

GRETE BROCHMANN

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Willy Brandt Series of Working Papers
in International Migration and Ethnic Relations
1/03



MALMÖ UNIVERSITY

**Willy Brandt Series of Working Papers
in International Migration and Ethnic Relations
1/03**

Published

2004

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Published by

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The main thrust of this paper is to describe and analyze the dynamics between the various EU member states and the European Community in the development towards a common immigration policy. There has so far been a striking contrast between the economic, social and political significance of migration, and the degree to which it has been subject to international organization. It is argued that *conditional convergence* has been a more relevant term than harmonization describing the process up till the end of the century, and the main reason for this is the strength of national interests and the impact of tradition and experience of policy-making in this realm.

Keywords: immigration, EU-harmonization, national strategies, policy-making, control-policies

1. Changing context

Migration is nowadays often seen as a symptom of internationalization – or globalization as it were. Tendencies of internationalization have made scholars question the capacity and capability of the nation-state to control what is believed to be its constituting elements – the territory and the population. It is often claimed that the revolution of communication, has contributed to ”make the world smaller”, as phrased in a frequently used cliché, and hereby made it easier for people to move, physically and culturally. This is probably true for some groups of people in the world, for whom nationality and resources facilitate the utilization of modern means of transport and communication. But I will argue

* This paper has been published under the title ”The European streets of gold and the current traps of immigration policies”, in *Migration – a European journal of international migration and ethnic relations* no. 39/40/41, 2002.

that the general impact of tendencies of cultural and economic globalization on international migration is considerably overstated. One may even argue the other way around, that it is the *lack* of economic globalization, which explains major parts of the south-north migration, which is what is usually referred to when talking about immigration to the west. The regional biases of the transnational investments, the neglect of the peripheral areas of the globe with the consequent diminishing hopes for the future among new generations, are often among the reasons why people move or want to move. "Globalization is between the first world and the first world", as the sociologist Niel Fliegstein formulates it. The unequal development of the world is marked by vast differences in power, wealth and welfare for the people. Access to goods and rights for members of the fortunate societies, requires the exclusion of "the others". The ones on the fortunate side of the gap may not share substantially without losing their advantage. According to Joseph H. Carens, "Citizenship in Western liberal democracies is the modern equivalent of feudal privilege – an inherited status that greatly enhances one's life chances" (Carens 1987: 252).

Despite all rhetorics about globalization, the major part of the world's population remain in their more or less closed worlds, captive where they were coincidentally born.

Underneath much of the migration debate in Europe there is the basic ethical contradiction between emigration and immigration. Emigration is usually considered a human right, whereas immigration is a question of national sovereignty, i.e. it is subject to regulation in receiving countries. But, if people are free to exit their mother countries, where can they go? It is still the way that *place of birth* and *class* have a strong impact on the possibilities to chose where in the world one wants to live. The counterpart to this unequally distributed freedom are the *preferences* of the nation-states in relation to newcomers. Whom is the gatekeeper to let in?

2. Legitimizing restrictions

Yet where does this ethical contradiction guide us? Very few of us can take in these grand questions in our daily lives, and it is impossible to have discussions on immigration policy with reference to absolute justice. There is no such principle of justice which may tell us how many immigrants should be let into the countries of the west, whether one should give preference to the ones with or without education, where the limit should be drawn as to which family members to grant unification etc.

To some extent, normative obligations present receiving countries with limitations as to the formulation of control policies. Such obligations may be international or domestic ones, and they may be supported by ethical considerations

or by positive law. There are some rather weak international constraints on immigration control that are specified in international law (such as the International Covenant on Civil and Political Rights, the European Convention on Human Rights and the Geneva Refugee Convention). Compliance with these norms is often merely supported by international opinion. Other international obligations result from bilateral and multilateral treaties between sending and receiving countries, which regulate, for example, visa free entry, readmission in case of deportations, or social welfare entitlements of resident aliens. Domestically, constitutional rights have some places become constraints on deportations and, to a lesser degree, also on denial of family reunion, and besides, national courts have often gained an important role in challenging government policies of immigration control.

A number of authors have also argued for international moral obligations to open borders for immigrants from poorer countries, but such ideas have clearly had little impact on the formulation of policies in Europe. Generally speaking, international norms tend to be given significance when they coincide with some state or party interest.

To formulate and implement immigration control policies that correspond to normative obligations, while at the same time taking care of the "interest of the state" – all within a context of insecure prognoses and insufficient information – may be said to constitute the current major challenge for European governments.

