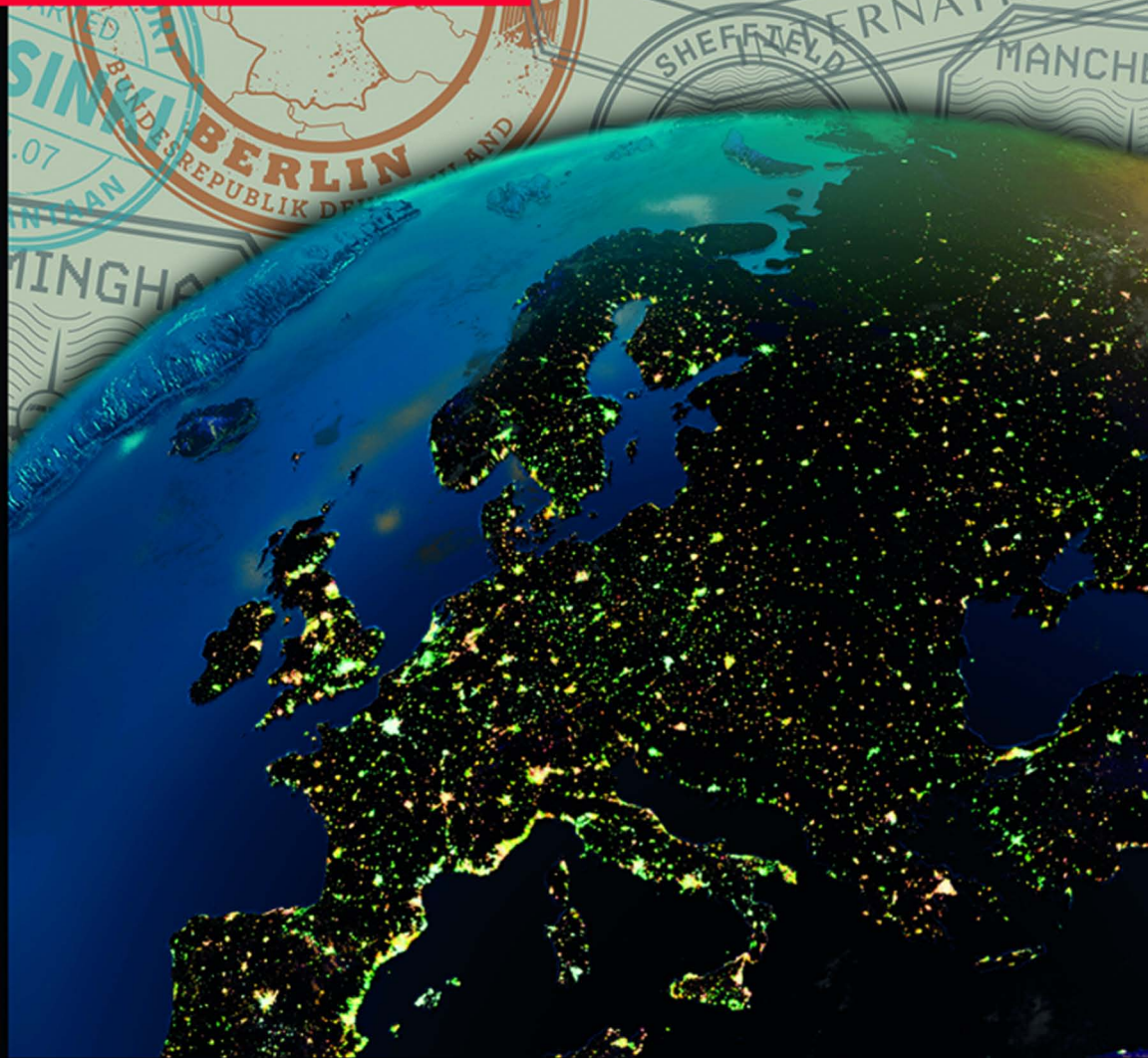


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First published 2019  
by Routledge  
2 Park Square, Milton Park, Abingdon, Oxon OX14 4RN

and by Routledge  
711 Third Avenue, New York, NY 10017

*Routledge is an imprint of the Taylor & Francis Group, an informa business*

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*British Library Cataloguing-in-Publication Data*

A catalogue record for this book is available from the British Library

*Library of Congress Cataloging-in-Publication Data*

Names: Weinar, Agnieszka, editor. | Bonjour, Saskia, 1980- editor. | Zhyznomirska, Lyubov, editor.

Title: The Routledge handbook of the politics of migration in Europe / edited by Agnieszka Weinar, Saskia Bonjour and Lyubov Zhyznomirska.

Other titles: Handbook of the politics of migration in Europe

Description: Abingdon, Oxon ; New York, NY : Routledge, 2018. | Includes bibliographical references and index.

Identifiers: LCCN 2018008056 | ISBN 9781138201187 (hbk) | ISBN 9781315512853 (ebk)

Subjects: LCSH: European Union countries--Emigration and immigration--Government policy. | European Union countries--Emigration and immigration--Political aspects. | Refugees--Government policy--European Union countries. | Labor supply--European Union countries. | Immigrants--Cultural assimilation--European Union countries.

Classification: LCC JV7590 .R68 2018 | DDC 325.4--dc23

LC record available at <https://lcn.loc.gov/2018008056>

ISBN: 978-1-138-20118-7 (hbk)

ISBN: 978-1-315-51285-3 (ebk)

Typeset in Bembo  
by Wearset Ltd, Boldon, Tyne and Wear

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# ACKNOWLEDGEMENTS

The Editors would like to thank Melissa Siegel at UNU-Merit for her work and support in the early stages of the editorial process. We also want to thank Andrew Taylor at Routledge for his support of the project and Laura Cleton for her work on the final submission.

In addition, Agnieszka Weinar would like to acknowledge the funding of the EU 7th Framework Programme (MSC IOF, GA 624433) that made work on this project possible.



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# INTRODUCTION

## The case for regional approach to study politics of migration

*Agnieszka Weinar, Saskia Bonjour and Lyubov Zhyznomirska*

Unlike settler societies such as the United States or Australia, European nation-states generally do not perceive of themselves as countries of immigration. Rather than being part of their national founding or ongoing nation-making myths, immigration in Europe has historically been perceived as exceptional to the normal state of things – a disturbance or even a threat. However, Europe's history is, in fact, characterised by migration driven by war, imperialism, trade, faith, poverty, love and myriad other reasons. More recently, the fall of communist regimes in 1989–1991 brought about radical changes in human mobility on the continent, as liberalised border regimes induced population outflows on a massive scale, and civil wars in the former Yugoslavia awoke the spectre of ethnic violence, displacing thousands of people. In addition, the post-Maastricht European Union (EU) (1991) started building its migration policy, thus affecting people's movements both within, and towards, the EU. Expanding European migration systems (i.e. East–West and South–North) prompted searches for new policy responses across the continent, as all countries in Europe gradually became both receiving and sending countries for migration.

