofer Fordert Gesetzliche Pflicht Für Uploadfilter.” *Golem.de*, June 5, 2018. https://www.golem.de/news/terrorinhalte-seehofer-fordert-gesetzliche-pflicht-fuer-uploadfilter-1806-134767.html.

Greis, Friedhelm. 2019. “PNR-System: Klage Soll Europäische Fluggastdatenspeicherung Stoppen.” *Golem.de*, May 15, 2019. https://www.golem.de/news/pnr-system-klage-soll-europaeische-fluggastdatenspeicherung-stoppen-1905-141262.html.

Grey, Eva. 2015. “Passenger Name Record: Airline Data Collection Could Become Law.” Accessed July 03, 2022. https://www.airport-technology.com/analysis/featurepassenger-name-record-airline-data-collection-could-become-law-4682312/.

Grumiaux, Mathieu. 2018. “62 Associations Attaquent Les FAI Européens Pour Rétention De Données.” *Clubic*, June 27, 2018. https://www.clubic.com/internet/actualite-844296-62-associations-attaquent-fai-europeens-retention-donnees.html.

Grün Digital. 2015. “LEAK: Neuer Kommissionsvorschlag Zu Passenger Name Records (PNR).” Accessed July 03, 2022. https://gruen-digital.de/2015/01/leak-neuer-kommissionsvorschlag-zu-pnr/.

GUE/NGL - The Left in the European Parliament. 2014. “Data Retention: 2ND LEAD: EU Court Rejects Data Retention Law for Breaching Privacy.” News release. April 8, 2014. Accessed July 01, 2022. https://left.eu/data-retention/.

Guild, Elspeth, and Sergio Carrera. 2014. *The Political and Judicial Life of Metadata: Digital Rights Ireland and the Trail of the Data Retention Directive.* CEPS Paper in Liberty and Security in Europe, no. 65/May 2014. Brussels. Accessed April 06, 2020. https://www.ceps.eu/ceps-publications/political-and-judicial-life-metadata-digital-rights-ireland-and-trail-data-retention/.

Guiton, Amaelle. 2018. “Conservation Des Données Par Les Opérateurs Télécoms: 62 Associations Saisissent La Commission Européenne.” *Libération*, June 25, 2018. https://www.liberation.fr/planete/2018/06/25/conservation-des-donnees-par-les-operateurs-telecoms-62-associations-saisissent-la-commission-europe_1661842/.

Hackenesch, Christine, Julian Bergmann, and Jan Orbie. 2021. “Development Policy Under Fire? The Politicization of European External Relations.” *Journal of Common Market Studies* 59 (1): 3–19. https://doi.org/10.1111/jcms.13145.

Hagmann, Jonas, Hendrik Hegemann, and Andrew W. Neal. 2018. “The Politicisation of Security: Controversy, Mobilisation, Arena Shifting. Introduction by the Guest Editors.” *ERIS – European Review of International Studies* 5 (3): 3–29.

Hasbrouck, Edward. 2010. “Testimony to Members of the European Parliament.” Accessed July 04, 2022. https://hasbrouck.org/blog/archives/001855.html.

Hassan, Oz. 2010. “Constructing Crises, (In)Securitising Terror: The Punctuated Evolution of EU Counter-Terror Strategy.” *European Security* 19 (3): 445–66. https://doi.org/10.1080/09662839.2010.526935.

Hatzopoulos, Vassilis. 2008. “Casual but Smart: The Court’s New Clothes in the Area of Freedom Security and Justice (AFSJ) After the Lisbon Treaty.” No 2/2008. Research Papers in Law.

Hay, Colin. 2007. *Why We Hate Politics.* Cambridge: Polity.

Hayes, Ben. 2017. “The Impact of International Counter-Terrorism on Civil Society Organisations: Understanding the Role of the Financial Action Task Force.” https://www.brot-fuer-die-welt.de/fileadmin/mediapool/2_Downloads/Fachinformationen/Analyse/Analysis_68_The_impact_of_international_counterterrorism_on_CSOs.pdf.

Hayes, Ben, and Chris Jones. 2013. *Catalogue of EU Counter-Terrorism Measures: Adopted Since 11 September 2001*. SECILE: Securing Europe through Counter-Terrorism – Impact, Legitimacy & Effectiveness, no. D2.1 Catalogue of Measures SECILE project – GA: 313195. Accessed April 04, 2020.

Hayes, Ben, and Chris Jones. 2015. “Taking Stock: The Evolution, Adoption, Implementation and Evaluation of EU Counter-Terrorism Policy.” In Londras and Doody 2015, 13–39.

Heath, Ryan, and Judith Mischke. n.d. “2017 Women Who Shape Brussels.” https://www.politico.eu/list/women-who-shape-brussels-2017-ranking/.

Hegemann, Hendrik. 2018. “Toward ‘Normal’ Politics? Security, Parliaments and the Politicisation of Intelligence Oversight in the German Bundestag.” *The British Journal of Politics and International Relations* 20 (1): 175–90. https://doi.org/10.1177/1369148117745683.

Hegemann, Hendrik. 2020. “Polarisierung Oder Normalisierung? Die Politisierung Der Sicherheit Und Ihre Folgen Für Demokratische Politik.” *S+F* 38 (4): 188–90. https://doi.org/10.5771/0175-274X-2020-4-188.

Hegemann, Hendrik, Regina Heller, and Martin Kahl. 2011. “Terrorismusbekämpfung Jenseits Funktionaler Problemlösung: Was Beeinflusst Politisches Handeln Im Kampf Gegen Den Terrorismus?” In *Terrorismusforschung in Deutschland*, edited by Alexander Spencer, Alexander Kocks, and Kai Harbrich, 281–304. Wiesbaden: VS Verlag für Sozialwissenschaften.

Hegemann, Hendrik, and Ulrich Schneckener. 2019. “Politicising European Security: From Technocratic to Contentious Politics?” *European Security* 28 (2): 133–52. https://doi.org/10.1080/09662839.2019.1624533.

Heins, Volker. 2005. “Mächtige Zwerge, umstrittene Riesen: NGOs als Partner und Gegenspieler transnationaler Unternehmen und internationaler Organisationen.” In Brunnengräber, Klein, and Walk 2005, 172–211.

Heins, Volker. 2008. *Nongovernmental Organizations in International Society: Struggles over Recognition.* New York: Palgrave Macmillan.

Heinz, Wolfgang S., and Jan-Michael Arend. 2005. “The International Fight Against Terrorism and the Protection of Human Rights: With Recommendations to the German Government and Parliament.” https://www.ssoar.info/ssoar/handle/document/32976. Studie / Deutsches Institut für Menschenrechte.

Herlin-Karnell, Ester. 2018. “The European Court of Justice as a Game-Changer: Fiduciary Obligations in the Area of Freedom, Security and Justice.” In Ripoll Servent and Trauner 2018, 396–408.

Herranz-Surrallés, Anna. 2019. “Paradoxes of Parliamentarization in European Security and Defence: When Politicization and Integration Undercut Parliamentary Capital.” *Journal of European Integration* 41 (1): 29–45. https://doi.org/10.1080/07036337.2018.1551388.

Herschinger, Eva, Markus Jachtenfuchs, and Kraft-Kasack. 2013. “Transgouvernementalisierung und die ausbleibende Politisierung der inneren Sicherheit.” In Zürn and Ecker-Ehrhardt 2013, 190–212.

Hidvegi, Fanny. 2019. “Open Letter to EU Parliament on the Terrorism Database.” Accessed July 07, 2022. https://www.accessnow.org/open-letter-to-eu-parliament-on-the-terrorism-database/.

High Court of Justice. 2014. “Interveners' Submissions.” CO/3794/2014. https://modx.openrightsgroup.org/assets/files/legal/Intervention%20submissions%20ORG%20and%20PI%20in%20DRIPA%20case%2023.12.14.pdf.

Hill, Rebecca. 2018. “Dob in Naughty Data Slurps to Top EU Court, Privacy Groups Urge.” *The Register*, June 26, 2018. https://www.theregister.com/2018/06/26/cjeu_member_states_unlawful_data_retention/.

Hirsch, Burkhard. 2019. “Ein Albtraum Kehrt Zurück.” *Süddeutsche Zeitung*, August 9, 2019. https://www.sueddeutsche.de/politik/gastkommentar-ein-albtraum-kehrt-zurueck-1.4558638.

Hodwitz, Omi. 2019. “NGOs and the Challenge of Global Terrorism.” In *Routledge Handbook of NGOs and International Relations*, edited by Thomas Davies, 587–605. Routledge handbooks. London, New York: Routledge.

Hoffman, Paul. 2004. “Human Rights and Terrorism.” *Human Rights Quarterly* 26 (4): 932–55. http://www.jstor.org/stable/20069768.

Hooghe, Liesbet, and Gary Marks. 2009. “A Postfunctionalist Theory of European Integration: From Permissive Consensus to Constraining Dissensus.” *British Journal of Political Science* 39 (1): 1–23. https://doi.org/10.1017/S0007123408000409.

Hornung, Gerrit, Ralf Bendrath, and Andreas Pfitzmann. 2010. “Surveillance in Germany: Strategies and Counterstrategies.” In *Data Protection in a Profiled World*, edited by Serge Gutwirth, Yves Poullet, and Paul de Hert, 139–56. Dordrecht: Springer.

Hötzendorfer, Walter, and Bijan Moini. *#NoPNR – Let’s Kill the Next Data Retention Law: How to Stop the Dubious Use of Passenger Name Records by Law Enforcement*. With the assistance of media.ccc.de, 2019. Video. Accessed July 04, 2022. https://media.ccc.de/v/36c3-10919-nopnr_let_s_kill_the_next_data_retention_law#t=57.

Hülsmann, Werner. 2004. “Pressrelease (The EU Wants to Know).” News release. September 30, 2004. https://www.statewatch.org/media/documents/news/2004/sep/prel-trafficdata-retention.pdf.

Hülsmann, Werner. 2005. “TK-Vorratsdatenspeicherung Ist Keine Lösung – Und Zudem Verfassungswidrig: Internationale Petition Gegen Vorratsdatenspeicherung.” News release. August 1, 2005. https://www.datenschutzverein.de/wp-content/uploads/2013/11/2005_dataretention.pdf.

Hurrelmann, Achim, Anna Gora, and Andrea Wagner. 2015. “The Politicization of European Integration: More Than an Elite Affair?” *Political Studies* 63 (1): 43–59. https://doi.org/10.1111/1467-9248.12090.

Hutter, Swen, and Edgar Grande. 2014. “Politicizing Europe in the National Electoral Arena: A Comparative Analysis of Five West European Countries, 1970-2010.” *Journal of Common Market Studies* 52 (5): 1002–18. https://doi.org/10.1111/jcms.12133.

Hutter, Swen, and Hanspeter Kriesi. 2019. “Politicizing Europe in Times of Crisis.” *Journal of European Public Policy* 26 (7): 996–1017. https://doi.org/10.1080/13501763.2019.1619801.

Hynes, Marie. 2011. “Statewatch Analysis: Proposal for a Directive on the Use of Passenger Name Record Data for the Prevention, Detection, Investigation and Prosecution of Terrorist

Offences and Serious Crime." https://www.statewatch.org/media/documents/analyses/no-126-eu-pnr.pdf.

Indiegogo. n.d. "No Mass Surveillance of Air Passengers." Accessed July 03, 2022. https://www.indiegogo.com/projects/no-mass-surveillance-of-air-passengers#/.

Information Technology Association of America. 2005. "ITAA Comments: On the 27 July 2005 European Commission Interservice Consultation Proposal for a Data Retention Directive." https://www.statewatch.org/media/documents/news/2005/sep/itaa-data-ret.pdf.

International and Air Transport Association. 2020. "Feedback on the EC Roadmap ''External Dimension of the EU Policy on Passenger Name Records''." https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12531-Air-travel-sharing-passenger-name-data-within-the-EU-and-beyond-assessment-/F550074_en.

International Campaign Against Mass Surveillance. 2005. "The Emergence of a Global Infrastructure for Mass Registration and Surveillance." https://www.statewatch.org/media/documents/news/2005/apr/icams-report.pdf.

International Commission of Jurists. 2020. "European Union: Independent Judiciary and Effective Remedies Must Be at the Core of the EU Regulation on "Terrorist Content Online", Warns ICJ." Accessed July 07, 2022. https://www.icj.org/european-union-independent-judiciary-and-effective-remedies-must-be-at-the-core-of-the-eu-regulation-on-terrorist-content-online-warns-icj/.

International Federation for Human Rights. n.d. "International Federation for Human Rights." Accessed June 28, 2022. https://www.fidh.org/en/about-us/What-is-FIDH/.

Internet Governance Forum. 2018. "IGF 2018 Speech by French President Emmanuel Macron." Accessed July 07, 2022. https://www.intgovforum.org/multilingual/content/igf-2018-speech-by-french-president-emmanuel-macron.

Iuridicum Remedium. 2018. "Big Brother Awards – Tips and Materials for Organisers." Accessed June 27, 2022. https://edri.org/our-work/big-brother-awards-tips-and-materials-for-organisers/.

Jelinek, Andrea. 2021a. "Letter to European Commission." Accessed December 02, 2022. https://edpb.europa.eu/sites/default/files/files/file1/edpb_letteronreviewpnrdirective.pdf.

Jelinek, Andrea. 2021b. "Letter to Sophie in't Veld MEP." Accessed December 02, 2022. https://edpb.europa.eu/sites/default/files/files/file1/edpb_lettertomepintveldonreviewpnrdirective.pdf.

Joachim, Jutta, and Matthias Dembinski. 2011. "A Contradiction in Terms? NGOs, Democracy, and European Foreign and Security Policy." *Journal of European Public Policy* 18 (8): 1151–68. https://doi.org/10.1080/13501763.2011.615204.

Joachim, Jutta, and Birgit Locher. 2009a. "Transnational Activism in the EU and the UN." In Joachim and Locher 2009, 3–18.

Joachim, Jutta, and Birgit Locher, eds. 2009b. *Transnational Activism in the UN and the EU: A Comparative Study.* Milton Park, Abingdon, Oxon, New York, NY: Routledge.

Joachim, Jutta, and Birgit Locher. 2009c. "Worlds Apart or Worlds Together? Transnational Activism in the UN and the EU." In Joachim and Locher 2009, 171–82.

Joe McNamee, Executive Director, European Digital Rights. 2015. Letter by email to First Vice-President Timmermans. Accessed December 02, 2022. https://edri.org/files/DR_EDRi_letter_CJEU_Timmermans_20150702.pdf.

jointdeclaration.com. n.d. "Joint Declaration on Data Retention." Accessed July 01, 2022. http://www.jointdeclaration.com/signatures.htm.

Jones, Chris. 2014. “EU Law Analysis: National Legal Challenges to the Data Retention Directive.” Accessed June 28, 2022. http://eulawanalysis.blogspot.com/2014/04/national-legal-challenges-to-data.html.

Judith van Erve, XS4ALL Public Affairs, ISPO. 2005. “Commentary Dutch ISP’s on EC Proposal on Data Retention.” Letter to Viviane Reding, European Commission, Commissioner for Information Society and Media. Accessed December 02, 2022. https://www.statewatch.org/media/documents/news/2005/sep/dutch-data-ret.pdf.

Juncker, Jean-Claude. 2016. “Jean-Claude Juncker to Julian King, Commissioner for the Security Union: A Mission Letter.” *Vocal Europe*, August 3, 2016. https://www.vocaleurope.eu/jean-claude-juncker-to-julian-king-commissioner-for-the-security-union-a-mission-letter/.

Kaltseis, Karin. 2017. “Stellungnahme Im Begutachtungsverfahren Zum Ministerialentwurf Des Innenministeriums, Mit Dem Das Sicherheitspolizeigesetzes, Das Bundesstraßen-Mautgesetzes 2002, Die Straßenverkehrsordnung 1960 Und Das Telekommunikationsgesetzes 2003 Geändert Werden (326/ME).” https://www.parlament.gv.at/PAKT/VHG/XXV/SNME/SNME_30333/imfname_667651.pdf.

Kant, Martina. 2005. “Vorratsdatenspeicherung Ist Keine Lösung!”. Accessed June 30, 2022. https://www.humanistische-union.de/publikationen/mitteilungen/190/publikation/vorratsdatenspeicherung-ist-keine-loesung/.

Karns, Margaret P., and Karen A. Mingst. 2010. *International Organizations: The Politics and Processes of Global Governance.* 2nd ed. Boulder, Colo. Rienner.

Kaunert, Christian. 2010a. “The Area of Freedom, Security and Justice in the Lisbon Treaty: Commission Policy Entrepreneurship?” *European Security* 19 (2): 169–89. https://doi.org/10.1080/09662839.2010.531705.

Kaunert, Christian. 2010b. “Towards Supranational Governance in EU Counter-Terrorism? - the Role of the Commission and the Council Secretariat.” *Central European Journal of International & Security Studies* 4 (1): 8–31.

Kaunert, Christian, and Sarah Léonard. 2019. “The Collective Securitisation of Terrorism in the European Union.” *West European Politics* 42 (2): 261–77. https://doi.org/10.1080/01402382.2018.1510194.

Kaunert, Christian, Sarah Léonard, and Alex MacKenzie. 2012. “The Social Construction of an EU Interest in Counter-Terrorism: US Influence and Internal Struggles in the Cases of PNR and SWIFT.” *European Security* 21 (4): 474–96. https://doi.org/10.1080/09662839.2012.688812.

Kaye, David, Joseph Cannataci, and Fionnuala Ní Aoláin. 2018. “Mandates of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression; the Special Rapporteur on the Right to Privacy and the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism.” OL OTH 71/2018. https://www.statewatch.org/media/documents/news/2018/dec/eu-terrorist-content-un-srs-letter-7-12-18.pdf.

Kayyali, Dia. 2019. “WITNESS Brings Together Voices to Push Back on Dangerous EU “Dissemination of Terrorist Content” Proposal.” Accessed July 07, 2022. https://blog.witness.org/2019/01/witness-brings-together-voices-push-back-dangerous-dissemination-terrorist-content-proposal-civil-society-letter/.

Keating, Dave. 2015. “Push to Put Air-Passenger Data on a Fast Track.” *POLITICO*, January 22, 2015. https://www.politico.eu/article/push-to-put-air-passenger-data-on-a-fast-track/.

Keck, Margaret Elizabeth, and Kathryn Sikkink. 1998. *Activists Beyond Borders: Advocacy Networks in International Politics.* Ithaca, NY and London: Cornell University Press.

Keller, Daphne. 2019. “The CJEU’s New Filtering Case, the Terrorist Content Regulation, and the Future of Filtering Mandates in the EU.” Accessed July 07, 2022. https://cyberlaw.stanford.edu/blog/2019/12/cjeu%E2%80%99s-new-filtering-case-terrorist-content-regulation-and-future-filtering-mandates-eu.

Keohane, Daniel. 2008. “The Absent Friend: EU Foreign Policy and Counter-Terrorism.” *Journal of Common Market Studies* 46 (1): 125–46. https://doi.org/10.1111/j.1468-5965.2007.00770.x.

Keohane, David. 2005. “The EU and International Terrorism.” In *Securing the European Homeland: The EU, Terrorism and Homeland Security*, edited by Bertelsmann Stiftung, 7–21. Gütersloh.

Klein, Ansgar, and Silke Roth, eds. 2007. *NGOs im Spannungsfeld von Krisenprävention und Sicherheitspolitik.* Wiesbaden: VS Verlag für Sozialwissenschaften.

Klopp, Tina. 2009. “Bunter Protest Gegen Überwachung.” *Die Zeit*, September 12, 2009. https://www.zeit.de/digital/2009-09/Freiheit-statt-Angst-Demo?utm_referrer=https%3A%2F%2Fwww.google.com%2F.

Kokott, J., and C. Sobotta. 2012. “The Kadi Case - Constitutional Core Values and International Law - Finding the Balance?” *European Journal of International Law* 23 (4): 1015–24. https://doi.org/10.1093/ejil/chs063.

Kollman, Ken. 1998. *Outside Lobbying: Public Opinion and Interest Group Strategies.* Princeton, NJ: Princeton Univ. Press.

Korte, Jan. 2015. “110.000 Stimmen Gegen Die Vorratsdatenspeicherung.” Accessed June 30, 2022. https://www.linksfraktion.de/themen/nachrichten/detail/110000-stimmen-gegen-die-vorratsdatenspeicherung/.

Krempl, Stefan. 2005. “EU-Verhandlungen Zur Vorratsdatenspeicherung Verzögern Sich.” *heise online*, April 7, 2005. https://www.heise.de/newsticker/meldung/EU-Verhandlungen-zur-Vorratsdatenspeicherung-verzoegern-sich-151135.html.

Krempl, Stefan. 2006. “Demo in Berlin: Aufruf Zum Stopp Der "Grundrechtsterroristen".” *heise online*, June 17, 2006. https://www.heise.de/newsticker/meldung/Demo-in-Berlin-Aufruf-zum-Stopp-der-Grundrechtsterroristen-133517.html.

Krempl, Stefan. 2007. “Über 1000 Demonstranten Protestierten Gegen Den Überwachungsstaat.” *heise online*, April 14, 2007. https://www.heise.de/newsticker/meldung/ueber-1000-Demonstranten-protestierten-gegen-den-ueberwachungsstaat-167373.html.

Krempl, Stefan. 2015a. “Merkel Drängt Auf Vorratsdatenspeicherung Nach Pariser Anschlägen.” *heise online*, January 14, 2015. https://www.heise.de/newsticker/meldung/Merkel-draengt-auf-Vorratsdatenspeicherung-nach-Pariser-Anschlaegen-2517587.html.

Krempl, Stefan. 2015b. “Französische Filesharer Könnten Auf No-Fly-Liste Landen.” *heise online*, April 1, 2015. https://www.heise.de/newsticker/meldung/Franzoesische-Filesharer-koennten-auf-No-Fly-Liste-landen-2593813.html.

Krempl, Stefan. 2016. “EU-Staaten Legen Pilotprojekt Zum Austausch Von Fluggastdaten Auf.” *heise online*, April 4, 2016. https://www.heise.de/newsticker/meldung/EU-Staaten-legen-Pilotprojekt-zum-Austausch-von-Fluggastdaten-auf-3161587.html.

Krempl, Stefan. 2019a. “Massenüberwachung: Bürgerrechtler Klagen Gegen Fluggastdatenspeicherung.” *heise online*, May 14, 2019.

https://www.heise.de/newsticker/meldung/Massenueberwachung-Buergerrechtler-klagen-gegen-Fluggastdatenspeicherung-4421580.html.

Krempl, Stefan. 2019b. “Vorratsdatenspeicherung: Zivilgesellschaft Sieht Neue EU-Kommissionspräsidentin Am Zug.” *heise online*, July 24, 2019. https://www.heise.de/newsticker/meldung/Vorratsdatenspeicherung-Zivilgesellschaft-sieht-neue-EU-Kommissionspraesidentin-am-Zug-4478085.html.

Kriesi, Hanspeter, Anke Tresch, and Margit Jochum. 2007. “Going Public in the European Union.” *Comparative Political Studies* 40 (1): 48–73. https://doi.org/10.1177/0010414005285753.

krone.at. 2019. “Fluggastdaten - Aktivisten Klagen Gegen „Rasterfahndung Am Himmel“.” *Kronen Zeitung*, May 15, 2019. https://www.krone.at/1922561.

Küchler, Teresa. 2005. “Arguments Continue on Eve of Data Retention D-Day.” Accessed June 30, 2022. https://euobserver.com/rule-of-law/20540.

Kuner, Christopher. 2014. “The European Union and the Search for an International Data Protection Framework.” *Groningen Journal of International Law* 2 (2): 55–71.

L, Bastien. 2018. “Données Téléphoniques : 62 Plaintes Contre La Rétention Par Les Opérateurs.” *Lebigdata.fr*, June 26, 2018. https://www.lebigdata.fr/donnees-telephoniques-retention-plaintes.

La Quadrature du Net. n.d.a. “About Us.” Accessed June 28, 2022. https://www.laquadrature.net/about/.

La Quadrature du Net. n.d.b. “Anti-Terrorist Regulation.” Accessed July 05, 2022. https://www.laquadrature.net/en/terreg/.

La Quadrature du Net. n.d.c. “Rallumez Les Ombres, Faites Un Don À La Quadrature Du Net.” Accessed June 28, 2022. https://www.laquadrature.net/donner/.

La Quadrature du Net. n.d.d. “Who Are We?” Accessed June 28, 2022. https://www.laquadrature.net/en/who-are-we/.

La Quadrature du Net. 2014. “Data Retention: EU Court of Justice Denounces Mandatory Data Retention.” Accessed July 01, 2022. https://www.laquadrature.net/en/2014/04/08/data-retention-eu-court-of-justice-denounces-mandatory-data-retention/.

La Quadrature du Net. 2015. “[TechDirt] European Parliament Study Likely to Boost Legal Challenges to Blanket Data Retention in Europe.” Accessed July 01, 2022. https://www.laquadrature.net/en/2015/01/13/techdirt-european-parliament-study-likely-to-boost-legal-challenges-to-blanket-data-retention-in-eur/.

La Quadrature du Net. 2018a. “61 Organisations Ask Macron to Give up Its Antiterrorism Censorship Project.” Accessed July 07, 2022. https://www.laquadrature.net/en/2018/12/03/44-organisations-ask-emmanuel-macron-to-give-up-its-antiterrorism-censorship-project/.

La Quadrature du Net. 2018b. “Antiterrorist Censorship: The EU Commission Wants to Kill the Decentralized Internet.” Accessed July 05, 2022. https://www.laquadrature.net/en/2018/09/12/new_terro_regulation/.

La Quadrature du Net. 2018c. “La Quadrature Is Ten Years Old! Assessing the Past and Opening Fresh Perspectives.” Accessed June 28, 2022. https://www.laquadrature.net/en/2018/05/11/2017_strategic_review/.

La Quadrature du Net. 2018d. “Massive Claims Against Unlawful Data Retention.” Accessed July 01, 2022. https://www.laquadrature.net/en/2018/06/25/stopdataretention-2/.

La Quadrature du Net. 2020. “Surveillance: Victory in Defeat.” News release. October 6, 2020. Accessed July 01, 2022. https://www.laquadrature.net/en/2020/10/06/surveillance-victory-in-defeat/.

La Quadrature du Net. 2021a. “La Quadrature Joins EDRi as a Member.” Accessed June 28, 2022. https://www.laquadrature.net/en/2021/04/29/la-quadrature-joins-edri-as-a-member/.

La Quadrature du Net. 2021b. “Lettre Commune D'organisations Françaises Contre Le Règlement De Censure Terroriste.” Accessed July 07, 2022. https://www.laquadrature.net/2021/04/22/lettre-commune-dorganisations-francaises-contre-le-reglement-de-censure-terroriste/.

Lamont, Christopher K. 2015. *Research Methods in International Relations.* Los Angeles: SAGE.

Lavenex, Sandra. 2006. “Shifting up and Out: The Foreign Policy of European Immigration Control.” *West European Politics* 29 (2): 329–50. https://doi.org/10.1080/01402380500512684.

Lavenex, Sandra. 2015. “Justice and Home Affairs: Institutional Change and Policy Continuity.” In *Policy-Making in the European Union*, edited by Helen Wallace, Mark A. Pollack, and Alasdair R. Young. 7th ed., 367–87. The new European Union series. Oxford: Oxford University Press.

Leitsätze Zum Urteil Des Ersten Senats Vom 2. März 2010. Bundesverfassungsgericht. https://www.bundesverfassungsgericht.de/e/rs20100302_1bvr025608.html.

