Europeanisation of national immigration policies

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by

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under the supervision of
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Declaration of authorship

By signing this declaration, I certify that the doctoral dissertation I am submitting is entirely my own work except where otherwise indicated and that it has previously not been submitted, either wholly or in part, for a degree at this or any other institution.

_____ _____

Signature of candidate Date

“We moderns have a source of interest at our disposal, which no Greek or Roman was acquainted with, and which the *patriotic* interest does not nearly equal. This last, in general, is chiefly of importance for unripe nations; for the youth of the world. But we may excite a very different sort of interest if we represent each remarkable occurrence that happened to *men* as of importance to *man*.” (Schiller, 1824, p. 17).

Abstract

The ‘ever closer union’ motto of the 1957 Rome Treaty was indeed one of the most assertive ‘superordinate goals’ in the history of the EU. Symbolic as it may sound, a formulation of this sort was in the aftermath of a war-stricken Europe intending to promote the initial cooperation between a number of formerly hostile states to a broader audience. For immigration issues, as part of a diverse range of policy areas in the Community’s course of action to that effect, the Schengen Treaties in the 1980s served well by abolishing the traditional border controls and setting about a deeper and wider ‘area of freedom, security and justice’. The 1997 Amsterdam Treaty was quite seminal in this latter respect. Accordingly, decision-making in immigration matters was to follow progressively supranationalist principles, with the competences of the Council to be going halves with the Parliament incrementally. Aside from a certain level of harmonisation in cross-border police and judicial affairs, nevertheless, the prevailing tendency in the EU Member States’ patterns of immigration policy-making has since then been more to the precedence of intergovernmentalism than to that of supranationalism.

Perceiving this ‘back-pedalling’ to be a serious damper on the tenability of the Rome Treaty’s slogan in today’s far more crowded Union, this doctoral study aimed to investigate as its core research question the extent of ‘Europeanisation’ concerning the immigration policies of four EU members. The analysis of these cases, namely Germany, the UK, Greece and Italy, included as a matter of course their convergences/divergences in this policy field as well. The secondary question the study sought to answer by extension was in other words the similarities and differences between the selected cases’ national immigration policies.

The main hypotheses to test within this framework concerned relevance of institutional strength and public attitudes. A twofold approach was followed to operationalise this quest. First, the selected cases’ historical backgrounds, institutional structures and patterns of immigration policy-making specifically with reference to the EU/Community law were treated with a qualitative textual analysis. The findings of this examination were then substantiated quantitatively by the Migration Integration Policy Index (MIPEX) and the European Commission’s annual assessment reports, backed up occasionally with the help of recent Eurobarometer Surveys.

For a wider perspective of Europeanisation, the research was designed in compliance with the 'bottom-up' model. Having employed this model against a historical/conceptual background - where immigration, citizenship and multiculturalism constituted the three chief integral parts- and in light of data from the MIPEX and the EU Commission supplementing this framework, the study came to the conclusion that in the face of the relatively recent and rapidly expanding immigration flows, the institutional structures in Greece and Italy were not poised for effective management, which is why the two countries' immigration policies had to undergo 'transformation' vis-à-vis the EU norms/standards/regulations in this category. While transposition and implementation of the relevant EU texts ran on a certain level of scepticism in all selected cases –not least because of the negative public attitudes towards immigration- Germany's supranational commitments turned out to be more considerable than in others. Despite the strong institutional structure it possessed like Germany, the UK appeared to be a typical case for 'Euroscepticism' here. In any event, compared to that in Greece or Italy, the extent of Europeanisation in the UK, as well as in Germany, amounted to 'absorption' at most, given the latter two cases' low-to-moderate needs for policy-change and bigger regulatory capacities. Put differently, in the end, the immigration policies of Greece and Italy were throughout the selected period of analysis illustrative of a higher degree of Europeanisation than those of Germany and the UK.

Keywords: Europeanisation, supranationalisation, migration, immigration, citizenship, multiculturalism, national policies, institutional framework, EU/Community law, third-country nationals, non-EU nationals.

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List of abbreviations

AFIS Automatic Fingerprint Identification System

AIT Asylum and Immigration Tribunal (of the UK)

ARK Analysis, Research and Knowledge (of the UK)

BA Federal Employment Agency (of Germany)

BAF British Armed Forces

BAMF Federal Office for Migration and Refugees

BKA Federal Criminal Police Office (of Germany)

BMI Federal Ministry of the Interior (of Germany)

BMAS Federal Ministry of Labour and Social Affairs (of Germany)

BNA British Nationality Act

BPol Foreigners Authorities of the Federal States (of Germany)

BVA Federal Office of Administration (of Germany)

CDA Critical Discourse Analysis

CDU Christian Democratic Union (of Germany)

CEFR Common European Framework of Reference for Languages

COMPAS Centre on Migration, Policy and Society

CoS Council of the State

CRD Casework Resolution Directorate (of the UK)

CSU Christian Social Union (of Germany)

DG Directorate General

EBF External Borders Fund

EC European Commission

ECHR European Convention of Human Rights

ECtHR European Court of Human Rights

ECJ European Court of Justice

EMN European Migration Network

EMU European Monetary Union

EP European Parliament

EU European Union

EURODAC European Fingerprint Database

FDP Free Democratic Party (of Germany)

FRONTEX European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union

GSEE General Confederation of Greek Workers

GSEVEE General Federation of Professionals, Small Manufacturers and Merchants of Greece