To a large extent, the successes of these policy responses have been uneven. The flow of asylum seekers from non-European countries to the EU in 2014–2016, which eclipsed any previous asylum seeker flow to Europe since World War II, uncovered the variations in public and governmental responses to immigration across the continent. First of all, there were differences in the rise of anti-immigrant attitudes expressed in public debates and policy reactions. While such attitudes may be observed throughout Europe, they have been particularly intense in European countries that had not previously experienced significant waves of immigration, such as Poland or Hungary. Second, there were differences in understanding and the level of awareness among political elites and the public in various European countries regarding immigration and the complexity of related social, economic and legal issues, which, arguably, have been the lowest in countries such as Romania and Lithuania, which experience negligible immigration flows. Within the EU in particular, the steep rise in asylum inflows has resulted in a severe political crisis. Any attempts to come up with an EU-wide policy response that is in line with existing EU asylum and migration policies and their underlying principles of solidarity and burden-sharing, have failed to gain acceptance from member states in which (non-European) immigration flows have become suddenly politicised (and this does not concern only Central Eastern Europe).

The ‘asylum crisis’ that Europe has experienced has served to unmask the West-East tensions on migration issues that had remained depoliticised and largely hidden in the context of the accession process for new EU member states. During that process, migration policy-making was packaged into the ‘technocratic’ language of ‘policy transfer’ and ‘adaptation’ to existing norms, specifically in the area of human rights and humanitarian migration. In recent years, the question of how to share the burden of hosting increasing numbers of humanitarian migrants in the EU has provoked a fundamental political discussion about norms and values surrounding migration and political membership – a discussion that had been dormant in Eastern and Central European countries due to a lack of any meaningful migration intake since at least the early 2000s. In particular, xenophobic, racist and nativist responses have become strikingly visible in public and political discussions regarding the potential impact of hosting foreign populations that are perceived as culturally *different* from the receiving societies. These discussions are taking place in societies which largely remain *emigrant-sending* within the pan-European migration system and whose experiences since 1989 with immigration or foreign labour migration have largely been limited to hosting nationals from neighbouring European countries, as is the case for Poland and Hungary.

Whether and how this newly heightened politicisation of migration and asylum seeking across Europe will affect both national and European regimes of migration management, and the politics of migration in Central Eastern and European (CEE) countries and Europe overall is worth pondering about. This Handbook seeks to capture the state of continually evolving responses and processes in European societies, in an attempt to better understand a potentially drastic and pervasive shift in the way politics of migration unfolds and affects people’s lives across the continent and beyond. It also highlights areas, issues, and questions for future research on the politics of migration in Europe.

## Politics of migration

We define the ‘politics of migration’ as a complex process in which various political, social and economic actors negotiate access to, and membership in, a given political community, with an understanding that these actors are not limited to the national arena. Politics of migration can thus be understood as politics of membership. These politics evolve from a basic negotiation over who is allowed in or out (politics of entry/exit), who is accepted as a permanent resident (politics of residence and integration), and how a community defines its boundaries (politics of citizenship and belonging). Within each of these realms is a scene where power plays take place between actors, practices and discourses, the continual interactions between which shape our understanding of migration and the ways to address it. The ways in which these power plays develop shape the politics of migration.

The politics of migration has been a fashionable research topic in the last 40 years or so, with Zolberg (1978) initiating the line of inquiry in the North American context. Since the late 1990s, a call to ‘bring the State back in’ (Brettell and Hollifield 2000) to the study of migration has sparked the evolution of a lively field of study. It has brought to light several pertinent questions on the nature of migration policy development and its impact on migration trends at the macro level, as well as its impact on individual choices at a micro level. However, migration studies developed with an internal fault: the field has created definitions, concepts and frameworks of analysis geared to studying its main subject of analysis – a Western liberal democratic country of destination (Joppke 1999; Mau *et al.* 2012, see Garcés-Masareñas, in this volume). Moreover, the dominance of American scholarship resulted in a greater focus on themes that have been characteristic to the pluralist conception of politics in the USA, including party

politics (Tichenor 2009; Zolberg 2009), lobbyist groups (Freeman 1995), and voter behaviour in relation to migration (Alvarez and Butterfield 2000; Ramakrishnan and Espenshade 2001).

This particular research agenda was exported outside of the North American context and has been applied to the study of migration politics in some European states. This was frequently done from a comparative perspective (for example, see Fetzer 2000; Hollifield 1992), or by adding new research paths, such as in the comparative study of citizenship regimes (Brubaker 1992) or integration regimes (Castles 1995). Nevertheless, until the mid-1990s, the study of the politics of migration remained focused on a limited number of western European countries, with a total absence of studies on Central and Eastern Europe and, for that matter, the EU itself.

In contemporary research on the politics of migration in Europe, we observe a broad range of conceptualisations of ‘politics’, ranging from quantitative analyses of party politics (Betz 1993; Mudde 1999; van der Brug, Fennema and Tillie 2000; van Spanje 2010), to post-structuralist discourse analysis (De Cillia, Reisigl and Wodak 1999; Huysmans 2000; Favell and Hansen 2002; Statham and Geddes 2006). However, the geographical scope of this scholarship has barely reached beyond the countries of the European West. A comprehensive ‘European’ analysis has therefore remained out of reach. Since the early 2000s, as the competences of the EU with regard to asylum and migration have become institutionalised, the EU level of migration politics has become a focus of analysis for migration scholars (Geddes 2005; Guiraudon and Joppke 2001; Lavenex 2001b; Triandafyllidou 2003). At approximately the same time, as the influence of the EU over the accession countries in Central and Eastern Europe in the area of migration and asylum increased, migration politics in the region began to attract scholarly attention (Boswell 2003; Lavenex 2001b). Still, research that examines the experiences of Central and Eastern European countries, within and beyond the EU, has not entered the mainstream of academic migration studies. The main reason for this state of affairs is the dominance of English in mainstream scholarship, whereas most scholarly work in Central and Eastern European countries is done in other languages. This has been slowly changing in recent years, but the knowledge gap persists.

### **European Union vs Europe**

By 2018, Europe as a continent had developed elaborate legal frameworks and practices that have shaped the politics of migration in all of its 51 countries. This happened as a result of European integration dynamics emanating from two cores. First, European countries found themselves under the influence of pan-European institutions (such as the Council of Europe and the Organization for Security and Co-operation in Europe) and various intergovernmental processes sprawling out across the continent (for example, the Budapest Process and Söderköping Process) as they pursued the ‘added value’ that these venues provided to governments. Second, since the late 1990s, the EU has acted as a major centre of gravity on the continent, with an active normative agenda and externalisation pressures emanating from harmonised migration and border regulations in the emergent ‘area of freedom, security and justice’ in the EU. Consequently, phenomena of policy convergence and/or divergence, policy learning, or policy resistance are at the core of studying the politics of migration in Europe.

Political, social and economic changes sweeping across the continent over the last 30 years produced particular migration-related tensions, which we believe to be distinctly European. They are tensions between migration and mobility, immigration and social class, and between human rights and migration controls.

## Migration and mobility

In European political discourse, ‘migration’ and ‘mobility’ represent two entirely different things. Across the continent, migration has been portrayed as a problematic and mostly negative phenomenon, whereas mobility tends to be viewed positively as an important element increasing people-to-people contacts and economic growth. To give an obvious example of these differentiations in the discourse, students and researchers tend to be viewed as ‘mobile’ Europe-wide, while seasonal workers are ‘migrants’.

Migration and mobility are thus key concepts to examine in order to understand political discourses across Europe. Whether people are perceived and categorised as ‘immigrants’ or as ‘mobile’ depends on their particular political context, which is determined by regional agreements, such as the Nordic Passport Union, State Union of Russia and Belarus, the EU or the Eurasian Union (Dumas and Goldner Lang 2015; Goldner Lang 2011; Weinar 2014). The citizens of such economic/political regions automatically gain certain rights, ranging from passport-free international mobility, to settlement rights, and labour market and welfare rights, all of which are linked to their passports. The exact scope of these rights is based on multilateral treaties that establish such political and economic agreements. Persons who fall under such regional arrangements have more de-facto migration rights – referred to as ‘mobility’ rights – than those who do not.

A prime example of this tension is found when examining EU freedom of movement. In the EU jargon, its citizens do not migrate; rather, they exercise their right to mobility. Policy-wise, EU nationals are excluded from national rules and regulations. In practice, this often means that they are excluded from integration pressure, such as compulsory courses and exams, but it also means they do not have access to integration support, as they are left to navigate the experience alone (Barbulescu 2013; Recchi and Favell 2009). However, as the Brexit debate has highlighted, in the eyes of the public, some EU nationals may very well be viewed as ‘unwanted migrants’, just like any other immigrant group.

Interestingly, when it comes to the politics of migration, EU mobility or any other politically supported mobility of ‘the alike’ in Europe is rarely framed as an immigration issue, even in academic contexts. Most of academic work across the continent has been focused on non-EU migration, and not on mobility within Europe. Our Handbook reflects this focus.

## Immigration and social class

Class plays a key role in the politics of migration in Europe, even though politicians very seldom mention ‘class’ explicitly. One of the recurring themes in the problematisation of immigration in various European countries is the notion that Europe has been receiving the wrong *kind* of immigrants – specifically, not the best and the brightest but rather the ones with ‘poor prospects’ (Bonjour and Duyvendak 2017) because of their low education and poor skills; they are deemed to be those who are likely to impact European economies and welfare states negatively rather than positively. Many European politicians speak enviously of North American migration regimes, which they imagine to be entirely geared towards economic-based selection. There is little awareness that family-related migration makes up the largest part of permanent immigration to the United States. Family migrants represented 680,000 of the 1,051,000 persons obtaining lawful permanent residence status in 2015 (Homeland Security 2016). Similarly, the 60 per cent cap reserved for the economic migrants category in the Canadian point system includes the spouses and children of the primary migrant. In 2015, 79,000 primary applicants in economic class arrived with 91,000 accompanying family members, all of which were included in the

count towards the economic migrant class cap (CIC 2015). Nevertheless, admitting migrants primarily on familial or asylum grounds rather than on economic grounds (labour migrants) is perceived as a European particularity – and a problematic particularity at that. It is this perception that led French President Nicolas Sarkozy to call for ‘*immigration choisie*’ rather than ‘*immigration subie*’, i.e. immigration that is actively chosen rather than passively undergone (FranceInfo 2012).

In contrast to what such political discourses might suggest, European countries do have their own longstanding, economically driven labour migration policies. In the first post-war decades, various north-western European countries implemented large-scale ‘guest worker’ recruitment programmes. By the time these programmes were closed in the mid-1970s, an alternative policy framework for large-scale labour migration in a large part of Europe had been put in place – that is, provisions for the free movement of workers within the Common Market in the European Communities. Other forms of labour migration policies have been developed since then, both at national and at EU levels for specific categories of workers, mostly targeting highly skilled and seasonal workers. Southern European countries, in particular, have also implemented regularisation programmes to allow undocumented labour migrants to access legal residence. In other words, European countries have long had a broad range of policy instruments at their disposal to selectively admit their *immigration choisie*.

Furthermore, humanitarian admission policies, be they for family migrants or refugees, are not disconnected from economic rationales. Civic integration programmes, which have been implemented in a great many European countries (see Goodman, in this volume), require family migrants and refugees alike to participate in language and civic education, as well as labour market integration programmes, with the aim of decreasing their welfare dependency and increasing their economic and social participation. In the most restrictive countries, such as the Netherlands, failure to pass civic integration tests may not only result in serious financial costs, but also in the denial of permanent residency. The economic stratification of family reunification rights in Europe is especially well documented, with scholars pointing to the red carpet laid out for the families of highly skilled labour migrants (Staver 2015), while other migrants and – increasingly – citizens have to meet restrictive employment and income requirements in order to be allowed to bring their foreign spouses and children over (Block and Bonjour 2013; D’Aoust this volume; Kofman 2018).

Finally, while the vast majority of scholars present economic considerations and identity concerns as two distinct rationales shaping migration policies in distinct ways, a recent strand of scholarship explores the ways in which perceptions of economic utility intersect with notions of cultural belonging in the politics of migration in Europe. Political sociologists working on labour migration and irregular migration have shown that self-sufficiency, hard work and economic worth have become part of the ‘national values’ or ‘national identity’ serving to distinguish those who belong from those who do not (Anderson 2013; Chauvin, Garcés-Mascareñas and Kraler 2013; Paul 2015). More broadly, scholars have argued that the politics of migration and belonging in Europe are thoroughly classed, as they are based on implicit representations of the national community as hard-working middle class, while unwanted migrants are framed as the undeserving poor (Bonjour and Duyvendak 2017; Elrick and Winter 2017).

## Human rights and migration controls

Europe perceives of itself as the birthplace of human rights. It has a powerful human rights framework, formulated in the European Convention of Human Rights, executed through the European Human Rights Court. The EU is credited for pioneering post-national membership

rights by extending social, economic and even political rights to immigrants (Soysal 1994). These post-national membership rights, derived from the principle of the free movement within the EU, have been further entrenched as EU citizenship rights in post-Maastricht and post-Lisbon EU (Isin and Saward 2013; Maas 2007). In the area of migration, the humanitarian image of Europe, and specifically of the EU, has been a rhetorical driving force spurring policy change, among other things, with regard to addressing the abuse of irregular workers and, in the last decade, the loss of life at sea by migrants seeking access to Europe (for further problematisation of this image, see Follis and Lemberg-Pedersen, both in this volume).

However, historically, Europe has also been a place that various groups have left to escape famine, disease, poverty or persecution, as well as a place where others have sought refuge for similar and additional reasons (such as civil or colonial wars, persecution, or poor governance). Geography, wealth, political and economic order, and security continue to draw those seeking better life chances to Europe. However, in response to significant post-1989 migration flows on the European continent, including the flow of less well-to-do Europeans, (Western) Europe restricted its border and migration control policies. Since then European governments have been engaged in an intricate balancing act between preserving Europe's humanitarian image on the one hand, and addressing anxieties about security, order and well-being on the other hand.