Lenaerts, Koen. 2010. “The Contribution of the European Court of Justice to the Area of Freedom, Security and Justice.” *The International and Comparative Law Quarterly* 59 (2): 255–301. http://www.jstor.org/stable/40835391.

Lenaerts, Koen. 2014. “The Kadi Saga and the Rule of Law Within the EU.” *SMU Law Review* 67 (4): 707–15.

Léonard, Sarah. 2010. “The Use and Effectiveness of Migration Controls as a Counter-Terrorism Instrument in the European Union.” *Central European Journal of International and Security Studies* 4 (1): 32–50.

Les Exégètes Amateurs. 2018a. “Application of the Tele2 Sverige/Watson Jurisprudence Throughout Europe: Letter to European Commission.” Accessed December 02, 2022. https://stopdataretention.eu/stop_data_retention_open_letter.pdf.

Les Exégètes Amateurs. 2018b. “About Us.” Accessed July 02, 2022. https://exegetes.eu.org/en/about/.

Liedlbauer, Lina. 2021. “Politicising European Counter-Terrorism: The Role of NGOs.” *European Security* 30 (3): 485–503. https://doi.org/10.1080/09662839.2021.1947802.

Liga voor Mensenrechten. n.d. “Prijs Voor Mensenrechten 2021/2022.” Accessed June 28, 2022. https://prijs.mensenrechten.be/nl/.

Liga voor Mensenrechten. 2020. “Member in the Spotlight: Liga Voor Mensenrechten (League for Human Rights).” Accessed June 28, 2022. https://edri.org/our-work/member-in-the-spotlight-liga-voor-mensenrechten-league-for-human-rights/.

Ligue des droits humains. n.d.a. “Histoire.” Accessed June 28, 2022. https://www.liguedh.be/la-ldh/histoire/.

Ligue des droits humains. n.d.b. “Qui Sommes-Nous ?” Accessed June 28, 2022. https://www.liguedh.be/la-ldh/qui-sommes-nous/.

Ligue des droits humains. n.d.c. “Rapport Annuel 2020: Défendre Vos Droits Au Quotidien!”. https://www.liguedh.be/wp-content/uploads/2021/11/Rapport_annuel_LDH_2020-final.pdf.

Lipson, Charles. 2005. *How to Write a BA Thesis: A Practical Guide from Your First Ideas to Your Finished Paper.* Chicago guides to writing, editing, and publishing. Chicago, Ill. Univ. of Chicago Press. http://www.loc.gov/catdir/enhancements/fy0617/2004026816-b.html.

Lomas, Natasha. 2017. “EU States' Data Retention Laws Still Violating Privacy Rights, Report Warns.” *TechCrunch*, September 6, 2017. https://techcrunch.com/2017/09/06/eu-states-data-retention-laws-still-violating-privacy-rights-report-warns/?guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAACgfaqJtwjAL6Lfm0Cslcy8aLIgLUM4G_cJ8dLF4G60plPSvMQV05IPSBCzaqDPw_180vkLpqLJ_-OTQgZDs_-unXBcWV1l0Pcx94pC9JB-iN9ePAg5GDe1NyPA8xKQcTtEoT53DJW8JZy96Me5kPL8gRiBv-wIJr_KMeZqbTi6B&guccounter=2.

Londras, Fiona de, and Josephine Doody, eds. 2015. *The Impact, Legitimacy and Effectiveness of EU Counter-Terrorism.* Routledge research in terrorism and the law. London: Routledge.

Lüttcher, Beatrice. 2004. “Stellungnahme Gegen Vorratsdatenspeicherung.” Accessed July 01, 2022. https://netzpolitik.org/2004/stellungnahme-gegen-vorratsdatenspeicherung/.

Lutterbeck, Derek. 2005. “Blurring the Dividing Line: The Convergence of Internal and External Security in Western Europe.” *European Security* 14 (2): 231–53. https://doi.org/10.1080/09662830500336193.

Luyten, Katrien. 2021. “Briefing: Addressing the Dissemination of Terrorist Content Online.” https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/649326/EPRS_BRI(2020)649326_EN.pdf.

M - Menschen Machen Medien. 2016. “Ver.Di Unterstützt Verfassungsklage Gegen Speicherung Von Vorratsdaten.” Accessed July 01, 2022. https://mmm.verdi.de/medienpolitik/ver-di-unterstuetzt-verfassungsklage-gegen-speicherung-von-vorratsdaten-36321.

Mahony, Honor. 2010. “German Court Strikes Blow Against EU Data-Retention Regime.” *EUobserver*, March 3, 2010. https://euobserver.com/news/29595.

Malmström, Cecilia. 2014. “Speech: Strengthening the EU's Response to Radicalisation and Violent Extremism.” https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_14_19.

Mańko, Rafał. 2019. “Role of Advocates General at the Court of Justice.” News release. 2019. https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/642237/EPRS_BRI(2019)642237_EN.pdf.

Maricut, Adina. 2016. “With and Without Supranationalisation: The Post-Lisbon Roles of the European Council and the Council in Justice and Home Affairs Governance.” *Journal of European Integration* 38 (5): 541–55. https://doi.org/10.1080/07036337.2016.1178253.

Maricut-Akbik, Adina. 2019. “EU Politicization Beyond the Euro Crisis: Immigration Crises and the Politicization of Free Movement of People.” *Comparative European Politics* 17 (3): 380–96. https://doi.org/10.1057/s41295-018-0113-6.

Marshall, John. 2021. “Rights groups slam EU online terrorist content law.” Accessed July 07, 2022. https://www.dw.com/en/rights-groups-slam-eu-online-terrorist-content-law/a-56982510.

Martin-Mazé, Médéric, Burgess, and J. Peter. 2015. “The Social Impact of European Counter-Terrorism.” In Londras and Doody 2015, 93–113.

Martins, Bruno Oliveira, and Monika Ziegler. 2018. “Counter-Radicalization as Counter-Terrorism: The European Union Case.” In *Expressions of Radicalization*, edited by Kristian Steiner and Andreas Önnerfors, 321–52. Cham: Springer International Publishing.

Massé, Estelle. 2015a. “Leaked: European Parliament Long Awaited Legal Study on Data Retention - Access Now.” Accessed July 01, 2022. https://www.accessnow.org/leaked-european-parliament-long-awaited-legal-study-on-data-retention/.

Massé, Estelle. 2015b. “Parliament Votes to Push Forward Its Agenda on EU-PNR.” Accessed July 03, 2022. https://www.accessnow.org/parliament-votes-to-push-forward-its-agenda-eu-pnr/.

Mayring, Philipp. 2015. *Qualitative Inhaltsanalyse: Grundlagen und Techniken.* 12. Auflage. Beltz Pädagogik. Weinheim: Beltz. http://nbn-resolving.org/urn:nbn:de:bsz:31-epflicht-1143991.

McIntyre, T. J. 2013. “Big Brother Is Watching.” *POLITICO*, December 18, 2013. https://www.politico.eu/article/big-brother-is-watching/.

Mcnamee, Joe, Kerstin Fiedler, Marie Humeau, and Daniel Dimov. “EU Surveillance: A Summary of Current EU Surveillance and Security Measures.” The EDRi papers Edition 02. https://www.edri.org/files/2012EDRiPapers/eusurveillance.pdf.

Meijers Committee. 2011. “E-Mail to Cecilia Malmström, Commissioner for Home Affairs: Regarding Directive on the Use of PNR Data for the Prevention, Detection, Investigation and Prosecution of Terrorist Offences and Serious Crime (COM(2011)32).” https://www.statewatch.org/media/documents/news/2011/jul/maijers-cttee-eu-pnr-opinion.pdf.

Meissner, Katharina L., and Magnus G. Schoeller. 2019. “Rising Despite the Polycrisis? The European Parliament’s Strategies of Self-Empowerment After Lisbon.” *Journal of European Public Policy* 26 (7): 1075–93. https://doi.org/10.1080/13501763.2019.1619187.

Meister, Andre. 2015. “Leak: EU-Kommission Macht Neuen Vorschlag Für Anlasslose Vorratsdatenspeicherung Aller Fluggastdaten Für Fünf Jahre.” Accessed July 03, 2022. https://netzpolitik.org/2015/leak-eu-kommission-macht-neuen-vorschlag-fuer-anlasslose-vorratsdatenspeicherung-aller-fluggastdaten-fuer-fuenf-jahre/.

Meuser, Michael, and Ulrike Nagel. 1991. “ExpertInneninterviews - vielfach erprobt, wenig bedacht. Ein Beitrag zur qualitativen Methodendiskussion.” In *Qualitativ-empirische Sozialforschung: Konzepte, Methoden, Analysen*, edited by Detlef Garz and Klaus Kraimer, 441–71. Opladen: Westdt. Verl.

Meuser, Michael, and Ulrike Nagel. 2009. “The Expert Interview and Changes in Knowledge Production.” In *Interviewing Experts*, edited by Alexander Bogner, Beate Littig, and Wolfgang Menz, 17–42. ECPR Research Methods: Palgrave Macmillan, London.

Meyer, David. 2015. “POLITICO Pro’s Morning Tech: Freedom of Panorama — Right to Fast Broadband — Data Retention.” *POLITICO*, July 3, 2015. https://www.politico.eu/article/politico-pros-morning-tech-freedom-of-panorama-right-to-fast-broadband-data-retention/.

Michalowitz, Irina. 2019. “Lobbying and Public Affairs: Voice, Access, Litigation.” In *Handbuch Politikberatung*, edited by Svenja Falk, Manuela Glaab, Andrea Römmele, Henrik Schober, and Martin Thunert. 2., völlig neu bearbeitete Auflage, 503–16. Springer eBooks. Wiesbaden: Springer VS.

Miklin, Eric. 2014. “From ‘Sleeping Giant’ to Left-Right Politicization? National Party Competition on the EU and the Euro Crisis.” *Journal of Common Market Studies* 52 (6): 1199–1206. https://doi.org/10.1111/jcms.12188.

Milieu. 2020. “Study on the Retention of Electronic Communications Non-Content Data for Law Enforcement Purposes: Final Report.” https://www.statewatch.org/media/1453/eu-com-study-data-retention-10-20.pdf.

Mitsilegas, Valsamis. 2016. “Rule of Law: Theorizing EU Internal Security Cooperation from a Legal Perspective.” In *Theorizing Internal Security Cooperation in the European Union*, edited by Raphael Bossong and Mark Rhinard. First edition, 109–28. Oxford, New York, NY: Oxford University Press.

Mitsilegas, Valsamis, and Niovi Vavoula. 2016. “The Evolving EU Anti-Money Laundering Regime: Challenges for Fundamental Rights and the Rule of Law.” *Maastricht Journal of European and Comparative Law.* 23 (2): 261–93.

Mitteldeutscher Rundfunk. 2018. “Das Altpapier Am 5. Juni 2018: Alles Bleibt in Den Rahmen.” *Mitteldeutscher Rundfunk*, June 5, 2018. https://www.mdr.de/altpapier/das-altpapier-498.html.

Moechel, Erich. 2018. “Terror Als Vorwand Der EU-Kommission Für Copyrightfilter.” Accessed July 05, 2022. https://fm4.orf.at/stories/2896057/.

Moechel, Erich. 2019a. “Neue EU-Vorratsdatenspeicherung Auf Initiative Österreichs.” Accessed June 30, 2022. https://fm4.orf.at/stories/2975759/.

Moechel, Erich. 2019b. “Überwachungs-Overkill Im EU-Ministerrat Ab Donnerstag - Fm4.ORF.At.” Accessed June 30, 2022. https://fm4.orf.at/stories/2984791/.

Moechel, Erich. 2020. “Abkommen Zur Datenweitergabe EU-USA Wackeln.” Accessed July 04, 2022. https://fm4.orf.at/stories/3006843/.

Moechel, Erich. 2021. “EuGH-Entscheidung Zu Flugpassagierdaten Rückt Näher.” Accessed July 04, 2022. https://fm4.orf.at/stories/3014882/.

Möller, Ute. 2015. “Fisch Oder Fleisch? Demo Gegen Datenspeicherung Bei Flügen.” *Nordbayern.de*, April 12, 2015. https://www.nordbayern.de/region/nuernberg/fisch-oder-fleisch-demo-gegen-datenspeicherung-bei-flugen-1.4312461.

Monar, Jörg. 2001. “The Dynamics of Justice and Home Affairs: Laboratories, Driving Factors and Costs.” *Journal of Common Market Studies* 39 (4): 747–64. https://doi.org/10.1111/1468-5965.00329.

Monar, Jörg. 2006. “Cooperation in the Justice and Home Affairs Domain: Characteristics, Constraints and Progress.” *Journal of European Integration* 28 (5): 495–509. https://doi.org/10.1080/07036330600979797.

Monar, Jörg. 2007. “Common Threat and Common Response? The European Union's Counter-Terrorism Strategy and Its Problems.” *Government and Opposition* 42 (3): 292–313. https://doi.org/10.1111/j.1477-7053.2007.00225.x.

Monar, Jörg. 2008. “The European Union as a Collective Actor in the Fight Against Post-9/11 Terrorism: Progress and Problems of a Primarily Cooperative Approach.” In *Fresh Perspectives on the 'War on Terror'*, edited by Miriam Gani and Penelope Mathew, 209–33: ANU Press. http://www.jstor.org/stable/j.ctt24hf7j.18.

Monroy, Matthias. 2020. “Deutsche Ratspräsidentschaft: EU-Staaten Diskutieren Nachverfolgung Von Corona-Infektionen Mit Passagierdaten.” Accessed July 04, 2022. https://netzpolitik.org/2020/deutsche-ratspraesidentschaft-eu-staaten-diskutieren-nachverfolgung-von-corona-infektionen-mit-passagierdaten/.

Moody, Glyn. 2015a. “Digital Rights Group and ISPs Bring Legal Challenge Against New French Surveillance Law.” Accessed July 01, 2022. https://www.techdirt.com/2015/02/24/digital-rights-group-isps-bring-legal-challenge-against-new-french-surveillance-law/.

Moody, Glyn. 2015b. “European Parliament Study Likely to Boost Legal Challenges to Blanket Data Retention in Europe.” Accessed July 01, 2022. https://www.techdirt.com/2015/01/09/european-parliament-study-likely-to-boost-legal-challenges-to-blanket-data-retention-europe/.

Moody, Glyn. 2018. “Over 60 Organizations Want Sanctions for EU Nations' Failure to Repeal 'Invalid' Data Retention Laws.” Accessed June 30, 2022. https://www.techdirt.com/2018/07/02/over-60-organizations-want-sanctions-eu-nations-failure-to-repeal-invalid-data-retention-laws/.

Mrohs, Lorenz. 2019. “Bürgerrechtsorganisationen Klagen Gegen Vorratsdatenspeicherung Der Lüfte.” Accessed July 04, 2022. https://netzpolitik.org/2019/buergerrechtsorganisationen-klagen-vorratsdatenspeicherung-der-luefte/.

Mrohs, Lorenz, Andre Meister, Anna Biselli, and Alexander Fanta. 2019. “Europa-Übersicht: Wo Die Vorratsdatenspeicherung in Kraft Ist Und Was Die EU Plant.” Accessed June 28, 2022. https://netzpolitik.org/2019/vorratsdatenspeicherung-in-europa-wo-sie-in-kraft-ist-und-was-die-eu-plant/.

Mühlbauer, Peter. 2008. “Forsa-Umfrage: Vorratsdatenspeicherung Beeinflusst Telefonierverhalten.” *heise online*, June 4, 2008. https://www.heise.de/newsticker/meldung/Forsa-Umfrage-Vorratsdatenspeicherung-beeinflusst-Telefonierverhalten-211882.html.

Mühlbauer, Peter. 2019. “EU Arbeitet an Neuer Vorratsdatenspeicherung.” *heise online*, April 15, 2019. https://www.heise.de/tp/features/EU-arbeitet-an-neuer-Vorratsdatenspeicherung-4399977.html.

Murphy, Cian C. 2015. *EU Counter-Terrorism Law: Pre-Emption and the Rule of Law.* Expanded paperback ed. Modern studies in European law 31. Oxford: Hart.

Murphy, Cian C. 2019. “EU Counter-Terrorism Law: What Kind of Exemplar of Transnational Law?” *Camb. Yearb. Eur. Legal Stud.* 21:217–42. https://doi.org/10.1017/cel.2019.7.

Net Users’ Rights Protection Association. 2015. “The Constitutional Court Repeals the Transposition of the Data Retention Directive.” Accessed July 01, 2022. https://nurpa.be/actualites/2015/06/const-court-repeals-data-retention-belgium.

netCommons. n.d. “The NetCommons Project.” Accessed July 01, 2022. https://netcommons.eu/.

netCommons. 2017a. “EU Parliament Workshop on Community Networks and Telecom Regulation.” Accessed July 01, 2022. https://netcommons.eu/?q=content/eu-parliament-workshop-community-networks-and-telecom-regulation.

netCommons. 2017b. “Open Letter to EU Policy Makers on Community Networks: Joint Press Release.” News release. March 16, 2017. Accessed July 01, 2022. https://netcommons.eu/index.html%3Fq=news%252Fopen-letter-eu-policy-makers-community-networks.html.

netCommons. 2018. “Data Retention and Telecommunication Providers: New EU Parliament Meeting.” Accessed July 01, 2022. https://netcommons.eu/?q=content/data-retention-and-telecommunication-providers-new-eu-parliament-meeting.

netzpolitik.org. 2015. “European Digital Rights Ruft EU-Kommission Auf, Illegale Gesetze Zur Vorratsdatenspeicherung in Der EU Zu Prüfen.” Accessed July 01, 2022. https://netzpolitik.org/2015/european-digital-rights-ruft-die-europaeische-kommission-dazu-auf-illegale-gesetze-zur-vorratsdatenspeicherung-in-der-eu-zu-pruefen/.

Neue Richtervereinigung. 2011. “Aktuelle Diskussion Zum Thema „Vorratsdatenspeicherung“: Bundesministerium Der Justiz.” Letter. https://www.neuerichter.de/fileadmin/user_upload/bundesvorstand/pdfs/BuVo-2011-01-05_Vorratsdaten.pdf.

Neuhold, Christine, and Guri Rosén. 2019. “Introduction to “Out of the Shadows, into the Limelight: Parliaments and Politicisation”.” *Politics and Governance* 7 (3): 220. https://doi.org/10.17645/pag.v7i3.2443.

Niekrenz, Elisabeth. 2019. “Digitale Gesellschaft Kritisiert EU-Verordnungsentwurf Zur Verhinderung Der Verbreitung Terroristischer Online-Inhalte in Offenem Brief.” Accessed July 07, 2022. https://digitalegesellschaft.de/2019/02/digitale-gesellschaft-kritisiert-eu-verordnungsentwurf-zur-verhinderung-der-verbreitung-terroristischer-online-inhalte-in-offenem-brief/.

Nielsen, Nikolaj. 2014a. “EU Funds Airline Data-Sharing Despite Legal Concerns.” Accessed July 03, 2022. https://euobserver.com/rule-of-law/126663.

Nielsen, Nikolaj. 2014b. “MEPs Want Answers on Luxembourg Leaks This WEEK.” Accessed July 02, 2022. https://euobserver.com/agenda/126440.

Nielsen, Nikolaj. 2022. “EU Passport-Free Travel at Risk, Tusk Warns.” Accessed June 25, 2022. https://euobserver.com/rule-of-law/127196.

Nilsson, Hans. 2007. “Judicial Cooperation in Europe Against Terrorism.” In Spence 2007, 71–87.

No PNR. n.d. “Legal Actions.” Accessed July 04, 2022. https://nopnr.eu/en/legalactions/.

Novak, Benjamin. 2020. “Top E.U. Court Rules Against Hungary’s N.G.O. Law.” *The New York Times*, June 18, 2020. https://www.nytimes.com/2020/06/18/world/europe/hungary-eu-ngo-law.html.

Nullmeier, Frank. 2021. *Kausale Mechanismen und Process Tracing: Perspektiven der qualitativen Politikforschung.* Frankfurt, New York: Campus Verlag. http://www.content-select.com/index.php?id=bib_view&ean=9783593444000.

Nullmeier, Frank, Anna Geis, and Christopher Daase. 2012. “Der Aufstieg der Legitimitätspolitik. Rechtfertigung und Kritik politisch-ökonomischer Ordnungen.” In *Der Aufstieg der Legitimitätspolitik: Rechtfertigung und Kritik politisch-ökonomischer Ordnungen*, edited by Anna Geis, Frank Nullmeier, and Christopher Daase, 9–39. Baden-Baden: Nomos Verlag.

Official Journal of the European Communities. 2000. “Charter of Fundamental Rights of the European Union.” 2000/C 364/01. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C:2000:364:FULL&from=SK.

Official Journal of the European Communities. 2002. “Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 Concerning the Processing of Personal Data and the Protection of Privacy in the Electronic Communications Sector (Directive on Privacy and Electronic Communications).” https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32002L0058&from=EN.

Official Journal of the European Union. 2004. “Council Directive 2004/82/EC of 29 April 2004 on the Obligation of Carriers to Communicate Passenger Data.” https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32004L0082.

Official Journal of the European Union. 2005. “The Hague Programme: Strengthening Freedom, Security and Justice in the European Union.” (2005/C 53/01). https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005XG0303(01)&from=EN.

Official Journal of the European Union. 2006. “Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 on the Retention of Data Generated or Processed in Connection with the Provision of Publicly Available Electronic Communications Services or of Public Communications Networks and Amending Directive 2002/58/EC.” https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32006L0024&from=EN.

Official Journal of the European Union. 2012. “Consolidated Version of the Treaty on the Functioning of the European Union.” https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN.

Official Journal of the European Union. 2016. “Directive (EU) 2016/681 of the European Parliament and of the Council of 27 April 2016 on the Use of Passenger Name Record (PNR) Data for the Prevention, Detection, Investigation and Prosecution of Terrorist Offences and Serious Crime.” https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32016L0681.

Official Journal of the European Union. 2017. “Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on Combating Terrorism and Replacing Council Framework Decision 2002/475/JHA and Amending Council Decision 2005/671/JHA.” https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32017L0541.

Official Journal of the European Union. 2021. “Regulation (EU) 2021/784 of the European Parliament and of the Council of 29 April 2021 on Addressing the Dissemination of Terrorist Content Online.” https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021R0784. (Text with EEA relevance).

O'Malley, James, and James Randerson. 2019. “The Brussels Twitter Bubble — An Illustrated Guide.” *POLITICO*, July 3, 2019. https://www.politico.eu/article/the-brussels-twitter-bubble-an-illustrated-guide/.

ORF.at. 2019. “Debatte Über Passagierdatenspeicherung in Bus, Zug Und Auf See.” July 19, 2019. https://orf.at/stories/3130859/.

pandeluun, and Rena Tangens. 2020. “Digitalcourage Für Das Jahr 2021.” https://shop.digitalcourage.de/files/Jahrbuch_21_web.pdf.

Panichi, James. 2015. “MEPs Warned That Privacy Concerns Could Derail EU’s Anti-Terrorist Plans.” *POLITICO*, January 28, 2015. https://www.politico.eu/article/meps-warned-that-privacy-concerns-could-derail-eus-anti-terrorist-plans/.

Patrick Breyer. n.d. “Terrorist Content Online (Archive).” Accessed July 05, 2022. https://www.patrick-breyer.de/en/posts/terrorist-content-online-terreg-regulation/.

Patrick Breyer. 2019. “The Data Retention Zombie Is Back.” Accessed June 30, 2022. https://www.patrick-breyer.de/en/the-data-retention-zombie-is-back/?lang=en.

Patrick Breyer. 2020. “Lifting the Veil on the Secretive EU Terror Filter Negotiations: Here’s Where We Stand [Updated 07/12/2020].” Accessed July 05, 2022. https://www.patrick-breyer.de/en/lifting-the-veil-on-the-secretive-eu-terror-filter-negotiations-heres-where-we-stand-2/?lang=en.

Patrick Breyer. 2021a. “Authoritarians Will Be Allowed to Suppress Freedom of Expression. European Pirates Criticize Approval of Controversial TERREG Regulation.” Accessed July 07, 2022. https://www.patrick-breyer.de/en/authoritarians-will-be-allowed-to-suppress-freedom-of-expression-european-pirates-criticize-approval-of-controversial-terreg-regulation/.

Patrick Breyer. 2021b. “Controversial EU Anti-Terror Internet Regulation TERREG Adopted: Freedom of Expression and Press in Danger.” Accessed July 07, 2022. https://www.patrick-breyer.de/en/controversial-eu-anti-terror-internet-regulation-terreg-adopted-freedom-of-expression-and-press-in-danger/.

Patrick Breyrer, German Working Group on Data Retention. 2010. Letter to Cecilia Malmström, European Commissioner for Home Affairs. http://www.vorratsdatenspeicherung.de/images/DRletter_Malmstroem.pdf.

Peters, Dirk. 2014. “European Security Policy for the People? Public Opinion and the EU's Common Foreign, Security and Defence Policy.” *European Security* 23 (4): 388–408. https://doi.org/10.1080/09662839.2013.875531.

Pichler, Georg. 2019. “Datenschützer Wollen Fluggastdatenspeicherung Kippen.” *DER STANDARD*, May 14, 2019. https://www.derstandard.de/story/2000103097061/datenschuetzer-wollen-fluggastdatenspeicherung-kippen.

Plucinska, Joanna. 2018a. “POLITICO Pro Morning Tech: Fake News Breakdown — Crypto in France — Bye, Bye Albrecht.” *POLITICO*, June 14, 2018. https://www.politico.eu/article/politico-pro-morning-tech-fake-news-breakdown-crypto-in-france-bye-bye-albrecht/.

Plucinska, Joanna. 2018b. “Macron Wants to Rein in Silicon Valley, from Brussels.” *POLITICO*, July 25, 2018. https://www.politico.eu/article/macron-mounir-mahjoubi-tech-regulation-eu-vestager-wants-to-rein-in-silicon-valley-from-brussels/.

Pollet, Mathieu. 2021. “MEPs Urge Commission to Tackle Illegal Online Sports Broadcasts.” *EURACTIV*, May 19, 2021. https://www.euractiv.com/section/digital/news/meps-urge-commission-to-tackle-illegal-online-sports-broadcasts/.

“Press Release on Judgment 135/2019: The Belgian Constitutional Court Refers Ten Preliminary Questions to the Court of Justice Concerning the Obligation to Transfer Passenger Information.” 2019. News release. 2019. https://www.const-court.be/public/e/2019/2019-135e-info.pdf.

Princen, Sebastiaan. 2007. “Agenda-Setting in the European Union: A Theoretical Exploration and Agenda for Research.” *Journal of European Public Policy* 14 (1): 21–38. https://doi.org/10.1080/13501760601071539.

Privacy International. n.d.a. “About Privacy International.” Accessed June 28, 2022. https://privacyinternational.org/about.

Privacy International. n.d.b. “Audited Financial Statements and Trustees' Report for the Year Ended 31 January 2020.” https://privacyinternational.org/sites/default/files/2020-10/PI_annual_report_2019_2020.pdf.

Privacy International. n.d.c. “Financials.” Accessed June 28, 2022. https://privacyinternational.org/about/financials.

Privacy International. n.d.d. “LQDN, FDN and Others V. France.” Accessed July 01, 2022. https://privacyinternational.org/legal-action/lqdn-fdn-and-others-v-france.