GVG Courts Constitution Act (of Germany)

HMRC Her Majesty's Revenue and Customs (of the UK)

IMEPO Immigration Policy Institute (of Greece)

IMF International Monetary Fund

ILO International Labour Organisation

IND Immigration and Nationality Directorate

IOM International Organisation for Migration

IR International Relations

JHA Justice and Home Affairs

KKE Communist Party of Greece

LAOS Popular Orthodox Rally (of Greece)

MIPEX (Migration Policy Index)

MP Member of Parliament

NAM New Asylum Model (of the UK)

NASS National Asylum Support Service

ND New Democracy (of Greece)

NGO Non-Governmental Organisation

OAED Organisation for the Employment of the Labour Force (of Greece)

OECD Organisation for Economic Cooperation and Development

OMC Open Method of Coordination

PASOK Panhellenic Socialist Movement (of Greece)

PCI Partito Comunista Italiano

QMV Qualified Majority Voting

SCT Self-Categorisation Theory

SEA Single European Act

SEB Federation of Greek Industry

SIS Schengen Information System

SIT Social Identity Theory

SPD Social Democratic Party (of Germany)

SSAS Structured Selection Assessment System

SSCI Social Sciences Citation Index

SYRIZA Coalition of the Democratic Left (of Greece)

TCN Third-Country National

TEU Treaty of the European Union/Maastricht Treaty

TFEU Treaty on the Functioning of the European Union/Lisbon Treaty

UK United Kingdom

UKBA United Kingdom Border Agency

UN United Nations

UNHCR United Nations High Commissioner for Refugees

UNICEF United Nations Children's Fund

WW II Second World War

Introduction

Policy-making in home affairs is not a five-finger exercise. Of many complex variables defining the course of action to that effect, those concerning immigration are probably the most salient. From a European perspective, the rigours and challenges are rooted largely in the history of colonisation and industrialisation. Indeed, the legacy of this thorny past has for long been manifesting itself across a number of EU lands, with their immigrant populations originating almost entirely from former colonies and/or socially/economically/politically underdeveloped regions.

Figure 1: Basic sources and routes of migration to Europe

..... Maritime and/or ferry routes
— — Air, land and/or maritime routes

An aggregate of poor life standards, concerns about political persecution, aspirations for family reunion, better educational opportunities or job prospects have been pushing generations of people into France, the United Kingdom, Germany and the Netherlands, to name a few, if not always at their discretion. The 'magnet' periphery in western/northern Europe expanded lately to the south, when a cluster of other EU Member States such as Spain, Portugal, Italy and Greece began to draw migrants at a continually increasing rate, their quintessential 'sending' status notwithstanding. A browse through net migration patterns,

particularly over the latter half of the 20th century, provides supportive evidence in this regard:

Table 1: Post-WW II net migration in selected EU Member States (in thousands)

Country	Period of analysis								
	1958-1962	1963-1967	1968-1972	1973-1977	1978-1982	1983-1987	1988-1992	1993-1997	1998-2002
Germany	1,075	1,122	802	200	290	1,891	323	834	937
UK	143	-85	106	39	-97	99	205	499	968
Austria	20	56	101	-28	30	92	275	24	213
France	1,520	314	692	215	355	290	138	188	1,078
Netherlands	12	55	179	181	80	134	220	154	145
Sweden	80	131	19	89	30	135	156	58	142
Spain	-194	-146	97	77	-43	-68	319	796	2,829
Portugal	-548	-702	108	199	-67	-148	149	174	180
Greece	-145	-99	11	330	114	159	465	298	54
Italy	-232	-232	19	165	266	-10	153	224	1,853
EC/EU total	1,454	195	2,234	1,499	779	2,180	4,265	2,639	8,578

All values are approximate, i.e. rounded off to the nearest thousand.
Based on World Bank (2014).

This overview displays general population movements without giving hints at continuity, that is, whether or not these inflows had a temporary, transitional or permanent nature in the first place. Since arrival of 'newcomers' is problematised currently in almost all these lands for their lasting impacts, reference to long-term immigration trends is essential:

Table 2: Recent long-term immigration trends in selected Member States (in thousands)

Country	Population	Year of analysis								
		2003	2004	2005	2006	2007	2008	2009	2010	2011
Germany	82,002	769	780	707	662	681	682	346(b)	404	489
UK	61,596	431	518	496	529	527	590(b)	567	590	566
Austria	8,355	112	122	114	99	73(b)	74	69	70	82
France	64,366	:	:	:	302(b)	294	297	297	307(b)	320
Netherlands	16,486	105	94	92	101	117	144	123(b)	127	130
Sweden	9,256	64	62	65	96	99	101	102	99	96
Spain	45,828	672(b)	684	719	841	958	599(b)	393	361	371
Portugal	10,627	72(p)	58(p)	49(p)	39(p)	46(p)	30(b)	32	28	20
Greece	11,260	:	:	:	:	:	:	:	119	111
Italy	60,045	470	445	326	298	558	535(p)	443(p)	459	386
EU-27	499,433	:	:	:	:	:	:	1,731(bdp)	1,811(bdp)	1,750(bdp)

:= not available ; b= break in time series ; d= definition differs ; p= provisional
All values are approximate, i.e. rounded off to the nearest thousand.
Based on Eurostat Yearbook, 2013.