Europe has been engaged in controlling migration flows and reasserting sovereign control over the borders and access to the territory through, among other things, visa policies, the fortification/militarisation and technological equipping of borders, new wall and fence making in the south-east of Europe, and increased surveillance and internal policing of foreign population. It is also a continent where detention and deportation have been growing, and where return is proclaimed as a 'humane' solution to 'unwanted' populations remaining in EU territory. There are constant challenges and tensions between labour demands and immigration restrictions, and between the need for protection and the lack of safe territorial passages for people fleeing persecution.

Migration controls and policies preventing the arrival of asylum seekers on EU territory have further diversified irregular migration flows, pushing asylum seekers to mainly use illegal routes to access the EU, and revealing the inherent tension between human rights and the desire to maintain sovereignty over their borders and those policies which determine who gets to be included in the political community. The last two decades have revealed the ongoing tensions between preserving the sovereign right of European states to – individually or collectively within the EU – control their borders and arrivals into their territories, and the desire to preserve Europe's image as a continent that honours its human rights and humanitarian commitments. Despite various efforts to seal the borders and engage 'transit' and origin countries in controlling and preventing the arrival of migrants on EU territory, mixed migration flows continue to pose multiple political, social, humanitarian, and moral challenges at the local, national and European level (Triandafyllidou and Bartolini 2017, p. 5). The reluctant and often chaotic reception of Syrian asylum seekers heightened Islamophobia throughout Europe but it also showed the compassion of Europeans. Praised by the Commission as an effective tool to stem migration flows towards the EU, the EU–Turkey migration deal and the EU's migration pacts with countries like Libya, where slavery of migrant workers has been documented (IOM 2017), have also been highly criticised. Such diplomatic and policy solutions not only hurt Europe's humanitarian image, but also place in jeopardy the result of years of promoting the EU's asylum standards to neighbouring countries (Collett 2016; Rankin 2017; Toaldo 2017).

Being of mixed nature, migration flows through the Southern routes (including Western Mediterranean, central Mediterranean and Eastern Mediterranean routes) have placed humanitarian issues related to migration management front and centre. Saving human lives at sea has

been turned into a spectacle for mass consumption, prompting not only the security-based rationale of the state apparatus in response to ‘uncontrolled’ flows and those who facilitate the ‘illegal’ journeys, but also expressing itself as compassion, such as that which was witnessed in the Greek citizens’ response to the arrivals of Syrians, and non-governmental organisations’ mounting efforts to save lives. However, despite the political rhetoric about development and addressing the root causes of irregular migration, security is the driving logic of policy responses. Scholars have demonstrated that policies targeting networks and facilitators involved in moving people to Europe in illegal or semi-legal ways constantly innovate and adapt their business models, in which, for that matter, desperate people partake for the sake of their survival or better life chances for themselves or their families.

Being located in close proximity to major ongoing civil and international conflicts in Yemen, Syria, Ukraine, Sudan and South Sudan, each with their past colonial links, various parts of Europe still act as magnets to people on the move. Moreover, population growth in African countries, in conjunction with the growing share of young populations there, will continue to make people choose geographic mobility if economies and politics are unable to provide for growing workforces.

### **Scope and organisation of the Handbook**

This Handbook is organised into eight parts, each representing an important field of scholarly inquiry into the politics of migration in Europe. Each part, with the exception of the final methodological Part VIII, includes a commentary.

The ambition of this Handbook is to go *beyond* the study of the politics of migration in the handful of Western European and Southern European countries to showcase a *European* approach to the study of migration politics, inclusive of the tendencies in all geographical parts of Europe (including Eastern Europe, the Western Balkans and Turkey), and of the influences of the EU on the continent and beyond. To that end, the overarching question being critically examined by the Handbook is: What is exceptional about European politics of migration and its study? However, it has proved challenging to offer a comprehensive continental European perspective with each contribution. Indeed, some areas of academic scrutiny have not been developed enough in many parts of Europe and thus have not yet influenced European academic thought. There are two related reasons for this. First, since the beginning of the second half of the twentieth century, only a handful of countries in north-western Europe have had extensive experience with immigration and thus, have had the incentive, time, and resources to develop robust academic responses to the variety of issues surrounding the politics of migration. In a vast majority of European countries immigration did not become an issue until 2015. Second, scholars in Eastern Europe have been dealing with migration mostly from the perspective of countries of origin, because even in recent years emigration has often overshadowed immigration, both in terms of numbers and in terms of public and political concern. Scholarship on emigration is, in practice, a separate category in migration studies. The resulting dominance of Western-centric perspectives in migration studies in Europe is reflected in various chapters in this Handbook. Nevertheless, in order to cover as much ground as possible in developing a continental approach to the study of the politics of migration, we invited section commentators to debate those concepts developed in Western Europe, and discuss their usefulness and relevance in other European regions.

The Governance part (I) identifies the peculiarities of European migration governance and the way in which it has been studied. The contributing authors explore the Europeanised and multilevel structure of migration governance in Europe, as well as processes of policy

implementation and the role of expertise and media. Furthermore, this part critically examines common wisdoms in migration scholarship, such as the notion that migration governance in Europe is about immigration rather than emigration, or that it is characterised by a control gap.

The authors contributing to the Institutions part (II) consider which institutions shape the politics of migration in Europe. They ponder whether the impact of the courts is more substantial in Europe than elsewhere, and whether EU institutions exercise restrictive or liberalising influences on EU member states. Finally, they zoom in on political processes – specifically, addressing whether anti-immigrant politics shape European party politics in ways that are particular to the continent and whether immigrants in Europe have access to political institutions to a greater degree than in other parts of the world.

The part dealing with Integration (III) proposes several approaches to this very European concept. The authors discuss how European nation-states deal with being, or becoming, immigration countries and how useful ‘national models of integration’ are to understanding similarities and differences, or convergences and divergences among them. Furthermore, this part presents debates on citizenship and civic integration policies as policy instruments to regulate belonging in Europe. Moreover, the authors also debate how legal, economic and cultural hierarchies of belonging stratify access to specific rights, such as family reunification.

The Irregular Migration part (IV) examines contemporary border and identity politics, as well as governance of migration through risk and security in Europe. While Europe is not unique in terms of experiencing irregular migration flows, it has arguably been unique in terms of the political responses it has designed thus far to address the mixed migration flows towards the continent and deal with persons without regulated status. Indeed, the integration of the European single market and the construction of the EU as an ‘area of freedom, security and justice’ has created a different context in which policy-making operates in this domain, with EU-made policies and practices having external effects beyond its territory. The authors in this part present the dominant themes, actors, policies, practices and dynamics related to how irregular migration has been conceptualised and dealt with more broadly across Europe.

The part on Asylum and International Protection (V) examines the institutional, legal and political dimensions of asylum seeking and refugee protection in Europe. The discussion is situated in the history of forced displacement on the continent and Europe’s role in the construction of the international refugee regime. The authors present various aspects related to the politics of humanitarian migration in Europe, while entertaining questions of solidarity and the harmonisation of asylum seeking, and the limitations of the regional protection system in the EU.

The part on Labour Migration (VI) in the European context adds to understandings of Europe as special or unique in this area, given not only its policies regarding labour migration, but also the impact of immigration on European economies and societies. That impact is often misrepresented in political and public discourses. The authors provide an overview of several ideas, misconceptions and research puzzles that dominate economically oriented scholarship on immigration in Europe, including an analysis of how the politics of migrant care work is shaped by intersecting care regimes and migration regimes.

The part on Pan-European Cooperation on Migration (VII) considers various aspects of the uniquely European phenomenon of mixing external relations with immigration policies. The authors consider a range of tools used by European actors to shape mobility and migration geographies on the continent. They also examine the complexity of European cooperation arrangements, including the migration and development agenda, which primarily has been developed on the European continent.

Finally, the Handbook closes with a short part on Researching Migration in Europe (VIII). This part focuses on peculiarities of data collection and analysis, as well as methodological approaches across the continent. It sheds light on pan-European efforts to make comparative studies possible, but also showcases uniquely European advances in methodologies of migration research.

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# PART I

## Governance



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# 1

# MIGRATION GOVERNANCE IN EUROPE

## A historical perspective

*Adam Luedtke*

Europe will be forged in crises, and will be the sum of the solutions adopted for those crises.

*Jean Monnet*

### Introduction

Past waves of European unification, like the slow unification of the American colonies (Egan 2015), occurred during moments of grave crisis. Just as Washington's power grew most during the US Civil War and the Great Depression, the biggest gains in the power of the European Union (EU) came amid the oil shocks of the 1970s and the turbulent end of the Cold War. The dramatic refugee flows of the 1990s were perhaps the biggest upheaval in this latter period. Ethnic cleansing in places like former Yugoslavia sparked a crisis over the westward migration of refugees, which helped to launch the EU's first cooperation on migration. From the early 1990s to today, migration crises have contained imperatives that gradually led EU member states to accept the need for a common EU response to foreigners arriving from outside the EU, particularly given the liberalisation of internal free movement. This chapter focuses on the evolution of EU-level policy towards immigration from *outside the EU*, as well as on the tensions it has exposed among member states and EU institutions. However, we cannot ignore the issue of intra-EU (Schengen) migration by EU citizens, since this situation facilitated the push for common external border controls and policies on admitting non-EU citizens.

This chapter will show how reluctant governments gradually decided to participate in migration policy cooperation in the form of security-focused initiatives offered by Brussels, which allowed for more effective responses to crises at the EU's external frontiers. While the 1990s asylum crisis spawned innumerable predictions of EU doom and gloom, it actually led to the creation of a legal framework for common EU tools, which have arguably helped countries keep out large numbers of migrants. Although human rights advocates criticise the security orientation of EU migration policy, it is counterfactually true that by pooling sovereignty, Europe has averted far greater migrant inflows (and greater political backlashes) that would have otherwise faced individual nations.

Migration policy has been a tool of crisis management by the EU member states since the end of the Cold War. EU cooperation on immigration policy has advanced greatly since the 1990s, from the weak intergovernmental structures contained in the Maastricht Treaty (1993), to the binding, supranational system of immigration law finally implemented by the Lisbon Treaty (2009). From the initial intergovernmental steps towards harmonisation to the subsequent deepening of the EU's institutional capacity to deal with immigration more collectively, EU cooperation on migration is a response to external pressures on Europe, such as refugees fleeing war, as well as to internal imperatives such as the single market, which mandates free movement inside the EU (requiring common entry rules). Again, this chapter focuses on immigration from outside the EU, and traces historically the evolution of common EU policy towards this type of immigration. Because the analysis is at the supranational level, and looks at the historical evolution of EU immigration policy harmonisation in Brussels, readers must look to other sources for more detail about individual member state preferences (Luedtke 2009), the effect of EU enlargement (Lavenex 2006) and the evolution of free movement law for EU nationals (Guiraudon 2000). This chapter traces the move away from 'intergovernmentalism' (EU member states making policy outside the legal framework of Brussels) towards 'supranationalism', which is defined as placing immigration law in Brussels under the sole agenda-setting powers of the Commission, majority voting in the Council, legislative co-decision by the European Parliament (EP) and judicial review by the European Court of Justice (ECJ).

Compared to other areas of EU policy (e.g. agriculture), common policies on the immigration of non-EU nationals took longer to develop, offered more variability of participation (some national opt-outs) and allowed more national discretion in implementation. Nevertheless, by 2010, full supranational policies were developed on asylum, border policy and several types of legal immigrants: family members, students and researchers, skilled migrants, seasonal migrants and long-term permanent residents. This (slow) progress has proven the conventional wisdom wrong.

As European governments began to identify mutual interests in areas related to immigration – especially areas of national security, such as border controls and illegal immigration – intergovernmental fora were developed to share data and strategy among the relevant branches of national governments. Accordingly, the evolution of supranational harmonisation cannot be understood without analysing intergovernmental initiatives pre-Maastricht. Analysis of this phase will show that even as member states placed immigration policy off limits to Brussels, they created conditions that would make a stronger role for Brussels too appealing to resist.

### **End of the Cold War and first refugee crisis (1986–1996)**

With European integration moving forward in other areas, the member states began to experiment with ad hoc, intergovernmental cooperation on policies towards migrants from outside the EU, spurred on by the end of the Cold War and the arrival of large numbers of asylum-seekers.

It was not until the turbulent economic slowdowns of the mid-1970s that worried politicians began to gain political mileage by earnestly denying the reality of permanent settlement, in line with the new politics of xenophobic exclusionism that went hand-in-hand with economic recession and unemployment. During this period, European political elites began to pander to xenophobic politics – in response to their own declining legitimacy and electoral support – by proclaiming their nations to be 'zero-immigration' vis-a-vis non-EU nationals. However, by pursuing this strategy of denial, governments left themselves unable to formulate coherent strategies to deal with the existence of settled and legally resident immigrant populations, as well as

the consequences of future immigration flows (Layton-Henry 1990; Cornelius, Martin and Hollifield 1994). It was only the EU that would provide a response (albeit partial) by 2009. The first essential factor paving the way for convergence among the older member states (which by the 1970s had become permanent homes for settled labour immigrants) was the range of common humanitarian obligations faced by all labour-importing countries of northwest Europe, which blocked exclusionary attempts to limit both permanent settlement and the entry of new migrants.

Aside from the basic acceptance of guest-worker settlement, which (along with employer demand) allowed temporary labour populations to gain legal residence and avoid forced repatriation, two important humanitarian forces have fundamentally shaped EU immigration policy. These are: relatively robust adherence to international law on family reunification, which allowed colonial and guest-worker immigrants to bring family members (Joppke 1998); and adherence to the right of political asylum (Freeman 1995) in the face of international conflicts in the EU's neighbourhood.

The most important facet of immigration cooperation in the 1980s came out of a liberalising move on the economic side: the single market and its requirement of free movement, which created an irreversible linkage between immigration and the drive for a unified Europe. In 1986, the Single European Act legally codified and institutionalised Brussels' policy authority over EU member states to new levels. The Act succeeded in removing mobile EU workers from the limits of national immigration regimes and placing them firmly under the EU legal framework as elements of the single market. That move gave birth to perennial confusion as to who the 'migrant' in Europe is. It also pushed for a harmonised policy towards intra-EU movers, which does not fall under national state prerogatives. With internal movement increasingly liberalised in EU law, member states had increased incentives to cooperate on the external admission of non-EU nationals; for example, a migrant entering Italy would now face less control and restrictions in moving to the Netherlands. In this way, internal free movement policy, although it deals with EU citizens, has always had an indirect linkage with driving the harmonisation of policies towards non-EU immigrants.

Given the new spirit of internal liberalisation and accompanying institutional activity, harmonising *restrictions* on non-EU immigrants was prioritised quickly. It stemmed from the security panic over asylum-seekers in the 1990s, as dire predictions of ex-communist refugee swarms grabbed headlines across the continent (Rogers 1992; Soysal 1994; Den Boer 1995; Santel 1995; Weiner 1995; Mitchell and Russell 1996). This amplified response created a paradox for immigration policymaking, since the new security threats made cooperation more difficult, and yet more necessary. Although member states were obsessed with national sovereignty and border controls, it was also clear that the immediate goal of harmonising border controls at the EU level was crucial to the political stability of post-Cold War Europe, and hence crucial to protecting national sovereignty itself. The national interests of the (then 12) EU member states coincided quite readily on security issues, which allowed an increasingly systematic discussion of harmonisation. The intergovernmental frameworks of the time emphasised keeping national sovereignty as intact as possible through protection of borders. One example is the substantial progress made by Trevi Group in the late 1980s in cooperating on cross-national information sharing and law enforcement. Mitchell and Russell (1996) framed the paradox as follows: 'partial loss of legal sovereignty is the price that must be paid for maintaining a measure of state autonomy in the face of mounting migration' (p. 58).

Consequently, the EU's first intergovernmental organisation devoted specifically to immigration, the Ad hoc Immigration Group (AHIG), was established in 1986. The AHIG's mandate represented the ongoing obsession with security issues (Waeber 1993; Huysmans 2000) and

reflected the priority of the time: strengthening EU external borders to keep pace with the reduction of internal borders among the 12 members. The AHIG mandate covered: (1) visa policy, including a common list of countries whose nationals would require visas to enter the EU; (2) improving external border controls and evaluating implementation of internal controls; (3) aiding implementation of free movement in a security-conscious way; and (4) the harmonisation of political asylum policies, focusing on eliminating false or duplicate asylum claims (aka ‘asylum-shopping’).

Although this emphasis on control led to criticisms of ‘Fortress Europe’, a new era of cooperation was unfolding institutionally. The Commission was given a place at the table but its role was left ambiguous, merely to ‘broker’ between member states (Ugur 1995). And with such weak institutional grounding, the eventual establishment of full EU competence over the AHIG did not seem likely. Yet some were optimistic. Philip (1994) saw the creation of the AHIG as launching the harmonisation of EU migration policy and necessarily giving the central institutions (Commission, EP and ECJ) a role in this process, however limited. ‘While outwardly denying in the 1980s that there was any need for an EC-wide immigration policy, governments ... laying the foundations for just such a policy ... continued to inch their way towards an ever-closer union of their immigration policies’ (p. 174). History would vindicate this view in 2009 when the Lisbon Treaty instituted full EU competence over migration policy, with sole right of initiative for the Commission, majority voting in the Council, co-decision (veto) power for the EP and full ECJ jurisdiction.

The first concrete step towards harmonising immigration policy was the Dublin Convention on political asylum, which came out of the AHIG in 1990, and was signed by all 12 member states. The Dublin rules, which formed the foundation for today’s common EU asylum system, codified common provisions for eliminating asylum ‘abuse’ by determining which state was responsible for examining an application. By demanding that refugee claims be heard in the first signatory (‘safe’) country of arrival or transit, this enticed even reluctant members such as the UK into eventually joining most of the EU’s common asylum system, based on the Dublin Convention’s ‘safe third country’ rule and a biometric database to eliminate fraud and ‘asylum-shopping’.

Member state unwillingness to commit to increased harmonisation, given the practical shortcomings of the current ad hoc groupings, was put to the political test leading up to the 1992 Maastricht Treaty. The pre-Maastricht Intergovernmental Conference (IGC), charged with hearing proposed revisions to the Rome Treaty, provided a new forum in which supranationalists could air concerns over perceived shortcomings in the nature and extent of harmonisation thus far. The only political solution, in the eyes of the supranationalists, was the establishment of full EU competence over immigration. Accordingly, the Benelux countries, with Commission support, proposed amendments to the Rome Treaty that would bring all various intergovernmental groupings into the EU’s institutional framework. This proposal was fiercely opposed by the UK, Denmark and Ireland, who expressed clear preference for the status quo.

This intergovernmentalist opposition was incorporated into a compromise treaty by the Luxembourg Presidency at the 1991 IGC, which assuaged Eurosceptic worries by creating a split institutional framework under which immigration and law enforcement were put in a separate intergovernmental ‘pillar’ of EU law, instead of in the ‘first pillar’ of ‘normal’ EU law and institutions. Although this ‘pillar’ grouping for immigration seemed more coherent, it was still intergovernmental (and therefore not subject to Commission, EP or ECJ control). Importantly though, intra-EU mobility fell under the first pillar, together with the internal market, burying the hopes of some Eurosceptics that this category of migrants could be controlled nationally. In 1992, intra-EU movers were not perceived as a significant threat. The Maastricht Treaty sealed

the two-tier approach to non-nationals in the EU and to a large extent removed the question of EU citizens from this debate.

The Commission continued to work on its own proposals for full competence over non-EU immigration, despite apparent member state unwillingness to give up on intergovernmentalism. Part of this new attempt at cooperation was the Commission's decision to limit calls for harmonisation to the areas of control and restrictions, a familiar strategy for appeasing member state objections. In its communications, the Commission urged the ratification of the Dublin Convention, along with other measures of asylum policy harmonisation, in order to meet the widely shared goals of streamlining asylum claims and eliminating asylum abuse. It was primarily because of this renewed push by the Commission towards further harmonisation (albeit of a fundamentally restrictionist variety), that a process of further momentum was launched. The most important step in this process was the AHIG's submission of an 'Action Plan' to the 1991 European Summit in Maastricht. This Action Plan took into account the Commission's wishes by stressing the need for harmonisation across all areas of immigration policy. However, the concrete institutional impact of the Maastricht Treaty was minimal, given its limited reorganisation of immigration-related policy frameworks. The 'Luxembourg compromise' proposal finally accepted for incorporation into the Union structure featured two separate pillars for intergovernmental cooperation: one for foreign and security policy (the 'second pillar'), and another for justice and home affairs, including immigration (the 'third pillar').

What should be made of these formal and apparently substantive moves towards a limited degree of EU competence over immigration policy? At the time, optimism was rampant, in part because a new IGC would be convened in 1996, to continue working on the harmonisation objectives laid out in the treaty. This IGC completed its work with the 1997 Amsterdam Treaty, a significant step towards harmonisation, albeit more than four years after the Maastricht process was set in motion.

### **Securitised harmonisation, opt-outs and first steps to supranationalism (1997–2003)**

As Brussels successfully managed crises around enlargement, cooperation on immigration policy, internal free movement and increased restriction of migration flows, all but a few member states decided to take a step towards supranationalism, trusting Brussels with the authority to begin making binding EU law on immigration from outside the EU in the 1997 Amsterdam Treaty.

In the absence of a supranational push for migrant integration, human rights or liberalisation, the post-1992 migration agenda continued to focus upon the perceived crises around security, restrictions and the fight against illegal immigration. The fact that little harmonisation was accomplished even in these areas, however, meant that in the four years between 1993 and 1997, the pillar structure of Maastricht proved unworkable. Despite the Commission's continuing efforts to promote increased coordination and harmonisation of immigration control issues, the list of failures under the pillar structure is impressive. The most important shortcomings were: (1) the failure to ratify the External Frontiers Convention (EFC), which was held up mainly by a dispute between Spain and the UK over Gibraltar; (2) humanitarian-minded member states blocking the ratification of the Dublin Convention – wherein asylum-seekers are processed and settled in the first 'safe' country of transit – over criticism from the non-governmental organisation (NGO) sector that Dublin would mean endorsing the asylum standards of member states with weaker domestic protections and/or weaker adherence to international norms; and (3) visa policy, wherein member states could not reach agreement upon either a common 'visa list' of third countries or the format for a universal EU visa. The Commission,

exercising its competence over visa policy, prepared a list of 126 countries in need of a common visa. However, the inclusion of several Commonwealth countries predictably did not meet with the UK's approval, since this meant that citizens of former colonies could no longer receive preferential treatment from UK immigration law. Thus, once again, a final agreement was blocked by the objections of one member state. And the proposed format of the common visa suffered a similar fate when "Eurosceptics" in the British Parliament persuaded Prime Minister Major ... to delay agreement. Tory "rebels" likened the mutual recognition of visas to relaxing internal border controls – another move ... toward the "slippery slope" of ... federal Europe' (Papademetriou 1996, p. 94).

Because of the high expectations created by the Maastricht process, the subsequent failure to achieve even a minimal degree of substantive harmonisation meant renewed hope for supranationalism. All advocates of closer cooperation and harmonisation, whether arguing from pro-immigrant or restrictionist positions, came to realise that the complex institutional arrangements created by Maastricht were inadequate to the task of coherent policy harmonisation. These critiques of the pillar structure finally hit their mark at the Amsterdam Summit in 1997, when supranationalists spoke out. Although the UK (wishing to preserve the national veto in the pillar system) adamantly opposed the extension of majority voting in the Council to areas of immigration policy, this extension was a necessary requirement for further progress, especially in light of the imminent EU enlargement. Thus, the EP proposed: (1) a call for majority voting in the Council; (2) the establishment of full parliamentary review (co-decision, including veto power) for the EP, which had only been given weak powers of 'consultation' under Maastricht; and (3) the establishment of judicial review for the ECJ, which had not been granted jurisdiction over immigration-related cases under the pillar structure. At the time, these changes were seen as bringing new legitimacy into the policymaking process: the elected officials of the EP would be directly accountable to Europe's citizens for debates and voting on immigration, while Europe's NGOs would be able to lobby the EP to ensure that their perspectives were taken into account. The granting of judicial review to the ECJ was seen as providing legitimacy to the EU's policy framework by providing a neutral arbitrator to resolve disputes among member states and third parties, and a legal forum where grievances could be heard, including asylum applicants making human rights claims. This would rectify the humanitarian situation as it stood under the pillar structure, where there was no legal recourse for these cases. However, one problem for the supporters of EU competence in advancing these normative critiques against defenders of intergovernmentalism was the legitimacy-based arguments that human rights advocates have often made against Brussels. For them, national systems are often seen as friendlier and more responsive than EU-level legal remedies. Eurocrats are seen by many NGOs as elitist, operating in legal grey areas and serving the interests of national law enforcement officials. These arguments, along with Eurosceptic sovereignty-based objections, consolidated support for continuing the pillar structure. Accusations of aloofness, elitism and lack of accountability coming from both humanitarian and nationalist quarters did much to blunt arguments for full EU competence on immigration policy, delaying its arrival to 2009's Lisbon Treaty.

In June 1997, the Intergovernmental Conference was held in Amsterdam, wherein representatives of the member states and EU institutions made new harmonisation proposals to pave the way for enlargement and a 'Maastricht II' Treaty. During this conference, the Council reached full agreement on a new draft treaty, to be signed in October 1997, under which the EU's supranationalists gained a key victory: it was agreed that immigration issues would eventually be transferred from the third to the first pillar. With this step, over UK objections, supranationalist member states secured a commitment to eventual EU competence over immigration, including: (1) the right of sole initiative for the Commission to propose new laws; (2) majority

voting in the Council: (3) the right of parliamentary oversight (co-decision) for the EP; and (4) ECJ jurisdiction over immigration cases.

Furthermore, after a protracted struggle over asylum harmonisation and adequate guarantees for human rights protections at the European level, the Dublin Convention on asylum was finally ratified. This meant the EU could finally implement common standards and procedures on political asylum hearings and granting asylum status. The transfer of immigration and asylum issues to the first pillar under the new treaty promised that individual human rights would eventually be bolstered through an ECJ review of cases. It was this particular guarantee that allowed more human rights-oriented member states, such as the Netherlands, to finally withdraw their concerns.

Concurrently, after seven years of failure to resolve disputes over the EFC policy on common external borders, it was decided to incorporate the (then) institutionally separate Schengen free movement zone into the EU itself. This decision was cleared by granting opt-outs to Ireland, Denmark and the UK, consistent sceptics, who had previously blocked attempts to implement a Schengen-like situation in the EU. At the time, many debated the wisdom of this 'two-speed' or 'variable' Europe, which had not yet been tried in other policy areas such as currency (Neu-neither and Wiener 2000). Since Schengen dealt with internal free movement of EU nationals, opt-outs granted to the UK, Denmark and Ireland allowed them to selectively participate in laws on immigrants from outside the EU.

To summarise, three factors contributed to a great leap forward for supranationalism at the turn of the millennium. First, the Amsterdam Treaty incorporated the Schengen agreement (on free travel) into the EU's institutional structure. Thus, external borders became common borders, obviously lending new salience to immigration cooperation. Second, the modest cooperation already achieved on asylum (e.g. agreements over common standards on political asylum, to prevent asylum-shopping), was seen by national governments as a success, in that it allowed them to crack down on immigration at the EU level, where they were relatively free of pressure from pro-immigrant NGOs and courts (Guiraudon 2000; Lahav and Guiraudon 2000; Givens and Luedtke 2004). The ongoing crises of illegal immigration and the rising numbers of political asylum-seekers gave these issues even more pressing salience. And finally, most member states and EU officials agreed that the 'pillar' structure was relatively inefficient, given the plethora of intergovernmental groups that lacked the power to forge binding commitments (Geddes 2000).

Again, it was these factors that pushed all but the most reluctant member states (the UK, Ireland and Denmark) to rethink their opposition to EU control. Thus, the Amsterdam Treaty achieved a partial supranationalisation of immigration policy authority (Moravcsik and Nicolaidis 1999). It was agreed that five years from the Treaty's implementation in 1999, the Commission would gain sole right of initiative, the EP would gain power of co-decision, the unanimity requirement (national veto) in the Council would disappear, and decisions would be taken by majority vote. It was also agreed to give the ECJ jurisdiction over immigration, though with a special exception: only high courts could refer cases to the ECJ. Since the most sceptical member states (the UK, Denmark, Ireland) were not participants in the Schengen agreement, they were allowed to opt out of this new decision-making structure, which permitted them to drop their objections (Geddes 2000).

### **Moving towards full supranationalism with crisis on the horizon (2004–2010)**

Despite crises around economic and financial turmoil, the failure of the Constitutional Treaty, worries over 'enlargement fatigue', and a rising populist right, the 2009 Lisbon Treaty made

immigration policy a fully supranationalised realm of law, with full jurisdiction for EU institutions.

As the five-year transition period neared its end in 2004, it was overshadowed by the now-forgotten ‘Convention on the Future of Europe’ and the resulting draft ‘constitution’. Secure in the knowledge that EU control had allowed them to be ‘tough’ on immigration by passing restrictive measures (most notably various steps to reduce the number of asylum-seekers, which even the UK embraced), member states surprisingly agreed in the ‘constitution’ to further expand EU control beyond the bounds of the Amsterdam Treaty. Not only would the Commission get sole right of initiative, the EP would get co-decision, and member states would lose the national veto in the Council (as agreed at Amsterdam, after five years). The ECJ was also given full jurisdiction over immigration (any national court could request an ECJ ruling). The only full (opting-in) participant to openly express strong scepticism was Germany, which succeeded in inserting a compromise clause that member states retain control over quantitative levels of national immigrant admissions. This clause tempered the worries of countries that were opposed to EU control. The draft constitution infamously failed to pass, however, just as the five-year transition was ending (Lavenex 2006). Member state governments thus agreed in 2004 on the ‘Hague Programme’, a blueprint for future harmonisation, which laid the groundwork for immigration provisions to be included in the next round of Treaty revision. The Hague Programme was seen by many as a setback for supranationalism, in that it prevented the ECJ from having full jurisdiction over immigration (again, only national high courts could refer cases), and, more importantly, moved all areas of immigration policymaking to co-decision and majority voting except for one key area: *legal* migration. In other words, other areas of immigration policy (most notably asylum and illegal immigration) would have become normal EU policy areas (supranationalised), but control over legal migration would have remained inter-governmental (unanimity voting in the Council, no EP co-decision).

However, seemingly against all odds, the 2009 Lisbon Treaty – the last major reform of EU institutions – achieved a supranational immigration policy, with unqualified EU competence for immigration, including the ability of any national court to request an ECJ preliminary ruling on an immigration case. The UK secured opt-outs, as usual, but this did not prevent it from selectively opting in to many of the immigration and asylum control institutions as they were subsequently expanded, strengthened and given firmer legal standing; these policies allow the UK to ‘offshore’ and ‘outsource’ border controls to the EU, ensuring more difficulty for would-be asylum-seekers to reach London (Gibney 2004). However, in subsequent years the implementation of the Lisbon Treaty would coincide with grave challenges to the vision of a supranational EU immigration policy.

### **The Arab Spring and its aftermath: the ultimate test? (2011–2017)**

For a time, it seemed that the supranational vision of Monnet and Schuman had won the day – Europe showed slow, tectonic progress, federalising a controversial policy during a time of multiple crises: economic downturn, terrorism, and tensions among a growing EU. Despite increasing Euroscepticism and xenophobia, control incentives offered by EU membership made Brussels a useful border guard. However, controversies over the Arab Spring, the Brexit vote, the reintroduction of internal border controls on the continent, the rise of the far right, Euro-zone debt and violations of EU norms by countries like Hungary threatened the future viability of a harmonised EU immigration policy.

By 2015, due to the Arab Spring and the ensuing violence in Syria and elsewhere, the number of asylum applications to EU countries had grown to crisis proportions. Starting in

2012, the number of asylum applications steadily increased, ‘with 431 thousand applications in 2013, 627 thousand in 2014 and around 1.3 million in both 2015 and 2016 ... approximately double the number recorded within the EU-15 during the previous relative peak of 1992’ (Eurostat 2017). In the face of this crisis, the EU was beset with arguments over burden-sharing (with newer and geographically more exposed members demanding help from wealthier, older member states such as Germany in the north) and the imposition of temporary internal border controls in 2015 by countries such as Germany, Austria, Denmark and Sweden (which are only allowed for six months under Schengen rules). Meanwhile, the world witnessed horrific images of asylum-seeker deaths at sea and on the EU’s southern shores, and hostility towards refugees along its eastern borders.

In response to these pressures, we have seen a tug-of-war between EU responses based on human rights and rule of law, on the one hand, and EU and national responses based on restrictiveness and increased control over both European and national borders, on the other. Under this pressure, the European Asylum System and the norms of solidarity on burden-sharing and internal free movement seemed to arrive at a breaking point (Hansen and Randeria 2016; Kallius *et al.* 2016; Klaus 2015; Hatton 2017). For instance, the European Commission, alleging non-compliance with EU rules over the treatment of asylum-seekers, initiated infringement procedures against Poland, Hungary and the Czech Republic. Also, in 2017 Italy announced it would no longer serve as the primary point of entry for rescued migrants if other member states did not show more solidarity for the massive increases in numbers of arrivals at Italian ports (Bamberg *et al.* 2017). As Italy sought to relieve pressure by any means necessary, this saw the end of the longstanding intergovernmental arrangements regulating smuggling corridors in Libya and elsewhere (Paoletti 2011). Finally, the EU’s 2016 deal with Turkey – offering financial support as an inducement for refugees to stay in Turkey – has kept numbers down, alleviating some of this problem. However, questions remain about burden-sharing and human rights standards (Collett 2016; Kirişçi 2016; Rygiel *et al.* 2016; Baban *et al.* 2017). In combination with Brexit, these developments cast doubt on the viability of the EU’s migration and asylum policy, particularly given the tensions over increased fears of terrorism and the resulting increase in far-right voting (Lucassen and Lubbers 2012; Camus and Lebourg 2017), as well as the increasing securitisation of migration policy (Lazaridis 2016; d’Appolonia 2017).

Harmonisation has allowed governments to more effectively respond to voter sentiment by coordinating exclusive measures of immigration control, such as offshoring to third countries, biometric databases, border patrols and rules on asylum reception to eliminate ‘asylum-shopping’. Such exclusive EU measures have helped wealthier states keep more foreigners away than would have otherwise been possible, but this raises questions of burden-sharing with member states on the EU’s Southern and Eastern periphery, as well as with third countries lacking in human rights oversight.

One of the main research questions of this volume is the issue of European exceptionalism. European migration policy harmonisation is indeed exceptional, as it represents the first time in history that a group of democracies has pooled sovereignty to regulate the flow of persons. This puts European nations in a *sovereignty paradox* of unclear political costs and benefits, ceding *de jure* national sovereignty to a supranational entity in order to fulfil voting publics’ *de facto* protectionist wishes, collectively regulating, policing and controlling the inflow of (often unwelcome) outsiders.

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