Privacy International. 2005. “PI Forges Coalition to Call on European Parliament to Reject Data Retention.” Accessed July 01, 2022. https://privacyinternational.org/news-analysis/1325/pi-forges-coalition-call-european-parliament-reject-data-retention.

Privacy International. 2016a. “The Right to Privacy in Ireland.” Accessed June 28, 2022. https://privacyinternational.org/advocacy-briefing/711/right-privacy-ireland.

Privacy International. 2016b. “UK Government Asks EU Court 'Did You Really Mean It?': Bulk Data Retention and Access Is Under Scrutiny in Europe and the UK.” News release. April 12, 2016. Accessed July 01, 2022. https://privacyinternational.org/node/3167.

Privacy International. 2018. “Restraining the 9/11 over-Reach.” Accessed June 28, 2022. https://privacyinternational.org/impact/restraining-911-over-reach.

Privacy International. 2020a. “Preliminary Statement: Advocate General's Opinion Advises That Mass Surveillance Regime Is Unlawful.” News release. January 15, 2020. Accessed July 01, 2022. https://privacyinternational.org/press-release/3332/preliminary-statement-advocate-generals-opinion-advises-mass-surveillance-regime.

Privacy International. 2020b. “Press Release: Ruling by EU’s Highest Court Finds That UK, French and Belgian Mass Surveillance Regimes Must Respect Privacy, Even in the Context of National Security.” News release. October 6, 2020. Accessed July 01, 2022. https://privacyinternational.org/press-release/4205/press-release-ruling-eus-highest-court-finds-uk-french-and-belgian-mass.

Privacy International, Liga voor Mensenrechten, and Ligue des droits de l'Homme. 2015. “The Right to Privacy in Belgium: Universal Periodic Review.” https://www.privacyinternational.org/sites/default/files/2017-12/Belgium_UPR_21st_session_Stakeholdersubmission_FINAL.pdf. Stakeholder Report: 24 th Session, Belgium.

Radio Utopie. 2015. “#NoPNR: Aktionstag Gegen “Europaweite Vorratsdatenspeicherung Von Passagierdaten”.” Accessed July 03, 2022. https://www.radio-utopie.de/2015/04/11/nopnr-aktionstag-gegen-europaweite-vorratsdatenspeicherung-von-passagierdaten/.

Rath, Christian. 2008. “Aus Angst wird weniger telefoniert.” *Taz. Die Tageszeitung*, February 5, 2008. 8498. https://taz.de/!859113/.

Rath, Christian. 2019. “Streit um Fluggastdaten: Gegen Rasterfahndung am Himmel.” Accessed July 04, 2022. https://taz.de/Streit-um-Fluggastdaten/!5591625/.

Rauh, Christian. 2019. “EU Politicization and Policy Initiatives of the European Commission: The Case of Consumer Policy.” *Journal of European Public Policy* 26 (3): 344–65. https://doi.org/10.1080/13501763.2018.1453528.

Rauh, Christian, and Michael Zürn. 2014. “Zur Politisierung Der EU in Der Krise.” In *Krise Der Europäischen Vergesellschaftung?* edited by Martin Heidenreich, 121–45. Wiesbaden: Springer Fachmedien Wiesbaden.

Rauh, Christian, and Michael Zürn. 2020. “Authority, Politicization, and Alternative Justifications: Endogenous Legitimation Dynamics in Global Economic Governance.” *Review of International Political Economy* 27 (3): 583–611. https://doi.org/10.1080/09692290.2019.1650796.

Reda, Felix. 2019a. “Terrorist Content Online: The Return of the Upload Filter.” Accessed July 07, 2022. https://felixreda.eu/2019/02/terrorist-upload-filters/.

Reda, Felix. 2019b. “Will the EU Parliament Uphold or Reject “Terror Filters” on April 17?” Accessed July 07, 2022. https://felixreda.eu/2019/04/reject-terror-filters/.

Rees, Marc. 2018. “Plusieurs Dizaines D’associations, FAI Associatifs, Et Autres Organismes Militants S’attaquent À La.” *Next INpact*, June 26, 2018. https://www.nextinpact.com/article/28540/106775-62-associations-sattaquent-a-retention-donnees-connexion-en-europe.

Rees, Wyn. 2008. “Inside Out: The External Face of EU Internal Security Policy.” *Journal of European Integration* 30 (1): 97–111. https://doi.org/10.1080/07036330801959515.

Reimann, Cordula. 2007. “Doing good? Herausforderungen für die NGOs in der Friedensförderung.” In Klein and Roth 2007, 91–111.

Reuter, Markus. 2016a. “Abstimmung Über Vorratsdatenspeicherung Für Flugdaten Schon Am 14. April.” Accessed July 03, 2022. https://netzpolitik.org/2016/vorratsdatenspeicherung-fuer-flugdaten-wird-am-14-april-abgestimmt-werden/.

Reuter, Markus. 2016b. “Fluggastdatenspeicherung: Noch Nicht Beschlossen, Aber Pilotprojekte Laufen Schon.” Accessed July 03, 2022. https://netzpolitik.org/2016/fluggastdatenspeicherung-noch-nicht-beschlossen-aber-pilotprojekte-laufen-schon/.

Rhinard, Mark, Arjen Boin, and Magnus Ekengren. 2007. “Managing Terrorism: Institutional Capacities and Counter-Terrorism Policy in the EU.” In Spence 2007, 88-104.

Riddervold, Marianne, and Guri Rosén. 2016. “Trick and Treat: How the Commission and the European Parliament Exert Influence in EU Foreign and Security Policies *.” *Journal of European Integration* 38 (6): 687–702. https://doi.org/10.1080/07036337.2016.1178737.

Riegler, Birgit. 2012. “Protestaktionen Sollen Vorratsdatenspeicherung Stoppen.” *DER STANDARD*, March 27, 2012. https://www.derstandard.at/story/1332323880413/farewell-privacy-protestaktionen-sollen-vorratsdatenspeicherung-stoppen.

Riegler, Birgit. 2019. “Gefährlicher Datenschutzirrglaube: "Ich Hab' Doch Nichts Zu Verbergen"." *DER STANDARD*, September 14, 2019. https://www.derstandard.at/story/2000105959550/gefaehrlicher-datenschutzirrglaube-ich-hab-doch-nichts-zu-verbergen.

Ripoll Servent, Ariadna. 2013. “Holding the European Parliament Responsible: Policy Shift in the Data Retention Directive from Consultation to Codecision.” *Journal of European Public Policy* 20 (7): 972–87. https://doi.org/10.1080/13501763.2013.795380.

Ripoll Servent, Ariadna. 2015. *Institutional and Policy Change in the European Parliament: Deciding on Freedom, Security and Justice.* Palgrave studies in European Union politics. Basingstoke, New York: Palgrave Macmillan.

Ripoll Servent, Ariadna. 2018. “The European Parliament in Justice and Home Affairs: Becoming More Realistic at the Expense of Human Rights?” In Ripoll Servent and Trauner 2018, 385–95.

Ripoll Servent, Ariadna, and Florian Trauner. 2014. “Do Supranational EU Institutions Make a Difference? EU Asylum Law Before and After 'Communitarization'.” *Journal of European Public Policy* 21 (8): 1142–62. https://doi.org/10.1080/13501763.2014.906905.

Ripoll Servent, Ariadna, and Florian Trauner, eds. 2018. *The Routledge Handbook of Justice and Home Affairs Research.* Routledge handbooks. Abingdon, Oxon, New York, NY: Routledge.

Risse, Thomas, ed. 2014. *European Public Spheres: Politics Is Back.* Contemporary European Politics. Cambridge: Cambridge University Press.

Rodriguez, Katitza. 2012. “European Data Retention Directive at Work: Polish Authorities Abuse Access to Users' Data.” Accessed July 01, 2022. https://www.eff.org/deeplinks/2012/04/european-data-retention-directive-work-polish-authorities-abuse-access-data.

Romaniec, Rosalia. 2020. “Kommentar: BVerfG versus EuGH - Lehrstunde der europäischen Demokratie | DW | 14.05.2020.” *Deutsche Welle*, May 14, 2020. https://p.dw.com/p/3cEnP.

Roos, Christof. 2018. “The Council and European Council in EU Justice and Home Affairs Politicis.” In Ripoll Servent and Trauner 2018, 421–33.

Rosén, Guri, and Kolja Raube. 2018. “Influence Beyond Formal Powers: The Parliamentarisation of European Union Security Policy.” *The British Journal of Politics and International Relations* 20 (1): 69–83. https://doi.org/10.1177/1369148117747105.

Roth, Roland. 2007. “Jenseits der Menschenrechte? Der "Krieg gegen den Terror" als Herausforderung für Menschenrechts-NGOs.” In Klein and Roth 2007.

RPUE - Représentation Permanente de la France auprès de l’Union européenne. n.d. “Réunion Européenne Et Internationale Sur La Lutte Contre Le Terrorisme (11 Janvier 2015).” Accessed July 04, 2022. https://ue.delegfrance.org/reunion-europeenne-et.

RTBF. 2015. “PNR À La Belge: Le Gouvernement Michel Approuve Son Propre Contrôle Des Données Des Passagers.” *RTBF.be*, December 5, 2015. https://www.rtbf.be/article/pnr-a-

la-belge-le-gouvernement-michel-approuve-son-propre-controle-des-donnees-des-passagers-9156590?id=9156590.

RTBF. 2015. “Mesures Antiterroristes: Critiques Acerbes De La Ligue Des Droits De L'homme.” *RTBF.be*, December 10, 2015. https://www.rtbf.be/article/mesures-antiterroristes-critiques-acerbes-de-la-ligue-des-droits-de-l-homme-9160909?id=9160909.

RTBF. 2017. “La Désactivation Des Cartes Prépayées 'Va Pénaliser Les Personnes Qui N'ont Pas Les Moyens De Se Payer Un Abonnement'.” *RTBF.be*, June 6, 2017. https://www.rtbf.be/article/desactivation-des-cartes-prepayees-cette-mesure-va-penaliser-les-personnes-qui-n-ont-pas-les-moyens-de-se-payer-un-abonnement-9626139?id=9626139.

Rucz, Melinda, and Sam Kloosterboer. 2020. “Data Retention Revisited.” https://edri.org/wp-content/uploads/2020/09/Data_Retention_Revisited_Booklet.pdf.

Rudl, Tomas. 2015. “Cornelia Ernst Ruft Zu Widerstand Gegen Speicherung Von EU-Fluggastdaten Auf.” Accessed July 03, 2022. https://netzpolitik.org/2015/cornelia-ernst-ruft-zu-widerstand-gegen-speicherung-von-eu-fluggastdaten-auf/.

Rudl, Tomas. 2018a. “Bündnis an EU-Kommission: Schluss Mit Der Vorratsdatenspeicherung.” Accessed July 01, 2022. https://netzpolitik.org/2018/buendnis-an-eu-kommission-schluss-mit-der-vorratsdatenspeicherung/.

Rudl, Tomas. 2018b. “EU-Kommission Will Terrorismus Mit Upload-Filtern Und Automatischen Systemen Bekämpfen.” Accessed July 05, 2022. https://netzpolitik.org/2018/eu-kommission-will-terrorismus-mit-upload-filtern-und-automatischen-systemen-bekaempfen/.

Rudl, Tomas. 2018c. “Wir Veröffentlichen Seinen Wunschzettel: Seehofer Fordert Von EU-Kommission Massive Internetzensur.” Accessed July 05, 2022. https://netzpolitik.org/2018/wir-veroeffentlichen-seinen-wunschzettel-seehofer-fordert-von-eu-kommission-massive-internetzensur/#vorschaltbanner.

Rudl, Tomas. 2020. “PNR-Richtlinie Vor EuGH: Massenüberwachung Von Fluggastdaten in Turbulenzen.” Accessed July 04, 2022. https://netzpolitik.org/2020/massenueberwachung-von-fluggastdaten-in-turbulenzen/.

Rudl, Tomas. 2021. “Terrorpropaganda: EU-Gesetz Gegen Terrorinhalte Im Netz Beschlossen.” Accessed July 07, 2022. https://netzpolitik.org/2021/terrorpropaganda-eu-gesetz-gegen-terrorinhalte-im-netz-beschlossen/.

Rüger, Carolin. 2013. *Europäische Außen- und Sicherheitspolitik - (k)ein Thema für die Öffentlichkeit? Die außen- und sicherheitspolitische Rolle der EU im Blickwinkel von öffentlicher Meinung und Medien.* Staatlichkeit und Governance in Transformation 5. Baden-Baden: Nomos.

Sander, Alexander. 2015. “Keine Vorratsdatenspeicherung Von Reisedaten – Demo Am Flughafen Tegel.” Accessed July 03, 2022. https://digitalegesellschaft.de/2015/03/nopnr-txl/.

Sander, Lalon. 2012. “Interne EU-Bilanz zu Vorratsdaten: Wenig Nutzen für die Sicherheit.” Accessed June 30, 2022. https://taz.de/Interne-EU-Bilanz-zu-Vorratsdaten/!5103679/.

Sarmiento, Daniel. 2015. “What Schrems, Delvigne and Celaj Tell Us About the State of Fundamental Rights in the EU.” Accessed June 27, 2022. https://verfassungsblog.de/what-schrems-delvigne-and-celaj-tell-us-about-the-state-of-fundamental-rights-in-the-eu/.

Sawall, Achim. 2010. “Protest: Mehr Als 100 Organisationen Gegen Vorratsdatenspeicherung.” *Golem.de*, June 28, 2010. https://www.golem.de/1006/76052.html.

Schaar, Peter. 2018. “Die Vorratsdatenspeicherung Darf Nicht Wieder Eingeführt Werden.” Accessed June 30, 2022. https://freiheitstattangst.de/2014/08/die-vorratsdatenspeicherung-darf-nicht-wieder-eingefuehrt-werden/.

Schattschneider, Elmer E. 1975 [1960]. *The Semisovereign People: A Realist's View of Democracy in America.* reprint. Boston: Wadsworth.

Schimmelfennig, Frank. 2015. “Differentiated Integration Before and After the Crisis.” In *Democratic Politics in a European Union Under Stress*, edited by Olaf Cramme and Sara B. Hobolt. 1. ed., 120–34. Oxford: Oxford Univ. Press.

Schmidt, Vivien A. 2019. “Politicization in the EU: Between National Politics and EU Political Dynamics.” *Journal of European Public Policy* 26 (7): 1018–36. https://doi.org/10.1080/13501763.2019.1619189.

Schmitter, Philippe C. 1969. “Three Neo-Functional Hypotheses About International Integration.” *International Organization* 23 (1): 161–66.

Schmitter, Philippe C. 2009. “On the Way to a Post-Functionalist Theory of European Integration.” *British Journal of Political Science* 39 (1): 211–15. https://doi.org/10.1017/S0007123408000483.

Schmutz, Alban. 2018. “The EU Is Asking the Impossible.” *EURACTIV*, November 27, 2018. https://www.euractiv.com/section/digital/opinion/the-eu-is-asking-the-impossible/.

Schneckener, Ulrich. 2016. “„Ein Teil dieser Antworten würde die Bevölkerung verunsichern“: Zum staatlichen Umgang mit dem Terrorrisiko „Ein Teil dieser Antworten würde die Bevölkerung verunsichern“.” In *Vorsicht Sicherheit! Legitimationsprobleme der Ordnung von Freiheit: 26. wissenschaftlicher Kongress der Deutschen Vereinigung für Politische Wissenschaft*, edited by Gabriele Abels. 1. Auflage, 99–116. Baden-Baden: Nomos.

Schneckener, Ulrich. 2020. “„Ein Europa, Das Schützt“. Zum Verhältnis Von Versicherheitlichung Und Politisierung Am Beispiel Europäischer Sicherheit.” *ZIB* 27 (1): 137–50. https://doi.org/10.5771/0946-7165-2020-1-137.

Schneckener, Ulrich, and Hendrik Hegemann. 2017. “Politicizing European Security? Processes of Politicization in Counter-Terrorism and Border Security.” Accessed March 30, 2020. https://www.zedf.uni-osnabrueck.de/fileadmin/zedf_Relaunch_Media/Reader/ZeDF_Text_Antrag_Projekt_Politisierung.pdf.

Schulz, Florence. 2019. “Christchurch Call: EU Struggling to Get Anti-Terror Measures Right.” *EURACTIV*, May 17, 2019. https://www.euractiv.com/section/cybersecurity/news/christchurch-call-eu-struggling-to-get-anti-terror-measures-right/.

Schwartz, Mathew J. 2018. “EU Mass Surveillance Alive and Well, Privacy Groups Warn.” Accessed July 01, 2022. https://www.bankinfosecurity.com/eu-mass-surveillance-alive-well-privacy-groups-warn-a-11137.

Schwartz-Shea, Peregrine, and Dvora Yanow. 2012. *Interpretive Research Design: Concepts and Processes.* Routledge series on interpretive methods. New York, NY, London: Routledge.

“Security Union: Commission Decides to Refer Spain to the Court for Not Transposing EU Rules on Passenger Name Records.” 2020e. News release. June 2, 2020. https://ec.europa.eu/commission/presscorner/detail/EN/IP_20_1246.

Seifer, Kerstin. 2009. *Governance als Einfluss-System: Der politische Einfluss von NGOs in asymmetrisch strukturierten Interaktionsarrangements.* Wiesbaden: VS Verlag für Sozialwissenschaften.

Sellmer, Max. 2019. “Passenger Name Record: EU Will Alle Reisemittel Überwachen.” *COMPUTER BILD*, July 18, 2019. https://www.computerbild.de/artikel/cb-News-Sicherheit-Passenger-Name-Record-EU-Zug-Bus-Schiffsreisen-ueberwachung-23792859.html.

Servent, Ariadna Ripoll, and Alex MacKenzie. 2017. “Eroding Germany’s Commitment to Data Protection: Policy Entrepreneurs and Coalition Politics in EU Passenger Name Records.” *German Politics* 26 (3): 398–413. https://doi.org/10.1080/09644008.2016.1250889.

Sieber, Detlev. 2021. “Transparenzbericht: Wer Steht Hinter Digitalcourage Und Wie Verwenden Wir Ihre Spenden?” Accessed June 28, 2022. https://digitalcourage.de/transparenzbericht.

Simon, A. Leena. 2015. “Mehr Als Nur Ein AK Gegen Die Vorratsdatenspeicherung.” Accessed June 28, 2022. https://digitalcourage.de/vorratsdatenspeicherung/mehr-als-nur-ein-arbeitskreis-gegen-die-vorratsdatenspeicherung.

Socialists & Democrats. 2021. “Safeguards in New Terrorist Content Online Rules Will Protect Freedom of Expression.” News release. April 28, 2021. Accessed July 07, 2022. https://www.socialistsanddemocrats.eu/newsroom/safeguards-new-terrorist-content-online-rules-will-protect-freedom-expression.

Spence, David, ed. 2007. *The European Union and Terrorism.* London: Harper.

Spiegel, Der. 2017. “Überwachung: Die Vorratsdatenspeicherung Kommt Erst Einmal Nicht.” *Der Spiegel*, June 28, 2017. https://www.spiegel.de/netzwelt/netzpolitik/vorratsdatenspeicherung-von-bundesnetzagentur-ausgesetzt-a-1154860.html.

Spinant, Daniela. 2002. “Big Parties Compromise on Data Surveillance Law.” Accessed June 30, 2022. https://euobserver.com/rule-of-law/6448.

Starostik, Meinhard. “Verfassungsbeschwerde Vorratsdatenspeicherung.” http://wiki.vorratsdatenspeicherung.de/images/Verfassungsbeschwerde_Vorratsdatenspeicherung.pdf.

“State of the Union 2018: Commission Proposes New Rules to Get Terrorist Content Off the Web.” 2018f. News release. September 12, 2018. https://ec.europa.eu/commission/presscorner/detail/en/IP_18_5561.

Statewatch. n.d.a. “About.” Accessed June 28, 2022. https://www.statewatch.org/about/.

Statewatch. n.d.b. “Research Services.” Accessed June 28, 2022. https://www.statewatch.org/about/research-services/.

Statewatch. n.d.c. “SEMDOC: Welcome to the Statewatch European Monitoring and Documentation Centre (SEMDOC).” Accessed June 28, 2022. https://www.statewatch.org/semdoc/.

Statewatch. 2001. “US Letter from Bush with Demands for EU Cooperation.” Accessed January 30, 2021. https://www.statewatch.org/news/2001/november/us-letter-from-bush-with-demands-for-eu-cooperation/.

Statewatch. 2002. “Coalition Asks European Parliament to Vote Against Data Retention.” Accessed June 30, 2022. https://www.statewatch.org/news/2002/may/coalition-asks-european-parliament-to-vote-against-data-retention/.

Statewatch. 2012a. “EU: Data Retention Proposal Partly Illegal, Say Council and Commission Lawyers.” Accessed June 30, 2022. https://www.statewatch.org/news/2005/april/eu-data-retention-proposal-partly-illegal-say-council-and-commission-lawyers/.

Statewatch. 2012b. “NGO Letter to the European Parliament on Mandatory Retention of Communications Data.” Accessed July 01, 2022.

https://www.statewatch.org/news/2005/june/ngo-letter-to-the-european-parliament-on-mandatory-retention-of-communications-data/.

Statewatch. 2013. “Statewatch News Online: EU: Commission Makes €50 Million Available for the Development of "Big Brother" PNR Databases - Before Legislation Has Even Been Agreed.” Accessed July 03, 2022. https://www.statewatch.org/news/2013/january/statewatch-news-online-eu-commission-makes-128-50-million-available-for-the-development-of-quot-big-brother-quot-pnr-databases-before-legislation-has-even-been-agreed/.

Statewatch. 2014. “EU: Travel Surveillance: PNR by the Back Door.” Accessed July 03, 2022. https://www.statewatch.org/news/2014/october/eu-travel-surveillance-pnr-by-the-back-door/.

Statewatch. 2015a. “EU: Travel Surveillance: Commission Attempts to Soothe PNR Critics with "Workable Compromise".” Accessed December 02, 2022. https://www.statewatch.org/news/2015/january/eu-travel-surveillance-commission-attempts-to-soothe-pnr-critics-with-workable-compromise/.

Statewatch. 2015b. “EU-PNR: Mass Surveillance Legislation Creeps Closer: Leaked Compromise Text.” Accessed July 03, 2022. https://www.statewatch.org/news/2015/november/eu-pnr-mass-surveillance-legislation-creeps-closer-leaked-compromise-text/.

Statewatch. 2016. “Putting the PNR Pieces in Place: More EU Funding for Mass Surveillance 30.3.16.” Accessed July 03, 2022. https://www.statewatch.org/news/2016/march/putting-the-pnr-pieces-in-place-more-eu-funding-for-mass-surveillance-30-3-16/.

Statewatch. 2017a. “Data Retention: Can the Mass Retention of Data Be Justified Under the Planned EPrivacy Regulation?” Accessed June 30, 2022. https://www.statewatch.org/news/2017/august/data-retention-can-the-mass-retention-of-data-be-justified-under-the-planned-eprivacy-regulation/.

Statewatch. 2017b. “EU: Council in a Twist over Data Retention Judgment.” Accessed July 01, 2022. https://www.statewatch.org/news/2017/may/eu-council-in-a-twist-over-data-retention-judgment/.

Statewatch. 2019. “EU PNR Extended to Internal Flights and Only a Matter of Time Before PNR Is Extended to Sea, Rail and Road Traffic Too.” Accessed July 03, 2022. https://www.statewatch.org/news/2019/july/eu-pnr-extended-to-internal-flights-and-only-a-matter-of-time-before-pnr-is-extended-to-sea-rail-and-road-traffic-too/.

Statewatch. 2020a. “Member in the Spotlight: Statewatch.” Accessed June 28, 2022. https://edri.org/our-work/member-in-the-spotlight-statewatch/.

Statewatch. 2020b. “Support the Fight for Democracy and Civil Liberties in Europe.” Accessed June 28, 2022. https://www.statewatch.org/news/2020/september/support-the-fight-for-democracy-and-civil-liberties-in-europe/.

Statham, Paul, and Ruud Koopmans, eds. 2010. *The Making of a European Public Sphere: Media Discourse and Political Contention.* Communication, society and politics. New York: Cambridge University Press.

Statham, Paul, and Hans-Jörg Trenz. 2013a. “How European Union Politicization Can Emerge Through Contestation: The Constitution Case.” *Journal of Common Market Studies* 51 (5): 965–80. https://doi.org/10.1111/jcms.12032.

Statham, Paul, and Hans-Jörg Trenz. 2013b. *The Politicization of Europe: Contesting the Constitution in the Mass Media.* Routledge studies on democratising Europe 8. London: Routledge.

Statham, Paul, and Hans-Jörg Trenz. 2015. “Understanding the Mechanisms of EU Politicization: Lessons from the Eurozone Crisis.” *Comparative European Politics* 13 (3): 287–306. https://doi.org/10.1057/cep.2013.30.

Steven, Elke. 2015a. “Aufruf: Demo Gegen Die Vorratsdatenspeicherung.” Accessed June 30, 2022. https://digitalegesellschaft.de/2015/10/aufruf-demo-vds/.

Steven, Elke. 2015b. “PNR: Neuer Kommissionsvorschlag Zur Grundrechtswidrigen Vorratsdatenspeicherung Von Reisedaten.” Accessed July 03, 2022. https://digitalegesellschaft.de/2015/01/pnr-vorratsdatenspeicherung/.

Steven, Elke. 2016. “Last-Minute-Telefonaktion: Verhindert Die Vorratsdatenspeicherung Von Reisedaten.” Accessed July 03, 2022. https://digitalegesellschaft.de/2016/04/last-minute-telefonaktion-pnr/.

Steven, Elke. 2018. “Vorratsdatenspeicherung: Kommission Muss Offenen Bruch Des Europarechts Endlich Beenden.” Accessed July 01, 2022. https://digitalegesellschaft.de/2018/06/vds-offener-brief/.

Stolton, Samuel. 2018a. “Juncker Goes to War Against Disinformation and Online Terrorist Content.” *EURACTIV*, September 12, 2018. https://www.euractiv.com/section/cybersecurity/news/uncker-goes-to-war-against-disinformation-and-online-terrorist-content/.

Stolton, Samuel. 2018b. “'This Is Not Censorship' Says King, Amid Online Terrorist Content Crackdown.” *EURACTIV*, September 13, 2018. https://www.euractiv.com/section/digital/news/this-is-not-censorship-says-king-amid-online-terrorist-content-crackdown/.

Stolton, Samuel. 2018c. “Ministers Clamp down on Online Terrorist Content Despite Wave of Opposition.” *EURACTIV*, December 7, 2018. https://www.euractiv.com/section/digital/news/ministers-clamp-down-on-online-terrorist-content-despite-wave-of-opposition/.

Stolton, Samuel. 2019. “Digital Brief: Copyright Commotion.” *EURACTIV*, September 26, 2019. https://www.euractiv.com/section/digital/news/digital-brief-copyright-commotion/.

Stolton, Samuel. 2020. “Digital Brief: The French Fight, Biotech in Parliament, 'Soft' EU Rules for AI?” *EURACTIV*, October 9, 2020. https://www.euractiv.com/section/digital/news/digital-brief-the-french-fight-biotech-in-parliament-soft-eu-rules-for-ai/.

Stolton, Samuel. 2021. “Digital Brief: Privacy Shield Update, DMA Obligations, GAFA Tax.” *EURACTIV*, March 12, 2021. https://www.euractiv.com/section/digital/news/digital-brief-privacy-shield-update-dma-obligations-gafa-tax/.

stopdataretention.be. 2022. “Data Retention in Belgium: Donate.” Accessed July 01, 2022. https://stopdataretention.be/act-now.

stopdataretention.eu. n.d. “Stop Data Retention.” Accessed July 01, 2022. https://stopdataretention.eu/.

Stupp, Catherine. 2015. “MEPs Want to Make Internet Companies Liable for Radical Content Online.” *EURACTIV*, November 26, 2015. https://www.euractiv.com/section/justice-home-affairs/news/meps-want-to-make-internet-companies-liable-for-radical-content-online/.

Stupp, Catherine. 2016. “Flight Data Deal Is a Reason for UK to Stay in the EU, Says Tory MEP.” *EURACTIV*, March 23, 2016. https://www.euractiv.com/section/transport/news/flight-data-deal-is-a-reason-for-uk-to-stay-in-the-eu-says-tory-mep/.

Stupp, Catherine. 2017. “Member States Ask for New EU Data Retention Rules.” *EURACTIV*, August 8, 2017. https://www.euractiv.com/section/digital/news/member-states-ask-for-new-eu-data-retention-rules/.

Stupp, Catherine. 2018a. “EU Adds Pressure on Online Platforms with Plan for Fast Removal of Terrorist Content.” *EURACTIV*, February 14, 2018. https://www.euractiv.com/section/digital/news/eu-adds-pressure-on-online-platforms-with-plan-for-fast-removal-of-terrorist-content/.

Stupp, Catherine. 2018b. “France Eyes EU Law to Crack down on Terrorists’ Use of Social Media.” *EURACTIV*, February 16, 2018. https://www.euractiv.com/section/digital/news/france-eyes-eu-law-to-crack-down-on-terrorists-use-of-social-media/.

Stupp, Catherine. 2018c. “Commission Faces Backlash for Plan to Fast-Track Tech Platforms’ Removal of Illegal Posts.” *EURACTIV*, March 1, 2018. https://www.euractiv.com/section/digital/news/commission-faces-backlash-for-plan-to-fast-track-tech-platforms-removal-of-illegal-posts/.

Tageszeitung, Taz. Die. 2015. “Was macht die Bewegung?” Accessed July 03, 2022. https://taz.de/Was-macht-die-Bewegung/!864545/.

Take, Ingo. 2002. *NGOs im Wandel: Von der Graswurzel auf das diplomatische Parkett.* Wiesbaden: Westdeutscher Verlag.

Tallberg, Jonas, Lisa M. Dellmuth, Hans Agné, and Andreas Duit. 2015. “NGO Influence in International Organizations: Information, Access and Exchange.” *British Journal of Political Science* 48 (1): 213–38. https://doi.org/10.1017/S000712341500037X.

Tambou, Olivia. 2018. “Opinion 1/15 on the EU-Canada Passenger Name Record (PNR) Agreement: PNR Agreements Need to Be Compatible with EU Fundamental Rights.” *European Foreign Affairs Review* 23 (2): 187–202. https://kluwerlawonline.com/journalarticle/European+Foreign+Affairs+Review/23.2/EERR2018020.

Teffer, Peter. 2019a. “EU May Extend 'Passenger Name Records' to Rail and Sea.” Accessed July 03, 2022. https://euobserver.com/rule-of-law/145602.

Teffer, Peter. 2019b. “EU 'Outdoing Bush' on Sea and Train Passenger-Data Warning.” Accessed July 03, 2022. https://euobserver.com/rule-of-law/145616.

Tele 2. 2016. “Tele2 Won Data Retention Case in European Court of Justice.” Accessed July 01, 2022. https://www.tele2.com/media/news/2016/tele2-won-data-retention-case-in-european-court-of-justice/.

Teller Report. 2019. “Passenger Data Retention: Activists Want to Overturn EU Directive with Lawsuits.” Accessed July 04, 2022. https://www.tellerreport.com/tech/2019-05-14-passenger-data-retention--activists-want-to-overturn-eu-directive-with-lawsuits.r1j3C4d24.html.

“The Court Declares That the Agreement Envisaged Between the European Union and Canada on the Transfer of Passenger Name Record Data May Not Be Concluded in Its Current Form.” 2017. News release. July 26, 2017. https://curia.europa.eu/jcms/upload/docs/application/pdf/2017-07/cp170084en.pdf.

“The Court of Justice Confirms That EU Law Precludes National Legislation Requiring a Provider of Electronic Communications Services to Carry Out the General and Indiscriminate Transmission or Retention of Traffic Data and Location Data for the Purpose of Combating Crime in General or of Safeguarding National Security: Judgments in Case C-623/17, Privacy International, and in Joined Cases C-511/18, La Quadrature Du Net and Others, C-512/18, French Data Network and Others, and C-520/18, Ordre Des Barreaux Francophones Et Germanophone and Others.” 2020. News release. October 6, 2020. https://curia.europa.eu/jcms/upload/docs/application/pdf/2020-10/cp200123en.pdf.

“The Court of Justice Declares the Data Retention Directive to Be Invalid: Judgment in Joined Cases C-293/12 and C-594/12 Digital Rights Ireland and Seitlinger and Others.” 2014. News

release. April 8, 2014. https://curia.europa.eu/jcms/upload/docs/application/pdf/2014-04/cp140054en.pdf.

Thiel, Markus. 2017. *European Civil Society and Human Rights Advocacy.* Philadelphia: University of Pennsylvania Press.

Thiel, Markus, and Emek M. Uçarer. 2014. “Access and Agenda-Setting in the European Union: Advocacy NGOs in Comparative Perspective.” *Interest Groups & Advocacy* 3 (1): 99–116. https://doi.org/10.1057/iga.2014.1.

Thönnes, Christian. 2021. “EU Law Analysis: On Flights, Rock Concerts and the Needle in a Haystack a Report from the Court of Justice of the European Union’s Oral Hearing on the PNR Directive.” Accessed July 04, 2022. http://eulawanalysis.blogspot.com/2021/09/on-flights-rock-concerts-and-needle-in.html.

Tilly, Charles, and Sidney Tarrow. 2007. *Contentious Politics.* New York: Oxford University Press.

Timmermans, Frans, and Dimitris Avramopoulos. 2015. “Letter to Martin Schulz, President of the European Parliament.” https://www.statewatch.org/media/documents/news/2015/mar/eu-com-eu-pnr-letter.pdf.

Trauner, Florian, and Ariadna Ripoll Servent. 2016. “The Communitarization of the Area of Freedom, Security and Justice: Why Institutional Change Does Not Translate into Policy Change.” *Journal of Common Market Studies* 54 (6): 1417–32. https://doi.org/10.1111/jcms.12397.

Travelnews. 2019. “Brüssel Will Auch Passagierdaten Von Schiffs-, Bahn- Und Strassennutzern Sammeln.” Accessed July 03, 2022. https://www.travelnews.ch/tourismuswelt/13374-bruessel-will-auch-passagierdaten-von-schiffs-bahn-und-strassennutzern-sammeln.html.

Travis, Alan. 2015. “European Counter-Terror Plan Involves Blanket Collection of Passengers’ Data.” *The Guardian*, January 28, 2015. https://www.theguardian.com/uk-news/2015/jan/28/european-commission-blanket-collection-passenger-data.

Tremmel, Moritz. 2019. “Passenger Name Record: EU Diskutiert Überwachung Von Reisen Per Zug, Bus Und Schiff.” *Golem.de*, July 17, 2019. https://www.golem.de/news/passenger-name-record-eu-diskutiert-ueberwachung-von-reisen-per-zug-bus-und-schiff-1907-142616.html.

Tsoukala, Anastassia. 2004. “Democracy Against Security: The Debates About Counterterrorism in the European Parliament, September 2001–June 2003.” *Alternatives* 29 (4): 417–39.

Tuchtfeld, Erik. 2020. “Towards a European Court of Fundamental Rights: How the European Court of Justice Becomes the Last Instance of Fundamental Rights Adjudication in Europe.” Accessed June 27, 2022. https://verfassungsblog.de/towards-a-european-court-of-fundamental-rights/.

Twitter. 2012a. “Markus Beckedahl Auf Twitter: „Flugdaten-Vorratsdatenspeicherung: Abstimmung Über EU-Fluggastdatenauswertung. Https://t.Co/XIiwkYpb #nopnr“ / Twitter.” Accessed July 03, 2022. https://twitter.com/netzpolitik/status/276676539561676800.

Twitter. 2012b. “Martin Ehrenhauser Auf Twitter: „Gebloggt: Neue Vorratsdatenspeicherung Für Reisende. Abstimmung 17.12. Änderungsanträge Eingereicht. Protest. #nopnr Http://t.Co/eqkEztHN“ / Twitter.” Accessed July 03, 2022. https://twitter.com/mehrenhauser/status/276718390956138496.

Twitter. 2013. “Alexander Alvaro Auf Twitter: „Meine Schriftliche Anfrage an Die EU Kommission Zur PNR Ausschreibung Ist Jetzt Auch Online: Http://t.Co/KkkcgQCF #noPNR

#pnr“ / Twitter.” Accessed July 03, 2022. https://twitter.com/AlexAlvaro/status/294759964516429825.

Twitter. 2014. “Katharina Nocun Auf Twitter: „Urlauber Sind Die Neuen Terroristen: Https://t.Co/V6U9UIPMoB #noPNR #PNR“ / Twitter.” Accessed July 03, 2022. https://twitter.com/kattascha/status/506800799696322561.

Twitter. 2015a. “Konstantin V. Notz Auf Twitter: „Dank & Herzliche Grüße an Die Gruppen, Die Heute Bundesweit Gegen #Vorratsdatenspeichung Von #Fluggastdaten Protestieren #NoPNR #PNR“ / Twitter.” Accessed July 03, 2022. https://twitter.com/KonstantinNotz/status/586884228383690752.

Twitter. 2015b. “Malte Spitz Auf Twitter: „Ich Habe Mich Bei @WDR Zum Thema #PNR Geäußert. #nopnr Http://t.Co/86taK6Mac3“ / Twitter.” Accessed July 03, 2022. https://twitter.com/maltespitz/status/586950225941630976.

Twitter. 2017a. “Barbara Wimmer Auf Twitter: „Warum Das Fluggastdaten-Abkommen Gekippt Wurde - Und Was Für Auswirkungen Das Jetzt Haben Könnte #nopnr Https://t.Co/9hmgIZlooU“ / Twitter.” Accessed July 03, 2022. https://twitter.com/shroombab/status/890209634564308992.

Twitter. 2017b. “Jan Philipp Albrecht Auf Twitter: „Brüssel Stellt Kritische Nachfragen Zu US-Umgang Mit Fluggastdaten - Https://t.Co/XpmKkbWlJU #PNR #noPNR #vds“ / Twitter.” Accessed July 03, 2022. https://twitter.com/JanAlbrecht/status/823101942792589312.

Twitter. 2019a. “Andrej Hunko Auf Twitter: „Wer Sich Für Eine Technische Kritik Des Deutschen PNR-Systems Interessiert, Wird Hier Fündig: Https://t.Co/FRwnp4Lkg8 Auch Dort Wird Klar, Dass Die Immense Datensammlung Sinnlos Ist Und Sogar Am Eigentlichen Ziel, Nämlich Der Terrorismusbekämpfung, Vorbeigeht. @nopnr #nopnr“ / Twitter.” Accessed July 03, 2022. https://twitter.com/AndrejHunko/status/1133659518922035201.

Twitter. 2019b. “Patrick Breyer #JoinMastodon Auf Twitter: „Warum Wir 18 Jahre Nach Den Terroranschlägen in New York Den Grundrechtsterror Unserer "Sicherheitspolitiker" Stoppen Müssen, Erkläre Ich in Diesem Blogpost: Https://t.Co/2qecEbcWuA #TERREG #Vorratsdatenspeicherung #NoPNR #StopMassSurveillance“ / Twitter.” Accessed July 03, 2022. https://twitter.com/echo_pbreyer/status/1171706000845561856.

Twitter. 2020a. “Daphne Keller Auf Twitter: „The EU's Terrorist Content Regulation Is Close to Being Finalized, According to Leaked Documents Posted by Politico. Https://t.Co/qd3F0O6hbJ“ / Twitter.” Accessed July 07, 2022. https://twitter.com/daphnehk/status/1235977285003427840.

Twitter. 2020b. “Liberties.EU Auf Twitter: „#Uploadfilters Are Back. Julia Reda Explains Why It Matters. Tell @BMJV_Bund @EU2020DE & Your MEPs to Stop It. @Senficon @edri @accessnow @freiheitsrechte @uploadfilter #savetheinternet #endezuende #endtoend #TERREG Https://t.Co/o4IbjTmjdT“ / Twitter.” Accessed July 07, 2022. https://twitter.com/LibertiesEU/status/1327218666337865734?s=20.

Twitter. 2022. “Patrick Breyer #JoinMastodon Auf Twitter: „EU-Regierungen Wollen Grundrechtswidrige Verdachtslose #Vorratsdatenspeicherung Wieder Einführen: Https://t.Co/zKy4r5GErZ Wenn Manfred Weber (CSU) Kommissionspräsident Wird, Wird Das Seine Erste Amtshandlung. Das Gilt Es Zu Verhindern!“ / Twitter.” Accessed June 30, 2022. https://twitter.com/echo_pbreyer/status/1118452741020573696?s=19.

Uçarer, Emek M. 2009. “Safeguarding Asylum as a Human Right: NGOs and the European Union.” In Joachim and Locher 2009, 121–39.

Uçarer, Emek M. 2014. “Tempering the EU? NGO Advocacy in the Area of Freedom, Security, and Justice.” *Cambridge Review of International Affairs* 27 (1): 127–46. https://doi.org/10.1080/09557571.2013.840559.

Uçarer, Emek M. 2018. “NGOs Go to Brussels: Challenges and Opportunities for Research and Practice in AFSJ.” In Ripoll Servent and Trauner 2018, 458–67.

United Nations Security Council. 2017. “Resolution 2354 (2017): Adopted by the Security Council at Its 7949th Meeting, on 24 May 2017.” S/RES/2354 (2017). https://documents-dds-ny.un.org/doc/UNDOC/GEN/N17/149/22/PDF/N1714922.pdf?OpenElement.

Vainio, Niklas, and Samuli Miettinen. 2015. “Telecommunications Data Retention After Digital Rights Ireland : Legislative and Judicial Reactions in the Member States.” *International Journal of Law and Information Technology* 23 (3): 290–309. https://doi.org/10.1093/ijlit/eav010.

van Buuren, Jelle, and Edwin Bakker. 2016. “The Role of the EU in Dealing with the Multi-Facetted Phenomenon of Radicalization and Terrorism.” In *Fit for the Future? Reflections from Leiden on the Functioning of the EU*, edited by Bernard Steunenberg, Wim Voermans, and Stefaan van den Bogaert, 291–309. The Hague: Eleven International Publishing.

van Durme, Camille. 2019. “Passenger Name Record : La Cour Constitutionnelle Belge Rend Son Verdict.” Accessed July 04, 2022. https://www.liberties.eu/fr/stories/passenger-name-record-belgium/17785.

van Durme, Camille. 2020. “Human Rights House to Open in Brussels Thanks to Successful Crowdfunding Campaign.” Accessed June 28, 2022. https://www.liberties.eu/en/stories/human-rights-house-to-open-in-brussels-thanks-to-crowdfunding-campaign/18921.

Voltolini, Benedetta. 2012. “The Role of Non-State Actors in EU Policies Towards the Israeli-Palestinian Conflict.” Occasional paper/EU Institute for Security Studies 99. https://www.iss.europa.eu/sites/default/files/EUISSFiles/The_role_of_non-state_actors_in_EU_policies_towards_the_Israeli-Palestinian_conflict_ONLINE.pdf.

Voltolini, Benedetta. 2016. “Non-State Actors and Framing Processes in EU Foreign Policy: The Case of EU–Israel Relations.” *Journal of European Public Policy* 23 (10): 1502–19. https://doi.org/10.1080/13501763.2015.1085429.

Voltolini, Benedetta. 2020. “Ontological Crises, Framing and the (De)Politicisation of EU Foreign Policy: The Case of EU-Israel Relations.” *Journal of European Integration* 42 (5): 751–66. https://doi.org/10.1080/07036337.2020.1792463.

Von Notz, Konstantin. 2010a. “Grüner Antrag „Keine VDS Über Den Umweg Europa“ Im UA Neue Medien.” Accessed July 01, 2022. https://gruen-digital.de/2010/10/gruener-antrag-keine-vds-ueber-den-umweg-europa-im-ua-neue-medien/.

Von Notz, Konstantin. 2010b. “PM: Grüne Unterstützen Zivilgesellschaft Bei Forderung Nach Vorratsdatenspeicherungs-Stopp.” News release. June 29, 2010. Accessed July 01, 2022. https://www.von-notz.de/2010/06/29/pm-gruene-unterstuetzen-zivilgesellschaft-bei-forderung-nach-vorratsdatenspeicherungs-stopp/.

Voronova, Sofija. 2015. “EU PNR.” Accessed July 03, 2022. https://epthinktank.eu/2015/04/30/eu-pnr/.

“Vorratsdatenspeicherung.” 2011. News release. April 18, 2011. Accessed June 30, 2022. https://www.greens-efa.eu/de/artikel/press/eu-data-retention-rules.

Wahl, Thomas. 2020. “NGOs Call on the Commission to Give up Data Retention Plans.” Accessed July 01, 2022. https://eucrim.eu/news/ngos-call-commission-give-data-retention-plans/.

Wahl, Thomas. 2021. “Regulation Addressing the Dissemination of Terrorist Content Passed.” 2/2021. https://eucrim.eu/news/regulation-addressing-the-dissemination-of-terrorist-content-passed/.

Wasserfallen, Fabio. 2010. “The Judiciary as Legislator? How the European Court of Justice Shapes Policy-Making in the European Union.” *Journal of European Public Policy* 17 (8): 1128–46. https://doi.org/10.1080/13501763.2010.513559.

Weiler, Florian, and Matthias Brändli. 2015. “Inside Versus Outside Lobbying: How the Institutional Framework Shapes the Lobbying Behaviour of Interest Groups.” *European Journal of Political Research* 54 (4): 745–66. https://doi.org/10.1111/1475-6765.12106.

Weiss, Christoph. 2019. “NGOs Wollen Sammlung Von Flugpassagier-Daten Kippen.” Accessed July 04, 2022. https://fm4.orf.at/stories/2981492/.

WELT. 2018. “Unternehmen: Berlin Und Paris Fordern Von EU Bei Terror-Inhalten Im Netz Sanktionsmöglichkeit.” May 7, 2018. https://www.welt.de/newsticker/news2/article176141308/Unternehmen-Berlin-und-Paris-fordern-von-EU-bei-Terror-Inhalten-im-Netz-Sanktionsmoeglichkeit.html.

Wensink, Wim, Bas Warmenhoven, Roos Haasnoot, Rob Wesselink, Bibi van Ginkel, Stef Wittendorp, Christophe Paulussen et al. 2017. “The European Union's Policies on Counter-Terrorism: Relevance, Coherence and Effectiveness.” https://www.europarl.europa.eu/RegData/etudes/STUD/2017/583124/IPOL_STU(2017)583124_EN.pdf.

Werker, Eric, and Faisal Z. Ahmed. 2008. “What Do Nongovernmental Organizations Do?” *Journal of Economic Perspectives* 22 (2): 73–92.

Wilkens, Andreas. 2010. “Europaweiter Protest Gegen Vorratsdatenspeicherung.” *heise online*, June 28, 2010. https://www.heise.de/newsticker/meldung/Europaweiter-Protest-gegen-Vorratsdatenspeicherung-1030109.html.

WITNESS. n.d. “About WITNESS: WITNESS Helps People Use Video and Technology to Protect and Defend Human Rights.” Accessed June 28, 2022. https://www.witness.org/about/.

Wolff, Sarah. 2009. “The Mediterranean Dimension of EU Counter-terrorism.” *Journal of European Integration* 31 (1): 137–56. https://doi.org/10.1080/07036330802504013.

Wonka, Arndt. 2017. “The Party Politics of the Euro Crisis in the German Bundestag: Frames, Positions and Salience.” In *The Differentiated Politicisation of European Governance*, edited by Pieter De Wilde, Anna Leupold, and Henning Schmidtke, 123–42. West European politics series. Oxon: Routledge.

Woollacott, Emma. 2018. “EU Nations 'Still Breaking the Law on Mass Surveillance'.” *Forbes*, June 25, 2018. https://www.forbes.com/sites/emmawoollacott/2018/06/25/eu-nations-still-breaking-the-law-on-mass-surveillance/?sh=350684fd12d8.

YouGov. n.d. “YouGov Chart Report: All Countries.” https://www.patrick-breyer.de/wp-content/uploads/2021/03/YG-all-countries.pdf. Conducted by YouGov for the European Parliament.

Young, Alasdair R. 2019. “Two Wrongs Make a Right? The Politicization of Trade Policy and European Trade Strategy.” *Journal of European Public Policy* 26 (12): 1883–99. https://doi.org/10.1080/13501763.2019.1678055.

Zaun, Natascha. 2018. “The European Commission in Justice and Home Affairs: Pushing Hard to Be a Motor of Integration.” In Ripoll Servent and Trauner 2018, 409–20.

Zeegers, Nicolle. 2016. “Civil Society Organizations’ Participation in the EU and Its Challenges for Democratic Representation.” *Politics and Governance* 4 (4): 27–39. https://doi.org/10.17645/pag.v4i4.782.

Zimmermann, Doron. 2006. “The European Union and Post-9/11 Counterterrorism: A Reappraisal.” *Studies in Conflict & Terrorism* 29 (2): 123–45. https://doi.org/10.1080/10576100500522215.

Zimmermann, Hubert. 2019. “The European Parliament and the Layered Politicization of the External Dimension of the Common Fisheries Policy.” *Politics and Governance* 7 (3): 237. https://doi.org/10.17645/pag.v7i3.2178.

Zürn, Michael. 2006. “Zur Politisierung der Europäischen Union.” *PVS* 47 (2): 242–51. https://doi.org/10.1007/s11615-006-0038-6.

Zürn, Michael. 2013. “Politisierung als Konzept der Internationalen Beziehungen.” In Zürn and Ecker-Ehrhardt 2013, 7–35.

Zürn, Michael. 2014. “The Politicization of World Politics and Its Effects: Eight Propositions.” *European Political Science Review* 6 (1): 47–71. https://doi.org/10.1017/S1755773912000276.

Zürn, Michael. 2016. “Opening up Europe: Next Steps in Politicisation Research.” *West European Politics* 39 (1): 164–82. https://doi.org/10.1080/01402382.2015.1081513.

Zürn, Michael. 2019. “Politicization Compared: At National, European, and Global Levels.” *Journal of European Public Policy* 26 (7): 977–95. https://doi.org/10.1080/13501763.2019.1619188.

Zürn, Michael, Martin Binder, and Matthias Ecker-Ehrhardt. 2012. “International Authority and Its Politicization.” *International Theory* 4 (1): 69–106. https://doi.org/10.1017/S1752971912000012.

Zürn, Michael, and Matthias Ecker-Ehrhardt, eds. 2013. *Die Politisierung der Weltpolitik: Umkämpfte internationale Institutionen.* Berlin: Suhrkamp.

Appendixes

Appendix 1. List of Interviews

2019

Berlin, May 07, 2019
NGO staff, May 07, 2019; cited as: NGO staff (1)

Brussels, May 13-15, 2019

NGO staff, May 13, 2019; cited as: NGO staff (2)

Member of the European Parliament staff, May 13, 2019; cited as: MEP staff (1)

NGO staff, May 14, 2019; cited as: NGO staff (3)

Commission officials, May 14, 2019; cited as: Commission official (1&2)

Council official, May 14, 2019; cited as: Council official (1)

Member of the European Parliament staff, May 14, 2019; cited as: MEP staff (2)

NGO staff, May 15, 2019; cited as: NGO staff (4)

NGO staff, May 15, 2019; cited as: NGO staff (5)

Video call Interview, 21 May, 2019

NGO staff, May 21, 2019 (via Skype); cited as: NGO staff (6)

Phone Interview, June 24, 2019

Commission official, May 21, 2019 (via phone); cited as: Commission official (3)

2022

Video call Interviews, March-May, 2022

Member of the European Parliament, March 03, 2022 (via BigBlueButton); cited as: MEP (1)

NGO staff, April 06, 2022 (via BigBlueButton); cited as: NGO staff (4)

NGO staff, April 21, 2022 (via BigBlueButton); cited as: NGO staff (7)

NGO staff, April 19, 2022 (via BigBlueButton); cited as: NGO staff (8)

NGO staff, April 22, 2022 (via BigBlueButton); cited as: NGO staff (9)

NGO staff, April 13, 2022 (via BigBlueButton); cited as: NGO staff (10)

NGO staff, April 14, 2022 (via BigBlueButton); cited as: NGO staff (11)

NGO staff, April 27, 2022 (via BigBlueButton); cited as: NGO staff (12)

Council official, May 30, 2022 (via Avaya Meetings); cited as: Council official (2)

Brussels, May 24-25, 2022

Council official, May 24, 2022; cited as: Council official (1)

NGO staff, May 24, 2022; cited as: NGO staff (13)

Commission official, May 25, 2022; cited as: Commission official (4)

NGO staff, May 25, 2022; cited as: NGO staff (14)

Phone Interview, May 20, 2022
Commission official, May 20, 2022 (via phone); cited as: Commission official (5)

Appendix 2. Guideline for an Expert Interview (2019)

Interviewee:
Interviewer:
Date of interview:
Duration of interview:
Place of interview:

Introduction

- Give thanks for willingness to conduct an interview
- Aim and context of the interview (to gain process and context knowledge)
- Confidential treatment of data and anonymity
- Notes and recording of interview

Starting question: I am interested in the issue of _____ can you tell me how you experienced this process?

Topic A: Agents of politicization

Question 1 – What is/was your role in the setting*?

Question 1.1 How would you describe your position in the setting*?

Question 1.2 How does/did your work at the European level look like?

Question 1.3 Who are your addressees?

Question 1.4 Who do/did you cooperate with?

Question 1.5 Who hindered your efforts?

Question 1.6 How does an exchange with these actors look like?

Question 1.7 Which kind of interactions with these actors took place?

*institution (e.g. EP, COM, Council)/organization or association (e.g. NGOs)

Topic B: Objects of politicization

Question 2 – What are/were conflictive issues?

Question 2.1 Why is/was especially the issue of _____ conflictive?

Question 2.2 Can you describe the content of controversies regarding the issue of _____?

Question 2.3 Can you depict your own (pro or contra) argumentation?

Question 2.4 Would you say your argumentation has changed?

Topic C: Awareness, mobilization and contestation

Question 3 – Which issue evokes/evoked the most public attention?

Question 3.1 Regarding which issue do/did you receive the highest public feedback? What does/did this feedback look like?

Question 3.2 Did you share the position of civil society organizations?

Question 3.3 – Yes: In how far would you say that you use/have used the public attention for your own aims?

– No: In how far would you say that you try/tried to scale the attention down?

Question 3.4 How do you decide to start a campaign?

Topic D: Instruments and contributing factors to politicization

Question 4 – How do/did you disseminate your position/argumentation?

Question 4.1 What types of actions do/did you use to disseminate your position/argumentation?

Question 4.2 What are/were the most important negotiations regarding the issue of _____?

Question 4.3 In this context, what is/was the most important decision?

Question 4.4 Can you identify an event (or more than one) that triggered the issue at the European level?

Question 4.5 Can you describe your and your opponents' position with regard to the issue _____ before and after the event?

Outlook

Question 5 – What is from your point of view an issue that will become conflictive in the future?

Question 6 – Can you summarize the current state of the issue _____?

Appendix 3. Guideline for an Expert Interview (2022)[223]

Thank you for your willingness to participate in the interview.

Short personal introduction and of my dissertation project: I am Lina Liedlbauer and since May 2018 I am working as a research assistant and doctoral candidate in the DFG-funded project "Politicisation of European Security". I am responsible for the research on EU counter-terrorism. I became aware of my dissertation topic "The role of NGOs in the politicisation of European security" through initial interviews in Brussels in 2019 – including an interview with you. The aim of the interview is to discuss differences in terms of public perception with regard to the EU directive on data retention, the EU PNR directive the EU terrorist content online regulation.

Definition of politicisation: "[…] politicisation denotes the transfer of previously uncontroversial or not publicly debated issues into the public sphere where they can be subjected to open negotiation, public debate and societal conflict" (Hegemann and Schneckener 2019, 2).

Before we start: Do you agree to the conversation being audio recorded?

☐ Check: Audio Recording ok?

Are there any questions on your part before the interview starts?

Can you please introduce your organisation/institution and your work in a few sentences?

Can you explain the history of the legislative act (EU DRD/ EU PNR directive/ Terreg) and reflect on the current situation with regard to the policy process?

When did you start to focus on the policy?

Can you tell me a little bit about your organisation's work with regard to the policy?

What would you say were crucial actions of your organisation/institution with regard to the legislative act (EU DRD/ EU PNR directive/ Terreg)? – What were crucial moments in the policy process for your work?

Was or is there a specific strategy?

Did the event ____ affect your strategy?

In which legal proceedings was your organisation involved?

Who were your cooperation partners in the policy process?

--

[223] Anonymised and therefore highly simplified.

How do you perceive the media's interest in the issue/ in your actions?

Was there a lot of interest of citizens in the issue/ in your actions at national/ EU level?

--

Optional:

Why do you think the general public has been very much interested in the issue (EU DRD/ EU PNR directive/ Terreg)?

Why was the interest in the issue (EU DRD/ EU PNR directive/ Terreg) low (or lower)?

--

How do you perceive the Commission's position on the policy?

Was there any dispute between member states? Mentionable contestation at member state level?

How would you assess the cooperation between the EU Commission and (human rights) NGOs with regard to EU security policies? Do you see a difference regarding the "openness" of the institution over the years?

Do you see other EU institutions responding more greatly to requests of NGOs over the years?

Would you say, over the course of different proceedings before the CJEU – that there is an increasing conflict between security and privacy with regard to the legislative act?

Thank you for the interview and your personal insights on these topics.

Appendix 4. Coding Schemes from MAXQDA (Case 1)

List of Codes	Frequency
Codesystem	509
NGO(s)	40
civil rights groups	25
privacy groups	10
Name of NGO	131
DRi	12
Statewatch	55
EDRi	27
PI	20
Digitalcourage	2
LQDN	2
AK Vorrat DE	9
Access Now	1
Panoptykon Foundation	3
Voice	0
Leak	6
Protest	1
Campaign	1
Report	2
Petition	7

Document added as source - voice	17
Access	0
Letter	6
Document added as a source - access	9
Litigation	139
Reference to NGO court case	114
National data retention rulings	16
AK Vorrat DE ruling	18
Digital Rights Ireland ruling	71
PI, LQDN et al. ruling	9
Name of the NGO in context of the court case	12
Reference to NGO act of litigation	13
Contestation	15

Source: Own list of codes generated with MAXQDA.

Appendix 5. Selection of Articles and Coding Schemes for Qualitative Content Analysis of European Media Outlets (Case 1)

Discussion of the topic in general "data retention directive"		
Data retention directive	"But the Data Retention Directive continues to anger many lawmakers, who argue they have no proof the law is necessary." (Commission faces battle on data retention – EURACTIV.com, S. 1: 689)	82 articles
Data retention	"The Green Party is among those criticising efforts to reintroduce data retention in Germany." (German watchdog doubts constitutionality of data retention plan, S. 2: 1541)	240 articles
Telecommunications data	"After the terror attacks in London and Madrid, the EU rushed through new legislation on retaining telecommunications data to help track suspected terrorists' movements." (Commission faces battle on data retention – EURACTIV.com, S. 1: 518)	16 articles
Storage of data	"The judges in their ruling on the directive said the bulk collection and storage of data of people not suspected of any crime was disproportionate." (EU funds airline data-sharing despite legal concerns, S. 2: 186)	10 articles
Retention of data	"In addition, the court later ruled in the 2016 Tele2/Watson case, that general and indiscriminate retention of data was illegal." (Indiscriminate data retention 'incompatible' with EU charter EC, S. 2: 2807)	29 articles
Communications data	"The Parliament followed a recommendation of its Civil Liberties, Justice and Home Aàairs Committee, who voted on May 26 with only one abstention to reject the initiative of France, the United Kingdom, Ireland and Sweden for a framework decision on the retention of communications data." (Parliament rejects data retention plan – EURACTIV.com, S. 1: 1382)	19 articles
Traffic and location data	"Data retention refers to the storage of traffic and location data resulting from electronic communications." (Germany moves closer towards bill on data retention – EURACTIV., S. 2: 3153)	19 articles
Data retained	"because no link was made between the data retained and the threat to public security." (Scrapped EU surveillance law throws doubt on US data agreements, S. 1: 1109)	6 articles
Retained data	"The Parliament wants to make respect for privacy the key principle when deciding on access to retained data." (Council pressures Parliament on data retention – EURACTIV.com, S. 1: 587)	11 articles

Coding categories	Coding example	Number of coded articles
Mentioning of NGOs		
Reference to NGO(s)	"On the day preceding the vote, NGOs handed over a petition against data retention carrying 58,000 signatures." (EP committee votes for watered-down data storage – EURACTIV.com, S. 2: 3214)	4 articles
Name of NGO is mentioned	"A wide scope of digital rights groups led by the German NGO digitalcourage has written to Commissioners Ylva Johansson, Thierry Breton, Didier Reynders, and Vice-President Margarethe Vestager, highlighting concerns with the Commission's gesturing towards finding possible legal solutions for retaining data." (Digital Brief The French fight Biotech in Parliament 'Soft' EU, S. 2: 1450)	73 articles
Reference to civil rights group(s)	"and civil rights groups regard it as tantamount to mass espionage" (London's Washington wish-list – POLITICO, S. 1: 618)	23 articles
Reference to privacy group(s)	"While not binding, the opinion is already being celebrated as a victory among some privacy defenders, amid their larger efforts to curtail abusive policies that force companies to blanket retain the personal data of people for police and national security access." (Belgium France UK in EU court surveillance blow, S. 1: 672)	10 articles
Reference to NGOs' *voice* action		
Leak	"The document, leaked to the NGO Statewatch which monitors civil liberties in the EU, advocates keeping records of e-mails and telephone calls for up to two years under the guise of protection against terrorism." (Surveillance document disowned, S. 1: 689)	6 articles
Protest	"Data retention protest, Vienna, March 31, 2012." (EU top court rules against bulk retention of emails – EURACTIV., S. 1: 237)	1 article
Campaign	"to launch a new International Campaign Against Mass Surveillance with the publication of a report warning of the danger to fundamental freedoms of current anti-terror policies. The report says that governments are using the 'war on terror' to institute an unprecedented global system of surveillance of individuals" (Global security policy will "roll back freedom" says report – E, S. 1: 1661)	1 article
Report	"In a parallel 'shadow report', the EDRi concludes that European citizens have 'gained nothing from the Data Retention Directive, but lost their privacy'." (Commission faces battle on data retention – EURACTIV.com, S. 2: 1562)"	2 articles
Petition	"Almost 50,000 EU citizens have already signed an online petition against data retention." (EU	7 articles

	privacy czar slams data retention scheme – EURACTIV.com, S. 2: 1254)	
Document added as a source		9 articles
Reference to NGOs' *access* action		
Letter	"In an open letter signed by a coalition of 60 civil liberties groups and sent to all MEPs and EU Institutions in May 2002, theGlobal Internet Liberty Campaign (GILC)argued that data retention (for reasons other than billing purposes) is contrary to well-established international human rights conventions and case law." (Industry turning against European data retention bill – EURACTI, S. 1: 2327)	6 articles
Document added as a source		6 articles
Reference to NGOs' *litigation* action		
Reference to NGO court case (national and EU level)	"In April 2014, the Court of Justice of the European Union (CJEU) struck down the data retention directive, which said phone and Internet companies had to store communications data for between six months and two years." (UK High Court strikes down British data retention law – POLITIC, S. 2: 786)	92 articles
Reference to NGO act of litigation	"The judgment dealt with two cases referred to the ECJ by courts in Ireland and Austria. Digital Rights Ireland, an advocacy group, challenged Ireland's implementation of the directive before the courts. A similar challenge was launched in Austria by the government of the province of Carinthia and by over 10,000 individual applicants." (EU data retention rules struck down – POLITICO, S. 1: 1878)	12 articles
Name of a NGO in context of the case	"However, following a case brought by the lobby group Digital Rights Ireland in 2014, the European Court of Justice had struck down the directive because it contravened the right to privacy as part of the EU Charter of Fundamental Rights." ('Enormous amount at stake' in Irish murder data appeal case – E, S. 1: 1216)	12 articles
Visibility of Contestation		
Presence of opposing arguments	"'The ECJ ruling focuses on data retention,' said Adrienne Charmet of La Quadrature du Net, a group that promotes Internet users' rights. 'The Court also specified the respect of proportionality for data protection, but there are no criteria for the data collection. But this issue was totally overlooked by MPs and the government.' The French government argues that, as a national security concern, the intelligence bill should not be under the jurisdiction of the EU court. It also says the law is designed to protect whistle-blowers, journalists, MPs and political activists. However, the algorithm that will determine which type of	15 articles

	data would be collected is subject to defense secrecy.” (French surveillance bill faces EU scrutiny – POLITICO, S. 2: 786)	
Case Classifications		
Year	2001-2020	
European Newspapers	Euobserver, EURACTIV, Politico Europe (former European Voice), The Parliament Magazine	

Source: Own illustration.

Appendix 6. EU DRD – Overview of Analysed European Media Outlet Articles

Date	Title of article	Link to article
euobserver.com (100 articles)		
28.06.2001	Ministers back retention of telecomunication data	https://euobserver.com/news/2797
13.05.2002	Crucial vote on data surveillance postponed	https://euobserver.com/news/6226
30.05.2002	Big parties compromise on data surveillance law	https://euobserver.com/justice/6448
31.05.2002	Parliament gives EU states access to private data	https://euobserver.com/political/6475
20.08.2002	EU-wide surveillance a possibility soon	https://euobserver.com/justice/7292
21.08.2002	Surveillance document disowned	https://euobserver.com/justice/7319
19.03.2004	EU to agree new terror Tsar	https://euobserver.com/justice/14846
22.03.2004	Solana warns against an over-reaction after Madrid	https://euobserver.com/justice/14876
25.03.2004	Civil liberties group cries foul over EU anti-terrorism plans	https://euobserver.com/justice/14945
03.12.2004	EU ministers move forward on controversial data retention proposals	https://euobserver.com/justice/17906
04.05.2005	MEPs up in arms about data privacy law	https://euobserver.com/justice/19003
23.05.2005	This WEEK in the European Union	https://euobserver.com/agenda/19110
08.06.2005	MEPs reject controversial data retention proposal	https://euobserver.com/justice/19275
12.07.2005	UK seeks to fast-track EU anti-terror data law	https://euobserver.com/justice/19549
25.07.2005	Terror at the top of UK presidency agenda	https://euobserver.com/justice/19637
26.07.2005	New EU bank rules to cut off terror funds	https://euobserver.com/justice/19642
11.08.2005	German industry up in arms over EU data plans	https://euobserver.com/justice/19680
06.09.2005	Data-retention moves worry MEPs	https://euobserver.com/justice/19799
08.09.2005	Britain calls for change to European Convention on Human Rights	https://euobserver.com/justice/19822
09.09.2005	EU moves slowly ahead with data retention law	https://euobserver.com/justice/19836

16.09.2005	This WEEK in the European Union	https://euobserver.com/agenda/19885
21.09.2005	Commission proposes competing data retention law	https://euobserver.com/justice/19909
25.05.2005	This WEEK in the European Union	https://euobserver.com/agenda/19930
05.10.2005	Brussels seeks to soothe nerves on data exchange	https://euobserver.com/justice/20010
13.10.2005	EU justice ministers agree compromise on data retention	https://euobserver.com/justice/20083
18.11.2005	This WEEK in the European Union	https://euobserver.com/agenda/20366
22.11.2005	No EU air data to US, says top judge	https://euobserver.com/justice/20388
29.11.2005	Music-biz wants in on EU data retention laws	https://euobserver.com/justice/20430
01.12.2005	EU ministers shape counter-terror strategy in Brussels	https://euobserver.com/news/20454
02.12.2005	Brussels clinches data retention deal	https://euobserver.com/news/20471
08.12.2005	Data retention rift continues to bubble	https://euobserver.com/justice/20504
09.12.2005	This WEEK in the European Union	https://euobserver.com/agenda/20498
13.12.2005	Arguments continue on eve of data retention D-day	https://euobserver.com/justice/20540
14.12.2005	Ireland to contest data retention law at EU Court	https://euobserver.com/justice/20548
17.02.2006	This WEEK in the European Union	https://euobserver.com/agenda/20936
22.02.2006	EU passes controversial data retention law	https://euobserver.com/justice/20961
26.04.2006	EU data retention law could harm free press	https://euobserver.com/justice/21443
05.05.2006	UK may lift veto on police matters	https://euobserver.com/justice/21520
12.05.2006	US could access EU data retention information	https://euobserver.com/news/21580
31.05.2006	Air data ruling could affect data retention law dispute	https://euobserver.com/justice/21727
05.11.2007	EU to propose collecting data on air passengers	https://euobserver.com/justice/25085
08.04.2008	Search engine activities threat to privacy, says EU report	https://euobserver.com/creative/25940
10.09.2008	Google cuts data retention after EU privacy warning	https://euobserver.com/creative/26718

15.10.2008	Legal blow to opponents of data retention bill	https://euobserver.com/justice/26934
26.11.2008	Someone in Brussels should listen to Ireland	https://euobserver.com/opinion/27181
09.12.2008	Microsoft to adhere to EU privacy request	https://euobserver.com/tickers/108392
19.12.2008	Yahoo cuts user data retention time to 90 days	https://euobserver.com/tickers/108459
09.02.2009	EU court to deliver judgement on data retention	https://euobserver.com/justice/27573
10.02.2009	Ireland loses data retention case	https://euobserver.com/tickers/108751
13.03.2009	Internet radicals ready themselves for European Parliament	https://euobserver.com/news/27767
03.03.2010	German court strikes blow against EU data-retention regime	https://euobserver.com/news/29595
20.07.2010	EU lists data-sharing policies for first time	https://euobserver.com/news/30512
04.11.2010	EU to press for 'right to be forgotten' online	https://euobserver.com/social/31200
11.01.2011	US anti-Twitter subpoena fuels data privacy debate	https://euobserver.com/news/31614
04.04.2011	Member states to clash with EU parliament on passenger data	https://euobserver.com/institutional/32109
15.04.2011	This WEEK in the European Union	https://euobserver.com/agenda/32191
18.04.2011	Berlin set for clash with Brussels over data storage	https://euobserver.com/tickers/112730
18.04.2011	EU commission defends telecoms surveillance law	https://euobserver.com/news/32204
10.06.2011	German crime stats undermine case for EU data retention law	https://euobserver.com/tickers/112944
11.10.2011	EU struggling to fight cyber crime	https://euobserver.com/cyber/113833
04.04.2012	UK government under fire over 'Big Brother' web surveillance plans	https://euobserver.com/justice/115800
23.04.2012	Police largely exempt from data protection directive	https://euobserver.com/justice/115999
06.12.2012	EU data protection rules 'on schedule' despite delay	https://euobserver.com/justice/118425
25.06.2013	EU citizens to remain in the dark on data breaches	https://euobserver.com/justice/120622

13.12.2013	EU data retention law said to breach privacy rights	https://euobserver.com/justice/122459
06.01.2014	EU data law hits set-back in Germany	https://euobserver.com/justice/122636
08.04.2014	EU top court scraps data retention law	https://euobserver.com/tickers/123784
08.04.2014	EU court scraps data surveillance law	https://euobserver.com/justice/123785
09.04.2014	What does the death of the EU data directive mean?	https://euobserver.com/news/123791
11.07.2014	UK tables data retention law after EU court ruling	https://euobserver.com/tickers/124940
24.07.2014	Scrapped EU surveillance law throws doubt on US data agreements	https://euobserver.com/justice/125089
30.09.2014	EU embassies should take asylum requests, new commissioner says	https://euobserver.com/justice/125826
11.11.2014	Data retention issue stymies EU air passenger bill	https://euobserver.com/justice/126473
25.11.2014	EU funds airline data-sharing despite legal concerns	https://euobserver.com/justice/126663
01.12.2014	The EU's charter of fundamental rights - five years on	https://euobserver.com/opinion/126708
09.01.2015	Debate intensifies on stuck EU counter-terrorism bill	https://euobserver.com/justice/127161
16.01.2015	Merkel wants more EU data surveillance powers	https://euobserver.com/tickers/127233
19.01.2015	EU to increase intelligence sharing with Arab states	https://euobserver.com/foreign/127283
21.01.2015	EU flight data bill set for possible overhaul	https://euobserver.com/justice/127319
22.01.2015	EU wants internet firms to hand over encryption keys	https://euobserver.com/news/127329
04.02.2015	French minister lobbies MEPs on EU passenger bill	https://euobserver.com/justice/127498
20.03.2015	Mexico-EU data dispute puts airlines at risk of sanctions	https://euobserver.com/justice/128095
12.06.2015	Belgian constitutional court anulls data retention law	https://euobserver.com/tickers/129084
15.07.2015	MEPs back blanket collection of airline passenger data	https://euobserver.com/justice/129658

27.07.2015	EU data privacy chief criticises air passenger bill	https://euobserver.com/justice/129776
09.10.2015	France wants all travelling EU nationals fingerprinted	https://euobserver.com/justice/130622
26.10.2015	Safe Harbour invalidation puts EU data in quarantine	https://euobserver.com/opinion/130816
09.12.2015	EU counter-terror bill is 'indiscriminate' data sweep	https://euobserver.com/justice/131457
04.01.2016	Big victories and rollbacks for data in year of terror	https://euobserver.com/europe-in-review/131163
23.03.2016	EU pushes for flight data bill after Brussels attacks	https://euobserver.com/justice/132790
24.03.2016	EU seeks access to 'digital evidence'	https://euobserver.com/justice/132811
13.04.2016	Regulator criticises 'Privacy Shield' for EU data in US	https://euobserver.com/justice/133038
25.04.2016	Belgium 'insulted' by bad press on terrorism	https://euobserver.com/justice/133201
08.09.2016	PNR deal with Canada violates rights, says EU top lawyer	https://euobserver.com/justice/134979
04.11.2016	Belgian terror crackdown stokes tensions amid police abuse	https://euobserver.com/justice/135780
21.12.2016	Blanket data retention is illegal under EU law, court says	https://euobserver.com/justice/136379
06.10.2017	EU states copy Israel's 'predictive policing'	https://euobserver.com/justice/139277
17.10.2019	EU parliament quietly keeps visitors' wi-fi data	https://euobserver.com/institutional/146270
16.01.2020	Belgium, France, UK in EU court surveillance blow	https://euobserver.com/justice/147158
07.10.2020	ECJ: surveillance practices in France and Belgium 'illegal'	https://euobserver.com/tickers/149666
euractiv.com (75 articles)		
26.07.2001	5 telecom priorities for Belgian EU Presidency	https://www.euractiv.com/section/digital/news/5-telecom-priorities-for-belgian-eu-presidency/
21.09.2001	Openness and transparency in Pillar Three: problems and challenges	https://www.euractiv.com/section/eu-priorities-2020/opinion/openness-and-transparency-in-pillar-three-problems-and-challenges/
03.12.2001	EU seminar discusses cybercrime	https://www.euractiv.com/section/digital/news/eu-seminar-discusses-cybercrime/
10.05.2002	Statewatch accuses EU of ‘secretive’ Decision on data retention	https://www.euractiv.com/section/uk-europe/news/statewatch-accuses-eu-of-secretive-decision-on-data-retention/

24.05.2002	NGOs want halt to Internet data retention	https://www.euractiv.com/section/uk-europe/news/ngos-want-halt-to-internet-data-retention/
21.08.2002	EU plans to enforce communications data retention	https://www.euractiv.com/section/uk-europe/news/eu-plans-to-enforce-communications-data-retention/
09.12.2002	Commission presents eighth telecom package implementation report	https://www.euractiv.com/section/digital/news/commission-presents-eighth-telecom-package-implementation-report/
06.06.2003	Industry turning against European data retention bill	https://www.euractiv.com/section/digital/news/industry-turning-against-european-data-retention-bill/
01.04.2004	From New York to Madrid: Technology as the Ultra-Solution to the Permanent State of Fear and Emergen	https://www.euractiv.com/section/security/opinion/from-new-york-to-madrid-technology-as-the-ultra-solution-to-the-permanent-state-of-fear-and-emergen/
08.04.2004	The Aftermath of 11 March in Madrid	https://www.euractiv.com/section/security/opinion/the-aftermath-of-11-march-in-madrid/
03.12.2004	Council calls for police access to e-mails, SMS and phone calls	https://www.euractiv.com/section/security/news/council-calls-for-police-access-to-e-mails-sms-and-phone-calls/
07.01.2005	Increased EU data exchange could help trace tsunami disaster victims	https://www.euractiv.com/section/security/news/increased-eu-data-exchange-could-help-trace-tsunami-disaster-victims/
11.03.2005	Brief – Frattini will set new agenda on data protection	https://www.euractiv.com/section/security/news/brief-frattini-will-set-new-agenda-on-data-protection/
21.04.2005	Global security policy will “roll back freedom”, says report	https://www.euractiv.com/section/science-policymaking/news/global-security-policy-will-roll-back-freedom-says-report/
02.06.2005	Parliament will have a say on data retention	https://www.euractiv.com/section/digital/news/parliament-will-have-a-say-on-data-retention/
08.06.2005	Parliament rejects data retention plan	https://www.euractiv.com/section/digital/news/parliament-rejects-data-retention-plan/
12.07.2005	UK calls special EU anti-terror council	https://www.euractiv.com/section/security/news/uk-calls-special-eu-anti-terror-council/
12.07.2005	UK Presidency to revive data storage plans	https://www.euractiv.com/section/digital/news/uk-presidency-to-revive-data-storage-plans/
13.07.2005	EU Privacy Supervisor: After London terror, don’t give away freedoms	https://www.euractiv.com/section/security/interview/eu-privacy-supervisor-after-london-terror-don-t-give-away-freedoms/
13.07.2005	MEPs grill UK Home Secretary over terrorist measures	https://www.euractiv.com/section/security/news/meps-grill-uk-home-secretary-over-terrorist-measures/
14.07.2005	EU ministers agree urgent anti-terror policy	https://www.euractiv.com/section/science-policymaking/news/eu-ministers-agree-urgent-anti-terror-policy/
01.08.2005	Commission proposes storage of communication data for one year	https://www.euractiv.com/section/digital/news/commission-proposes-storage-of-communication-data-for-one-year/
21.09.2005	Commission wants phone data to be stored for one year	https://www.euractiv.com/section/digital/news/commission-wants-phone-data-to-be-stored-for-one-year/

22.09.2005	Commission looks at the roots of terror	https://www.euractiv.com/section/security/news/commission-looks-at-the-roots-of-terror/
27.09.2005	EU privacy czar slams data retention scheme	https://www.euractiv.com/section/digital/news/eu-privacy-czar-slams-data-retention-scheme/
05.10.2005	EU to strengthen data protection rules	https://www.euractiv.com/section/security/news/eu-to-strengthen-data-protection-rules/
14.10.2005	Justice Ministers agree on data retention	https://www.euractiv.com/section/security/news/justice-ministers-agree-on-data-retention/
25.10.2005	Views polarise on civil liberties versus terrorist threat	https://www.euractiv.com/section/security/news/views-polarise-on-civil-liberties-versus-terrorist-threat/
10.11.2005	Council pressures Parliament on data retention	https://www.euractiv.com/section/digital/news/council-pressures-parliament-on-data-retention/
11.11.2005	British MPs roundly reject anti-terror law	https://www.euractiv.com/section/security/news/british-mps-roundly-reject-anti-terror-law/
24.11.2005	EP committee votes for watered-down data storage	https://www.euractiv.com/section/digital/news/ep-committee-votes-for-watered-down-data-storage/
25.11.2005	MEP Alexander Alvaro: “We will bring the Council to Court, if it must be”	https://www.euractiv.com/section/digital/interview/mep-alexander-alvaro-we-will-bring-the-council-to-court-if-it-must-be/
26.11.2005	Data retention rapporteur says EP “may take Council to Court”	https://www.euractiv.com/section/security/news/data-retention-rapporteur-says-ep-may-take-council-to-court/
06.12.2005	Ministers reach agreement on data storage	https://www.euractiv.com/section/digital/news/ministers-reach-agreement-on-data-storage/
14.12.2005	Data Retention: Parliament caves in to Council pressure	https://www.euractiv.com/section/digital/news/data-retention-parliament-caves-in-to-council-pressure/
20.04.2006	Comply or else, data watchdog tells EU	https://www.euractiv.com/section/data-protection/news/comply-or-else-data-watchdog-tells-eu/
05.11.2007	Internet targeted by new EU anti-terror rules	https://www.euractiv.com/section/digital/news/internet-targeted-by-new-eu-anti-terror-rules/
29.01.2009	EU mulls new data protection initiatives	https://www.euractiv.com/section/digital/news/eu-mulls-new-data-protection-initiatives/
19.04.2010	Citizens first in justice and home affairs policies	https://www.euractiv.com/section/justice-home-affairs/opinion/citizens-first-in-justice-and-home-affairs-policies/
27.05.2010	Internet search engines scolded by EU regulators	https://www.euractiv.com/section/digital/news/internet-search-engines-scolded-by-eu-regulators/
06.12.2010	Brussels mulls shortening data retention periods	https://www.euractiv.com/section/justice-home-affairs/news/brussels-mulls-shortening-data-retention-periods/
19.04.2011	Commission faces battle on data retention	https://www.euractiv.com/section/digital/news/commission-faces-battle-on-data-retention/
26.04.2011	Hustinx: Data retention is the EU’s most invasive tool	https://www.euractiv.com/section/digital/interview/hustinx-data-retention-is-the-eu-s-most-invasive-tool/
03.06.2011	Data Retention Directive does not respect privacy: EU watchdog	https://www.euractiv.com/section/digital/news/data-retention-directive-does-not-respect-privacy-eu-watchdog/

30.06.2011	The Data Retention Directive Is flawed for Europe	https://www.euractiv.com/section/digital/opinion/the-data-retention-directive-is-flawed-for-europe/
22.06.2012	Data privacy tsar warns EU countries not to dilute rules	https://www.euractiv.com/section/justice-home-affairs/news/data-privacy-tsar-warns-eu-countries-not-to-dilute-rules/
08.01.2014	EU anti-terror law puts German coalition to the test	https://www.euractiv.com/section/justice-home-affairs/news/eu-anti-terror-law-puts-german-coalition-to-the-test/
09.04.2014	EU Court slams Data Retention Directive	https://www.euractiv.com/section/justice-home-affairs/news/eu-court-slams-data-retention-directive/
04.06.2014	German MEP Manfred Weber elected as next EPP chairman	https://www.euractiv.com/section/eu-elections-2014/news/german-mep-manfred-weber-elected-as-next-epp-chairman/
01.10.2014	Immigration Commissioner denounces 'Fortress Europe' at hearing	https://www.euractiv.com/section/justice-home-affairs/news/immigration-commissioner-denounces-fortress-europe-at-hearing/
30.10.2014	Berlin calls for EU-wide retention of PNR flight data	https://www.euractiv.com/section/justice-home-affairs/news/berlin-calls-for-eu-wide-retention-of-pnr-flight-data/
12.11.2014	PRISM scandal threatens EU-US 'Safe Harbour' agreement	https://www.euractiv.com/section/justice-home-affairs/opinion/prism-scandal-threatens-eu-us-safe-harbour-agreement/
13.01.2015	Germany's debate over data retention flares following Paris attacks	https://www.euractiv.com/section/digital/news/germany-s-debate-over-data-retention-flares-following-paris-attacks/
16.01.2015	Anti-terrorist measures in EU go in all directions	https://www.euractiv.com/section/justice-home-affairs/news/anti-terrorist-measures-in-eu-go-in-all-directions/
17.03.2015	Germany moves closer towards bill on data retention	https://www.euractiv.com/section/digital/news/germany-moves-closer-towards-bill-on-data-retention/
16.04.2015	German government repackages data retention regulations	https://www.euractiv.com/section/digital/news/german-government-repackages-data-retention-regulations/
19.05.2015	Germany toughens up on data retention	https://www.euractiv.com/section/digital/news/germany-toughens-up-on-data-retention/
11.06.2015	German watchdog doubts constitutionality of data retention plans	https://www.euractiv.com/section/digital/news/german-watchdog-doubts-constitutionality-of-data-retention-plans/
16.07.2015	Passenger name record law passes first hurdle in Parliament	https://www.euractiv.com/section/justice-home-affairs/news/passenger-name-record-law-passes-first-hurdle-in-parliament/
20.11.2015	Council pushes for broad collection of flight passenger data after Paris attacks	https://www.euractiv.com/section/justice-home-affairs/news/council-pushes-for-broad-collection-of-flight-passenger-data-after-paris-attacks/
14.01.2016	European court's blow to Hungary could draw similar privacy complaints	https://www.euractiv.com/section/digital/news/european-court-s-blow-to-hungary-could-draw-similar-privacy-complaints/
18.03.2016	Privacy Shield negotiators on defensive ahead of member states' review	https://www.euractiv.com/section/digital/news/privacy-shield-negotiators-on-defensive-ahead-of-member-states-review/
22.12.2016	EU top court rules against bulk retention of emails	https://www.euractiv.com/section/digital/news/eu-top-court-rules-against-bulk-retention-of-emails/

08.08.2017	Member states ask for new EU data retention rules	https://www.euractiv.com/section/digital/news/member-states-ask-for-new-eu-data-retention-rules/
19.09.2017	Commission to publish encryption report on 18 October	https://www.euractiv.com/section/data-protection/news/commission-to-publish-encryption-report-on-18-october/
26.09.2019	Slovenia vows to block Croatia's Schengen accession path	https://www.euractiv.com/section/politics/news/slovenia-vows-to-block-croatias-schengen-accession-path/
26.09.2019	Digital Brief: Copyright Commotion	https://www.euractiv.com/section/digital/news/digital-brief-copyright-commotion/
17.12.2019	'Enormous amount at stake' in Irish murder data appeal case	https://www.euractiv.com/section/data-protection/news/enormous-amount-at-stake-in-irish-murder-data-appeal-case/
15.01.2020	Indiscriminate data retention 'incompatible' with EU charter, ECJ says	https://www.euractiv.com/section/digital/news/indiscriminate-data-retention-incompatible-with-eu-charter-ecj-says/
16.01.2020	Digital Brief: Wiretapping in the age of 5G	https://www.euractiv.com/section/digital/news/digital-brief-wiretapping-in-the-age-of-5g/
12.02.2020	MEPs to greenlight UK trade talks, von der Leyen baffled by 'Australia' comparison	https://www.euractiv.com/section/uk-europe/news/meps-to-greenlight-uk-trade-talks-von-der-leyen-baffled-by-australia-comparison/
26.02.2020	'Prepare for all eventualities' on UK-EU data transfers, EDPS says	https://www.euractiv.com/section/digital/news/prepare-for-all-eventualities-on-uk-eu-data-transfers-edps-says/
09.07.2020	Digital Brief: Cancel Culture	https://www.euractiv.com/section/digital/news/digital-brief-cancel-culture/
07.10.2020	Mass surveillance permitted only for national security concerns, EU court says	https://www.euractiv.com/section/data-protection/news/mass-surveillance-permitted-only-for-national-security-concerns-eu-court-says/
09.10.2020	Digital Brief: The French fight, Biotech in Parliament, 'Soft' EU rules for AI?	https://www.euractiv.com/section/digital/news/digital-brief-the-french-fight-biotech-in-parliament-soft-eu-rules-for-ai/
politico.eu (110 articles)		
30.05.2001	Warning over moves to water down data privacy	https://www.politico.eu/article/warning-over-moves-to-water-down-data-privacy/
28.11.2001	Liberty or security: the EU must choose which comes first	https://www.politico.eu/article/liberty-or-security-the-eu-must-choose-which-comes-first/
05.12.2001	Dotcom chief warns of huge costs for 'cyber compliance'	https://www.politico.eu/article/dotcom-chief-warns-of-huge-costs-for-cyber-compliance/
12.12.2001	Cappato stands by liberal data privacy rules	https://www.politico.eu/article/cappato-stands-by-liberal-data-privacy-rules/
13.02.2002	MEPs warn 'knee-jerk' reaction to the 11 September atrocities must not restrict civil liberties	https://www.politico.eu/article/meps-warn-knee-jerk-reaction-to-the-11-september-atrocities-must-not-restrict-civil-liberties/

24.04.2002	US denies privacy law bullying	https://www.politico.eu/article/us-denies-privacy-law-bullying/
07.05.2002	MEPs set to reverse phone ID rules	https://www.politico.eu/article/meps-set-to-reverse-phone-id-rules/
12.06.2002	Privacy rights under threat from Europol proposal, claims MEP	https://www.politico.eu/article/privacy-rights-under-threat-from-europol-proposal-claims-mep/
12.06.2002	Police facing 'severe' obstacles to fighting crime	https://www.politico.eu/article/police-facing-severe-obstacles-to-fighting-crime/
11.09.2002	Harmony and high standards are the goals for protection review	https://www.politico.eu/article/harmony-and-high-standards-are-the-goals-for-protection-review-2/
11.09.2002	Privacy eroded post-11 September, rights group claims	https://www.politico.eu/article/privacy-eroded-post-11-september-rights-group-claims-2/
11.09.2002	Parliament U-turn threatens safeguards	https://www.politico.eu/article/parliament-u-turn-threatens-safeguards-2/
27.11.2002	Radical MEP renews call for privacy	https://www.politico.eu/article/radical-mep-renews-call-for-privacy/
31.05.2004	Fear cannot set agenda for struggle ahead	https://www.politico.eu/article/fear-cannot-set-agenda-for-struggle-ahead/
05.04.2004	Germany rejects terror data-snooping plan	https://www.politico.eu/article/germany-rejects-terror-data-snooping-plan/
20.10.2004	Data dilemma: are proposals the birth of Big Brother or a necessary evil?	https://www.politico.eu/article/data-dilemma-are-proposals-the-birth-of-big-brother-or-a-necessary-evil-2/
20.10.2004	Dutch unveil retention compromise	https://www.politico.eu/article/dutch-unveil-retention-compromise-2/
16.03.2005	'Civil liberties at risk from knee-jerk summit reaction'	https://www.politico.eu/article/civil-liberties-at-risk-from-knee-jerk-summit-reaction/
16.03.2005	Firms count cost of keeping tabs on terrorists	https://www.politico.eu/article/firms-count-cost-of-keeping-tabs-on-terrorists/
13.04.2005	EU lawyers judge data retention scheme illegal	https://www.politico.eu/article/eu-lawyers-judge-data-retention-scheme-illegal/
11.05.2005	Ministry of Love – already a reality?	https://www.politico.eu/article/ministry-of-love-already-a-reality/
11.05.2005	Parliament told to vote against data storage laws	https://www.politico.eu/article/parliament-told-to-vote-against-data-storage-laws/
25.05.2005	The Week Ahead	https://www.politico.eu/article/the-week-ahead-207/
25.05.2005	Justice ministers bid to keep data storage plan alive	https://www.politico.eu/article/justice-ministers-bid-to-keep-data-storage-plan-alive/
25.05.2005	Floating down memory lane to Schengen	https://www.politico.eu/article/floating-down-memory-lane-to-schengen/
01.06.2005	The Week Ahead	https://www.politico.eu/article/the-week-ahead-208/
01.06.2005	Intruders of the state?	https://www.politico.eu/article/intruders-of-the-state/
08.06.2005	Business Brief	https://www.politico.eu/article/business-brief-96/
29.06.2005	London's Washington wish-list	https://www.politico.eu/article/londons-washington-wish-list-2/

13.07.2005	London bombings accelerate EU-wide anti-terrorism laws	https://www.politico.eu/article/london-bombings-accelerate-eu-wide-anti-terrorism-laws/
13.07.2005	How to stop the EU's rush-hour killers	https://www.politico.eu/article/how-to-stop-the-eus-rush-hour-killers/
27.07.2005	UK presidency on anti-terrorism drive	https://www.politico.eu/article/uk-presidency-on-anti-terrorism-drive/
31.08.2005	Commission to adopt data retention law	https://www.politico.eu/article/commission-to-adopt-data-retention-law/
07.09.2005	Governments ditch police interview recording plans	https://www.politico.eu/article/governments-ditch-police-interview-recording-plans/
07.09.2005	The Week Ahead	https://www.politico.eu/article/the-week-ahead-217/
14.09.2005	The Week Ahead	https://www.politico.eu/article/the-week-ahead-218/
14.09.2005	Data plan to boost fight against terror	https://www.politico.eu/article/data-plan-to-boost-fight-against-terror/
21.09.2005	The Week Ahead	https://www.politico.eu/article/the-week-ahead-219/
21.09.2005	Deputies set to sound alarm on data retention	https://www.politico.eu/article/deputies-set-to-sound-alarm-on-data-retention/
28.09.2005	To retain or protect – the data dilemma	https://www.politico.eu/article/to-retain-or-protect-the-data-dilemma/
05.10.2005	The Week Ahead	https://www.politico.eu/article/the-week-ahead-221/
12.10.2005	Data retention provokes an EU identity crisis	https://www.politico.eu/article/data-retention-provokes-an-eu-identity-crisis-2/
09.11.2005	The Week Ahead	https://www.politico.eu/article/the-week-ahead-225/
09.11.2005	MEPs to accept data retention	https://www.politico.eu/article/meps-to-accept-data-retention/
23.11.2005	Music moguls want EU terror law to hunt pirates	https://www.politico.eu/article/music-moguls-want-eu-terror-law-to-hunt-pirates/
23.11.2005	High-level group for terror aftermath	https://www.politico.eu/article/high-level-group-for-terror-aftermath/
30.11.2005	Illegal downloads – acts of terrorism?	https://www.politico.eu/article/illegal-downloads-acts-of-terrorism/
30.11.2005	Fighting piracy	https://www.politico.eu/article/fighting-piracy/
07.12.2005	The Week Ahead	https://www.politico.eu/article/the-week-ahead-228/
14.12.2005	Clarke defends data laws	https://www.politico.eu/article/clarke-defends-data-laws/
15.02.2006	Germans and Dutch could thwart evidence deal	https://www.politico.eu/article/germans-and-dutch-could-thwart-evidence-deal/
15.02.2006	The Week Ahead	https://www.politico.eu/article/the-week-ahead-235/
17.05.2006	Anti-terror call meets mixed reaction	https://www.politico.eu/article/anti-terror-call-meets-mixed-reaction/
23.05.2006	Data retention appeal	https://www.politico.eu/article/data-retention-appeal/
13.09.2006	New party leader unlikely to receive warm welcome in Brussels	https://www.politico.eu/article/new-party-leader-unlikely-to-receive-warm-welcome-in-brussels/
27.09.2006	Balancing privacy with the need to protect	https://www.politico.eu/article/balancing-privacy-with-the-need-to-protect-2/
27.09.2006	Tag technology will die unless data dangers are tackled	https://www.politico.eu/article/tag-technology-will-die-unless-data-dangers-are-tackled-2/
08.11.2006	Hustinx lends support to data retention directive	https://www.politico.eu/article/hustinx-lends-support-to-data-retention-directive/

13.06.2007	Data watchdogs take on Google	https://www.politico.eu/article/data-watchdogs-take-on-google/
26.09.2007	Cyber-criminals cash in on web	https://www.politico.eu/article/cyber-criminals-cash-in-on-web-2/
17.10.2007	Useful mass surveillance?	https://www.politico.eu/article/useful-mass-surveillance-2/
14.11.2007	From robbery to martyrdom	https://www.politico.eu/article/from-robbery-to-martyrdom-2/
12.12.2007	MEP urges Commission to double-click on Google deal	https://www.politico.eu/article/mep-urges-commission-to-double-click-on-google-deal/
09.01.2008	Google faces EU charges over DoubleClick deal	https://www.politico.eu/article/google-faces-eu-charges-over-doubleclick-deal/
09.04.2008	Business in brief	https://www.politico.eu/article/business-in-brief-13/
14.10.2008	Data retention directive wins backing	https://www.politico.eu/article/data-retention-directive-wins-backing/
10.02.2009	Court allows retention of call and e-mail data	https://www.politico.eu/article/court-allows-retention-of-call-and-e-mail-data/
17.02.2010	An appropriate show of strength? (I)	https://www.politico.eu/article/an-appropriate-show-of-strength-i/
05.05.2010	Watching them, watching you	https://www.politico.eu/article/watching-them-watching-you/
26.05.2010	Web giants in breach of data privacy laws	https://www.politico.eu/article/web-giants-in-breach-of-data-privacy-laws/
26.01.2011	Light-touch sheriff	https://www.politico.eu/article/light-touch-sheriff/
18.04.2011	Commission to take action on data retention	https://www.politico.eu/article/commission-to-take-action-on-data-retention/
31.05.2012	Commission takes Germany to court over data rules	https://www.politico.eu/article/commission-takes-germany-to-court-over-data-rules/
12.12.2013	Advocate-general says data retention rules breach fundamental rights	https://www.politico.eu/article/advocate-general-says-data-retention-rules-breach-fundamental-rights/
18.12.2013	Big brother is watching	https://www.politico.eu/article/big-brother-is-watching/
08.04.2014	EU data retention rules struck down	https://www.politico.eu/article/eu-data-retention-rules-struck-down/
10.04.2014	EU rules on storing phone data breach human rights	https://www.politico.eu/article/eu-rules-on-storing-phone-data-breach-human-rights/
15.04.2014	A packed final plenary session	https://www.politico.eu/article/a-packed-final-plenary-session/
12.05.2015	French surveillance bill faces EU scrutiny	https://www.politico.eu/article/french-surveillance-bill-faces-eu-scrutiny/
28.05.2015	POLITICO Pro's Morning Tech: DSM tussle — surveillance — and other kinds of blocking	https://www.politico.eu/article/politico-pro-morning-tech-dsm-surveillance-blocking/
12.06.2015	POLITICO Pro's Morning Tech: Amazon antitrust — Merger storm — Much surveillance	https://www.politico.eu/article/politico-pros-morning-tech-amazon-antitrust-merger-storm-much-surveillance/
03.07.2015	POLITICO Pro's Morning Tech: Freedom of panorama	https://www.politico.eu/article/politico-pros-morning-tech-freedom-of-panorama-right-to-fast-broadband-data-retention/

	— Right to fast broadband — Data retention	
15.07.2015	Passenger data plan clears EP committee	https://www.politico.eu/article/passenger-data-europe-commission-ep-committee-council-mep-german/
17.07.2015	UK High Court strikes down British data retention law	https://www.politico.eu/article/uk-high-court-strikes-down-british-data-retention-law-policy-act/
20.07.2015	POLITICO Pro's Morning Tech: Data retention — Extradition case — Spam fall	https://www.politico.eu/article/politico-pros-morning-tech-data-retention-extradition-case-spam-fall/
06.10.2015	Court 'drops bomb' on US companies	https://www.politico.eu/article/ecj-strikes-down-us-eu-safe-harbor-data-transfer-agreement-facebook-adobe/
06.10.2015	5 takeaways from the death of safe harbor	https://www.politico.eu/article/5-takeaways-from-the-death-of-safe-harbor-ecj-ruling/
14.10.2015	The 'safe harbor' wake-up call	https://www.politico.eu/article/the-safe-harbor-wake-up-call/
01.11.2015	Special report: Confusion reigns in wake of safe harbor ruling	https://www.politico.eu/article/special-report-confusion-reigns-in-wake-of-safe-harbor-ruling/
30.11.2015	Deal close on EU passenger name records	https://www.politico.eu/article/deal-close-on-eu-passenger-name-records/
14.12.2015	5 rules for enhancing European counter-terrorism	https://www.politico.eu/article/5-rules-enhancing-european-counter-terrorism-coordination-eu/
23.05.2016	Attacks could speed revamp of Belgian cybersecurity laws	https://www.politico.eu/article/attacks-could-speed-revamp-of-belgian-cybersecurity-laws/
24.03.2016	POLITICO Brussels Playbook: Pressure mounts on Belgium — Security Union — Trump questions NATO	https://www.politico.eu/newsletter/brussels-playbook/politico-brussels-playbook-pressure-mounts-on-belgium-security-union-trump-questions-nato/
18.04.2016	The way of the German privacy warrior	https://www.politico.eu/article/the-way-of-the-german-privacy-warrior-sabine-leutheusser-schnarrenberger-germany-former-justice-minister-data-retention-law/
19.07.2016	Brexit minister backs down from data privacy fight with Theresa May	https://www.politico.eu/article/brexit-minister-david-davis-backs-down-from-data-privacy-fight-with-theresa-may/
30.09.2016	Europe's gavel comes down hard on tech	https://www.politico.eu/article/european-court-of-justice-tech-cases-uber-airbnb/
27.10.2016	Privacy shield data agreement challenged before EU court	https://www.politico.eu/article/privacy-shield-data-agreement-challenged-before-ecj/
21.12.2016	Europe's top court guts key parts of UK spy law	https://www.politico.eu/article/ecjs-uk-ruling-will-impact-telecoms-internet-companies/
22.12.2016	POLITICO Brussels Playbook, presented by Google: Berlin attack latest — Duda on Tusk — Kroes avoids legal action	https://www.politico.eu/newsletter/brussels-playbook/politico-brussels-playbook-presented-by-google-berlin-attack-latest-duda-on-tusk-kroes-avoids-legal-action/
07.07.2017	POLITICO Brussels Playbook, presented	https://www.politico.eu/newsletter/brussels-playbook/politico-brussels-playbook-presented-by-epp-

	by EPP Group: G20 kicks off — Juncker apologizes — Trump in Europe, Take 2	group-g20-kicks-off-juncker-apologizes-trump-in-europe-take-2/
08.01.2018	6 things to watch this year in tech policy	https://www.politico.eu/article/6-things-to-watch-this-year-in-tech-policy/
27.02.2018	Belgian who's taking on Big Tech	https://www.politico.eu/article/philippe-van-linthout-online-crime-data-privacy-prosecutor-rails-at-big-tech-as-eu-prepares-to-unveil-new-police-powers/
06.07.2018	POLITICO Brussels Playbook, presented by EPP Group: Austrian diplomacy — Brexit crunch time (again) — NATO's present to Trump	https://www.politico.eu/newsletter/brussels-playbook/politico-brussels-playbook-presented-by-epp-group-austrian-diplomacy-brexit-crunch-time-again-natos-present-to-trump/
02.06.2019	Austria's bid to end online anonymity triggers crackdown fears	https://www.politico.eu/article/austrian-conservatives-want-to-end-online-anonymity-and-journalists-are-worried/
23.12.2019	Mixed messages: Encryption fight pits security against privacy	https://www.politico.eu/article/encryption-facebook-apple-us-europe-law-enforcement/
21.02.2020	Griveaux scandal revives France's will to regulate social media	https://www.politico.eu/article/benjamin-griveaux-sex-tape-scandal-paris-mp-revives-frances-will-to-regulate-social-media/
07.08.2020	Germany's new gaming laws will fuel black market warns industry giant	https://www.politico.eu/sponsored-content/germanys-new-gaming-laws-will-fuel-black-market-warns-industry-giant/
05.10.2020	The EU court ruling that could end EU-UK data flows	https://www.politico.eu/article/the-eu-court-ruling-that-could-end-eu-uk-data-flows/
06.10.2020	EU court ruling threatens EU-UK data flows	https://www.politico.eu/article/brexit-court-ruling-threatens-eu-u-k-data-flows-surveillance-investigatory-powers-act/
15.10.2020	Any Brexit deal is better than no deal	https://www.politico.eu/article/any-brexit-deal-is-better-than-no-deal-fisheries-trade/
theparliamentmagazine.eu (4 articles)		
09.04.2014	ECJ declares data collection rules illegal	https://www.theparliamentmagazine.eu/news/article/ecj-declares-data-collection-rules-illegal
03.09.2014	Dods EU Alert: EP Press - Italian Presidency priorities discussed by EP committees	https://www.theparliamentmagazine.eu/news/article/dods-eu-alert-ep-press-italian-presidency-priorities-discussed-by-ep-committees
24.11.2014	EU passenger data proposals raise serious civil liberties fears	www.theparliamentmagazine.eu/news/article/eu-passenger-data-proposals-raise-serious-civil-liberties-fears
30.05.2017	Will PNR be a humiliating déjà vu for EU policymakers?	https://www.theparliamentmagazine.eu/news/article/will-pnr-be-a-humiliating-dj-vu-for-eu-policymakers
Number of articles in total: 289		

Source: Own illustration.

Appendix 7. EU PNR Directive – Overview of Analysed European Media Outlet Articles

Date	Title of article	Link to article
euobserver.com (84 articles)		
19.06.2005	This WEEK in the European Union	https://euobserver.com/agenda/19360
03.07.2007	EU plans air passenger data exchange system	https://euobserver.com/rule-of-law/24416
05.09.2007	Counter-terrorism sparks hot debate in EU parliament	https://euobserver.com/rule-of-law/24703
05.11.2007	This WEEK in the European Union	https://euobserver.com/agenda/25080
05.11.2007	EU to propose collecting data on air passengers	https://euobserver.com/rule-of-law/25085
06.11.2007	Brussels suggests new tools to fight terrorism	https://euobserver.com/rule-of-law/25093
13.12.2007	MEPs criticise Brussels' plan to collect data on air passengers	https://euobserver.com/rule-of-law/25330
11.03.2008	EU honours victims of terrorism	https://euobserver.com/rule-of-law/25808
25.07.2008	EU endorses idea of collecting air passenger data	https://euobserver.com/rule-of-law/26539
26.11.2008	Someone in Brussels should listen to Ireland	https://euobserver.com/opinion/27181
09.03.2010	Passenger data deal key to catching terrorists, says US	https://euobserver.com/rule-of-law/29630
01.02.2011	EU to collect data of international air travellers	https://euobserver.com/rule-of-law/31731
04.04.2011	Member states to clash with EU parliament on passenger data	https://euobserver.com/eu-political/32109
24.04.2012	EU plans for big brother data analysis must be nipped in the bud	https://euobserver.com/opinion/116000
24.04.2013	MEPs vote down air passenger data scheme	https://euobserver.com/rule-of-law/119926
05.06.2013	EU tells Russia to drop air passenger data law	https://euobserver.com/rule-of-law/120387
15.01.2014	Radicalism on the rise in Europe, EU commissioner says	https://euobserver.com/rule-of-law/122735

02.06.2014	EU keen to revive passenger data bill after Brussels terrorist attack	https://euobserver.com/rule-of-law/124440
04.06.2014	EU mulls response to Syria-bound fighters	https://euobserver.com/rule-of-law/124487
09.07.2014	EU states adopt new counter-terrorism plan	https://euobserver.com/rule-of-law/124909
30.09.2014	EU embassies should take asylum requests, new commissioner says	https://euobserver.com/rule-of-law/125826
09.10.2014	Internet giants discuss jihad with EU ministers	https://euobserver.com/rule-of-law/125989
10.10.2014	Europe at risk of 'huge number' of returning jihadist fighters	https://euobserver.com/rule-of-law/125996
07.11.2014	MEPs want answers on Luxembourg leaks this WEEK	https://euobserver.com/agenda/126440
11.11.2014	Data retention issue stymies EU air passenger bill	https://euobserver.com/rule-of-law/126473
25.11.2014	EU funds airline data-sharing despite legal concerns	https://euobserver.com/rule-of-law/126663
09.01.2015	Debate intensifies on stuck EU counter-terrorism bill	https://euobserver.com/rule-of-law/127161
13.01.2015	EU passport-free travel at risk, Tusk warns	https://euobserver.com/rule-of-law/127196
19.01.2015	Poland 'sceptical' on counter-terrorism data sharing	https://euobserver.com/tickers/127271
19.01.2015	EU to increase intelligence sharing with Arab states	https://euobserver.com/world/127283
21.01.2015	EU flight data bill set for possible overhaul	https://euobserver.com/rule-of-law/127319
30.01.2015	EU ministers call for more border checks	https://euobserver.com/rule-of-law/127429
04.02.2015	French minister lobbies MEPs on EU passenger bill	https://euobserver.com/rule-of-law/127498
05.02.2015	EU to tighten borders after counter-terrorism summit	https://euobserver.com/rule-of-law/127519
11.02.2015	Belgian court sentences "terrorist" group on eve of EU summit	https://euobserver.com/news/127581

11.02.2015	MEPs break deadlock on airline passenger bill	https://euobserver.com/rule-of-law/127592
13.02.2015	EU leaders want tighter border controls	https://euobserver.com/rule-of-law/127636
23.02.2015	Security fears prompt US scrutiny of EU visa waiver	https://euobserver.com/rule-of-law/127744
23.02.2015	EU rights chief warns against ethnic profiling	https://euobserver.com/rule-of-law/127737
26.02.2015	Intra-EU flights to be included in passenger data checks	https://euobserver.com/tickers/127809
29.04.2015	EU unveils plan for new security networks	https://euobserver.com/rule-of-law/128501
09.07.2015	EU passenger-data law expected by end of year	https://euobserver.com/tickers/129562
15.07.2015	MEPs back EU passenger name records bill	https://euobserver.com/tickers/129656
15.07.2015	MEPs back blanket collection of airline passenger data	https://euobserver.com/rule-of-law/129658
27.07.2015	EU data privacy chief criticises air passenger bill	https://euobserver.com/rule-of-law/129776
24.08.2015	French train attack poses EU security questions	https://euobserver.com/rule-of-law/129964
25.09.2015	EU data chief says passenger information bill is unjustified	https://euobserver.com/digital/130430
20.11.2015	EU citizens to be checked at Schengen borders	https://euobserver.com/rule-of-law/131195
20.11.2015	EU agrees on Schengen checks for all	https://euobserver.com/rule-of-law/131202
27.11.2015	Climate, waste, and Danish referendum This WEEK	https://euobserver.com/agenda/131293
04.12.2015	EU ministers back air passenger data sweep	https://euobserver.com/rule-of-law/131395
07.12.2015	EU states could lose US visa waivers	https://euobserver.com/rule-of-law/131409
07.12.2015	Paving the Road to Hell with good intentions	https://euobserver.com/opinion/131331
08.12.2015	EU summit: Nord Stream sneaks onto agenda	https://euobserver.com/green-economy/131430

09.12.2015	EU counter-terror bill is 'indiscriminate' data sweep	https://euobserver.com/rule-of-law/131457
10.12.2015	EP committee adopts PNR legislation	https://euobserver.com/tickers/131467
24.12.2015	Terrorism shakes Europe	https://euobserver.com/europe-in-review/131344
04.01.2016	Big victories and rollbacks for data in year of terror	https://euobserver.com/europe-in-review/131163
02.02.2016	France, Belgium step up security cooperation	https://euobserver.com/rule-of-law/132099
04.03.2016	MEP vote on EU passenger record delayed	https://euobserver.com/tickers/132551
23.03.2016	EU reconsiders anti-terrorism response	https://euobserver.com/rule-of-law/132782
23.03.2016	EU pushes for flight data bill after Brussels attacks	https://euobserver.com/rule-of-law/132790
24.03.2016	EU ministers to urge better anti-terror coordination	https://euobserver.com/rule-of-law/132800
24.03.2016	EU seeks access to 'digital evidence'	https://euobserver.com/rule-of-law/132811
08.04.2016	Centre-right MEPs vilify anti-air data opponents	https://euobserver.com/tickers/132980
08.04.2016	Panama and PNR on EU agenda This Week	https://euobserver.com/agenda/132985
13.04.2016	Regulator criticises 'Privacy Shield' for EU data in US	https://euobserver.com/rule-of-law/133038
14.04.2016	MEPs set to back air-passenger data sharing	https://euobserver.com/rule-of-law/133043
14.04.2016	European Parliament adopts EU PNR	https://euobserver.com/tickers/133052
21.04.2016	EU wants 'single-click' police access to personal data	https://euobserver.com/rule-of-law/133161
23.05.2016	French airports test flight passenger data sharing	https://euobserver.com/tickers/133503
12.09.2016	UK's next EU commissioner 'highly motivated'	https://euobserver.com/rule-of-law/135019
12.09.2016	King to become UK's last EU commissioner	https://euobserver.com/world/135043
15.09.2016	Hard and virtual borders await migrants to EU	https://euobserver.com/rule-of-law/135098

30.09.2016	Belgian trains' security plan draws German ire	https://euobserver.com/tickers/135308
07.10.2016	Governments eschew urgency of passenger flight data law	https://euobserver.com/rule-of-law/135412
16.11.2016	US and UK nationals to be caught in EU border dragnet	https://euobserver.com/rule-of-law/135932
21.03.2017	More hype than substance in EU counter-terror plans	https://euobserver.com/rule-of-law/137320
26.07.2017	EU defends airline data-sharing after court ruling	https://euobserver.com/rule-of-law/138621
01.09.2017	A chance to change EU security research policy for the better	https://euobserver.com/opinion/138742
27.07.2018	Private jets - the Achilles heel of EU air traffic security?	https://euobserver.com/rule-of-law/142472
07.09.2018	EU states losing interest in anti-terror law	https://euobserver.com/rule-of-law/142767
25.07.2019	Slovenia and Spain lag on EU terrorist flight rules	https://euobserver.com/tickers/145533
06.08.2019	EU may extend 'passenger name records' to rail and sea	https://euobserver.com/rule-of-law/145602
euractiv.com (55 articles)		
04.07.2007	Air passengers to face EU anti-terror screening	https://www.euractiv.com/section/justice-home-affairs/news/air-passengers-to-face-eu-anti-terror-screening/
05.11.2007	EU plans anti-terror screening for air passengers	https://www.euractiv.com/section/transport/news/eu-plans-anti-terror-screening-for-air-passengers/
07.11.2007	EU seeks access to private passenger data to combat terrorism	https://www.euractiv.com/section/transport/news/eu-seeks-access-to-private-passenger-data-to-combat-terrorism/
07.11.2007	Commission proposes new counter-terrorism package	https://www.euractiv.com/section/justice-home-affairs/news/commission-proposes-new-counter-terrorism-package/
09.11.2007	Passenger screening plan a ‘nightmare’, say airlines	https://www.euractiv.com/section/transport/news/passenger-screening-plan-a-nightmare-say-airlines/
22.09.2010	EU unveils passenger data sharing proposals	https://www.euractiv.com/section/justice-home-affairs/news/eu-unveils-passenger-data-sharing-proposals/
10.11.2010	EU to revive debate over air passenger data	https://www.euractiv.com/section/justice-home-affairs/news/eu-to-revive-debate-over-air-passenger-data/

31.03.2011	EU rallies behind UK on collecting air passenger data	https://www.euractiv.com/section/justice-home-affairs/news/eu-rallies-behind-uk-on-collecting-air-passenger-data/
12.04.2011	Countries rally behind UK on EU flight data collection	https://www.euractiv.com/section/justice-home-affairs/news/countries-rally-behind-uk-on-eu-flight-data-collection/
24.04.2013	MEPs reject EU passenger data storage scheme	https://www.euractiv.com/section/digital/news/meps-reject-eu-passenger-data-storage-scheme/
30.10.2014	Berlin calls for EU-wide retention of PNR flight data	https://www.euractiv.com/section/justice-home-affairs/news/berlin-calls-for-eu-wide-retention-of-pnr-flight-data/
09.01.2015	Paris to hold emergency summit of European Ministers	https://www.euractiv.com/section/justice-home-affairs/news/paris-to-hold-emergency-summit-of-european-ministers/
12.01.2015	European leaders march with 3.7m French	https://www.euractiv.com/section/justice-home-affairs/news/european-leaders-march-with-3-7m-french/
13.01.2015	Germany's debate over data retention flares following Paris attacks	https://www.euractiv.com/section/digital/news/germany-s-debate-over-data-retention-flares-following-paris-attacks/
13.01.2015	European Parliament remembers Paris terror victims	https://www.euractiv.com/section/languages-culture/news/european-parliament-remembers-paris-terror-victims/
14.01.2015	Donald Tusk urges Parliament to accept European PNR	https://www.euractiv.com/section/justice-home-affairs/news/donald-tusk-urges-parliament-to-accept-european-pnr/
14.01.2015	From 9/11 to Charlie Hebdo: The EU's response to terrorism	https://www.euractiv.com/section/justice-home-affairs/linksdossier/from-9-11-to-charlie-hebdo-the-eu-s-response-to-terrorism/#group_summary
14.01.2015	Paris killings cement Danish referendum on EU justice opt-out	https://www.euractiv.com/section/justice-home-affairs/news/paris-killings-cement-danish-referendum-on-eu-justice-opt-out/
16.01.2015	Anti-terrorist measures in EU go in all directions	https://www.euractiv.com/section/justice-home-affairs/news/anti-terrorist-measures-in-eu-go-in-all-directions/
16.01.2015	Ansip: 'Digital Single Market strategy will be ready in May'	https://www.euractiv.com/section/digital/interview/ansip-digital-single-market-strategy-will-be-ready-in-may/
21.01.2015	National Front in confusion after Paris attacks	https://www.euractiv.com/section/justice-home-affairs/news/national-front-in-confusion-after-paris-attacks/
29.01.2015	EU data czar seeks global voice amidst tension with US	https://www.euractiv.com/section/digital/news/eu-data-czar-seeks-global-voice-amidst-tension-with-us/
09.02.2015	Parliament resists pressure on passenger data ahead of EU summit	https://www.euractiv.com/section/justice-home-affairs/news/parliament-resists-pressure-on-passenger-data-ahead-of-eu-summit/
12.02.2015	Parliament's alliance against passenger data provisions crumbles	https://www.euractiv.com/section/digital/news/parliament-s-alliance-against-passenger-data-provisions-crumbles/

12.02.2015	Schengen: More security to fight terrorism	https://www.euractiv.com/section/eu-priorities-2020/opinion/schengen-more-security-to-fight-terrorism/
13.02.2015	EU Summit: Merkel ready to compromise on Greek debt	https://www.euractiv.com/section/economy-jobs/video/eu-summit-merkel-ready-to-compromise-on-greek-debt/
13.02.2015	French calls to rewrite Schengen code fall on deaf ears	https://www.euractiv.com/section/justice-home-affairs/news/french-calls-to-rewrite-schengen-code-fall-on-deaf-ears/
16.02.2015	Danish PM promises new measures to fight terrorism after attacks in Copenhagen	https://www.euractiv.com/section/global-europe/news/danish-pm-promises-new-measures-to-fight-terrorism-after-attacks-in-copenhagen/
18.02.2015	Timmermans urges EU nations to step up cooperation against terrorism	https://www.euractiv.com/section/justice-home-affairs/news/timmermans-urges-eu-nations-to-step-up-cooperation-against-terrorism/
25.02.2015	Commission pushes for new guidelines against foreign fighters	https://www.euractiv.com/section/global-europe/news/commission-pushes-for-new-guidelines-against-foreign-fighters/
06.06.2015	Passenger name record law passes first hurdle in Parliament	https://www.euractiv.com/section/justice-home-affairs/news/passenger-name-record-law-passes-first-hurdle-in-parliament/
25.08.2015	EU experts to discuss rail security on 9/11	https://www.euractiv.com/section/justice-home-affairs/news/eu-experts-to-discuss-rail-security-on-9-11/
01.09.2015	Belgium plans collection of plane, train and ferry users' data	https://www.euractiv.com/section/justice-home-affairs/news/belgium-plans-collection-of-plane-train-and-ferry-users-data/
09.09.2015	EU counter-terrorism czar: Terrorists among asylum seekers? Unlikely	https://www.euractiv.com/section/justice-home-affairs/interview/eu-counter-terrorism-czar-terrorists-among-asylum-seekers-unlikely/
17.11.2015	'Europe has fallen silent' on the war in Syria	https://www.euractiv.com/section/justice-home-affairs/news/europe-has-fallen-silent-on-the-war-in-syria/
18.11.2015	Verhofstadt calls for creation of EU intelligence agency	https://www.euractiv.com/section/justice-home-affairs/news/verhofstadt-calls-for-creation-of-eu-intelligence-agency/
18.11.2015	Commission points finger at capitals for poor external border controls	https://www.euractiv.com/section/justice-home-affairs/news/commission-points-finger-at-capitals-for-poor-external-border-controls/
20.11.2015	Council pushes for broad collection of flight passenger data after Paris attacks	https://www.euractiv.com/section/justice-home-affairs/news/council-pushes-for-broad-collection-of-flight-passenger-data-after-paris-attacks/
20.11.2015	Paris attacks show flawed use of Schengen rules, ministers confess	https://www.euractiv.com/section/justice-home-affairs/news/paris-attacks-show-flawed-use-of-schengen-rules-ministers-confess/

25.11.2015	Euro at risk if Schengen collapses, says Juncker	https://www.euractiv.com/section/justice-home-affairs/news/euro-at-risk-if-schengen-collapses-says-juncker/
27.11.2015	Harlem Désir: 'We urgently need an effective PNR system'	https://www.euractiv.com/section/justice-home-affairs/interview/harlem-desir-we-urgently-need-an-effective-pnr-system/
05.12.2015	EU mulls plan to take charge of Europe's borders	https://www.euractiv.com/section/justice-home-affairs/news/eu-mulls-plan-to-take-charge-of-europe-s-borders/
10.12.2015	EU lawmakers back air passenger data deal	https://www.euractiv.com/section/transport/news/eu-lawmakers-back-air-passenger-data-deal/
09.03.2016	MEPs refuse to vote on PNR before Council strengthens data protection	https://www.euractiv.com/section/justice-home-affairs/news/meps-refuse-to-vote-on-pnr-before-council-strengthens-data-protection/
23.03.2016	Flight data deal is a reason for UK to stay in the EU, says Tory MEP	https://www.euractiv.com/section/transport/news/flight-data-deal-is-a-reason-for-uk-to-stay-in-the-eu-says-tory-mep/
23.03.2016	French PM: 'Urgent' need to bolster EU external border controls	https://www.euractiv.com/section/justice-home-affairs/news/french-pm-urgent-need-to-bolster-eu-external-border-controls/
26.03.2016	Pittella: The 'Trumps' of Europe hamper cooperation on counter-terrorism	https://www.euractiv.com/section/justice-home-affairs/interview/pittella-the-trump-of-europe-hamper-cooperation-on-counter-terrorism/
29.03.2016	Hypocrisy at the heart of the PNR debate	https://www.euractiv.com/section/french-election-2017/news/hypocrisy-at-the-heart-of-the-pnr-debate/
14.04.2016	MEPs concerned that amendments could 'kill' PNR directive	https://www.euractiv.com/section/languages-culture/news/meps-concerned-that-amendments-could-kill-pnr-directive/
14.04.2016	MEPs approve PNR, strengthen data protection	https://www.euractiv.com/section/transport/news/meps-approve-pnr-strengthen-data-protection/
26.04.2016	Commission calls for closer cooperation to combat foreign fighters	https://www.euractiv.com/section/justice-home-affairs/news/commission-calls-for-tighter-cooperation-to-combat-foreign-fighters/
13.05.2016	Cazeneuve: Over 100 arrested on terror charges in France this year	https://www.euractiv.com/section/justice-home-affairs/news/cazeneuve-over-100-arrested-on-terror-charges-in-france-this-year/
25.05.2016	IATA CEO: 'We need global standards on data collection'	https://www.euractiv.com/section/transport/interview/iata-ceo-we-need-global-standards-on-data-collection/
04.10.2016	The curious tale of the French prime minister, PNR and peculiar patterns	https://www.euractiv.com/section/justice-home-affairs/opinion/checked-for-tuesthe-curious-tale-of-the-french-prime-minister-pnr-and-peculiar-patterns/
05.01.2017	Belgium prepares to present passenger	https://www.euractiv.com/section/transport/news/belgium-prepares-to-present-passenger-data-plans-to-rest-of-eu/

	data plans to rest of EU	
politico.eu (57 articles)		
08.02.2006	Commission plans snooping for all international flights	https://www.politico.eu/article/commission-plans-snooping-for-all-international-flights/
17.10.2007	Fight against terrorism must not reduce our civil liberties	https://www.politico.eu/article/fight-against-terrorism-must-not-reduce-our-civil-liberties-2/
07.11.2007	EU co-operation has limits, terror doesn't	https://www.politico.eu/article/eu-co-operation-has-limits-terror-doesnt/
16.01.2008	Ministers set to back collection of passenger data	https://www.politico.eu/article/ministers-set-to-back-collection-of-passenger-data/
13.02.2008	Airline passenger data rules face long-haul trip	https://www.politico.eu/article/airline-passenger-data-rules-face-long-haul-trip/
18.03.2008	EU to restart talks on police co-operation and criminal law	https://www.politico.eu/article/eu-to-restart-talks-on-police-co-operation-and-criminal-law/
26.03.2008	Member states split over airline passenger data	https://www.politico.eu/article/member-states-split-over-airline-passenger-data/
15.10.2008	Ministers to plug cross-border child maintenance loophole	https://www.politico.eu/article/ministers-to-plug-cross-border-child-maintenance-loophole/
08.01.2010	Airline plot revives EU data-sharing plan	https://www.politico.eu/article/airline-plot-revives-eu-data-sharing-plan/
22.01.2010	EU agrees to step up airline security	https://www.politico.eu/article/eu-agrees-to-step-up-airline-security/
07.07.2010	Parliament fears delaying tactics over passenger data	https://www.politico.eu/article/parliament-fears-delaying-tactics-over-passenger-data/
26.01.2011	Commission to present plan for sharing of travel data	https://www.politico.eu/article/commission-to-present-plan-for-sharing-of-travel-data/
06.04.2011	Split over sharing of airline passenger data	https://www.politico.eu/article/split-over-sharing-of-airline-passenger-data/
10.10.2014	EU to step up border checks on returning Islamists	https://www.politico.eu/article/eu-to-step-up-border-checks-against-returning-islamists/
18.04.2012	Backing for EU data agreement	https://www.politico.eu/article/backing-for-eu-data-agreement/
24.04.2013	Access denied to EU airline passenger data	https://www.politico.eu/article/access-denied-to-eu-airline-passenger-data/
05.06.2014	EU to step up fight against returning jihadis	https://www.politico.eu/article/eu-to-step-up-fight-against-returning-jihadis/
13.11.2014	Passenger data plans back on MEPs' agenda	https://www.politico.eu/article/passenger-data-plans-back-on-meps-agenda/

08.01.2015	Paris attack adds to pressure for passenger data deal	https://www.politico.eu/article/paris-attack-adds-to-pressure-for-passenger-data-deal/
12.01.2015	Paris shootings overshadow Strasbourg session	https://www.politico.eu/article/paris-shootings-overshadow-strasbourg-session/
14.01.2015	Counter-terrorism becomes a Council presidency priority	https://www.politico.eu/article/terrorism-becomes-a-council-presidency-priority/
15.01.2015	MEPs hold out on air- passenger data	https://www.politico.eu/article/meps-hold-out-on-air-passenger-data/
22.01.2015	Push to put air-passenger data on a fast track	https://www.politico.eu/article/push-to-put-air-passenger-data-on-a-fast-track/
28.01.2015	MEPs warned that privacy concerns could derail EU's anti-terrorist plans	https://www.politico.eu/article/meps-warned-that-privacy-concerns-could-derail-eus-anti-terrorist-plans/
12.02.2015	MEPs give ground on air passenger records	https://www.politico.eu/article/meps-give-ground-on-air-passenger-records/
12.02.2015	EU summit: as it happened	https://www.politico.eu/article/live-blog-eu-summit/
19.02.2015	EU to step up counter- terrorism co-operation	https://www.politico.eu/article/eu-to-step-up-counter-terrorism-co-operation-2/
19.02.2015	Ministers prepare for complex negotiations on security issues	https://www.politico.eu/article/ministers-prepare-for-complex-negotiations-on-security-issues/
26.02.2015	Compromise suggested on PNR	https://www.politico.eu/article/compromise-suggested-on-pnr/
27.02.2015	Debate on PNR deal gets off to rocky start in Parliament	https://www.politico.eu/article/debate-on-pnr-deal-gets-off-to-rocky-start-in-parliament/
28.02.2015	Frontex chief warns of difficult year ahead for Mediterranean	https://www.politico.eu/article/frontex-chief-warns-of-difficult-year-ahead-for-mediterranean/
12.03.2015	Ministers to draw up counter-terror plans	https://www.politico.eu/article/ministers-to-draw-up-counter-terror-plans/
14.07.2015	POLITICO Pro's Morning Tech: Hadopi reconsidered — U.K. surveillance — Car privacy	https://www.politico.eu/article/politico-pros-morning-tech-hadopi-reconsidered-u-k-surveillance-car-privacy/
15.07.2015	Passenger data plan clears EP committee	https://www.politico.eu/article/passenger-data-europe-commission-ep-committee-council-mep-german/
16.11.2015	Paris attacks inflame Europe's privacy clash	https://www.politico.eu/article/paris-attacks-privacy-spotlight-pnr-security/
19.11.2015	France to demand help in fighting terrorism	https://www.politico.eu/article/france-council-counter-terrorism-proposals/
20.11.2015	EU to tighten border controls in wake of attacks	https://www.politico.eu/article/eu-agrees-to-tighten-border-controls/

25.11.2015	Juncker: No Schengen, no euro	https://www.politico.eu/article/juncker-no-schengen-no-euro/
30.11.2015	Deal close on EU passenger name records	https://www.politico.eu/article/deal-close-on-eu-passenger-name-records/
04.12.2015	POLITICO Brussels Playbook, presented by Google: Denmark says 'no' — Big Mac Attack — PNR	https://www.politico.eu/newsletter/brussels-playbook/politico-brussels-playbook-presented-by-google-denmark-says-no-big-mac-attack-pnr/
07.12.2015	POLITICO Brussels Playbook, presented by ALDE: National Front scores big — Aiming high on aviation	https://www.politico.eu/newsletter/brussels-playbook/politico-brussels-playbook-presented-by-alde-national-front-scores-big-aiming-high-on-aviation/
21.01.2016	POLITICO Brussels Playbook, presented by EPP Group: Who runs Austria? — Refugee policy RIP — Davos digest	https://www.politico.eu/newsletter/brussels-playbook/politico-brussels-playbook-presented-by-epp-group-who-runs-austria-refugee-policy-rip-davos-digest/
04.02.2016	POLITICO Brussels Playbook, presented by EPP Group: Brexit briefs — Spanish politics — Schengen costs	https://www.politico.eu/newsletter/brussels-playbook/politico-brussels-playbook-presented-by-epp-group-brexit-briefs-spanish-politics-schengen-costs/
09.03.2016	POLITICO Brussels Playbook, presented by EPP Group: Driving the MEPs — No Turkish delight — What Brexit plans?	https://www.politico.eu/newsletter/brussels-playbook/politico-brussels-playbook-presented-by-epp-group-driving-the-meps-no-turkish-delight-what-brexit-plans/
24.03.2016	Ministers talk tough, move slowly on anti-terror	https://www.politico.eu/article/terrorism-council-draft-2016-brussels-it/
30.03.2016	France's 'if only' syndrome on terrorism	https://www.politico.eu/article/france-terrorism-eu-failure-passenger-name-records-data-bernard-cazeneuve/
07.04.2016	François Hollande, Angela Merkel dismiss migration tensions	https://www.politico.eu/article/francois-hollande-angela-merkel-dismiss-migration-tensions/
08.04.2016	Belgium's clawless terror hawk	https://www.politico.eu/article/jan-jambon-security-interior-affairs-belgium-reaction-terror-attacks-brussels-minister/
11.04.2016	POLITICO Brussels Playbook, presented by EPP Group: TTIPping point — Oettinger's mini-Davos — Panama papers	https://www.politico.eu/newsletter/brussels-playbook/politico-brussels-playbook-ttipping-point-oettingers-mini-davos-panama-papers/
14.04.2016	POLITICO Morgen Europa: Tusk warnt vor Umsiedlung als	https://www.politico.eu/newsletter/morgen-europa/politico-morgen-europa-tusks-warnt-vor-umsiedlung-als-pullfaktor-datenschutz-im-parlament-irland-sucht-regierung/

	Pullfaktor – Datenschutz im Parlament – Irland sucht Regierung	
14.04.2016	Passenger name records adopted by EU Parliament	https://www.politico.eu/article/passenger-name-records-adopted-by-eu-parliament/
03.10.2016	POLITICO Pro Morning Transport, presented by Qualcomm: Fortress railways — ICAO by numbers — Robin Hood	https://www.politico.eu/article/politico-pro-morning-transport-presented-by-qualcomm-fortress-railways-icao-by-numbers-robin-hood/
20.10.2016	POLITICO Pro Morning Transport, presented by FuelsEurope: Automated mass transit — Belgium mulls PNR — Germany in Dieselgate dock	https://www.politico.eu/article/politico-pro-morning-transport-presented-by-fuelseurope-automated-mass-transit-belgium-mulls-pnr-germany-in-dieselgate-dock/
21.10.2016	Belgium wants checks of passenger information for rail travel	https://www.politico.eu/article/belgium-wants-checks-of-passenger-information-for-rail-travel/
24.10.2016	POLITICO Pro Morning Transport, presented by FuelsEurope: Sulfur scenarios — Belgian PNR	https://www.politico.eu/article/politico-pro-morning-transport-presented-by-fuelseurope-sulfur-scenarios-belgian-pnr/
10.11.2016	POLITICO Pro Morning Transport, presented by FuelsEurope: EASA trilogue — Infrastructure finance	https://www.politico.eu/article/politico-pro-morning-transport-presented-by-fuelseurope-easa-trilogue-infrastructure-finance/
11.11.2016	POLITICO Pro Morning Transport, presented by FuelsEurope: Czech rail trouble — EASA to EAA	https://www.politico.eu/article/politico-pro-morning-transport-presented-by-fuelseurope-czech-rail-trouble-easa-to-eaa/
theparliamentmagazine.eu (13 articles)		
24.11.2014	EU passenger data proposals raise serious civil liberties fears	https://www.theparliamentmagazine.eu/news/article/eu-passenger-data-proposals-raise-serious-civil-liberties-fears
13.01.2015	MEPs at odds on EU- wide PNR	https://www.theparliamentmagazine.eu/news/article/meps-at-odds-on-euwide-pnr
26.01.2015	EU requires 'shock therapy' if it is to make a return to economic growth	https://www.theparliamentmagazine.eu/news/article/eu-requires-shock-therapy-if-it-is-to-make-a-return-to-economic-growth

12.02.2015	Strasbourg round-up: Group leaders focus on Greece, Ukraine and PNR	https://www.theparliamentmagazine.eu/news/article/strasbourg-roundup-group-leaders-focus-on-greece-ukraine-and-pnr
11.03.2015	EU PNR proposal is 'neither proportionate nor appropriate'	https://www.theparliamentmagazine.eu/news/article/eu-pnr-proposal-is-neither-proportionate-nor-appropriate
16.07.2015	EU air passenger record vote raises mass data collection concerns	https://www.theparliamentmagazine.eu/news/article/eu-air-passenger-record-vote-raises-mass-data-collection-concerns
28.09.2015	EU data protection watchdog labels anti- terror bill undemocratic	https://www.theparliamentmagazine.eu/news/article/eu-data-protection-watchdog-labels-antiterror-bill-undemocratic
08.12.2015	EU PNR could be great tool in fight against major crime	https://www.theparliamentmagazine.eu/news/article/eu-pnr-could-be-great-tool-in-fight-against-major-crime
10.12.2015	MEPs approve preliminary EU PNR deal	https://www.theparliamentmagazine.eu/news/article/meps-approve-preliminary-eu-pnr-deal
08.04.2016	MEPs finally set to vote on PNR and data protection	https://www.theparliamentmagazine.eu/news/article/meps-finally-set-to-vote-on-pnr-and-data-protection
16.04.2016	EU Parliament approves anti-terror passenger name directive	https://www.theparliamentmagazine.eu/news/article/eu-parliament-approves-antiterror-passenger-name-directive
10.06.2016	EU PNR deal could provide future standard in balancing security and civil liberties	https://www.theparliamentmagazine.eu/news/article/eu-pnr-deal-could-provide-future-standard-in-balancing-security-and-civil-liberties
30.05.2017	Will PNR be a humiliating déjà vu for EU policymakers?	https://www.theparliamentmagazine.eu/news/article/will-pnr-be-a-humiliating-dj-vu-for-eu-policymakers
Number of articles in total: 209		

Source: Own illustration.

Appendix 8. EU Terrorist Content Online Regulation – Overview of Analysed European Media Outlet Articles

Date	Title of article	Link to article
euobserver.com (14 articles)		
22.06.2017	EU pressures firms to tackle online terrorism	https://euobserver.com/justice/138321
28.09.2017	EU wants tech firms to police internet	https://euobserver.com/justice/139203
06.12.2017	Fighting the terrorist virus on the internet	https://euobserver.com/opinion/140176
14.12.2017	Tech firms' delays mean EU needs rules for online terror	https://euobserver.com/opinion/140288
01.03.2018	EU gives online platforms legal tool to justify takedowns	https://euobserver.com/justice/141165
17.08.2018	Building a Europe more resilient to terrorism	https://euobserver.com/opinion/142604
05.09.2018	EU set to announce online anti-terror bill	https://euobserver.com/tickers/142742
12.09.2018	Juncker announces EU security measures	https://euobserver.com/tickers/142803
12.04.2019	EU parliament meets last time This WEEK	https://euobserver.com/agenda/144663
18.04.2019	MEPs water down terrorist content law	https://euobserver.com/tickers/144704
14.12.2020	EU rules to take terror content down in an hour agreed	https://euobserver.com/science/150367
26.04.2021	Brexit is back, and vaccine certificates in focus This WEEK	https://euobserver.com/agenda/151651
30.04.2021	New online EU terror law is censorship, warn rights groups	https://euobserver.com/tickers/151717
24.06.2021	How NOT to frame debate about Hungary's toxic anti-gay law	https://euobserver.com/opinion/152236
euractiv.com (63 articles)		
26.11.2015	MEPs want to make internet companies liable for radical content online	https://www.euractiv.com/section/justice-home-affairs/news/meps-want-to-make-internet-companies-liable-for-radical-content-online/
05.06.2017	After London attack, Facebook says aims to be 'hostile environment' for terrorists	https://www.euractiv.com/section/politics/news/after-london-attack-facebook-says-aims-to-be-hostile-environment-for-terrorists/

16.06.2017	Pressured in Europe, Facebook details removal of terrorism content	https://www.euractiv.com/section/politics/news/pressured-in-europe-facebook-details-removal-of-terrorism-content/
27.07.2017	Social media giants step up fight against extremist content	https://www.euractiv.com/section/digital/news/social-media-giants-step-up-fight-against-extremist-content/
21.09.2017	May, Macron, Gentiloni push for quick removal of extremist online content	https://www.euractiv.com/section/freedom-of-thought/news/may-macron-gentiloni-push-for-quick-removal-of-extremist-online-content/
14.02.2018	EU adds pressure on online platforms with plan for fast removal of terrorist content	https://www.euractiv.com/section/digital/news/eu-adds-pressure-on-online-platforms-with-plan-for-fast-removal-of-terrorist-content/
16.02.2018	France eyes EU law to crack down on terrorists' use of social media	https://www.euractiv.com/section/digital/news/france-eyes-eu-law-to-crack-down-on-terrorists-use-of-social-media/
01.03.2018	Commission faces backlash for plan to fast-track tech platforms' removal of illegal posts	https://www.euractiv.com/section/digital/news/commission-faces-backlash-for-plan-to-fast-track-tech-platforms-removal-of-illegal-posts/
12.09.2018	Juncker goes to war against disinformation and online terrorist content	https://www.euractiv.com/section/cybersecurity/news/uncker-goes-to-war-against-disinformation-and-online-terrorist-content/
13.09.2018	'This is not censorship' says King, amid online terrorist content crackdown	https://www.euractiv.com/section/digital/news/this-is-not-censorship-says-king-amid-online-terrorist-content-crackdown/
27.11.2018	The EU is asking the impossible	https://www.euractiv.com/section/digital/opinion/the-eu-is-asking-the-impossible/
03.12.2018	EU terrorist content legislation is targeting the wrong players	https://www.euractiv.com/section/data-protection/video/eu-terrorist-content-legislation-is-targeting-the-wrong-players/
07.12.2018	Ministers clamp down on online terrorist content despite wave of opposition	https://www.euractiv.com/section/digital/news/ministers-clamp-down-on-online-terrorist-content-despite-wave-of-opposition/
18.02.2019	Terrorist legislation: the EU is on the right track but isn't there yet	https://www.euractiv.com/section/digital/opinion/terrorist-legislation-the-eu-is-on-the-right-track-but-isnt-there-yet/
19.02.2019	Regulating against radicalisation	https://www.euractiv.com/section/digital/special_report/regulating-against-radicalisation/
20.02.2019	'Small platforms' are the target of online terrorist content regulation, MEP says	https://www.euractiv.com/section/digital/interview/small-platforms-should-be-the-target-of-online-terrorist-content-regulation-mep-says/

07.03.2019	Up to 400 online platforms hosting terrorist content, Commission says	https://www.euractiv.com/section/cybersecurity/news/up-to-400-online-platforms-hosting-terrorist-content-commission-says/
22.03.2019	EU institutions at loggerheads over online terrorist content	https://www.euractiv.com/section/digital/news/eu-institutions-at-loggerheads-over-online-terrorist-content/
09.04.2019	EU lawmakers back one-hour deadline to remove online terrorist content	https://www.euractiv.com/section/digital/news/eu-lawmakers-back-one-hour-deadline-to-remove-online-terrorist-content/
18.04.2019	MEPs back plans to quell online terrorist content, but one-hour timeframe is criticised	https://www.euractiv.com/section/digital/news/meps-back-plans-to-quell-online-terrorist-content-but-one-hour-timeframe-is-criticised/
17.05.2019	Christchurch Call: EU struggling to get anti-terror measures right	https://www.euractiv.com/section/cybersecurity/news/christchurch-call-eu-struggling-to-get-anti-terror-measures-right/
25.07.2019	Digital Brief: Johnson's Huawei conundrum	https://www.euractiv.com/section/digital/news/digital-brief-johnsons-huawei-conundrum/
26.09.2019	Digital Brief: Copyright Commotion	https://www.euractiv.com/section/digital/news/digital-brief-copyright-commotion/
17.10.2019	Digital Brief: Franco-German Copyright Front	https://www.euractiv.com/section/digital/news/the-digital-brief-franco-german-copyright-front/
28.10.2019	The EU asking the impossible	https://www.euractiv.com/section/data-protection/video/the-eu-asking-the-impossible/
05.11.2019	The EU asking the impossible	https://www.euractiv.com/section/digital/video/the-eu-asking-the-impossible-2/
13.11.2019	The EU asking the impossible	https://www.euractiv.com/section/data-protection/video/the-eu-asking-the-impossible-3/
14.11.2019	Digital Brief: Macron's audition	https://www.euractiv.com/section/digital/news/digital-brief-macrons-audition/
03.01.2020	Digital in 2020: A geopolitical programme	https://www.euractiv.com/section/digital/news/digital-in-2020-a-geopolitical-programme/
12.03.2020	Digital Brief: A right to repair	https://www.euractiv.com/section/digital/news/digital-brief-a-right-to-repair/
24.03.2020	Misguided 'solution' to terrorist content will have bad consequences for our rights	https://www.euractiv.com/section/digital/opinion/misguided-solution-to-terrorist-content-will-have-bad-consequences-for-our-rights/
26.03.2020	Digital Brief: Data for the Common Good?	https://www.euractiv.com/section/digital/news/digital-brief-data-for-the-common-good/
01.04.2020	EU under pressure to broker online terrorist content agreement	https://www.euractiv.com/section/digital/news/eu-under-pressure-to-broker-online-terrorist-content-agreement/
02.04.2020	Digital Brief: Europe's COVID-19 App Attack	https://www.euractiv.com/section/digital/news/digital-brief-europes-covid-19-app-attack/

02.04.2020	Global Europe Brief: Pandemic Economics	https://www.euractiv.com/section/global-europe/news/global-europe-brief-pandemic-economics/
27.04.2020	False commentary and blinkered perspectives hampering TCO progress	https://www.euractiv.com/section/digital/opinion/false-commentary-and-blinkered-perspectives-hampering-tco-progress/
29.04.2020	Blind faith in technology diverts EU efforts to fight terrorism	https://www.euractiv.com/section/digital/opinion/blind-faith-in-technology-diverts-eu-efforts-to-fight-terrorism/
30.04.2020	Digital Brief, powered by Facebook: Could digital tax return to the EU?	https://www.euractiv.com/section/digital/news/digital-brief-powered-by-facebook-could-digital-tax-return-to-the-eu/
18.08.2020	Digital agenda: Autumn/Winter Policy Briefing	https://www.euractiv.com/section/digital/news/digital-agenda-autumn-winter-policy-briefing/
25.09.2020	Digital Brief: EU/UK data transfers, EU police facial recognition, dark web	https://www.euractiv.com/section/digital/news/digital-brief-eu-uk-data-transfers-eu-police-facial-recognition-dark-web/
23.10.2020	Digital Brief, powered by Google: DSA Votes, EU cyber sanctions, EPP-Renew on TERREG	https://www.euractiv.com/section/digital/news/digital-brief-powered-by-google-dsa-votes-eu-cyber-sanctions-epp-renew-on-terreg/
26.10.2020	France says it won't forget 'silence' of some states after teacher beheading	https://www.euractiv.com/section/justice-home-affairs/news/france-says-it-wont-forget-silence-of-some-states-after-teacher-beheading/
13.11.2020	EU to present anti-terror plan in December	https://www.euractiv.com/section/justice-home-affairs/news/eu-to-present-anti-terror-plan-in-december/
13.11.2020	Digital Brief, powered by Google: Schrems 2 data guidance, Copyright, 5G in the EU	https://www.euractiv.com/section/digital/news/digital-brief-powered-by-google-schrems-2-data-guidance-copyright-5g-in-the-eu/
19.11.2020	The fundamental rights concerns at the heart of new EU online content rules	https://www.euractiv.com/section/digital/opinion/the-fundamental-rights-concerns-at-the-heart-of-new-eu-online-content-rules/
20.11.2020	Digital Brief, powered by Google: New EU cyber hub, deepfake screening, antitrust failures	https://www.euractiv.com/section/digital/news/digital-brief-powered-by-google-new-eu-cyber-hub-deepfake-screening-antitrust-failures/
25.11.2020	Far-right terrorism bigger threat to West than Islamic State – study	https://www.euractiv.com/section/justice-home-affairs/news/far-right-terrorism-bigger-threat-to-west-than-islamic-state-study/
04.12.2020	Digital Brief, powered by Google: DSA/DMA, Twitter	https://www.euractiv.com/section/digital/news/digital-brief-powered-by-google-dsa-dma-twitter-data-decision-nis-directive/

	data decision, NIS directive	
11.12.2020	Global Europe Brief: Europe's terrorism dilemma	https://www.euractiv.com/section/global-europe/news/global-europe-brief-europes-terrorism-dilemma/
11.12.2020	New cross-border online terrorist content rules sparks rights concerns	https://www.euractiv.com/section/digital/news/new-cross-border-online-terrorist-content-rules-sparks-rights-concerns/
11.12.2020	Digital Brief, powered by Facebook: Indian disinfo, French data fines, Romanian CyberSec	https://www.euractiv.com/section/digital/news/digital-brief-powered-by-facebook-indian-disinfo-french-data-fines-romanian-cybersec/
06.01.2021	2021: A new European digital generation	https://www.euractiv.com/section/digital/news/2021-a-new-european-digital-generation/
15.01.2021	Digital Brief: The fate of free expression, Copyright in Germany, DPAs given more teeth	https://www.euractiv.com/section/digital/news/digital-brief-the-fate-of-free-expression-copyright-in-germany-dpas-given-more-teeth/
12.03.2021	Digital Brief: Privacy Shield update, DMA obligations, GAFA Tax	https://www.euractiv.com/section/digital/news/digital-brief-privacy-shield-update-dma-obligations-gafa-tax/
12.03.2021	Portugal wants online terror content removed within an hour	https://www.euractiv.com/section/eu-council-presidency/news/portugal-wants-online-terror-content-removed-within-an-hour/
26.03.2021	Digital Brief, powered by Facebook: Europol's decryption platform, Bundeskartellamt Vs Facebook, Section 230	https://www.euractiv.com/section/digital/news/digital-brief-powered-by-facebook-europols-decryption-platform-bundeskartellamt-vs-facebook-section-230/
31.03.2021	MEPs urged to reject Commission's 'anti-free speech' proposal to monitor terror online	https://www.euractiv.com/section/digital/news/meps-urged-to-reject-commissions-anti-free-speech-proposal-to-monitor-terror-online/
23.04.2021	Digital Brief: AI package unveiled, European Media Freedom Act, democratic 5G	https://www.euractiv.com/section/digital/news/digital-brief-ai-package-unveiled-european-media-freedom-act-democratic-5g/
28.04.2021	EU adopts law giving tech giants one hour to remove terrorist content	https://www.euractiv.com/section/cybersecurity/news/eu-adopts-law-giving-tech-giants-one-hour-to-remove-terrorist-content/
29.04.2021	EU adopts stricter rules against online 'terrorist content'	https://www.euractiv.com/section/global-europe/news/eu-adopts-stricter-rules-against-online-terrorist-content/
30.04.2021	Digital Brief: Apple scrutinised,	https://www.euractiv.com/section/data-protection/news/digital-brief-apple-scrutinised-terreg-approved-eprivacy-derogated/

	TERREG approved, ePrivacy derogated	
05.05.2021	Facebook fears regulators' competing demands for privacy, transparency	https://www.euractiv.com/section/digital/news/facebook-fears-regulators-competing-demands-for-privacy-transparency/
14.05.2021	France, New Zealand review online terror steps since Christchurch Call	https://www.euractiv.com/section/justice-home-affairs/news/france-new-zealand-review-online-terror-steps-since-christchurch-call/
politico.eu (24 articles)		
14.06.2016	Commission targets radicalization online and in jails	https://www.politico.eu/article/orlando-attack-commission-targets-radicalization-online-and-in-jails/
13.09.2017	POLITICO Brussels Playbook, presented by EPP Group: State of the Union day — Theresa May's fixer — Bulgaria's far-right ministers	https://www.politico.eu/newsletter/brussels-playbook/politico-brussels-playbook-presented-by-epp-group-state-of-the-union-day-theresa-mays-fixer-bulgarias-far-right-ministers/
19.09.2017	Theresa May: Tech firms must remove extremist content within two hours	https://www.politico.eu/article/theresa-may-tech-firms-must-remove-extremist-content-within-two-hours/
19.05.2018	UK to draw up 'online safety' laws	https://www.politico.eu/article/uk-to-draw-up-online-safety-laws/
13.06.2018	POLITICO Pro Morning Tech: UK tech love — Security spotlight — Copyright showdown	https://www.politico.eu/article/politico-pro-morning-tech-ai-in-uk-security-spotlight-copyright-showdown/
14.06.2018	POLITICO Pro Morning Tech: Fake news breakdown — Crypto in France — Bye, bye Albrecht	https://www.politico.eu/article/politico-pro-morning-tech-fake-news-breakdown-crypto-in-france-bye-bye-albrecht/
24.07.2018	Julian King: EU preparing to legislate against illegal content online	https://www.politico.eu/article/julian-king-eu-preparing-to-legislate-against-illegal-content-online/
25.08.2018	Macron wants to rein in Silicon Valley, from Brussels	https://www.politico.eu/article/macron-mounir-mahjoubi-tech-regulation-eu-vestager-wants-to-rein-in-silicon-valley-from-brussels/
24.08.2018	EU to tighten screws on internet giants to remove terrorist content	https://www.politico.eu/article/eu-regulation-on-removal-of-terrorist-content-set-for-mid-september/
27.08.2018	What Europe can still achieve on the digital single market	https://www.politico.eu/article/policy-primer-what-to-watch-on-tech-in-the-fall-platform-rules-jedi-challenges-ai-brexit/

28.11.2018	Technical impossibility at heart of EC's plan to stop spread of online terrorist content	https://www.politico.eu/sponsored-content/technical-impossibility-at-heart-of-ecs-plan-to-stop-spread-of-online-terrorist-content/
23.01.2019	Inside Facebook's fight against European regulation	https://www.politico.eu/article/inside-story-facebook-fight-against-european-regulation/
18.03.2019	POLITICO Pro Morning Tech: AI strategies — Terrorist content moderation — Dalton's new proposals	https://www.politico.eu/article/politico-pro-morning-tech-ai-strategies-terrorist-content-moderation-daltons-new-proposals/
21.03.2019	Europe's struggle against viral terrorist content	https://www.politico.eu/article/how-europe-plans-to-fight-christchurch-style-viral-content-its-complicated-fake-news-social-media-facebook-twitter-eu-terrorism/
10.05.2019	Macron's plan to fix Facebook, YouTube and Twitter	https://www.politico.eu/article/emmanuel-macrons-plan-to-fix-facebook-youtube-and-twitter/
15.05.2019	Macron, Ardern lead call to eliminate online terrorist content	https://www.politico.eu/article/christchurch-call-emmanuel-macron-jacinda-arden-facebook-google-twitter-extreme-harmful-content/
15.05.2019	POLITICO Brussels Playbook, presented by UNESDA, Soft Drinks Europe: War on online terror — Poroshenko speaks — Bee Man strikes again	https://www.politico.eu/newsletter/brussels-playbook/politico-brussels-playbook-presented-by-unesda-soft-drinks-europe-war-on-online-terror-poroshenko-speaks-bee-man-strikes-again/
15.05.2019	Facebook changes livestream rules after Christchurch attack	https://www.politico.eu/article/facebook-changes-livestream-rules-after-christchurch-attack/
18.07.2019	Tech commissioners report cards	https://www.politico.eu/article/digital-policy-eu-tech-commissioners-report-cards/
06.11.2019	POLITICO Pro Morning Tech: Huawei PR push — Copyright implementation — UK election	https://www.politico.eu/article/politico-pro-morning-tech-huawei-pr-push-copyright-implementation-uk-election/
07.11.2019	POLITICO Pro Morning Tech: Irish disinformation powwow — Breton's hearing — Digital Services Act	https://www.politico.eu/article/politico-pro-morning-tech-irish-disinformation-pow-wow-bretons-hearing-date-libra/
21.10.2020	Macron steps up fight against radical Islam (and his critics)	https://www.politico.eu/article/macron-brandishes-actions-against-radical-islam-in-face-of-criticism/
04.11.2020	POLITICO Brussels Playbook: No US winner yet — World	https://www.politico.eu/newsletter/brussels-playbook/politico-brussels-playbook-no-us-winner-yet-world-on-tenterhooks-meps-terror-content-plea/

	on tenterhooks — MEPs' terror content plea	
11.11.2020	POLITICO Brussels Playbook: Health power grab — Budget deal — Whistleblower saga	https://www.politico.eu/newsletter/brussels-playbook/politico-brussels-playbook-health-power-grab-budget-deal-whistleblower-saga/
theparliamentmagazine.eu (3 articles)		
27.11.2018	A square peg into a round hole	https://www.theparliamentmagazine.eu/news/article/a-square-peg-into-a-round-hole
22.11.2019	In conversation with... Lucinda Creighton	https://www.theparliamentmagazine.eu/news/article/in-conversation-with-lucinda-creighton
20.03.2019	The devil is in the detail: Preventing the dissemination of terrorist content online	https://www.theparliamentmagazine.eu/news/article/the-devil-is-in-the-detail-preventing-the-dissemination-of-terrorist-content-online
Number of articles in total: 104		

Source: Own illustration.

Appendix 9. Case 1 – NGO actions categorised as *access*

Type of NGO action	Link to action	Political venue addressed	In search for direct contact
Use of AsktheEU	Bits of Freedom: https://www.asktheeu.org/en/request/infringement_procedures_data_ret#incoming-7830	European Commission	DG Migration and Home Affairs
	Digitalcourage: https://www.asktheeu.org/en/request/correspondence_on_data_retention		
Letter campaign "Global Internet Liberty Campaign"	http://gilc.org/verhofstadt_letter.html	EU Council of Ministers	Prime Minister Guy Verhofstadt
	http://gilc.org/cox_en.html	European Parliament	President of the EP Pat Cox
Letter campaign "Invasive, Illusory, Illegal, and Illegitimate"	http://www.derechos.org/nizkor/espana/doc/dataret1.html	European Commission	DG Information Society, DG Justice and Home Affairs
	https://edri.org/our-work/campaignsdataretentionletter/	European Parliament	Presidents of the Political groups in the EP
	https://www.statewatch.org/media/documents/news/2005/sep/retentionletterformeps.pdf	European Parliament	MEPs
	https://privacyinternational.org/news-analysis/1325/pi-forges-coalition-call-european-parliament-reject-data-retention	European Parliament	MEPs
Report by "International Campaign Against Mass Surveillance"	https://www.statewatch.org/media/documents/news/2005/apr/icams-sw-prel.pdf	National governments, intergovernmental organisations	-
Letters on directive's evaluation	http://www.vorratsdatenspeicherung.de/images/DRletter_Malmstroem.pdf	European Commission	Commissioner for Home Affairs Cecilia Malmström
	https://www.statewatch.org/media/documents/news/2011/sep/eu-mand-ret-ngo-letter-to-com.pdf	European Commission	Commissioner for Home Affairs Cecilia Malmström, Commissioner for Digital Agenda Neelie Kroes, Commissioner

			for Justice Viviane Reding
Study on legality of EU PNR schemes	https://edri.org/files/DR_EDRi_letter_CJEU_Timmermans_20150702.pdf	European Commission	First Vice-President Frans Timmermanns, Vice-President Andrus Ansip, Commissioner for Migration and Home Affairs Dimitris Avramopoulos, Commissioner for Justice Věra Jourová
Letter campaign “stopdataretention.eu”	https://stopdataretention.eu/stop_data_retention_open_letter.pdf	European Commission	Secretary-General
Joint Civil Society Letter	https://digitalcourage.de/sites/default/files/2020-10/joint-ngo-letter-data-retention-06-10-2020_0.pdf	European Commission	Commissioner for Home Affairs Ylva Johansson, Commissioner for the Internal Market Thierry Breton, Commissioner for Justice Didier Reynders, Commission Vice-President Margrethe Vestager

Source: Own illustration.

Appendix 10. Case 2 – NGO actions categorised as *access*

Type of NGO action	Link to action	Political venue addressed	In search for direct contact
European lobby week	http://wiki.vorratsdatenspeicherung.de/20110527-30-Work-and-lobby-weekend-pnr	European Parliament	MEPs
Comments on the Commission proposal	https://edri.org/files/101212-EU-PNR-EDRicomments.pdf	European Parliament	LIBE Committee
Amendment list	https://edri.org/files/PNR2015/PNR%20Proposal-EDRi.pdf	European Parliament	LIBE Committee
PNR letter	https://edri.org/files/PNR2015/PNRletter-EDRi.pdf	European Parliament	LIBE Committee
Email to MEPs	https://edri.org/our-work/surveillance-of-air-passengers-letter-to-parliamentarians/	European Parliament	LIBE Committee
PNR briefing note	https://edri.org/files/PNR2015/PNRbrief-EDRi.pdf	European Parliament	LIBE Committee
Handing over of "(ironic) certificates"	https://edri.org/our-work/press-release-data-protection-and-passenger-name-record-package-to-be-voted-on-tomorrow/	European Parliament	Leaders of the European People's Party, Socialists & Democrats and European Conservatives and Reformists
Feedback for Commission's evaluation	https://epicenter.works/sites/default/files/joint_feedback_on_the_external_dimension_of_pnr.pdf, https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12531-Air-travel-sharing-passenger-name-data-within-the-EU-and-beyond-assessment-/F550916_en	European Commission	-

Source: Own illustration.

Appendix 11. Case 3 – NGO actions categorised as *access*

Type of NGO action	Link to action	Political venue addressed	In search for direct contact
Letter on proposal's impact assessment	https://cdt.org/wp-content/uploads/2018/02/2018-02-12-Joint-letter-on-NA-Feb-2018-final.pdf	European Commission	Commission President Jean-Claude Juncker, Vice-President Andrus Ansip, Commissioner for Innovation Mariya Gabriel, Commissioner for Industry Elżbieta Ewa *Bieńkowska,* Commissioner for Justice Věra Jourová, Commissioner for the Security Union Julian King, Commissioner for Migration and Home Affairs Dimitris Avramopoulos
Letter at France's national level	https://www.laquadrature.net/en/2018/12/03/44-organisations-ask-emmanuel-macron-to-give-up-its-antiterrorism-censorship-project/	French government	President Emmanuel Macron
Letter to JHA Ministers	https://cdt.org/insights/letter-to-ministers-of-justice-and-home-affairs-on-the-proposed-regulation-on-terrorist-content-online/	Council of the EU	JHA Ministers
Joint letter on European Commission regulation	https://www.article19.org/resources/joint-letter-on-european-commission-regulation-on-online-terrorist-content/	Council of the EU, European Parliament	Member State representatives, MEPs
CDT Amendments	https://cdt.org/insights/terrorist-content-regulation-meps-should-support-imco-and-cult-committees-proposals/	European Parliament	MEPs
Letter by civil society (from all over the world)	https://blog.witness.org/2019/01/witness-brings-together-voices-push-back-dangerous-dissemination-terrorist-content-proposal-civil-society-letter/	European Parliament	LIBE Committee
Letter campaign by German organisations	https://digitalegesellschaft.de/wp-content/uploads/2019/02/Offener-Brief-gegen-den-Verordnungsentwurf-zur-Verhinderung-der-Verbreitung-terroristischer-Online-Inhalte-1.pdf	European Parliament	Ska Keller
	https://digitalegesellschaft.de/2019/02/offener-brief-an-deutsche-abgeordnete-im-libe-ausschuss/	European Parliament	MEPs

Letter on the Terrorist Content Database	https://www.accessnow.org/open-letter-to-eu-parliament-on-the-terrorism-database/	European Parliament	MEPs
Letter on Terrorism Database	https://cdt.org/wp-content/uploads/2019/02/Civil-Society-Letter-to-European-Parliament-on-Terrorism-Database.pdf	European Parliament	MEPs
Meeting with UN rapporteur	https://www.accessnow.org/debate-with-un-special-rapporteur-fionnuala-ni-aolain-hosted-by-sd-meps-josef-weidenholzer-and-birgit-sippel/	United Nations	UN Special Rapporteur Fionnuala Ní Aoláin
Open letter by EDRi (1)	https://edri.org/our-work/open-letter-regulation-on-terrorist-content-online-endangers-freedom-of-expression/	European Parliament	MEPs
NGO-business letter	https://edri.org/files/counterterrorism/20190318-TerroristContentRegOpenLetter.pdf	European Parliament	MEPs/LIBE Committee
Internet luminaries' letter	https://www.politico.eu/wp-content/uploads/2019/04/TCO-letter-to-rapporteurs.pdf	European Parliament	MEPs: Daniel Dalton (LIBE), Julie Ward (CULT), Felix Reda (IMCO)
Letter to Member States	https://edri.org/our-work/letter-to-member-states-calls-for-safeguards-in-terrorist-content-regulation/	Council of the EU	Ministers
Open letter by EDRi (2)	https://edri.org/our-work/open-letter-civil-society-urges-member-states-to-respect-the-principles-of-the-law-in-terrorist-content-online-regulation/	Council of the EU	Representatives of Member States
Letter addressing state of trilogue negotiations	https://cdt.org/wp-content/uploads/2020/09/2020-09-21-CDTEU-Terrorist-Content-Online-joint-letter.pdf	Council of the EU, European Parliament, European Commission	-
"How-to" briefing	https://edri.org/wp-content/uploads/2020/11/CivilSocietyBriefing_TCORemovalOrders_Oct2020.pdf	European Parliament, Council of the EU	-
Open letter by Liberties (1)	https://dq4n3btxmr8c9.cloudfront.net/files/TiEbgO/TERREG_Openletter_Liberties_MEP_17Nov.pdf	European Parliament, Council of the EU	
Open letter by digiges	https://digitalegesellschaft.de/2020/12/gemeinsamer-offener-brief-eu-verordnung-gegen-terrorpropaganda/	Council of the EU	German Presidency
Open letter by Liberties (2)	https://dq4n3btxmr8c9.cloudfront.net/files/nS1GUt/MEP_TERREG_Letter_EN.pdf	European Parliament	MEPs
Letter by Ligue de droits de l'homme	https://www.ldh-france.org/lettre-commune-appelant-a-voter-contre-le-reglement-de-prevention-de-la-diffusion-de-contenus-a-caractere-terroriste-en-ligne/	European Parliament	MEPs

Source: Own illustration.