There is indeed research holding that most international migrants "fall somewhere in between, in the category of transitional…migrants who arrive on temporary visas and work permits with no intention to stay permanently" (Gill & Raiser, 2012, p. 333). The above-given figures seem to deny such arguments, though, suggesting instead that mere reference to transitional patterns cannot account for Europe's net migration statistics alone. True, there may have been idiosyncracies depending on occasional breaks of flows to destination countries, yet, as it appears, the recent rise of non-national population in Europe has been characterised to a significant extent by long-term immigration. Besides old destinations in the north, which seemingly are still magnets for migrants, countries in the EU's southern periphery have been attracting sizeable influxes –and these are not really of those coming for short-term stay- at steady rates.

A thorough inquiry into the true nature of these trends requires keeping an eye on two main dimensions of immigration. The internal dimension, as it is generally understood in the EU context, stands for movement of EU citizens from one Member State to another. The external dimension on the other hand signifies arrival of third-country nationals (TCNs) from non-EU countries. Recent inquiries observing this distinction demonstrate that the growth of immigrant population in present-day Europe is moulded predominantly by the latter dimension, i.e immigration of non-EU nationals coming from without the EU:

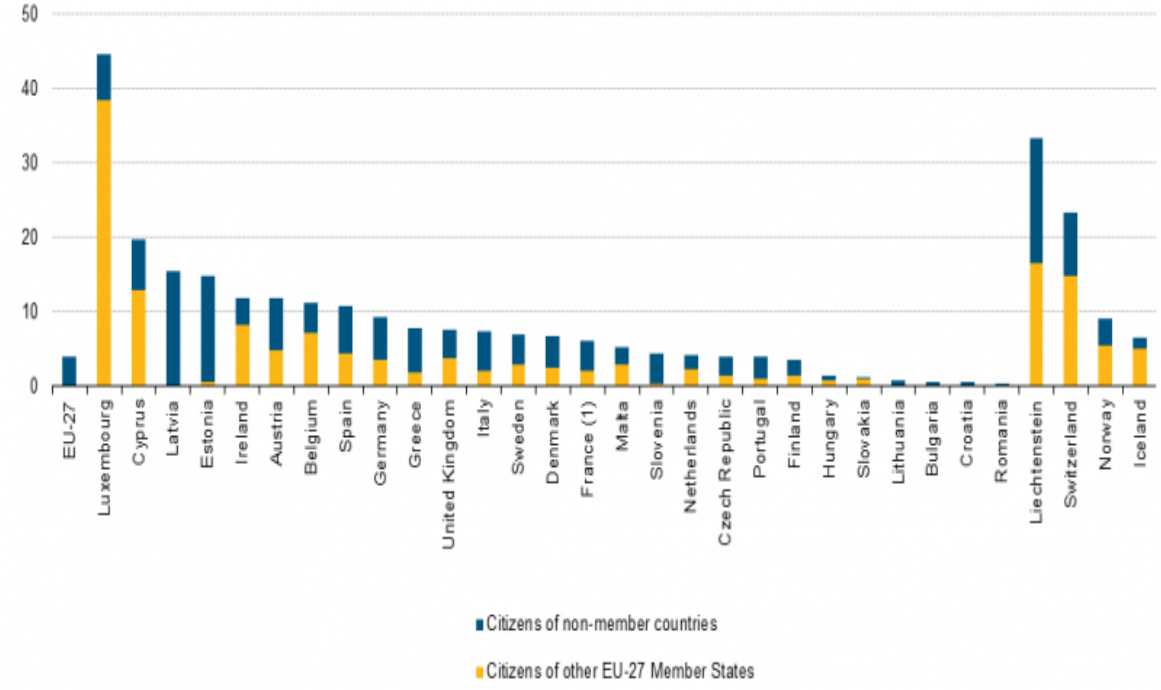
Table 3: Immigrant population in selected Member States as of 2012

Countries	Number of immigrants (1000)	Foreign nationals					
		Total		Other Member State nationals		Non-EU/TCN nationals	
		(1000)	%	(1000)	%	(1000)	%
Germany	592	504	85	299	50	205	35
UK	498	418	84	158	32	260	52
Austria	92	83	91	52	57	31	34
France	327	212	65	91	28	121	37
Netherlands	125	83	67	51	41	32	26
Sweden	103	82	80	25	25	57	55
Spain	304	273	90	100	33	172	57
Portugal	15	5	36	1	9	4	27
Greece	110	68	61	25	23	43	39
Italy	351	321	92	104	30	217	62
EU-27	1,694	:	:	:	:	:	:

: - not given
Not summing values are due to rounding and the category of 'unknown citizenship' which was not taken into consideration.
All values are approximate, i.e. rounded off to the nearest thousand/percentage.
Based on Eurostat Pocketbook, 2014.

More on this, a follow-up Eurostat publication concerning demographic trends in Europe revealed around 1.7 million long-term TCN immigrants who came from outside the Union in 2011. The number of EU citizens moving likewise for long-term stay the same year (yet at the intra-EU level, i.e. from one Member State to another) was about 1.3 million (European Commission, 2013b). Accordingly, the highest rates of 'non-nationals' (including both other EU citizens and those from non-EU countries) were estimated in Luxemburg, Cyprus and Latvia:

Figure 2: Population of non-nationals in Member States (in percentages)



(1): provisional
Source: European Commission (2013a).

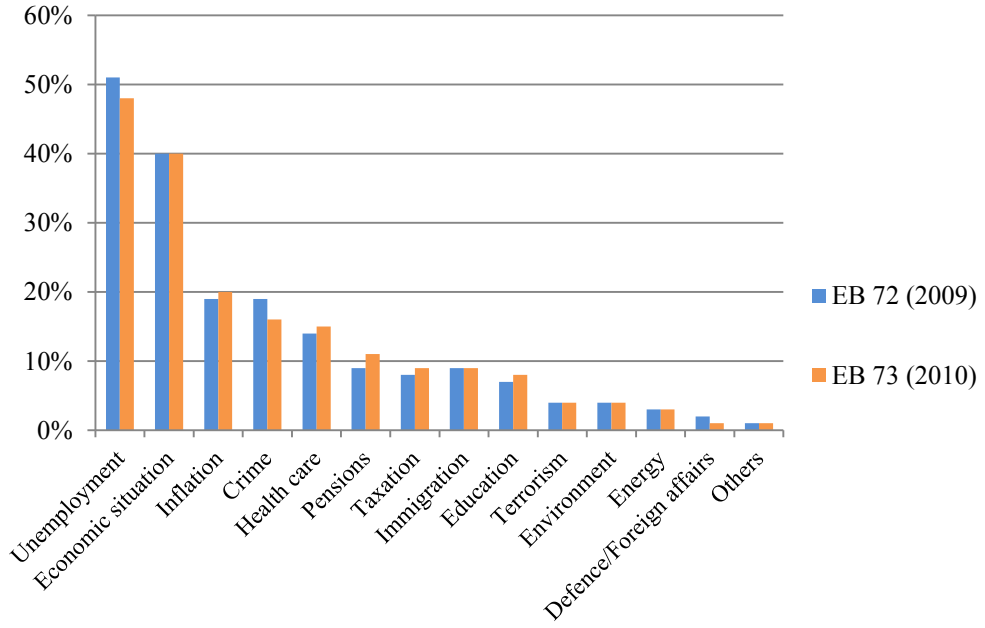
In absolute terms, however, Germany stood out with its more than 4.6 million non-EU citizens (ca. 5.7% of its entire population) on top of all Member States, followed by Italy with some 3.4 million non-EU nationals (ca. 5.5% of its population). Other eye-catching statistics came from Spain which hosted around 3.2 million non-EU nationals (some 6.9% of its population), France with 2.5 million (around 3.8% of its population) and the UK with approximately 2.4 million TCN size (ca. 3.9% of its total population). Although the number of non-EU nationals in Greece was estimated to be under 1 million, such a quantity was relative to the entire population quite high, for it amounted approximately to 7.3% and outstripped thereby those of the foregoing Member States.

0.1 Statement of the problem

Europe's popularity as a route of migration has long been comparable to that of North America[1] and there are strong signs that it will remain to be the case in the medium to long run. Nonetheless, the issue of immigration has been for the former hardly a "part and parcel of…collective memory" (Lucassen, 2005, p. 13). In the absence of a 'lieu de mémoire'as such, public attitudes towards immigration have in most European countries been generally ill-disposed with a high degree of ambivalence (Boswell, 2005). Indeed, at present, for this reason or another, immigration conjures up in the mind of an average EU citizen rather a chain of problems to be curbed than opportunities to be seized, so much so that it may at times suggest more serious an issue than for instance education, foreign affairs, defence or even terrorism does:

Figure 3: Perception of immigration as a problem in the EU (27)

What do you think are the two most important issues facing your country at the moment?



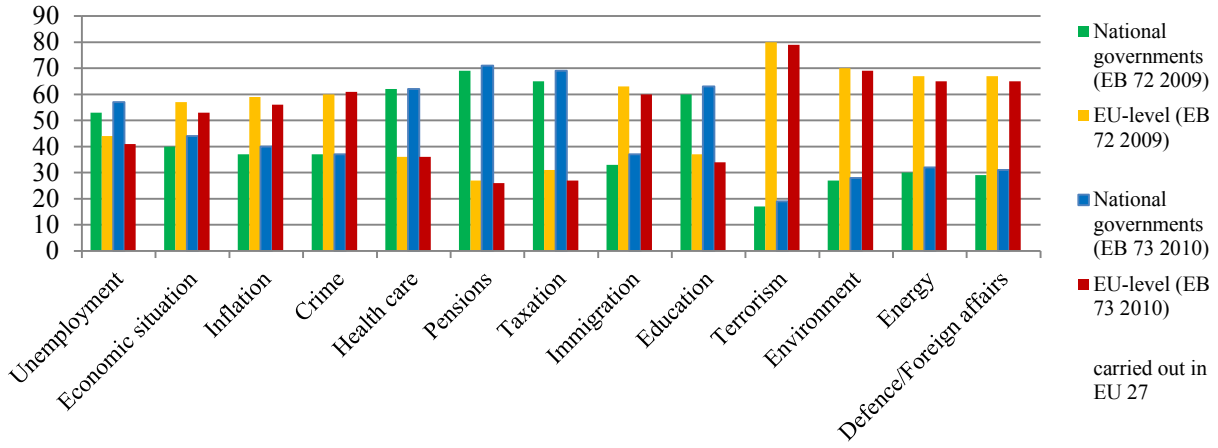
Based on Standard Eurobarometer (EB) 73.

Further to that, when asked to choose from two main levels of policy-making in this context – that is to say, whether treatment of immigration matters should be managed primarily by supranational authorities or national decion-makers- EU citizens appear to go for the former:

[1] To 2004 OECD statistics, net immigration in Europe stood just below that of the US, with an average 3 to 3,1 rate of immigrants out of 1000 inhabitants in total.

Figure 4: Preference for decision-making level in the EU Member States (in percentages)

For each of the following areas, do you think that decisions should be made by the national government, or made jointly within the European Union?



Based on Standard EB 73.

Considering long-standing commitments to a border-free internal market across EU lands, one could argue that immigration management would here be more favourable if it held a predominantly supranational character. The 1997 Amsterdam Treaty was in this sense quite expressive, insofar as a firm commitment was here made to move decision-making over national immigration policies to the EU domain. Managing immigration issues under Community competence as a key component of the Justice and Home Affairs would accordingly promote policy harmonisation across Member States. Nonetheless, the hitherto communitarisation attempts have not quite paid off in this respect (Ette & Faist, 2007, p. 13).

Against this rather fruitless background, on the face of it, this doctoral study set out to undertake a comparative analysis across Germany, the UK, Italy and Greece and shed light on the extent of 'Europeanisation' and convergences/divergences as far as their national immigration policies were concerned.

0.2 Case selection

Selection of these cases was non-random. Aside from the fact that Germany, the United Kingdom, and Italy belonged to a cluster of Member States hosting currently the highest populations of an estimated 35 million non-EU nationals in Europe today, the Greek case featured as one of the fastest growing immigrant destinations in the EU, as demonstrated recently by the OECD (2011b) and International Organisation for Migration (2013).

For all similarities in this sense, however, these cases might appear to be somewhat uneven in consideration of their unique national discourses vis-à-vis economic, political or institutional parameters. As many studies focusing on contemporary immigration in Europe revealed it, countries in the north were for instance capable of managing more effective control systems than those in the south (Finotelli & Sciortino, 2009). One must nonetheless admit that a perfect match in case selection applies to hardly any research endeavor, irrespective of the area it investigates. Structural differences between Germany, the UK, Greece and Italy were on that account not regarded as research handicaps doing harm to the validity/reliability of this study. They could on the contrary be of major service to reducing research bias, if any, to a certain extent.

Obviously, further, all these four countries represented the rather 'older' segment of Member States (the 'newer' being the last 12 EU accession countries). Such a preference was in all fairness based on the undersupply of empirical data concerning the latter in literature, regardless of the seemingly growing immigrant quotas they might be featuring in recent times.

0.3 Research model, questions and hypotheses

Research design for harmonisation of national policies in the EU has traditionally been informed by what in scholarship is commonly referred to as 'Europeanisation', drawing roughly from institutionalist assumptions that the main factor generating policy changes at the Member State level is its 'misfit' with the EU-level (Green-Cowles, Caporaso & Risse, 2001). Two main vantage points appear to count on this theoretical understanding. The 'top-down' outlook as the leadoff perspective in the field assumes that it is mainly the policy-making mechanism at the EU-level that has a decisive role in the policy changes/adaptations at the national/domestic level. The research design as seen from the 'bottom-up' angle holds the opposite point of departure. Rather than "starting from European policies (or politics) as independent variable and tracking down the consequences for domestic actors, policies, and politics, it starts and finishes at the level of domestic actor" (Radaelli, 2004, p. 4).

To enjoy a wide angle as it may require, this study opted for the latter line of thinking. The research model designed in accordance did not give credence to a vertical/uni-directional top-down understanding which generally premises that the adaptational pressures upon domestic/national policy changes have primarily an EU-origin. It aligned instead with the

bottom-up perspective which had a capacity to apprehend Europeanisation as a policy-making process starting first from the domestic/national origins to be then following both horizontal (policy-making tracks of other Member States and/or non-EU countries) and vertical (those ascending/descending to/from the EU-level) causal mechanisms.

Based on this research model, the study set out to investigate as its main research question the extent of Europeanisation in terms of the EU Member States' national immigration policies. This query had indeed capacity for asking a second research question inquiring about the way(s) in which these policies converge with/diverge from one another:

> 1. To what extent are the EU Member States' national immigration policies 'Europeanised'?
> 2. In what ways are the EU Member States' national immigration policies similar to/different from one another?

In making judgments about the extent of Europeanisation on target, a four-outcome model was consulted as a benchmark (Börzel, 1999; Green-Cowles, Caporaso & Risse, 2001; Héritier & Knill, 2001; Radaelli, 2003). The situation indicating no considerable policy change in the national domain amounted accordingly to 'inertia'. For 'retrenchment' to take place, the major condition was a negative trend by which policies in the area of immigration became eventually less 'European'. 'Absorption' on the other side suggested that the change in question was 'positive', far-reaching and came broadly as a policy response to the EU's adaptational pressure. 'Transformation', finally, was to mark more profound positive changes. Here national policy structures were taken to have seen replacement from head to toe, in conformity with the EU's norms/standards within the area of immigration.[2]

The chief hypothesis underlying the research questions considered briefly that the strength of a Member State's institutional framework concerning the area of immigration and the extent of Europeanisation in this context had a negative correlation. That is to say:

> 1. The weaker the institutional framework of immigration policies in a Member State, the bigger the amount of EU's adaptational pressures upon Member States in this field.

[2] A lengthier account of this differentiation is available in 'Phases of Europeanisation' as part of Chapter 3.

Another hypothesis which served to highlight a further dimension in research scope argued that the perceived concerns and attitudes with respect to immigrants in host societies were significantly decisive for the extent of and/or resistance against Europeanisation:

> 2. The more the public concerns holding that 'newcomers' do not fit in with the host society, the lower the extent of Europeanisation as far as Member States' immigration policies are concerned.

To test these hypotheses, a twofold procedure was operationalised. The first line of action here was that of textual analysis, employed far and wide from data collection to assessment so as to explore and delineate the selected cases' historical backgrounds, institutional structures and patterns of immigration/integration policy-making specifically in reference to the EU/Community law. Then, to substantiate these findings in statistical terms, a second line of action was brought into play in the form of numerical analysis. This undertaking concerned a series of quantitative data obtained from three main sources.

The first source of quantitative data was derived from the Migration Integration Policy Index (MIPEX), as managed by the non-profit Migration Policy Group and under the auspices of the European Commission. The core MIPEX data comprising 148 policy indicators[3] were formulated through a rich platform of scholarly contributions with the aim to benchmark the current immigration policies across 31 countries, a big majority of which were EU members. The second source of quantitative data comprised the EU Commission's regular reports, released annually on the basis of the selected cases' breach of EU law regarding immigration matters. This cross-check covered implementation of 28 binding legal texts (of directives and regulations) falling in three chief immigration areas: labour/legal immigration, irregular/illegal immigration and asylum-seeking issues. Finally, the third host of quantitative data included the Commission's Eurobarometer Surveys. These were chiefly in the form of Standard Eurobarometer opinion polls (the others being Special, Flash and Qualitative), which were carried out over around 1000 face-to-face interviews amongst the citizens of the selected cases.

While the method of research inquiry adopted in this framework was fundamentally qualitative -for it was at the end of the day primarily self-perceptions of textual interpretations rather than 'numerical signs' to be decisive in making conclusive judgments about the

[3] Attached in Appendix 2 under 'MIPEX Policy Indicators (2010)'.

selected cases' Europeanisation of immigration policies- the research consulted inevitably a series of quantitative methods -though rather indirectly by means of interviews, survey reports and opinion polls as provided by the MIPEX, the European Commission' law-monitoring and DG (Directorate General) services, respectively- to provide depth and richness to its investigation.

The use of quantitative data as a supplement was certainly meant to help reduce methodological complexity to a minimum. Still, a core issue to mention to that effect was the difficulty in identifying the net impact of the EU on national policy changes, i.e. separating the EU's influence from that of other sources elsewhere (Keohane & Milner, 1996). To cope with this challenge to a certain extent, the study turned to the bottom-up research model alongside methodological techniques like backward-mapping (Elmore, 1979) to take into account further sources of change other than the EU's adaptational pressure as well as process-tracing (Bennett & George, 1997) with the expectation that a cohesive order would by this means be established amongst all relevant findings acquired in the end. The research involved against this background a comparative policy analysis whose independent variable was in brief terms the 'goodness of fit', adding up to the EU norms/standards to be observed in terms of immigration matters. The main dependent variable comprised on the other side the policy changes/responses the EU Member States appeared to hold in this context.

0.4 Definitions

The central theme of this research is needless to say Europeanisation. While understood generally as harmonisation of national policy-making on the basis of EU norms/standards, it is hard to find a definition used congruently in scholarship when referring to Europeanisation. This divergence stems largely from varying perceptions as to national/domestic policy changes and their interaction with supranational dynamics. With that in mind, the study used

> Processes of a) construction, b) diffusion and c) institutionalization of formal and informal rules, procedures, policy paradigms, styles, 'ways of doing things' and shared beliefs and norms which are first defined and consolidated in the EU policy process and then incorporated in the logic of domestic (national and sub-national) discourse, political structures and public policies (Radaelli 2003, p. 30)

as a base with the proviso that the processes/dynamics mentioned herein should take their final form chiefly under the heel of national policy-making. A comprehensive treatment of this issue was provided in Chapter 2 as part of the conceptual framework.

With its research confines limited entirely to the EU context, the key migration terms in the study were principally based on the EU Commission's terminological databank. Accordingly, immigration referred to "the action by which a person establishes his/her usual residence in the territory of an EU State for a period that is, or is expected to be, of at least 12 months, having previously been resident in another EU State or a non-EU country". This entry is indeed an extract from Appendix 1, where a mini glossary of basic terms is presented in relation to the research field.[4]

0.5 Delimitations

Intended by immigration as the core theme in the study was almost always the extra-EU dimension. Put in other words, the research scope overlooked mobility of EU citizens between Member States to treat instead that of third-country nationals from without the borders of the Union (into the Member States) as the main focus. The research questions concerning Europeanisation and convergences/divergences of national immigration policies demanded in that sense investigation of the selected cases in terms of their third-country nationals.

The selected time-frame included in broad terms the post-World War II period in which patterns of immigration across Europe showed frequent symptoms of change. A central weight was laid here on the process following the Amsterdam Treaty's entry into force (in 1999) whereby Member States' immigration policies became officially tied to the Community Method.[5] For experimental analysis, that said, the chief emphasis was on the 2004-2012 period. This last arrangement was attached essentially with the breadth of empirical works fostering this study, i.e. those obtained from the MIPEX, the EU Commission's law monitoring system and the Eurobarometer surveys/opinion polls, whose stocks of data were in circulation essentially as of 2004.

[4] Major references used for this purpose are the e-libraries/e-resources of the European Commission, the International Labour Organisation and the United Nations' Department of Economic and Social Affairs.

[5] To create 'an area for freedom, security and justice', the Treaty of Amsterdam introduced a new title (Title IV of the EC Treaty) relating to 'visas, asylum, immigration and other policies related to free movement of persons', whereby competences in this area were shifted from the third to the first pillar.

References feeding these queries were made up of primary and secondary sources ranging from online materials to published/unpublished books, theses, interviews and other works of academic value, which were all available in hard or electronic copies and were retrievable through library catalogues and databases.

0.6 Research outline

There are five main chapters in the study. The introductory chapter presenting an overview of the research is followed by Chapter 1, which provides the methodological grounds for the research philosophy, methodology, data collection/analysis and finally research strategy. Chapter 2 lays out the conceptual framework on the basis of immigration, citizenship and multiculturalism, the latter two being the most immediate research areas to the former, as perceived by the study. The theoretical framework introduced in Chapter 3 includes initially a set of salient models in EU Studies to pave the way in the end for Europeanisation as the research's theoretical basis. The legal framework in Chapter 4 makes room for the core legal texts Member States consult at the EU level in reference to immigration matters.

As the study's chief empirical unit, Chapter 5 investigates at the outset a set of key players guiding into the present day immigration agenda in Germany, the UK, Greece and Italy. This inquiry is essentially based on immigration histories, institutional structures, principal actors involved in immigration management as well as national immigration laws and policies, with special emphasis on transposition and implementation of the EU law. Following that, the research moves on to deliver data from the MIPEX according to the seven main dimensions of immigration by which national policies concerning third-country nationals are brought under scrutiny: labour markets, family reunion, educational standards, political participation, long-term residence, access to nationality and anti-discrimination measures. This inquiry is then reinforced by analysis of infringements the four selected EU members have so far committed in reference to the EU law. Selected for this purpose are 28 EU directives and regulations whose substances cover the three main areas of immigration: labour/legal immigration, irregular/illegal immigration and asylum issues.

Finally, in the concluding chapter, the study reviews its findings to offer explicit answers/comments regarding the research questions and hypotheses posed/formulated at the very outset, before it ultimately makes a last word for future research in the field.

Chapter 1 Methodology

This chapter delineates the methodological underpinnings of the study. There is to this end first a presentation of the research philosophy, then the research design and methods, which in the last part yield to issues concerning data collection and analysis.

1.1 Research philosophy

The guiding philosophy behind this work resonates closely with critical realism. The most compelling grounds for this association spring from post-positivist principles in social sciences. Two main traditions are linked with these principles. To social constructivism, the very nature of social sciences is not apt to undertake scientific research. At odds with this position on the other side is critical realism, which holds that "knowledge is fallible and thus open to revision and replacement through empirical research" (Cruickshank, 2011, p. 4).

To critical realist ontology, 'reality' can by no means be reduced to a limited number of individual observations (Bhaskar, 1975, 1986; Archer, 2007). Its 'critical' bit accentuates the weak character of social knowledge to see to the fundamental question of whether or not social reality is exogenous to human consciousness (Cohen, Manion & Morrison, 2000) around two variants: 'reality within' and 'reality without' human comprehension. Although it does not split radically from social constructionism, which essentially cites from relativism to contend that knowledge is basically an extension to discursive power relations, critical realism refuses to detach itself categorically from positivism, while being polemical about it, to maintain that it is to a certain extent possible to constitute a positive development of knowledge (Iosifides, 2011). To find a compromise between positivists and relativists, critical realists seek to help reconstruct social phenomena by blending the positivist quest for reality - specifically through their emphasis on causal links- with a rather moderate interpretivist treatment taking reality as a social construction. Put differently, while adhering to the underlying premises of realism, critical realists are informed to a significant degree by idealism insofar as its conceptual schemes are adaptable for reality. What's more, being "a contemporary form of idealism" (Cruickshank, 2003, p. 47), critical realism does not conform to traditional dualisms like positivist-interpretivist divide but brings together quantitative and qualitative methods by freeing the former from its positivist restraints and the latter from its relativist bias.

For migration research, the most obvious and outstanding virtue of critical realism is such "critical methodological pluralism" (Danermark et al., 2002, p. 150), as it borrows from both qualitative and quantitative models to detach the social world from the natural one. Given an obvious need for interdisciplinarity in migration research, a pluralistic approach favouring a well-balanced relationship between agency and structure (Psillos, 2007) becomes more than an option. The capacity critical realism holds in taking stock of immigrants at the micro-level and bringing that together with organisational/institutional structures at the macro-level offers two main variants of causation in social events: horizontal/linear and vertical/non-linear (Archer, 1998). The key method to choose between these two variants is called 'retroduction' (Bhaskar, 1986, p. 11). It is a backward process assigning a circular reasoning in data collection, regardless of the type of investigation. This ongoing/circular process lasts until a robust formation of knowledge is achieved to understand, explain and stimulate the phenomenon (Bhaskar, 1986).

Critical realists explain reality by way of causal analysis. They are yet informed about possible risks of deviation in this respect (Miles & Huberman, 1994). While believing firmly that the course of social reality could in fact be determined by a delicate relationship between structure and agency, the researcher, to critical realists, is at no times detached from the social phenomena, for the link between 'the knower' and 'the knowledge' holds at all times an inseparable nature. On validity questions, critical realism offers an in-depth exploration of the social systems as they "are always open and usually complex and messy. Unlike some of the natural sciences, we cannot isolate out these components and examine them under controlled conditions" (Sayer, 2000, p. 19). From this perspective, an object with a diverse character is a matter of question only when social scientists rely on interactions between abstractions. A primary task of the researcher is then to track down concepts taking up new meanings, becoming part of the public discourse and changing social life in the end. Identifying the nexus of these discourses would help see that there are always limits to valid or meaningful argumentation (Waever, 2005).

The epistemological ground of the study is leveled against this background with hermeneutic phenomenology. This disposition is indeed not coincidental as the study aligns itself largely with the subjectivist strand of social thought. As a branch of phenomenology looking up to close links between 'the knowledge' and 'the knower' and for this reason necessitating

individual consciousness (Johnson & Christensen, 2007), hermeneutic phenomenology is commonly associated with the ontology of *dasein*, which Heidegger (1927; 1962) offers to explain the interdependence between 'the self' and the social world.[6] Rating these insights highly, the study acknowledges analysis of "a text from the perspective of the person who penned it" (Bryman, 2001, pp. 382-383). Seen from this perspective, social phenomena are to be taken on all occasions as capable of connecting with the researcher, not as remote entities.[7]

Subjective research, as hermeneutical phenomenology prescribes it, demands that the researcher take up a proactive position. This active role offers surely advantages for alternative ways of thinking; however, it also holds risks of 'value' bias. One way to stay clear off such dangers is adopting the 'triangulation' method, which encourages use of more than one research technique, seeing that the nature of social phenomena is best permeable when approached from a variety of angles (Pickard, 2007).

1.2 Research design

Aligning with critical realism without giving up on constructivist principles entirely has direct implications for the research design. As formerly argued, the research philosophy underlying this work renders it inappropriate to take a positivist stance amongst others in consideration of the policy-oriented issues at its core, which call for an eventual use of subjective assessment. Despite presumptions about comparative studies communicating in many instances to the positivist logic (Hopkin, 2002, p. 266), this gives in fact very little room for contextual relativity (Yin, 1994), which is how it becomes an intrinsic quality for this research.

Research design in European Studies traditionally draws on a number of 'trade-offs' including

> 'cause of effects' versus 'effects of causes' approach; concept formation versus measurement; complex notions of causation (including multiple-conjunctural causation) versus singular linear causation; omitted variables bias versus multi-collinearity…; time as a qualitative factor in politics versus time as quantity of years;

[6] Like phenomenology, the roots of which go back to Heidegger's mentor Husserl, hermeneutic phenomenology draws from the worldly life and human's everyday experiences. Of several sources of disagreement between the two, it was mainly Husserl's appreciation of the material life Heidegger sought to challenge with his thesis of 'dasein' or 'in-der-Welt-sein'. This notion was for Heidegger a way to assign meanings onto material lives. While Husserl regarded humans as 'knowers' in the first place, Heidegger considered them to be capable of 'doing things' in this world to the extent of their capacity (Jones, 1975).

[7] This proposition was held by Ricoeur, Gadamer, Giorgi and van Manen who amongst others stressed that understanding social phenomena requires coming to grips with the socio-cultural/historical contexts they are constructed in (Ray, 1994).

and mechanism-oriented research versus variable-oriented analysis (Exadaktylos & Radaelli, 2009, p. 512).

Choosing one of the six approaches outlined here has obviously to do with the type of causal analysis at hand. And yet, when the research matter is affiliated with Europeanisation, a further trade-off comes into play under a 'top-down versus bottom-up approach' (Exadaktylos & Radaelli, 2009, p. 514). To the top-down understanding, the causal analysis starts with supranational dynamics at the EU-level. The vertical flow here is believed to crop up irrespective of other possible co-actors which could also potentially change the degree of fit/misfit between the national and supranational levels (Caporaso, 2001). For critics of the top-down argument, the launch of the EMU (European Monetary Union) case is quite telling. While the EMU's foundation appears at first to be an outcome of supranational decision-making diffusing into Member States' fiscal policies incrementally, the likelihood that it could alternatively stem from neo-liberal policies at the global level would be overlooked, if seen purely from the top-down perspective. And with such a 'linear' form of causation, as the criticism goes, research would be ridden with serious fallacies and weaknesses (Saurugger, 2007).

Starting from the domestic level on the basis of "actors, ideas, problems, rules styles and outcomes…at time zero", the bottom-up model on the other hand "process-traces the system over the years and identifies the critical junctures or turning points – for example, when major ideational change takes place, or the constellation of dominant actors is altered" (Exadaktylos & Radaelli, 2009, p. 510). To measure EU-specific variables, the researcher, to this model, can use a backward-mapping technique (Elmore, 1979) in moving from the domestic level all the way 'up' by controlling time-related causal chains which are of significant empirical value for domestic change. Added to that, the bottom-up approach takes into account other possible players beyond the national and/or supranational domains. In comparing the EU's telecom and electricity policies with those of other countries, Levi-Faur (2004) concludes for instance that policy change in this sector comes largely as part of global dynamics. In that sense, awareness of a complex network of discourses and causal sequences which are capable of dominating the process of Europeanisation "is probably the only guarantee, if any (cf. Haverland, 2005), of due consideration of the European factor as one of several alternative explanations" (Vink & