

(Un)making the Frontex PeDRA controversy: Freedom of information and the regime of opacity in EU migration management

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Freedom of information and the regime of opacity in EU
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Abstract

This paper examines the controversy surrounding ‘PeDRA’—a Frontex surveillance programme for harvesting data from illegalized migrants—to explore how opaque security practices are transformed into objects of public-political contestation. By centring the EU’s freedom of information (FOI) mechanism as both a methodological and analytical vantage point for interrogating the regime of opacity in EU migration management, it contributes to debates in critical border and security studies concerned with mundane entanglements between secrecy and security. How do FOI mechanisms intervene in the politics of controversy and broader epistemic struggles surrounding Europe’s border regime, and what forms of (non-)knowledge do they engender? Drawing on a large trove of confidential records, the analysis shows, first, how FOI disclosures can be mobilised to trace the emergence of controversies by exposing the internal contestations and irregularities that underpinned the unlawful expansion of PeDRA. Second, it identifies the obfuscatory tactics that EU border bureaucracies deployed to strategically manage the political reverberations of the controversy, both in the public arena and the bureaucratic backstage. While FOI mechanisms cannot undo the irreducible opacity of datafied bordering infrastructures, the paper concludes that they remain vital tools for rendering security practices (partially) visible and, thus, politically contestable.

Keywords:

secrecy, transparency, freedom of information, Frontex, migration management

Introduction

“There is nothing secret about Frontex”, Hans Leijtens proclaimed at his first press conference in January 2023 as the newly appointed Executive Director (ED) of Frontex. Pledging his commitment to three principles—accountability, fundamental rights, and transparency—Leijtens vowed a “nothing-to-hide” approach to “enhance” the EU border agency’s “legitimacy” (Petrequin, 2023). Leijtens’ proclamation came in the wake of a highly mediatised political scandal, with revelations of high-level cover-ups of illegal pushbacks orchestrated by the former ED, Fabrice Leggeri (Glouftsis, 2024a). Yet, in June 2022, just two months after Leggeri’s resignation, Frontex became embroiled in a new controversy, defined as “situations where knowledge claims, technologies, policy-regulatory frameworks and practices become subject to (often, but not always, public) interrogation and dispute” (Aradau and Glouftsis, this Issue). The controversy concerned the planned expansion of Frontex’s *Processing personal data for risk analysis* (PeDRA) programme.

With origins dating back to 2015, PeDRA is a *data-harvesting* programme through which Frontex border guards extract information about suspects of cross-border crime from newly arrived migrants at Europe’s external borders. The information is shared with Europol, while simultaneously feeding the agency’s “risk analysis” activities—“the central knowledge and surveillance practice through which Frontex manages migration” (Achilleos-Sarll et al., 2023). Despite forming an integral component of the EU’s border control “data infrastructures”, PeDRA has received only passing treatment in the voluminous body of scholarship on EU migration management (Pollozek & Passoth, 2023). Under the premise of combatting human smuggling and terrorism, the expansion of PeDRA sought to significantly increase Frontex’s ability to collect and share migrants’ personal data with Europol and national police authorities. In June 2022, an investigation published in *Der Spiegel* and *Balkan Insight* (Stavinoha et al., 2022), based primarily on internal documents obtained through Freedom of Information (FOI) requests, revealed how senior Frontex and European Commission (EC) officials had side-lined the European Data Protection Supervisor (EDPS) as well as the agency’s own Data Protection Officer (DPO), who had repeatedly issued warnings of institutional overreach and potential violations of EU data protection laws. As a result, the hitherto opaque surveillance programme was made visible to wider publics and turned, temporarily, into an object of political contestation.

Taking the controversy surrounding PeDRA as the central case study, this paper seeks to critically intervene in debates at the intersection of critical border and security studies that are concerned with the “enactment of secrecy” (Thomas, 2020: 79), and, more specifically, the way opaque security practices are transformed into objects of heightened dispute and interrogation on the public stage (de Goede and Wesseling, 2017; Stampnitzky, 2020; see also Walters, this Issue). The notion of secrecy lies at the core of public-political contestations surrounding EU migration management (Curtin, 2018; Glouftsiou, 2024a). Yet, how precisely FOI, as a pivotal transparency mechanism, can be mobilised to simultaneously *interrogate* and *intervene* in these moments of contestation remains under-explored. As Van Isacker and Walters (2025: 190) note, “debate about what FOI means for the production of knowledge about borders, mobilities and struggles is still in its infancy.” Indeed, with notable exceptions (Sormunen and Gnes, 2023, Stavinoha, 2024; Valdivia et al., 2022), the EU’s FOI mechanism has thus far escaped critical attention by border and security scholars. This paper centres FOI as integral not only to the making of the PeDRA controversy but broader “epistemic struggles” to make violent and exclusionary bordering practices and infrastructures publicly visible against denials and obfuscations from state authorities (Davies et al., 2023; Lindberg, 2024). I build here on research that treats FOI mechanisms as both a methodological tool for gaining access to the “live archives” of state bureaucracies, as well as an object of critical inquiry in its own right, centring the bureaucratic processes of (non-)disclosure through which secrecy is enacted and contested (Hughes and Martin, 2022; Luscombe and Walby, 2017). How does this transparency mechanism intervene in controversies and broader epistemic struggles surrounding Europe’s border regime? What forms of (non-)knowledge does FOI engender about the expansion of opaque surveillance infrastructures like PeDRA?

In addressing these questions, this paper aims to make three key contributions. First, by attending to the *pre-controversy* stage, it demonstrates how FOI can be harnessed to shed light on how controversies materialise, by identifying the *internal contestations* surrounding contentious bordering infrastructures like PeDRA, prior to their transformation into objects of heightened public scrutiny. Second, it reveals how EU border bureaucracies *strategically managed* the PeDRA controversy, highlighting several obfuscatory tactics aimed at foreclosing further public scrutiny and containing the broader socio-political resonance of the serious procedural irregularities and legal transgressions exposed through FOI disclosures. In doing so, the analysis shows the productive possibilities of mobilising FOI to probe how

“secrecy controversies” (de Goede and Wesseling, 2017) unfold not only on the *public frontstage*—the primary analytical locus of existing literature—but their reverberations inside the *bureaucratic backstage*. Finally, I draw on Hughes and Martin’s notion of FOI disclosures as “partial witnesses” (2022: 417) to reflect on the extent to which FOI can be deployed to not only probe but challenge the opacity that envelops bordering infrastructures. Despite their ambivalences and limitations, I conclude that it is precisely by simultaneously *contesting* and *making public* this *regime of opacity* that FOI can be mobilised to chip away at the power of border bureaucracies to control the “selective flows” of knowledge about migration (Van Isacker and Walters, 2025) and their claims to legitimacy. In sum, by approaching FOI as both a methodological and analytical vantage point, this paper advances understanding of how this transparency mechanism intervenes in the complex and contingent processes of making controversial security practices public.

The paper proceeds as follows. First, it details my encounter with the EU ‘access to documents’ regime while seeking access to a large corpus of confidential records regarding PeDRA. I then situate my intervention in relation to bodies of literature that have problematised conventional understandings of secrecy and theorised its ambivalent entanglements with transparency, introducing several subtle but productive conceptual distinctions—between secrecy and opacity, transparency and publicity, and exposure and revelation—that are particularly pertinent for unravelling how FOI is implicated in the politics of controversy in EU migration management. The rest of the paper presents an analysis of the PeDRA controversy: its emergence within the bureaucratic backstage, its strategic management in the public arena, and its socio-political reverberations.

Encountering opacity

Empirically, this paper draws primarily on documentary material gathered as part of a collaborative project with a team of investigative journalists, which culminated in a media investigation about PeDRA (Stavinoha et al., 2022). Under Regulation EC 1049/2001, which governs EU citizens’ right to access documents held by EU bodies, I filed multiple requests between October 2021 and April 2024 to Frontex, the EC’s Directorate General for Migration and Home Affairs (DG HOME), Europol, and the EDPS. I sought access to records that contain traces of bureaucratic deliberations relating to the enactment, expansion, and internal contestation of PeDRA, in particular documents and exchanges between Frontex and other EU bodies regarding two Management Board Decisions which stipulated a set of the

“implementing rules” for the processing of personal data.¹ These rules not only defined the legal framework for the expansion of PeDRA but, as detailed below, became the object of considerable friction within Frontex and, eventually, the focal point of public controversy.

Echoing the experience of other researchers (Luscombe and Walby, 2017; Hughes and Martin, 2022; Van Isacker and Walters, 2025), collecting this material was a protracted and, at times, frustrating exercise, consisting of more than a dozen separate requests, multiple appeals (‘confirmatory applications’), and several complaints to the European Ombudsman. As Hiemstra and Colon (2021: 668) note, navigating the panoply of bureaucratic obstructions—procedural delays, refusals to disclose documents, and the use of excessive, and often arbitrary, redactions—involves a significant amount of “‘muddling through’...as a tactical response amidst a culture of secrecy and an environment where confusion and uncertainty combine to express, expand, and consolidate state power.” Ultimately, I managed to obtain access to dozens of internal records covering the entire lifespan of the PeDRA programme, from its inception in 2015 to the period of heightened scrutiny of PeDRA’s expansion in 2022, as well as the quieter aftermath of the controversy. The records fall into two broad categories. The first category consists of documents that pertain directly to PeDRA: operational details (e.g. PowerPoint slides containing visualisations of data flows); legal assessments by Frontex’s DPO; formalised deliberations (e.g. Frontex Management Board minutes); and mundane email exchanges between DG HOME and Frontex officials. The second category consists of documents generated *through* the FOI disclosure process itself, furnishing the empirical material for analysing the mundane workings of the FOI mechanism (e.g. correspondence between the applicant and Frontex). Thus, rather than treating non-disclosure solely as a *barrier* to research or as a *failure* to reveal ‘truths’ about bordering regimes, processes of selective disclosure illuminate the mundane bureaucratic practices, including their underlying legal and political rationales, through which secrecy surrounding controversial security practices is (un)done (Bosma et al., 2019; Hiemstra and Colon, 2021).

Muddling through entails not only familiarity with relevant EU case law in order to challenge EU institutions’ liberal use of “public security” and “internal decision-making” exemptions to disclosure (Sormunen and Gnes, 2023). It also involves the continuous sorting through,

¹ Frontex Management Board Decisions 68/2021 and 69/2021.

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3 analysing, cross-referencing, and piecing together of multiple (partially) redacted documents
4 through “intertextual” discourse analysis (Hughes and Martin, 2022). Only then can the
5 *fragmentary* information—characterised by redactions, duplications, omissions, as well as
6 documents containing little research value—be rendered *intelligible* to produce meaningful
7 insights about the internal workings of opaque border agencies like Frontex (Valdivia et al.,
8 2022). Muddling through is also a deeply collective effort. Indeed, collaborating with
9 journalists proved essential towards not just *making public* but *making sense* of the
10 documentary record, by pairing the corpus of FOI documents with publicly available reports
11 from Frontex and oversight bodies like the EDPS, leaked documents, and media reports.
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20 Additionally, to probe the discrepancies between the way the PeDRA controversy was
21 publicly *staged* and the way it unfolded in the bureaucratic *backstage*, I analysed statements
22 made by senior Frontex, Europol, and EC officials during a public hearing on PeDRA at the
23 European Parliament in November 2022—the central stage for the “interpretive battle”
24 (Stampnitzky, 2020: 608) over the meaning of FOI disclosures. Building on Glouftisios’
25 (2024b) forensic dissection of parliamentary hearings surrounding Frontex’s pushbacks
26 scandal, I was particularly interested in the bounds of controversy: which specific aspects of
27 PeDRA were framed as controversial, how FOI disclosures about the programme’s unlawful
28 expansion were presented, and the knowledge claims staged by the different actors involved.
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37 It is important to emphasise that none of the internal documents disclosed via FOI were
38 previously publicly available.² Thus, although PeDRA was not a secret programme as such—
39 in the sense of being *hidden*—it was certainly shrouded by opacity. Integral to this project was
40 a conception of “engaged scholarship” (Stierl, 2022), which approaches knowledge
41 production as inherently entangled in broader “epistemic struggles” surrounding Europe’s
42 border regime (Davies et al., 2023). Consequently, the research was unashamedly guided by
43 the critical-normative ethos of using FOI not only to map, but also obfuscatory practices in
44 relation to a surveillance programme beset by irregularities and legal transgressions. Indeed,
45 the PeDRA controversy is a prime example of how FOI can be harnessed by scholars,
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57 ² Many of the documents that I obtained via FOI have been uploaded on Frontex’s and the Commission’s public
58 registers. Annotated copies of the most important documents are also available via the online archive of
59 Statewatch—a UK-based NGO monitoring civil liberties in the EU. The remaining documents are on file with the
60 author.

through transdisciplinary collaboration, to actively *intervene* in processes of making security public.

Theorising secrecy

Secrecy is not just a matter of hiding. Nor are secrecy and transparency binary opposites (Bratich, 2006). In fact, secrecy, writes Birchall (2011: 13), “can flourish in ‘transparent’ realms”. These, at least, are some of the central claims of a growing body of literature at the intersection of critical secrecy and security studies that problematises conventional understandings of secrecy “not as something hidden, pre-given and fixed, but as being reiteratively performed in practice” (Glouftisios, 2024b: 4). Secrecy, from this perspective, refers not just to intentional acts of concealing information but rather the “set of practices and social relations that make knowledge accessible, shareable or articulable in certain circumstances but not others” (Stampnitzky, 2020: 601). Consequently, the analytical focus shifts from *revealing* carefully guarded state secrets and uncovering hitherto hidden nefarious practices towards interrogating how secrecy is enacted and contested by a variety of social and political actors (Bosma et al., 2019).

One strand of research that has significantly advanced understanding of secrecy’s ambivalent entanglements with transparency is concerned with the study of “secrecy controversies” (de Goede and Wesseling, 2017). From terrorism finance tracking, torture (Bratich, 2006; Stampnitzky, 2020), military invasion (Thomas, 2020), to illegal pushbacks (Glouftisios, 2024b), scholars have analysed the complex and contingent socio-political dynamics whereby the very secretive nature of state security practices is transformed into objects of public-political contestation across multiple venues such as parliamentary hearings, courts, and the mass media. While a thorough review of this literature is beyond our scope here, two conceptual insights are especially pertinent for approaching the role of FOI in the PeDRA controversy.

First, these studies demonstrate how, paradoxically, transparency mechanisms are implicated in sustaining secrecy or, more precisely, a *regime of opacity* that is structured through selective flows of information and the production of (non-)knowledge (Aradau and Perret, 2022). For example, in his analysis of Frontex’s pushbacks scandal, Glouftisios (2024a: 731) usefully distinguishes between secrecy, understood as the hiding of information or the concealment of illegitimate practices, and *obfuscation*, which refers to the production of

“uncertainty, ambiguity and confusion”. Focusing on a series of public hearings at the European Parliament, Glouftisios (2024a: 738) demonstrates how mechanisms introduced to improve transparency of Frontex operations, such as the Serious Incident Reporting mechanisms for recording evidence of human rights violations, in fact, function “as a means of obfuscation” enacted through the selective recording and mis-categorisation of specific incidents. Transcending the transparency/secretcy dichotomy is key to appreciating the ambivalence of FOI as a tool for both challenging and reproducing opacity (Martin and Hughes, 2022)—a point I develop further below.

A second productive distinction, introduced by Stampnitzky (2020: 598) in her study of the use of torture in the ‘war on terror’, lies between *exposure* and *revelation*: while exposure refers to processes of “making information publicly available”, in the form of FOI disclosures for instance, revelation refers to a “collective recognition that there has been a significant change in what is publicly known”. Crucially, not all exposures become revelations, just as not all controversies turn into full-blown political scandals. This transformation requires significant “interpretative work” by experts, policymakers, activists, and journalists to mobilise the attention of wider publics around specific “norm violations” (Stampnitzky, 2020; Walters, this Issue). For political communication scholars, this recalls a familiar distinction between *transparency* and *publicity*, where the latter is understood as the communicative process through which “information is actually communicated to and received” by publics (Schudson, 2020: 1677). As Wood and Aronczyk (2020: 1538) put it: “information may sit idly...or remain structurally or symbolically inaccessible”; only if they are made accessible and “legible” can “acts of transparency” redistribute “communicative power” in the public sphere. Publicity is thus a necessary if not sufficient precondition for FOI disclosures to intervene in the public arena where they become subject to competing interpretation, framing, and ideological (re)signification. Only then do FOIs become entangled in what Walters (2018: 36) calls the “‘dialectics’ of secrecy and publicity, hiding and detection” that structure contestations around specific bordering practices in a double sense. First, because they concern documents whose circulation is exempt from the public sphere, FOI mechanisms constitute practices of making security public *par excellence*. Second, the FOI process itself brings to the fore the mundane practices whereby border bureaucracies seek to obfuscate damaging FOI exposures and reinscribe controversial practices within a regime of opacity.

Researching opacity in EU migration management

Moving beyond questions of legal compliance (Fink and Hillebrandt, 2023), my analysis draws on the work of Luscombe and Walby (2017) to bring together two approaches for conceptualising the relationship between FOI and state power. The first is FOI as a *live archive*. From this perspective, by granting individuals the right to access otherwise confidential governmental records, FOI mechanisms enable civil society organisations, journalists, as well as researchers to scrutinise the conduct of public bodies and to expose abuses of state power, including by agencies involved in the policing, detention, and deportation of illegalised migrants (Martin and Hughes, 2022; Van Isacker and Walter, 2025). Once information extracted from state bureaucracies begins to circulate in the public sphere—that is, once FOI records achieve a certain level of publicity—they can act as “catalysts” for parliamentary inquiries, interventions from watchdogs, and “even for prosecution of elites” (Luscombe and Walby, 2017: 381). At the EU level, FOI disclosures have been instrumental in making public details of how, for example, Frontex and the European Commission are implicated in the violent policing of borders and human rights violations in EU-funded refugee camps (Cheresheva and Stavinoha, 2024; Emmanouilidou et al., 2023; Deleja-Hotko, 2021).

Drawing in part on critical studies of secrecy discussed above, some scholars have problematised this conventional understanding of FOI. This body of work suggests that “FOI is not so much a tactic of challenging government power but instead a government strategy” (Luscombe and Walby, 2017: 382). By managing the circulation of information through selective disclosures of internal records, states are able to transform FOI into *mechanisms of obfuscation*, defined as “the process of obscuring, but not removing, information that is required to be publicly available” (Garnett and Hughes, 2019: 25). For instance, in their study of immigration detention in the United States, Hiemstra and Conlon describe the FOI procedure as one mired by “irremediable inconsistencies and gaps that conveyed a state and a sense of confusion, obfuscation, and dismissal” (2021: 671). Yet, even in instances when documents *are* disclosed, FOI can function to *sustain* opacity, for “making things transparent is not equivalent to making them intelligible” (Valdivia et al., 2022: 12). In practice, FOI disclosures may obscure more than they reveal, generating “information mirages” and forms of non-knowledge that consist of disjointed or otherwise useless information (Luscombe and Walby, 2017: 382). Indeed, as I demonstrate below, the mere act of disclosing documents does not, in and of itself, diminish the opacity that is constitutive of digital bordering

infrastructures like PeDRA. Moreover, greater transparency of state conduct does not necessarily result in greater accountability as liberal conceptions of FOI suggest (Birchall, 2011; Wood and Aronczyk, 2020).

Following Luscombe and Walby (2017: 386), my aim is to hold these two seemingly contradictory perspectives in “irreducible tension”; to “inhabit” this tension “strategically”, as Birchall (2011) suggests. For while it is certainly the case that FOI “often operates as a mechanism for state secrecy” (Glouftsiou, 2024b: 7), this does not diminish its capacity for generating important insights about internal “policy and power dynamics that are often concealed” (Tomkison, 2023: 2). Thus, fully cognizant that FOI disclosures can only ever be “partial witnesses” (Hughes and Martin, 2022) to the internal workings of border bureaucracies, they are, as I hope to demonstrate, witnesses that, if nurtured with persistence, can render illegitimate security practices publicly visible and politically contestable. Put differently, FOI disclosures, once propelled into the mediated public arena, can set in motion processes of public-political contestation. They can generate controversies, as evidenced below in the case of PeDRA, or feed existing scandals, as the continuous stream of FOI-driven media exposés of Frontex’s involvement in migrant pushbacks attests (Cheresheva and Stavinoha, 2024; Christides and Lüdke, 2022). As such, I argue that FOI disclosures have the *potential* to become part of broader political and “epistemic struggles” surrounding Europe’s border regime, in so far as they are seized upon by the networks of activists, migrants, journalists, artists, and researchers who seek to not only counter state and EU authorities’ obfuscation of state-orchestrated border brutalities but engage in struggles to convene indignant publics against these systemic injustices (Davies et al., 2023; Lindberg, 2024; Walters, this Issue).

Placing FOI at the centre of analysis is thus particularly pertinent when attending to the interplay between security and secrecy in EU migration management. Centring the production of (non-)knowledge in processes of deterring, filtering, and expelling migrants, scholars have shown how the multiplicity of interoperable data infrastructures and algorithmic bordering technologies are structured by varying degrees of ignorance and opacity (Aradau and Perret, 2022; Curtin, 2018; Pollozek and Passoth, 2023; Tazzioli, 2018). In one of the few studies to use the EU FOI mechanism as a methodological tool to examine large-scale EU migration databases, Valdivia et al. explain that opacity does not connote mere “hiddenness” but, rather, the “incomprehensible or inaccessible ways in which systems

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work” (2022: 3). The aim in this paper is thus not to *reveal* the “data practices” (Leese et al., 2022) that make up the PeDRA programme. Instead, I approach FOI as a distinctive vantage point for interrogating the regime of opacity that is constitutive of the internal workings of the EU’s bordering apparatus.

Frontex’s pivotal role in enforcing the EU’s increasingly hostile border regime has attracted considerable scholarly attention in recent years: from entanglements of securitising and humanitarian logics in everyday border policing (Bachiller Lopez, 2023), the “gendered and racialized meanings of migration and border security” reproduced through “risk analysis” (Achilleos-Sarll et al., 2023), to its role in constructing “crisis narratives” of migration (Perkowski et al., 2023). Turning towards Frontex’s internal functioning through the lens of organisational sociology, Perkowski (2019: 1182) elucidates how its everyday workings are structured by contradictory rationalities, internal divisions, and external challenges to its legitimacy, such that Frontex is more akin to “a fragmented and only loosely coupled organization”. A central aim of this paper is to demonstrate how FOI is uniquely positioned for probing these internal fault-lines and contestations. More specifically, I attempt to show how FOI mechanisms allow researchers to probe dimensions of secrecy controversies that have thus far received less attention: how controversies germinate within the bureaucratic backstage and how their ripple effects are strategically managed in the public arena.

Brewing a controversy

In December 2021, while the mediatised scandal surrounding Frontex’s cover-up of pushbacks was in full swing, the agency quietly adopted two Management Board (MB) Decisions on the processing of personal data that sought to exploit Frontex’s expanded mandate under Regulation (EU) 2019/1896. The rules, if implemented, would permit Frontex border guards to expand the categories of data they could extract from migrants through “debriefing” interviews (Bachiller Lopez and Morenilla, 2022). Under “PeDRA2”, as the envisioned programme was internally dubbed, the rules would permit Frontex to analyse and share data of not only “suspects” but “victims” and “witnesses” of cross-border crime with Europol, where it would be cross-checked against and stored within its criminal databases with virtually no retention limits (Stavinoha et al., 2022). While these far-reaching data-harvesting powers were subsequently found to be in violation of EU data protection legislation (EDPS, 2022), the aim here is not to provide a detailed legal critique. Instead, in

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3 this section, I analyse internal records with the aim of tracing “fragments that reveal political
4 decisions at the heart of [data] infrastructures” (Valdivia et al., 2022: 13). The focus here is
5 on the *pre-controversy stage* and exploring how this contentious datafied bordering
6 infrastructure materialised before it became an object of intense public scrutiny. More
7 specifically, I identify how deliberations surrounding the expansion of PeDRA were
8 characterised, firstly, by growing *internal contestations*, notably between the Frontex DPO
9 and senior management, and, secondly, underpinned by serious *procedural irregularities* that
10 were subsequently placed at the centre of the controversy.
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19 A dive into Frontex’s live archive reveals that the planned expansion of PeDRA was the
20 product of years-long acrimonious internal debate that began to escalate by mid-2021. At the
21 centre of internal dispute, spearheaded by the agency’s quasi-independent DPO, was the
22 question of legal (non-)compliance. In several “opinions” circulated to senior officials,
23 including the ED and EU member state representatives on the Frontex MB, the DPO
24 identified numerous provisions in the draft MB Decisions that violated core principles of the
25 EU data protection framework as well as Frontex’s own mandate. In one assessment, the
26 DPO wrote that the draft “fails at explaining why philosophical beliefs, religion, or political
27 beliefs are necessary to the purpose of identifying a suspect of cross-border crime” (Frontex,
28 2021a). With regards to Frontex officers recording the sexual orientation of “suspects”, the
29 DPO warned the agency that the “legal threshold to be met is not a ‘nice to have’ but a strict
30 necessity” (Frontex, 2021a). Furthermore, the draft rules granted a “*carte blanche*” for
31 transmitting personal data to Europol, thereby putting individuals at risk of inadvertent
32 criminalisation (Frontex, 2021b). Just weeks before the rules were adopted, the DPO issued a
33 stark warning that the planned PeDRA expansion “cannot be achieved by breaching
34 compliance with EU legislation” and that the draft MB Decisions posed “a serious risk of
35 function creep in relation to the Agency’s mandate”, which strictly limits Frontex’s law
36 enforcement function as regards the identification of “suspects” (Frontex, 2021a). During the
37 November 2021 MB meeting, the DPO reiterated her warnings about “possible violations of
38 fundamental rights” and urged the agency to consult the EDPS. According to minutes of the
39 meeting, this was dismissed by a senior Commission official as “unnecessary”—a significant
40 decision in light of the EDPS’ enforcement powers—as it considered “the text more than
41 mature for adoption” (Frontex, 2022a).
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Internal records further indicate that not only did Frontex's senior management disregard many of the DPO's objections but that the entire process of drafting the new data-processing rules was characterised by serious procedural irregularities. In July 2021, at the behest of Fabrice Leggeri, the DPO was removed from leading the drafting process. The move coincided with pressure from DG HOME. In an email exchange, a Commission official impressed upon the Frontex ED the "absolute political priority" of approving the rules "without any further delays" (European Commission, 2021a). The arrangement was formalised by *de facto* executive decree: in August 2021, the ED ordered the creation of the P4OPD—*Project Board for Operational Personal Data* (Frontex, 2021c). Its task was to finalise a draft for the MB's consideration by December 2021. Echoing previous efforts to frustrate the monitoring function of the agency's Fundamental Rights Office (FRO) vis-à-vis pushbacks (Gloftsiou, 2024b), the DPO was effectively prevented from performing its oversight function. As the DPO noted in a formal opinion: "The process of drafting the new rules *de facto* encroaches on the tasks legally assigned to the DPO...When the DPO issues an opinion, such advice cannot be overruled or amended" (Frontex, 2021b).

Contestations surrounding the expansion of PeDRA were not just internal to Frontex, however. For instance, in November 2021, a legal officer within DG HOME wrote an email to "remind" his Frontex counterpart that "Frontex is not a law enforcement agency and therefore it is important to be very cautious...to ensure that we stay within the limits set in the Regulation", while emphasising "the need for proper consultation of the DPO and, where necessary, also the EDPS" (European Commission, 2021b). Prioritising technocratic expediency, the Frontex official in charge of drafting the rules replied that "while I acknowledge that it might even be beneficial (and also possibly sound 'tactically') to consult EDPS, "it also means we lose control of the time-line" (European Commission, 2021c). A few days later, the Commission endorsed the adoption of the MB Decisions without prior approval from the EDPS, while disregarding the DPO's lingering objections.

The analysis thus far demonstrates that an internal dispute surrounding PeDRA was brewing inside Frontex long before its planned expansion was made public. It demonstrates how FOI disclosures can make visible contestations surrounding mundane decisions and processes that occur *within* the inner sanctum of opaque EU border bureaucracies. Opacity, here, is not the result of intentional acts of hiding but, rather, results from the very condition of *invisibility* of bureaucratic deliberations that, by definition, take place outside the bounds of the public

sphere. Arguably, it is the absence of publicity that set the terms of contestation in the bureaucratic backstage, allowing Frontex senior management to effectively bypass data protection watchdogs. As discussed further below, this is not to suggest that FOI mechanisms produce full transparency, nor that publicity leads neatly to greater accountability (Walters, 2018). Nonetheless, the analysis shows that FOI records can generate important insights into “the minutiae of everyday state practices” (Luscombe and Walby, 2017: 381) *prior* to the eruption of controversy on the public stage, and help identify traces, encoded within bureaucratic paper trails, of the illegitimate exercise of political power.

Managing the controversy

In so far as controversies involve an element of visibility and publicly staged contestation, then we need to consider three important developments which contributed to transforming PeDRA from a hitherto opaque programme subject to internal contestation into an object of public dispute. First, in June 2022, under the headline “Contested cooperation between Frontex and Europol: EU plans mass surveillance at external borders”, *Der Spiegel*, *Balkan Insight*, and several other European media outlets, published an investigation into PeDRA (Stavinoha et al., 2022). Drawing heavily on the FOI disclosures detailed above and mobilising the interpretative work of data protection experts, legal scholars, and EU policymakers, the investigation was a key “nodal point in a longer process of publication and politicisation” (de Goede and Wesseling, 2017: 259). Second, the media investigation coincided with a highly critical assessment issued by the EDPS (2022), which ordered Frontex to suspend the planned expansion of PeDRA and to revise the recently adopted MB Decisions on data processing. Third, the media investigation triggered the attention of the European Parliament’s Civil Liberties Committee (LIBE) tasked with overseeing Frontex activities. The controversy culminated in a live-streamed hearing at the LIBE Committee in November 2022, during which senior European Commission, Frontex, and Europol officials were probed about PeDRA. Taking place in the aftermath of the pushback scandal that thrust the agency into a deep legitimisation crisis, the PeDRA controversy also drew the attention, albeit short-lived, of several migrant solidarity NGOs and activist groups who had already been scrutinising and challenging Frontex’s lack of transparency and accountability. As such, the emergence of the PeDRA controversy on the public frontstage needs to be located amidst wider political and epistemic struggles surrounding the embattled border agency (Glouftisios, 2024b). In sum, media publicity, together with the mobilisation of a relatively narrow but

consequential set of political actors and EU oversight bodies, was key in bestowing the FOI disclosures with a degree of communicative power to *intervene* in the constitution of the controversy.

Set against this backdrop, the second stage of the analysis centres the *strategic management* of the controversy by EU border bureaucracies, focusing on how the controversy materialised both within the *bureaucratic backstage* and the *public frontstage*. Internal documents in the immediate run-up to the parliamentary hearing reveal that while DG HOME and Frontex officials dismissed the media investigation as “full of incorrect information” (European Commission, 2022a), they worked in concert to “align our messages” in what was “not going to be an easy meeting” (European Commission, 2022b). By identifying three key *tactics of obfuscation*, I argue that FOI disclosures can be mobilised to interrogate the strategies that were deployed to minimise publicity and to *contain* the controversy’s political reverberations, and thereby pre-empt the controversy from transforming into a more far-reaching scandal.

Deflating

The first tactic of obfuscation was to *deflate* the importance of the FOI disclosures and the subsequent controversy by insisting that the “PeDRA project has never been a secret”, as Matthias Oel, a senior DG HOME official, proclaimed at the start of his intervention during the parliamentary hearing.³ If secrecy surrounding contested security practices is what can, paradoxically, trigger heightened public scrutiny (de Goede and Wesselink, 2017; Horn, 2011), then a key tactic deployed by Frontex and its institutional allies was to insist on the *transparency* of their conduct. Indeed, the programme was presented as not only being in full compliance with the EU’s legal framework but fully transparent vis-à-vis the public: “information about PeDRA has always been available on the Frontex website”, the Commission official stated. While factually correct, the statement obscured the fact that this consisted of a single press release (Frontex, 2016), and that no public mention had ever been made regarding PeDRA’s expansion.

Far from being a secretive surveillance programme that warranted enhanced scrutiny or suspicion, the collection and exchange of personal data pertaining to suspects of cross-border

³ All quotes from the hearing were transcribed from the European Parliament’s (2022a) audio-visual streaming service.

crime was framed as a *mundane* activity performed by Frontex for many years. In fact, in a written answer to MEP Saskia Bricmont, Frontex cast doubt on the very *existence* of PeDRA as such, claiming that “PeDRA” was merely a “project” implemented between 2015-2017 that no longer exists (European Parliament, 2022b). Thus, not only was PeDRA framed as an entirely legitimate activity, in the sense that it was never hidden from the public, but it was presented as entirely *ordinary*, in contrast to its characterisation as “politically very sensitive” in internal deliberations (European Commission, 2021a). The attempt to *trivialise* PeDRA was further achieved by confining debate to the (limited) scope of the *existing* PeDRA programme, as it had functioned since its inception in 2015. For instance, Europol’s representative, Deputy Director Jürgen Ebner, claimed that the 6600 “personal data packages”, containing information about 13,000 “possible suspects”, that Frontex had transmitted to Europol since 2016 amounted to merely “0.16%” of all data received by Europol from EU member states (European Parliament, 2022a). Similarly, in his opening remarks at the hearing, the Frontex Deputy Director (DED) Uku Särekanno claimed that “any rumour about the...massive surveillance programme is a clear-cut exaggeration which is not happening on the ground”. Crucially, this attempt to deflate, and thus to depoliticise, the PeDRA programme meant that EU officials had to avoid making any references to its planned *expansion*, which would have entailed a far more ambitious data-harvesting exercise at Europe’s borders.

Securitising

Despite attempts to trivialise the scope of the programme, the second tactic deployed to obfuscate the PeDRA revelations was to, paradoxically, *securitise* Frontex’s “data practices” (Leese et al., 2022). For example, the Frontex DED spoke of the importance of PeDRA for combatting the “monstrous criminal activity” of human smuggling and trafficking. “The data transferred to Europol is considered very valuable for investigation purposes”, Särekanno briefed MEPs (European Parliament, 2022a). “We can see that a number of hits have been determined on the basis of data packages that we have sent”, he added, referring to positive cross-matching of information in Europol’s criminal database. Similarly, Europol’s representative referred to PeDRA’s importance for establishing “the dots and links” between “organised crime structures” and feeding information into criminal investigations across EU member states. By reassuring the audience that “PeDRA targets smugglers not migrants”, EU officials thus strategically mobilised established “crisis narratives” that “play on the danger allegedly posed by an unruly, threatening ‘other’” (Perkowski et al., 2023) in an attempt to

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3 legitimise PeDRA as integral to “securing” Europe’s borders, while simultaneously pre-
4 empting additional scrutiny on the public stage. The framing found a receptive ear amongst
5 conservative MEPs, with German MEP Lena Düpont stating that “since we are dealing with
6 very sensitive information related to security issues, probably we could also think about
7 having an *in camera* meeting next time to have a fruitful exchange”. Opacity surrounding
8 PeDRA was thus framed as both *necessary* and *desirable*, generating a secrecy paradox: to
9 render the crimmigrant other knowable, Frontex’s operational data-processing activities must
10 remain opaque, and immunised from interrogation on the public frontstage
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19 *Evading*

20 This brings us to the third tactic deployed on the public stage: *obfuscation through evasion*.
21 During the hearing, EU officials skilfully obviated discussion about the *procedural*
22 *irregularities* that underpinned PeDRA’s planned expansion. Curiously, even though the
23 director of EDPS and Frontex’s DPO were in attendance, the public hearing did not explicitly
24 address the fact that Frontex management had side-lined both data protection watchdogs.
25 When questioned about these irregularities by Dutch MEP Tineke Strik, the Frontex DED
26 brushed these “organisational challenges” aside: “I would not comment on that. I would
27 simply say that we are in a phase of a new start.” Here, the Frontex DED was able to
28 instrumentalise the change in Frontex leadership following Leggeri’s resignation to pre-empt
29 more fundamental questions being asked about how the PeDRA revelations relate to
30 Frontex’s governance and the agency’s implication in other illegal bordering practices. In
31 other words, the serious irregularities exposed via FOI were to be firmly confined to the
32 bureaucratic backstage, foreclosing the possibility of the PeDRA controversy rekindling a
33 scandal that had put the legitimacy of Frontex at risk.
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46 Crucially, EU officials also successfully foreclosed public discussion of the *unlawfulness* of
47 the proposed surveillance programme. An internal Commission memo prepared in advance of
48 the hearing indicates concerted efforts to evade scrutiny of contentious operational data-
49 harvesting activities by directing attention to the EU’s data protection framework: “You will
50 probably find the briefing rather legal and dry (other than some brief policy points). This is
51 on purpose” (European Commission, 2022a). However, FOI disclosures reveal important
52 discrepancies between *public* affirmations of Frontex’s compliance with “a robust legal
53 framework” and tacit acknowledgement of legal transgression in internal deliberations. For
54 example, an internal Commission memo circulated in February 2023, stated that “it would be
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essential for the credibility of the MB and the Agency *that this time the MB decisions are compliant with the law*” (emphasis added; see Figure 1).

[INSERT FIGURE 1 HERE]

Figure 1 - Extract from internal European Commission (2023) memo obtained via an FOI request

Backstage texts also suggest that EU officials had misled MEPs about the scale of Frontex’s information transfers to Europol. “We don’t receive bulk data from Frontex. This is done on a case-by-case basis”, Europol’s representative stated during the European Parliament (2022) hearing. However, an EDPS (2023: 65) audit of Frontex debriefing practices, partially disclosed via FOI, found that “PeDRA team analysts do not carry out any kind of necessity assessment...but they automatically share each and every accepted interview report” with Europol, in violation of EU law.

Taken together, the three tactics of obfuscation are central to understanding how Frontex was able to effectively neutralise—or *de-controversify*—much of the political fall-out from the PeDRA controversy. What follows from the above is that confining analysis to the *public* staging of the controversy would make it impossible to fully “detect disagreements, tensions, and convoluted practices of secrecy and exposure” (Glouftsiou, 2024b: 9) that profoundly shaped the contours of how the controversy unfolded.

Yet, FOI disclosures also allow us to trail the reverberations of heightened public scrutiny within the corridors of political and bureaucratic power. According to partially disclosed minutes of a Frontex MB meeting that took place in September 2022, EU member state representatives voiced grave concerns about the “material consequences” of EDPS’ order to suspend the recently adopted data-processing rules (Frontex, 2022b). Above all, officials were alarmed about the possible suspension of debriefing activities—the *de facto* “covert interrogation” of migrants (Bachiller Lopez and Morenilla, 2022). One member state official stressed that “the collection of data of persons suspected of cross-border crimes cannot be interrupted” (Frontex, 2022b). Another official emphasized the need “to give clear guidance to the police staff in the field on what they are still allowed to do from an operational point of view” (Frontex, 2022b). In response, Anja Kalnaja, the Frontex ED *ad interim* following

Leggeri's departure, "reassured MB members that debriefing activities will not be affected" (Frontex, 2022b). FOI records further reveal that internal disputes regarding the "balance" between compliance with the EU data protection laws and operational demands to expand Frontex's data-harvesting capabilities continued to reverberate in the *aftermath* of the public controversy for many months. At the September 2023 Management Board meeting, for example, the DPO reminded the MB that the EDPS had expressed "serious concerns about the lawfulness" of the data-processing rules that were adopted in December 2021 and noted that the Commission had issued another round of "more than 150 observations" regarding new drafts. In response, the DED questioned the need for continuous "finetuning of the draft MB Decisions, aiming for endless perfection", warning that the "main result of delaying the adoption... is an impact on operations" (Frontex, 2023).

The (un)known unknowns of PeDRA

In January 2024, with internal divisions overcome and public attention muted, the Frontex MB finally passed the revised data-processing rules, paving the way for the continuation of the PeDRA programme. Far from embracing a naïve conception of FOI mechanisms as a magical tool for prying open the 'black-box' of datafied infrastructures, in the final part of the analysis, I foreground how FOI simultaneously engenders and is circumscribed by "strategic unknowns" (McGoey, 2012). The case of PeDRA demonstrates how the EU's pivotal transparency mechanism is implicated in *sustaining* the irreducible opacity of bordering infrastructures.

To apprehend the limits of FOI in contesting the regime of opacity, I borrow the quizzical yet heuristically valuable notions, popularised by US Secretary of State Donald Rumsfeld, of *known unknowns* and *unknown unknowns*. Public knowledge about PeDRA is, firstly, delimited by known unknowns—that is, data practices that we *know* we do *not* know or understand. Here we return to the important distinction between secrecy and opacity (Valdivia et al., 2022). Despite the large corpus of internal records obtained via FOI, inquiries by MEPs, and a far-reaching audit by the EDPS (2023), crucial aspects of Frontex's data practices and their material implications for illegalised migrants remain fundamentally unintelligible. For instance, it is unclear when Frontex suspended all data-processing activities that were deemed unlawful, including, crucially, the automatic transfer of all information to Europol. In fact, even Commission officials were puzzled as to "what exactly happened" (see Figure 2).

[INSERT FIGURE 2 HERE]

Figure 2 - Extract from a European Commission (2021d) briefing for the European Parliament hearing on PeDRA

Similarly, the flow of information extracted by Frontex border guards from migrants upon arrival at Europe's external borders all the way to a courtroom where a "smuggler" is put on trial remains shrouded by opacity (Bachiller Lopez and Morenilla, 2022). Moreover, it is unclear whether even Frontex officials fully understand what happens to data transmitted to Europol. "What happens next in Europol...it is out of our remit to comment", the Frontex DED acknowledged during the European Parliament (2022a) hearing when queried by MEPs regarding the alleged efficacy of PeDRA in combatting cross-border crime. This form of opacity regarding the "mundane level of data handling" is not only emblematic of EU data infrastructures (Pollozek and Passoth, 2023), but critical for sustaining the "supposition of the *actual effectiveness*" on the public stage (de Goede and Wesseling, 2017: 263). In this respect, PeDRA remains irreducibly opaque not just vis-à-vis publics, but, arguably, its own architects. And then there are the 'unknown unknowns'—that is, "information whose existence is unknown" (Sormunen and Gnes, 2023: 74) and, therefore, subject to what Curtin (2018) calls "second order secrecy". We can think of projects and imaginaries of datafied border control that have not left any traces in bureaucratic archives and that, therefore, lie beyond the reach of conventional transparency mechanisms.

Set against these strategic unknowns, FOI disclosures cannot undo the *epistemic impenetrability* of data infrastructures. FOI disclosures often generate as many questions as they can answer; entering one black box, only to discover another inside. The live archive is inherently incomplete. It captures only those fragments of bureaucratic deliberations that are recorded in writing. Furthermore, most FOI documents were partially redacted, while many others were withheld entirely under one or a combination of "exceptions" enshrined in EU transparency legislation (Fink and Hillebrand, 2023). Yet, in so far as "[i]t is precisely in these bureaucratic machinations that state power resides" (Hiemstra and Conlon, 2021: 678), then power can be contested; secrecy practices can be, at least partially, undone. The FOI mechanism is governed by a legal framework that imposes upon EU bodies the obligation to provide the widest possible access to requested documents. In multiple instances, I filed

(partially) successful appeals against EU institutions' arbitrary use of "public security" and "internal decision-making" exemptions. Thus, while bureaucrats have a significant amount of discretion to withhold access *under the guise of transparency law*, the same legal framework can be reappropriated to challenge the routine enactment of secrecy.

Nonetheless, no amount of muddling through can undo the seemingly infinitely creative obstructionist tactics deployed by EU border bureaucracies, much like their security counterparts at national levels (Garnett and Hughes, 2019; Owen, 2020). Take, for example, Frontex-Europol plans for "social media monitoring" (SMM)—a particularly contentious aspect of PeDRA, whereby Frontex, according to its DPO, sought to "arrogate the capacity to police the internet and to use it as a source to conduct identification of suspects" (Frontex, 2021a). In September 2022, I filed a request for all Frontex documents pertaining to its SMM plans. Frontex initially identified only five documents, which it refused to disclose. Upon filing a confirmatory application, Frontex suddenly identified an additional 50 documents, some of which it partially disclosed. It was only after an intervention from the European Ombudsman (2024) that Frontex provided further partial disclosure in September 2024, yet with key parts of the text still redacted.

Two important observations follow from this example. First, it captures the *ambivalent* function of the EU FOI mechanism in the production of (non)knowledge, with the full scope of Frontex's envisaged SMM programme remaining murky more than two years after the initial request. Second, Frontex's justifications for non-disclosure foreground the mundane politics of secrecy "revealed by managing access to, and containing the flow of, information" in the public domain (Hiemstra and Conlon, 2021: 667). During the Ombudsman's (2024) inquiry, Frontex argued that it needed to insulate "this particular decision-making process" from unwarranted exposure given that it had previously been subject to "widespread media coverage and attempts to unduly influence this procedure." In other words, publicity generated during the PeDRA controversy was considered a *threat* that must be contained by reinstating a regime of opacity. This suggests that opacity is vital not because greater transparency could reveal sensitive operational information, expose carefully guarded state secrets, and thereby imperil efforts to "prevent cross-border crime and unauthorized border crossings", as Frontex has claimed. Rather, opacity is key to insulating EU border bureaucracies from democratic politics. Paradoxically, only then can they sustain a veneer of legitimacy around controversial programmes like PeDRA.

Conclusion

Through an analysis of the Frontex PeDRA controversy, this paper has advanced understanding of the ways that EU's principal transparency mechanism engenders forms of (non-)knowledge in the complex, contingent, and contested processes of making opaque security practices public. The findings presented here open new lines of critical inquiry beyond the case of PeDRA. Firstly, the analysis illustrates how the EU's FOI mechanism can be mobilised by scholars concerned with secrecy controversies. FOI disclosures not only played a central role in transforming a hitherto obscure data-harvesting programme into an object of public-political dispute. By attending to the *pre-controversy* stage, and identifying the otherwise hidden internal deliberations and contestations, I have also shown that FOI disclosures can generate important insights about how controversies materialise and reverberate *within* the bureaucratic backstage. Secondly, the findings highlight the value of FOI for investigating how state actors strategically manage controversies once they reach the public arena and their aftermath. In the case of PeDRA, FOI records shed important light on how EU institutions were able to, with considerable success, reinscribe controversial practices within a regime of opacity. These obfuscatory tactics, I argue, are key to understanding why the PeDRA controversy fizzled out relatively quickly. Indeed, existing research tells us that the mere act of *exposure* of inconvenient truths via FOI is insufficient for generating a controversy, let alone a moment of *revelation* that creates the conditions for social and political transformation (Stampnitzky, 2020). As such, the public staging of the PeDRA was relatively short-lived and failed to transform into a scandal that would fundamentally put into question the legitimacy of Frontex's data-harvesting activities.

Two additional factors might help to explain why the exposure of irregularities and illegalities failed to carry wider socio-political resonance. First, the very opaque nature and technical-legal complexity of PeDRA makes it extremely difficult to mobilise a network of actors—activists, NGOs, investigative journalists, academics, parliamentarians—whose interpretative work and ability to generate publicity is key. In the absence of the latter, disclosures of new information remain effectively idle; they fail to intervene in any meaningful sense in processes of contestation and epistemic struggles. Thus, when the EDPS (2025) “reprimanded” Frontex in January 2025 for its unlawful practice of *en masse* data transfers to Europol, the news passed virtually without notice. Second, the very nature of the transgression at stake influences the likelihood of mobilising a critical mass of actors and

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indignant publics. In the case of pushbacks, migrants’ lives are directly endangered, and thus more likely to generate moral outrage. The practice is also widely understood as illegal. In the case of datafied criminalisation, however, the risks to individuals are perceived as far more diffuse and less objectionable. Furthermore, whereas states’ obfuscation of pushbacks can be challenged using alternative sources of knowledge (Glouftsiou, 2024b), including migrants’ testimonies, PeDRA’s opacity means that fragments of information gleaned via FOI are effectively the only available window into its constituent data practices.

Yet, herein resides the subversive potential of freedom of information. For researchers committed to the normative ethos of subverting state actors’ epistemic hegemony (Stierl, 2022), this paper demonstrates the value of harnessing FOI records as *partial witnesses* to the entanglements between security and secrecy in EU migration management. Indeed, a central contribution has been to demonstrate how the EU transparency mechanism can be mobilised to not only *probe* but directly *intervene* in processes of public-political contestations. The findings thus challenge the commonplace view that FOI function primarily as mechanisms of obfuscation. The case of PeDRA shows how gaining access to bureaucratic archives can be instrumental in revealing norm violations that otherwise would have remained hidden from public view.

To be sure, the public exposure of PeDRA did not put an end to Frontex’s data craving fantasies. Fragments of heavily redacted documents released in the controversy’s aftermath reveal that Frontex and Europol have continued to forge ambitious plans for harvesting data from and about migrants despite continued warnings from data protection bodies. Nonetheless, as scholars have observed in relation to other security-related controversies and scandals (de Goede and Wesselink, 2017; Glouftsiou, 2024b), the heightened scrutiny of PeDRA did set in motion new oversight arrangements. The Frontex DPO was reinstated by senior management to revise the two MB Decisions that will govern how Frontex processes migrants’ data. Meanwhile, the EDPS (2023; 2025) has continued to monitor Frontex’s debriefing practices, threatening to use its enforcement powers.

To acknowledge these reconfigurations of power does not imply succumbing to what Walters (2018: 36) calls a “logic of exposure”—the liberal fallacy that by “exposing and publicising” injustices “a public will become outraged and demand a stop to the practice”. One only needs to consider the persistence of pushbacks across Frontex operations, despite ceaseless

documentation efforts by a variety of actors (Cheresheva and Stavinocha, 2024; Lindberg, 2024). FOI-driven exposures, as the PeDRA controversy demonstrates, can also be effectively neutralised; they can even prove to be counter-productive, bestowing a veneer of legitimacy upon the everyday workings of EU border bureaucracies. Nonetheless, the case of PeDRA also shows that, despite their limitations and ambivalences, FOI disclosures have the capacity to subvert official claims, precisely because they originate from *within* the inner sanctum of these bureaucracies. By making public the mundane decision-making processes, deliberations, and contestations—including unlawful transgressions and acts of maladministration—FOI mechanisms are integral to making (some) security practices (partially) visible and, therefore, politically contestable. As such, FOI can be mobilised to challenge the claims to legitimacy of the EU's bordering apparatus that relies on the continual obfuscation of the violence it enacts.

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For Peer Review

Bibliography

Achilleos-Sarll C, Sachseder J, Stachowitsch S (2023) The (inter)visual politics of border security: Co-constituting gender and race through Frontex's Risk Analysis. *Security Dialogue* 54(4): 374–394.

Aradau C, Perret S (2022) The politics of (non-)knowledge at Europe's borders: Errors, fakes, and subjectivity. *Review of International Studies* 48(3): 405–424.

Bachiller Lopez C (2023) Border policing at sea: Tactics, routines, and the law in a Frontex patrol boat. *British Journal of Criminology* 63(1): 1–17.

Bachiller Lopez C, Morenilla F (2022) Questioning the interviewers: Frontex's covert interrogations at the Spanish southern border. *Statewatch*. Available at: <https://www.statewatch.org/analyses/2022/questioning-the-interviewers-frontex-s-covert-interrogations-at-the-spanish-southern-border/> (accessed 8 June 2025)

Birchall C (2011) Introduction to 'secrecy and transparency': The Politics of opacity and openness. *Theory, Culture & Society* 28(7-8): 7–25.

Bratich J (2006) Public secrecy and immanent security. *Cultural Studies* 20(4-5): 493–511.

Bosma E, de Goede M, Pallister-Wilkins P (2019) Introduction: Navigating Secrecy in Security Research. In: de Goede M, Bosma E, Pallister-Wilkins P (eds.) *Secrecy and Methods in Security Research*. London: Routledge, 1–27.

Cheresheva M, Stavinoha, L (2024) How the EU is overlooking Bulgaria's unlawful migrant pushbacks ahead of its Schengen entry, *Le Monde*, 27 February. Available at: https://www.lemonde.fr/en/les-decodeurs/article/2024/02/27/how-the-eu-is-overlooking-bulgaria-s-unlawful-migrant-pushbacks-ahead-of-its-schengen-entry_6562795_8.html (accessed 8 June 2025).

Christides G, Lüdke S (2022) Frontex involved in illegal pushbacks of hundreds of refugees. *Der Spiegel*, 28 April. Available at: <https://www.spiegel.de/international/europe/frontex-involved-in-illegal-pushbacks-of-hundreds-of-refugees-a-9fe90845-efb1-4d91-a231-48efcfa53a0> (accessed 7 June 2025).

Curtin D (2018) Second order secrecy and Europe's legality mosaics. *West European Politics* 41(4): 846–868.

Davies T, Isakjee A, Obradovic-Wochnik J (2023) Epistemic borderwork: Violent pushbacks, refugees, and the politics of knowledge at the EU border. *Annals of the American Association of Geographers* 113(1): 169–188.

de Goede M, Wesseling M (2017) Secrecy and security in transatlantic terrorism finance tracking. *Journal of European Integration* 39(3): 253-269.

Deleja-Hotko V (2021) Prisons in paradise: How the EU put refugees behind barbed wire. *FragDenStaat*. Available at: <https://fragdenstaat.de/en/blog/2021/10/22/how-the-eu-supports-the-construction-of-prison-like-refugee-camps/> (accessed 8 June 2025)

Emmanouilidou L, Fotiadis A, Stavinocha L (2023) EU details violations at Greece's 'model' refugee camps. *Solomon*, 12 May. Available at: <https://wearesolomon.com/mag/format/investigation/eu-details-violations-at-greeces-model-refugee-camps/> (accessed 8 June 2025).

European Commission (2021a) Email correspondence, Ares(2021)4688378. Available at: <https://www.statewatch.org/media/3597/eu-frontex-pedra-dg-home-email-to-leggeri.pdf> (Accessed 8 June 2025).

European Commission (2021b) Email correspondence, Ares(2022)4335805. Available at: <https://www.statewatch.org/media/3577/eu-frontex-pedra-email-com-to-frontex-ares-2022-4335805.pdf> (Accessed 8 June 2025).

European Commission (2021c) Email correspondence, Ares(2022)3794224. Available at: <https://www.statewatch.org/media/3591/eu-frontex-pedra-email-exchange-frontex-dg-home-18-11-21.pdf> (Accessed 8 June 2025).

European Commission (2021d) LIBE Committee Exchange of Views (EoV) on the Frontex PeDRA Programme, Ares(2023)2149863.

European Commission (2022a) Email correspondence, Ares(2023)2149863.

European Commission (2022b) Email correspondence, Ares(2023)2017421.

European Commission (2023) *Points to raise at the EB meeting on 6 February 2023*, Ares(2023)2149863.

European Data Protection Supervisor (2022) *EDPS Supervisory Opinion on the Rules on Processing of Operational Personal Data by the European Border and Coast Guard Agency (Frontex)*. Available at: https://www.edps.europa.eu/data-protection/our-work/publications/opinions/2022-06-07-edps-opinion-rules-processing-operational-personal-data-frontex_en (accessed 8 June 2025)

European Data Protection Supervisor (2023) *Report on audit pursuant to Articles 57(1)(a) and (f), 58(1)(b) of Regulation (EU) 2018/1725*. Available at: https://www.edps.europa.eu/system/files_en?file=2024-04/405_2023-0605_001_redacted_conf.pdf (accessed 8 June 2025)

European Data Protection Supervisor (2025) *EDPS reprimands Frontex for non-compliance with Regulation (EU) 2019/1896*. Available at: https://www.edps.europa.eu/press-publications/press-news/press-releases/2025/edps-reprimands-frontex-non-compliance-regulation-eu-20191896_en (Accessed 8 June 2025).

European Parliament (2022a) Committee on Civil Liberties, Justice and Home Affairs, 8 November, 2021. Available at: https://multimedia.europarl.europa.eu/en/webstreaming/committee-on-civil-liberties-justice-and-home-affairs_20221108-1530-COMMITTEE-LIBE (Accessed 31 March 2025).

European Parliament (2022b) *Answer given by Ms Johansson on behalf of the European Commission, Parliamentary question - E-002825/2022(ASW)*. Available at: https://www.europarl.europa.eu/doceo/document/E-9-2022-002825-ASW-ANN02_EN.pdf (Accessed 8 June 2025).

European Ombudsman (2024) How the European Border and Coast Guard Agency (Frontex) dealt with a request for public access to documents concerning social media monitoring, Case 344/2023/PVV. Available at: <https://www.ombudsman.europa.eu/en/decision/en/192720> (Accessed 8 June 2025).

Fink M, Hillebrandt M (2023) Access to documents and the EU agency Frontex: growing pains or outright obstruction? In: Hillebrandt M, Leino-Sandberg P & Koivisto I (eds.) *(In)visible European Government*. London-New York: Routledge, 235-253.

Frontex (2016) *Frontex to begin collecting personal data in Greece on suspected criminals*. Available at: <https://www.frontex.europa.eu/media-centre/news/news-release/frontex-to-begin-collecting-personal-data-in-greece-on-suspected-criminals-gJzx8D> (accessed 8 June 2024)

Frontex (2021a) Opinion of the Data Protection Officers—part II: Draft implementing rules on operational personal data. Available at: <https://www.statewatch.org/media/3594/eu-frontex-pedra-dpo-opinion-draft-opd-rules-part-2-16-11-21.pdf> (Accessed 8 June 2025).

Frontex (2021b) Opinion of the Data Protection Officer: Draft implementing rules on operational personal data. Available at: <https://www.statewatch.org/media/3595/eu-frontex-pedra-dpo-opinion-draft-opd-rules-undated.pdf> (Accessed 8 June 2025).

Frontex (2021c) Invitation to make a decision by written procedure on adopting implementing rules for processing operational personal data, Reg. No 13346. Available at: <https://www.statewatch.org/media/3555/eu-frontex-invitation-decision-op-personal-data-21-12-21.pdf> (Accessed 8 June 2025).

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Frontex (2022a) Minutes of the Frontex 87th Management Board Meeting 17-18 November 2021, Reg. No 311/2022. Available at: <https://www.statewatch.org/media/3578/eu-frontex-peda-mb-meeting-minutes-18-11-21.pdf> (Accessed 8 June 2025).

Frontex (2022b) Minutes of the Extraordinary Management Board Meeting 27 July 2022, Ares(2022)6661174.

Frontex (2023) Minutes of the Frontex 96th Management Board Meeting 20-21 September 2023, Ares(2023)7990806.

Garnett P, Hughes S M (2019) Obfuscated democracy? Chelsea Manning and the politics of knowledge curation. *Political Geography* 68(January): 23-33.

Glouftsios G (2024a) Performing secrecy: Hiding and obfuscation in Frontex’s pushbacks scandal. *Journal of Ethnic and Migration Studies* 50 (4): 727-747.

Glouftsios G (2024b) Making pushbacks public: Secrecy, material witnesses and devices of dis/appearance. *Security Dialogue* 55(1), 3-21.

Hiemstra N, Conlon D (2021) Reading Between the (Redacted) Lines: Muddling Through Absent Presences In Public Information Requests On U.S. Immigration Detention. *ACME: An International Journal for Critical Geographies* 20(6): 666–686.

Hughes S M, Martin L (2022) Documenting Detention: The Politics of Archiving Immigration Enforcement Records in the United States’ National Archives and Records Administration. *Professional Geographer* 74(3): 415-429.

Leese M, Noori S, Scheel S (2022) Data Matters: The Politics and Practices of Digital Border and Migration Management. *Geopolitics* 27(1): 5-25.

Lindberg A (2024) Researching border violence in an indefensible Europe. *Geopolitics*. Epub ahead of print 27 Feb 2024. DOI: 10.1080/14650045.2024.2321158.

Luscombe A, Walby K (2017) Theorizing freedom of information: The live archive, obfuscation, and actor-network theory. *Government Information Quarterly* 34(3): 379-387.

McGoey L (2012) Strategic unknowns: towards a sociology of ignorance. *Economy and Society* 41(1): 1–16.

Perkowski N (2019) ‘There Are Voices in Every Direction’: Organizational Decoupling in Frontex. *JCMS: Journal of Common Market Studies* 57(5): 1182–1199.

Perkowski N, Stierl M, Burridge, A (2023) The evolution of EUropean border governance through crisis: Frontex and the interplay of protracted and acute crisis narratives. *Environment and Planning D: Society and Space* 41(1): 110-129.

Petrequin S (2023) EU border chief pledges transparency, no illegal pushbacks. *Associated Press*. Available at: <https://apnews.com/article/politics-european-union-europe-business-622c5a2a06c5f68c4ac26bd9205efd56>

Pollozek S, Passoth J H (2023) Provisional by design. Frontex data infrastructures and the Europeanization of migration and border control. *Science as Culture* 32(3): 411-434.

Sormunen M, Gnes D (2023) Learning through rejection: Studying the informalisation of EU readmission policy with access to documents requests. In: Hillebrandt M, Leino-Sandberg P & Koivisto I (eds.) *(In)visible European Government*. Abingdon: Routledge, 72-103.

Stavinoha L (2024) McKinsey consultants and technocratic fantasies: Crafting the illusion of orderly migration management in Greece. In: Leurs K, Ponzanesi S (eds.), *Doing Digital Migration Studies: Theories and Practices of the Everyday*, Amsterdam. Amsterdam University Press, 323–342.

Stavinoha L, Fotiadis A, Zandonini G (2022) EU's Frontex tripped in its plan for 'intrusive' surveillance of migrants. *Balkan Insight*, 7 July. Available at: <https://balkaninsight.com/2022/07/07/eus-frontex-tripped-in-plan-for-intrusive-surveillance-of-migrants/> (accessed 8 June 2025).

Stierl M (2022) Do no harm? The impact of policy on migration scholarship. *Environment and Planning C: Politics and Space*. 40(5): 1083–1102.

Tazzioli M (2018) Spy, track and archive: The temporality of visibility in Eurosur and Jora. *Security Dialogue* 49(4): 272–288.

Thomas O D (2020) Security in the balance: How Britain tried to keep its Iraq War secrets. *Security Dialogue* 51(1): 77–95.

Tomkinson S (2023) Power and Public Administration: Applying a Transformative Approach to Freedom of/Access to Information Research. *Public Integrity*. Epub ahead of print 9 Oct 2023. DOI: 10.1080/10999922.2023.2262156.

Van Isacker T, Walters W (2025) Rethinking freedom of information research: Selective flows of information in borders and migration studies. *Political Anthropological Research on International Social Sciences* 5(2): 189–210.

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Valdivia A, Aradau C, Blanke T, Perret S (2022) Neither opaque nor transparent: A transdisciplinary methodology to investigate datafication at the EU borders. *Big Data & Society*, 9(2): 1–17. DOI: 10.1177/20539517221124586.

Walters W (2018) Expulsion, power, mobilization. *Radical Philosophy* 203 (December): 33–37.

Wood T, Aronczyk M (2020). Publicity and transparency. *American Behavioral Scientist* 64(11): 1531–1544.

For Peer Review

Points 6 and 7 - MB decisions on personal data protection

The DPO is reworking three decisions of data protection: MB Decisions 56/2021 but chiefly MB Decisions 68/2021 on processing personal data and MB Decision 69/2021 on processing operational personal data. The Chair now wants to put these drafts (68 and 69/2021) on the March agenda for decision.

While the urgency is clear, the March deadline is much more ambitious than the implementation plan that the DPO agreed with the EDPS. The latter would allow

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adoption in written procedure or at the next MB meeting in June. In our view, it would be essential for the credibility of the MB and the Agency that this time the MB decisions are compliant with the law. This would imply that we also check with DG JUST and the LS before giving the COM's OK. This will not be possible if the Agency sends us the draft decisions for adoption a few days before the MB meeting. Therefore, we'd suggest keeping up the pressure on the DPO (who eventually got no reinforcement from FX) and insisting that the (even if incomplete) drafts are presented for discussion in March but we would argue in favour of adoption in written procedure or at the subsequent MB meeting in June at the latest.

Figure 1 - Extract from internal European Commission (2023) memo obtained via an FOI request

529x526mm (72 x 72 DPI)

- Following the EDPS’ Opinions, the Frontex DPO issued an internal “Dos and Don’ts” memo seeking to outline which data collection or processing activities could continue and which should be paused or terminated during the process. Transfers to Europol under PeDRA fell under the “Don’ts”.
- Europol reported that data was not received from Frontex under PeDRA between **end of August and mid-October**. *Reminder: Frontex ED at the October Extraordinary Board Meeting said PeDRA had been paused for “a few days” but it appears it was longer than that.* It is unclear if the DPO’s memo was the cause for this pause. NB: If there was cause for pausing PeDRA, the situation has not changed since, so we are unclear as to the reason for resuming it. However, it is possible that PeDRA was paused out of excessive caution and did not need to be stopped, and was therefore resumed because the legal basis was deemed to be sound and because the project does provide Europol with valuable intel. However, we have no clear confirmation from the Agency on what exactly happened.

Figure 2 - Extract from a European Commission (2021d) briefing for the European Parliament hearing on PeDRA

525x318mm (72 x 72 DPI)