3. A new control regime

The limited instructions in the realm of justice, has created leeway for governments in Europe when it comes to the formulation of control policies. The squeeze between humanitarian values and obligations on the one hand, and the need for *realpolitik* on the other, has in most cases been interpreted as a need for restrictive entry policies. The overriding belief in Europe today that effective immigration control is necessary – to avoid chaos, social unrest, and to facilitate management and planning. State borders are reinforced, refugee categories redefined, internal surveillance is increased and more deportations are effectuated. After having been a marginal political topic, immigration has developed into one of the most central and complicated issues within Western Europe.

In theories of international migration, economic factors tend to prevail and far too little attention is paid to the role of the state. However, in periods of strict immigration control, such as the present, the significance of state policies is at trial. It may probably be shown that the states' control policies, more than any other factor, can explain direction, volume and composition of international migration. Although some receiving countries may be less efficient in this

control, it is in general the ability of states to construct more or less effective control policies that is the characteristic of international migration of the 1990s (see Freeman 1994).

Control systems are not perfect, though, and clandestine migration and illegal trafficking of migrants are unavoidable problems. Since the door was (principally) closed for labour migrants in the beginning of the 1970s, the main legal forms of entry have been through the asylum "door", the humanitarian "door" or through family reunification. Increasingly more immigrants are non-Europeans and the number of asylum seekers has escalated. Having minute chances of success through legal means, many have entered by clandestine channels. The traditional distinction between "economic" and "political" migrants (labour migrants and refugees) has become increasingly problematic in the eighties and the nineties. Efforts are made by the states, alone and in co-operation, to establish efficient control policies and to avoid misuse of the asylum system as well as of the other options made available for refugees.

The main thrust of this paper is to describe and analyze the dynamics between the various EU member states and the European Community in the development towards a common immigration policy. There has so far been a striking contrast between the economic, social and political significance of migration, and the degree to which it has been subject to international organization. I will argue that *conditional convergence* has been a more relevant term than harmonization describing the process up till the end of the century, and the main reason for this is the strength of national interests and the impact of tradition and experience of policy-making in this realm.

4. What explains control policies?

One may sort out different motivations for the formation and legitimation of a country's concrete control policy towards immigrants. Most basically, in modern democracies there will be an interplay between the exercise of sovereignty in terms of control of territory through external borders, and internally – the continuous formation and consolidation of the social and cultural national distinctions, and through this – the securing of political integration and continuity. The tangible expression of this interplay will again be influenced by a number of considerations and legitimations – partly ideologically expressed, partly representing actual interests held by the nation state or sub-groups of the economy or society at large. Such dimensions could be a) national security – maintenance of peace and stability; b) national economy – labour market considerations – "absorption capacity", sustainability of public budgets for welfare provisions, etc; c) demography – considerations attached to population density, fertility rates, the age pyramid, etc.; d) social and cultural cohesion – preserva-

tion of national identity, religious traditions, social integration, etc.

A selection or combination of these factors will by and large constitute a state's basis for legitimation of the national control policy towards immigrants. The instruments that are available for the government depend on a complex web of elements: The concrete instruments will be influenced by administrative and management systems; traditions in relation to immigration; the national history generally speaking, particularly with respect to civic and political culture, collective identity and ideology of nationhood. Besides, in today's Europe a "meta-level" constitutes its own dynamic: people's perception of reality in terms of immigration pressure.

This "meta"- or psychological element has come to play an increasingly important part in the European setting lately. The events in 1989 created a "crisis atmosphere" in relation to immigration in western Europe, as the prospective immigration from the newly opened eastern countries was realized to come on top of the increased flows from the south. This atmosphere was further aggravated by the catastrophe in former Yugoslavia. More than anything, this sudden new situation underlined the unpredictability in the migration field, a factor that seems to have triggered xenophobic reactions, and turned the various authorities into an even more defensive mode. What comes first in this respect – popular perceptions or official restriction – is an object for concrete analysis in the various national contexts.

5. The international context

Beyond all these national forces, the international context – other states' policies and the character of the international flows in themselves increasingly constitute a frame of reference for national policy-making. This development very basically implies that the conditions for *realpolitik* of the nation-state have been changed.

Migration has for quite some time had strong implications for interstate relations. In a situation where, according to the public definition, (unskilled) immigration is (with a few exceptions) not wanted in the European countries, and the outside pressure is considerable, each and every state will have to look to other countries' control policies to ensure that their own belong in the most restrictive flank. This political behavior is based on the theoretical assumption that the "magnet effect" will serve to channel the flows to the easiest accessible country. Besides, the establishment of the European Single Market in 1993 has reduced the autonomy of each state in shaping its own immigration policy even further.

In Western Europe, the Internal Market, with the dismantling of internal border controls, gives every single member-state a clear interest in the immigration

policies of its fellow member-states. Each state is vulnerable to the policies of the others. One could think that this vulnerability would make immigration issues a prime candidate for transference to supra-national decision-making. Harmonization of the immigration policy of the EU has, however, been an arduous task. Historically, states have had to rely on control of national frontiers for their own security. Border control has been seen as a shield against terrorism, international crime, drug trafficking, illegal weapon trading – and unwanted immigration. The prospects of removing this national instrument have triggered calls for compensatory measures, both in terms of reinforced controls at the Community's external borders, and through strengthened internal (national) control mechanisms.

Immigration of third country nationals is not covered by the 1957 Treaty of Rome, which fosters free movement of persons within the EU area, but accepts non-EU citizens. In the 1987 revision of the Treaty of Rome, article 8a reads, "The internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of this Treaty" (EEC Treaty 1987).

The lack of consensus on the interpretation of this article has represented a major barrier to a common immigration policy in the Community. Some member countries, particularly the UK and Denmark, has interpreted "free movement of persons" to mean EU citizens only. The European Commission, on the other hand, has clearly stated the general application of the article: "The phrase 'free movement of ... persons' in Article 8a refers to all persons, whether or not they are economically active and irrespective of their nationality. The internal market could not operate under conditions equivalent to those in a national market if the movement of individuals within this market were hindered by controls at internal frontiers" (Commission 1992).

Immigration of third-country nationals in a way disturbs the basic philosophy of the Community. Free movement of labour is one of the constituting elements of the EEC Treaty; yet third-country nationals are *de facto* not yet included in this basis. The legal status of third-country nationals living in an EU member-state (resident aliens) is not contained in the Single European Act, even though this group now constitutes the majority of the immigrant population in Western Europe. Around 17 million immigrants are now living in the 15 EU countries. Approximately 11 million of these are third-country nationals (1994-figures from Eurostat).

A senior official in the European Commission, Giuseppe Callovi, asks, "Will not firms' competitiveness in a free economic and trade area be threatened if third-country labour does not enjoy, in all member states, equality of treatment with national labour?" (Callovi 1992: 368). Others have argued that it would

be "against economic rationality to have a single European market with 12 [now 15] different policies towards non-EU residents, limiting their labour mobility to within the territory of one single member state and requiring them to apply for entry visas and work permits for other member-states. This would result in the inefficient use of manpower and would give rise to problems such as the case of firms having to provide services or operating in two or more member-states. This would, moreover, aggravate the discrimination between Community and non-Community nationals, thus reinforcing the already tarnished image of a Community with second or even third class citizens which is contrary to the democratic values which member-states purport to uphold" (Cruz 1991: 14).

The core of the matter concerning Article 8a (later changed to 7a in the Maastricht Treaty) is how to control the movements of non-EU residents without simultaneously controlling those of EU nationals. The immigration issue illustrates a general dilemma facing the EU countries in the intersection between the national and the inter- (supra-) national level: new structures are to be formed in a field, which is touchy at the national level. On the one hand, the EU countries want to establish a common internal market, removing internal borders in order to promote competition and growth. On the other hand, the nation-states also cling to sovereignty in connection with control of their own conditions, in this case their own frontiers.

Despite the heated discussions over Article 8a/7a, and the reluctance to transfer competence to the supra-national level in the area of immigration, the enhanced freedom of movement with the Single Market has stimulated a tendency towards greater cooperation and coordination between EU member countries in this field. This tendency was further reinforced at the Amsterdam Summit in 1997, where the Schengen Accord was integrated into the EU structure, and parts of the immigration policy transferred to the supra-national institutional framework of the Union (albeit with a five years transitional period without qualified majority rule). The Amsterdam Summit was meant to represent a major step forward in the harmonization process through the reforms of the institutional framework. These reforms had two major motivations. Firstly, there was major dissatisfaction with the institutional arrangements of the intergovernmentally based *third pillar*. It was representing a democratic deficit, and was complicating the decision-making process substantially. Secondly, the Amsterdam Treaty was meant to stimulate the co-operation of the Community in asylum and immigration matters, which had stagnated after the Maastricht Treaty (Hix and Nissen 1996). In addition to these factors, the prospects of an Eastern enlargement of the Union motivated a strengthening of the legal basis in these matters (Lavenex 2000).

The main reforms of the Amsterdam Treaty were the following: 1) The former intergovernmental Schengen Agreement was incorporated into the Union's structure. 2) The Asylum and immigration issues were moved from the third to the first pillar of the Union structure, hereby becoming an issue for supra-national policy making. Albeit at the same time introducing a buffer period of five years after the implementation of the Treaty (May 1, 1999), to give breathing space to this controversial reform. After the five years transitional period, the Commission will have the exclusive right of initiative in this policy field, the Council will decide on the introduction of majority voting, and on the competence to be given to the Parliament. 3) Flexibility clauses were given to the UK, Ireland and Denmark which for long had opted out from co-operation in asylum and immigration matters. 4) Competence was attributed to the European Court of Justice in asylum matters. This would secure the conformity of EU-policies with international law, and would guard the common standard of policy-making among the member countries (Lavenex 2000).

A study of preconditions for national immigration control in today's Europe must necessarily have the European Union policy as a central dimension. There are still nevertheless national distinctions present on the European scene. National case studies reveal¹ variations within Europe in the midst of these tendencies of policy convergence. Some of the explanations for this variation are sought in the historical account. Different kinds of state systems develop different modes of control over the years, which in turn means that the national historical approaches – judicially and politically – gain their own momentum. These traditions in control may represent both substantial interests and ideological legitimations.

In today's Western Europe, all receiving countries want to limit immigration from non-OECD countries. And all the countries would explain and legitimize this standpoint with reference to the already mentioned factors: The economy (structural changes and restraints on the welfare budgets); security issues; and the question of national cohesion. Of these themes, the economy is the prime public argument against immigration in all the countries. And this is so even though investigations in some of the receiving states reveal that immigration by and large has increased revenues in the longer run. Demographic arguments, which in some countries have been used in favour of immigration, are mostly neglected or rejected. Even though all EU member countries are overwhelmingly in favour of restricting immigration from outside the EU, certain states (Germany, France, The Netherlands, Ireland and Italy) nevertheless want to

¹ The material in this paper is based on a Comparative study of eight countries in Europe: Germany, France, The Netherlands, Austria, Italy, Sweden, Norway and Hungary (Brochmann and Hammar 1999).

keep the door open for a policy of labour immigration. Through arrangements like short-term contract work, quotas, etc., these governments hope to keep some flexibility in relation to needs in the labour market, while at the same time retaining a restrictive general immigration policy. The piecemeal opening up for labour migration has been highly controversial in the receiving countries, and more places governments have had problems when introducing modest adjustments to the intentional closed door policy in this field.

6. Preventive and externalized control

The immigration policy of many West-European countries was for a long time ad hoc, reactive, short term and pragmatic. Despite the fact that immigration was a significant economic and social phenomenon – at least for France, UK, Germany, Austria, Sweden and the Netherlands – systematic policy generation was limited for many years, possibly with the exception of Sweden. With the increased immigration from the south, with the dismantling of the Wall towards the east and with the establishment of the EU internal market the need for planning and coordination became pressing. The national borders have been (intentionally) closed or highly restrictive for labour immigrants from the South since the early 1970s. Migrants have nevertheless kept coming – a fact which in turn has directed more attention to the sending side, to the conditions in the countries of origin. This new focus partly reflects a realization of the fact that development in the end is necessary to reduce the need to move, or to affect the causes, which make people want to move; partly it represents a step to tighten control at the source to prevent people from reaching the border of the potential destination country. This two-fold externalization can be seen to accommodate both the short and long-term need to prevent people from coming, at least at the drawing table. It also represents a strategy, which is less controversial internally in the receiving countries, as it does not directly challenge often powerful "pull"-forces.

Many of the EU countries have embarked upon a policy line, which includes preventive and/or externalized measures in one way or the other. There are various degrees of sophistication, however, both in terms of rhetoric and practical implementation. The Scandinavian countries and the Netherlands were first to formulate a so-called comprehensive approach. This policy shift addresses the "root cause analysis", and it should ideally accommodate both the source of labour migration and refugee flows. It is based on an understanding that the economic and the political causes of emigration are linked, and that a development cum democratisation process would eventually lead to a removal of the root causes of "unwanted international migration". Another novelty of the Comprehensive Approach was that it aimed at handling the migration complex as a

whole – both substantially and even administratively in some places (Sweden and the Netherlands). All policy areas with relevance for migration should be formulated and implemented together, like development aid/emergency aid, foreign policy, diplomacy, trade politics, human rights questions etc. This new approach should be seen as enriching the traditional control policy, not replacing it. In fact the Comprehensive Approach was sometimes introduced in a rhetorical framework, where a reinforced border control was legitimized by long-term preventive measures in the countries of origin. On a European level, the agreement between the EU and the Maghreb region contains elements of the same thinking: Trade agreements and economic transfers should compensate for a tighter immigration control on the European side.

Consequently, if we consider the field of labour migration, the two most external gates or stages have been reemphasized during the last ten years, not at the expense of, but in addition to the traditional gates. In real terms, however, it is hard to tell which priority is given to the preventive or "root-cause" measures when it comes to the pinch. Transfers are limited, and the target – economically speaking – is often unclear. Critics even claim that the underlying assumption is wrong – at least in the short run – in the sense that development triggers more migration rather than stemming it (Teitelbaum 1991).

When it comes to the refugee connection, the preventive measures are even less clear. There is an assumption present that economic development also fosters the generation of democratic institutions, and that development therefore eventually will contain the need to flee. Beside these complicated and highly uncertain propositions, a number of innovative concepts are suggested in the political realm: "Early warning systems"; "flight prevention"; "right to stay"; "the creation of safe areas" etc. – concepts which have appeared in a context where containment of flows outside the territory of receiving countries is on the agenda. Most of these concepts remain quite abstract, mostly appearing in international settings where existing or potential far-reaching crises are discussed. The Gulf war and in particular the Bosnian crisis induced some of these new ways of thinking in Europe.

As far as the process of externalization of control in relation to spontaneous refugees is concerned, there is a dual and very tangible development taking place. Firstly, the new notion of "safe countries" adds a collective "flow" dimension to what used to be individual refugee protection, a notion that has clearly been introduced for control purposes. A person coming from a "safe country" will nearly automatically be labeled as having a "clearly unfounded case"; and will consequently be refused directly at the border without any further investigations. Secondly, the "first country rule", which implies that any asylum seeker can be returned to the first "safe" country he or she has passed through on the

way, constitutes an effective filter for countries not bordering conflict areas, and with limited direct flights or boat connections to turbulent regions. These two instruments have been introduced and implemented very effectively in nearly all West-European countries, with little formal coordination (The Dublin Convention which contains the formalization of the first country rule for the EU countries was not ready for implementation until 1 September 1997, yet the member countries as well as some non-member countries like Norway and Switzerland nevertheless started practicing this rule during the 90s.)

There is, however, important bilateral coordination taking place in particular between Germany and Austria respectively, and the bordering eastern countries in terms of readmittance agreements of asylum seekers and illegal migrants. Some of the other countries have signed similar, yet less comprehensive agreements (Sweden and the Netherlands). These new measures are targeted towards the most important and most problematic flows, seen from the point of view of the authorities in the receiving countries, and they have had a significant impact. The agreements have diminished the major flows of asylum seekers coming via land-based transportation from the east. The reduction in numbers of asylum seekers wanting to enter Germany, Sweden etc. after 1993 is mainly attributed to this new control system.

A quota system in Austria is another external control invention with strong impact. By fixing a yearly quota of immigration from all non EU/EEA-countries, and independent of actual pressure – Austrian authorities have managed to introduce a strict limitation to some of the few entry possibilities there are in Europe today. Through the new externalized methods, most of the states have – to different degrees – compromised on traditional human rights agreements among European countries.

7. Border control – visa policy

The area of visa policy was until the Amsterdam Summit in 1997 the only immigration relevant policy field, which was fully integrated into the EU supranational structure. This means in practice that all member countries subscribe to the same number of countries (now approximately 130) being subject to visa requirements for its nationals. The list basically includes countries outside the OECD – and hereby all countries of relevance when it comes to current refugee flows. The visa policy as an instrument in relation to refugee crises is included in the Maastricht Treaty (Article 100c): "In the event of an emergency situation in a third country posing a threat of a sudden inflow of nationals from that country in the Community, the Council may... introduce a visa requirement for nationals from the country in question". The combination of visa requirements and carrier sanctions has proven effective in the hands of the receiving authori-

ties in trying to reduce major inflows of asylum seekers and some kinds of illegals. Apart from being an effective external method of control, carrier sanctions are an externalized instrument in another sense as well: It places the responsibility of control on actors external to the political authorities – the transportation companies. Even Norway – not being member countries – are by and large following the same visa policy as the European Union. There is, however, no general agreement on which criteria should be used in deciding on the list, a fact that the European Parliament has criticized on different occasions.

The visa-policy may have the same deterrence effect as the new asylum practice of "clearly unfounded cases". There are costs involved, and if the probability of being refused is high, more people will likely not even try. On the other hand, the visa restrictions may force people into illegal activities. People in need of protection sometimes cannot escape to other countries without assistance, which in many cases means utilizing traffickers who increasingly profit from the restrictions. Thus, intensified use of visa regulations in combination with other methods of control is the beginning of a vicious circle.

There are different kinds of visas, however, and an important loophole in the tight systems is the tourist visa. All European countries want tourism, and for some, particularly Italy and Austria, tourism is a major income earner. Consequently, this loophole will most likely remain. Nevertheless, it is often difficult to acquire a tourist visa if the immigration authorities consider the likelihood of "overstaying" as being high. It is thus more difficult to travel as a tourist from what is considered a sending region.

The visa policy is clearly an effective instrument within the whole control complex. It is by no means a new mode of control, but it has recently been activated more extensively in relation to refugee producing areas. The Bosnian case is the most striking example of how a fear of being the preferred target for war refugees turned into a "domino effect" of visa conditions in the receiving countries throughout Europe.

8. The Schengen agreement

The whole border control issue went into a new stage with the implementation of the Schengen Agreement in 1995. According to this agreement – being initiated as a "pilot-project" for the European Union as regards border control issues – national border control between the signatory countries should be abolished. As a consequence of this "lost control" at national borders, entry control is supposed to be reinforced at the external Schengen borders (Schengen states bordering third countries) and besides, so called "compensatory measures" should be developed internally in each and every signatory country. "Compensatory measures" is here another concept for increased mobilization on security and

internal control systems.

The reason why the original Schengen-countries (Benelux, France and Germany) initiated an alternative process to the general European integration was the disagreement on the interpretation of the earlier mentioned article 8A in the Single European Act: The question of free movement of persons within the Internal Market. Since Great Britain, Ireland and Denmark wanted to maintain the national border control, and to exclude third country nationals from the right to free movement internally in the Community, they functioned as a break block on the European Integration on a central issue. The countries in favour of a more rapid integration process – France and Germany in particular – therefore saw the possibility of stepping up the pace by introducing an alternative structure, which in turn could serve as a catalyst in the broader European process. The countries most energetic in the Schengen structure calculated that it would be easier to progress in policy-making on sensitive issues like transnational police cooperation, immigration and asylum policy among countries, which also shared position on the border, control issue. The ambition was then to gradually include the Schengen arrangements into the Community structure, hereby making the Schengen Agreement redundant as such. In the development of the Internal Market, cooperation in the field of Justice and Home Affairs became much closer, a fact that was first confirmed by the inclusion of this area in the Maastricht Treaty in the so called "Third Pillar", and after the Amsterdam Treaty the full inclusion of the Schengen system into the EU structure. The transitional unanimity requirement of five years may however still limit more controversial integration efforts.

Ironically the "pilot project" Schengen – which was intended to be realized far in advance of the Internal Market – was blocked several times by internal problems and disagreement, so that it took more than two years after the opening of the Internal Market before the Schengen Agreement was ready for implementation, on March 26 1995. Even after this date, however, France quickly signaled that the "compensatory measures" were not good enough for France to abolish border controls. Late in the spring 1995 France imposed a halt in the process, and announced delays in abandoning border checks. A basic problem has all along been the question of drug traffic. In France the major hindrance has been what is perceived as liberal drug laws in the Netherlands, Spain, and possibly also Italy. Besides, the bomb explosions in Paris that spring made the government even more alerted to the border-control question. French politicians have been clear in their message: there will be no suppression of internal frontiers unless the Schengen partners apply the same restrictive external border control as France (Cruz 1993). Trust is generally speaking a central ingredient in Schengen; to accept abolishment of national border control, one has to

rely on the countries supervising the common external borders. There are also costs involved: The signatory countries with external borders have to cover the expenses of a reinforced border control towards third countries.

The Schengen-Agreement has had an inconsistent impact on immigration control in Europe. On the one hand it introduced the right to free movement for third country nationals having entered the Schengen area legally. It also substantiated the responsibility of the "first country" to handle asylum applications (unless they are "clearly unfounded" and therefore refused directly at the border). On the other hand, entry into the Schengen area was (at least intentionally) made even more restrictive, and not least, the internal control within the different nation states have been stepped up, through the SIS system and through physical units on the ground. Through the Schengen system, migration has been handled as a security issue.

Western European countries have had different positions – objectively and politically – in relation to Schengen. There seems to be little disagreement among the Schengen countries on the intentional side as concerns the external control: All countries have the ambition of combating illegal immigration more effectively, as well as reducing the asylum pressure. The variation in this respect is therefore more on the operational level of the capacity and skills to effectuate the policy. All the factors mentioned initially are here of relevance: geographical location, history of immigration, administrative systems etc.

Italy is conceived as the major problem child in this respect – often labeled the "soft underbelly" of Europe, but also Austria has been addressed (mainly from Germany) with concern in relation to the irregular inflow, particularly from the east. Austria officially supports the EU enlargement to the east, even though labour politicians have expressed strong reservations against free movement for labour migrants from former socialist countries. By extending the EU border further east, Austria would be relieved from the complicated and costly task of controlling an external EU/Schengen border.

It seems that Sweden has had only minor objections to the Schengen affiliation: It is in the interest of Sweden to attach to an area of free movement. A more restrictive external control has also been on the agenda for a while, and collective action with EU partner countries makes this endeavor more easily acceptable in the public opinion.

France, Germany and the Netherlands were among the initiating countries of the Schengen Agreement. France has nevertheless been a major stumbling block along the way, due to distrust in relation to efficiency of other countries' external control as well as internal drug control/policy. Germany used to be – and still is – a major gateway to Western Europe. The numbers of (registered) immigrants have been higher in Germany in the 1990s than in all other western Eu-

ropean countries taken together. "Burden sharing" has consequently been a more pressing concern for the German government than for others. When the German Basic Law was to be changed to facilitate a more restrictive line on asylum, adjustment to the Schengen regime was an important card to play for the authorities. In the Netherlands Schengen has not been a major public issue, although it has contributed to a stronger focus on internal control mechanisms.

Schengen has also had an impact on non-EU countries in Europe – both some of the eastern states aspiring for membership as well as the EEA countries. Norway and Hungary are two examples here, which have had different positions in relation to the Schengen issue. Hungary with its clear aspiration for EU membership needs to adjust as much as possible to the control regime, which predominates among the EU member countries. This is the case, even though the incentives for introducing an external control of the Schengen order are not obvious: Knowing that most migrants do not want to settle in Hungary, the motivation to invest large resources in the control system is limited. This trade-off constitutes Hungary's position for the time being.

Norway, on the other hand, jumped off the EU wagon in 1994 after a national referendum. EU membership is consequently not on the agenda in the foreseeable future. Schengen imposed itself on the Norwegian public when Sweden and Finland joined the European Union and subsequently prepared for negotiations with Schengen together with Denmark. The historic Nordic Passport Union was thus in danger unless Norway also joined Schengen in some way or another. The Norwegian government started negotiations with Schengen together with the other Nordic countries, and finalized an agreement in December 1996. This agreement provided Norway with an observatory position with access to all meetings and arrangements, yet without the right to vote. Disagreement meant exit. At the same time Norway was responsible for the adjustment of the national legislation to the Schengen rules. The Schengen affiliation caused a heated debate in the public, partly due to the EU connection – which has strong symbolic significance in Norway – and due to substantial parts of the agreement, related to the internationalized control through the information system SIS. Ironically, this – politically speaking – rather dearly bought agreement was endorsed in parliament only days before the Amsterdam Summit made it virtually valueless, as Norway's status as non-EU member conflicted with the integration of the Schengen Agreement into the EU structure. In 1998 a new agreement with Schengen was nevertheless settled.

9. General tendencies

International migration represents a dynamic system, where cumulative processes of actors, groups of actors, institutions, as well as political and economic

structures interplay. Economic, social, and cultural changes generated in both areas of origin and destination through international migration, equip the flows of people with a forceful inherent momentum not easily regulated by governments.

It is nevertheless one of the major conclusions of this paper that European governments have become steadily more concerned of controlling immigration the last 15 years. Paradoxically, one may say that the successively more sophisticated and inventive ways of circumventing the control systems on the part of the immigrants is an indication of an elaborated functioning apparatus. At the same time, there is no doubt that loop-holes in the systems, as well as increased criminal activities in relation to irregular immigration, represent a major impediment on policy implementation. Control strategies imposed by the authorities of receiving countries have given rise to counter-strategies or strategies of circumvention by actual and potential migrants. Immigrants are actors who will react to restrictive policies by utilizing whatever channels are available. Thus, effectivization of control gives rise to another tendency, namely clandestinization. This is a tendency the European countries experience to different degrees.

There is, however, another – more intrinsic – nemesis in the efficiency domain: The tendency to over-administration and bureaucratization. This way the success in restrictions may lead to costly ineffectiveness in implementation. This tendency may have different implications in different settings, yet the German case is probably the most striking example of a huge control apparatus not necessarily resulting in clear implementation. The tendency to over-administration due to the increased range of categories and – partly as a consequence of this – the increased complexity of legislation, has in turn lead some states to introduce yearly quotas. These quotas sometimes do not ask which category migrants belong to, so the acceptance or refusal becomes a numerical question, requiring much less in terms of administration. (The major objective of the quota system is nevertheless its impact on the control of the total numbers accepted). Within this efficiency realm we may also sort out a move from short term and ad hoc measures to more long term planning. This tendency is to a large degree a function of the level of development and the length of experience of immigration policy-making in the receiving countries.

Another significant tendency in most receiving countries is the increased focus on flows rather than individuals. This tendency is most marked in relation to refugees who used to be, per definition, individuals who needed protection, but who currently more and more are treated as parts of collectives. Categories like "safe third countries" and "war refugees" disregard the original meaning of refugee protection, and makes humanitarian traditions be reinterpreted as control.

The perception of immigrants as representing flows rather than individual human beings, reinforces the threat images of immigration, and has contributed to a tendency of politicization of immigration. Metaphors like "flood", "invasion", "hungry hordes" etc. plays on people's fear and insecurity in the receiving countries. This fragile landscape has become a seedbed for rightist or populist forces in a number of receiving countries.

One may discuss the probability and realism in the scenarios on which threat perceptions are built. Among experts there seems to be near consensus that both politicians and the media tend to dramatize the prospects. Historical parallels are drawn to show that the de facto flows of today by no means are alarming compared to earlier phases in Europe. Besides, immigration "pressure" is obviously also a function of how strictly border control is enforced: As long as foreign labour was in demand, immigration pressure was not an issue in the west. However, this has little significance for popular reactions, as long as social definitions are in accordance with the alarm scenario. If immigration is perceived as a threat, it becomes a threat, until the public can be convinced of the contrary. It is in the end the feeling of being swamped, as well as worries in relation to the unpredictability of the future that substantiate general anxiety over immigration.

One of the most profound tendencies in today's immigration policies is the inclination to externalize control. It is possible to trace a two-fold externalization in this respect: the emphasis on tedious preventive measures way beyond the national borders of the receiving country, and the more acute externalized control measures like visa requirements alone or in combination with carrier sanctions. This tendency unfolds simultaneously with a stronger sophistication and diversification of internal control mechanisms.

There is a dynamic interplay between external and internal control mechanisms in Europe today, which has been more pregnant and visible through the Schengen Accord. This agreement is literally based on the assumption that there are central interconnections between the two control dimensions. On the national level there are, all the same, significant variation as to the way in which this interplay is operating. The concrete operation of this interplay nationally, is also influenced by the setting in which the labour market on the one hand, and international parameters on the other have the strongest impact.

The structure of the labour market (in terms of composition of demand, unemployment, size of unofficial market, etc.) will influence the size and composition of actual immigration, while this structure is in turn influenced by immigration. Thus, directly and indirectly, entry control and internal control mechanisms have an impact on labour market factors, as the structural labour demand will constitute important preconditions for effective control.

Labour market facilities are furthermore a central variable in the matter of integration. Wage labour opens up other doors to society. Conversely, lack of integration will easily imply marginalization, which might, in turn, affect the structure of the labour market. The tendency of deregulation of the labour market in Western Europe has had control implications, in the sense that irregular employment has expanded, hereby providing structural incentives for irregular immigration.

These complex internal dynamics in the respective nation-states impede coherent planning and policy formulation. Furthermore, any total "fencing-out" of third-country immigrants is untenable, for many reasons. Apart from control aspects – the "hole in the fence" problems – and inconsistent market needs, basic humanitarian or moral aspects are involved in the issue. Normative obligations present receiving states with limitations as to the formulation of control policies. The basis for legitimation of the control varies. Here national narratives play a part, in terms of symbolic codes, myths and historically generated discourses. National distinctions in this realm give each country different grounds for mobilizing political support when it comes to policy formulation on migration control. Long-term targets of immigration control are generally determined by perceptions of national interests and national identities. Yet, control policies are often contradictory – arising from difficulties in aggregating conflicting interests in society into one single set of national interests.

Beyond the inherent nation-state quandaries, the international setting constitutes the outer context with which nation-states also have to interact. On the one hand, the national configuration affects the room for maneuver for other European countries and for the European Community as such. On the other hand, the European integration process has an indirect and direct impact on the national momentum, as we have seen. International migration – in itself a phenomenon that transcends national borders – will have to be politically addressed beyond the nation state, if it is an aim for decision-makers to have more sophisticated control over people's movements. The European Union today plays a role in Europe partly as a force in itself, partly as a frame of reference for member countries – and for non-member countries as well. As we have seen, the Union has not yet developed a fully harmonized immigration policy. It nevertheless functions as a premise for national decision-making through its mere existence. It is a question of mutual expectations, which might become self-fulfilling prophecies: The existence of the European Union implies that central actors assume (even without supra-national competence) that the EU countries as a group will end up with a clearly restrictive line on immigration. This "anticipatory harmonization" is based on the fact that everybody is afraid of the "magnet effect", which in practice means that the policy of the most restrictive

state will set the tone.

Besides, individual governments may use the EU process as a shield against their own national opinion; arguing that a certain policy is necessary to conform with the other member countries, and with the expected future policy of the Community. This EU mechanism is functioning even in the non-member countries in Europe.

10. Concluding remarks

The attraction of Western Europe today is substantial. Physical security, the welfare state and the labour market are still providing residents with conditions that cannot be imagined in the so-called South. As long as the welfare gap is there internationally, the lure will be sustained. With the aging populations the European governments are increasingly concerned over the question *to whom and to how many* the state should give access. It is already a fact that many of the European countries are in need of foreign labour in certain sectors, and besides, that they want tourists and business people to have as easy access to the countries as possible. As long as the contradictory interests within the European countries prevail, immigrants will continue to find holes in the fence. All the countries are caught in a squeeze between humanitarian values and the need for control. In the years to come we will witness a quest for a legitimate balance of this dilemma.

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The Guest Professorship in memory of Willy Brandt is a gift to *Malmö högskola* financed by the City of Malmö, and sponsored by *MKB Fastighets AB*. It was established to strengthen and develop research in the field of international migration and ethnic relations, and to create close links to international research in this field.

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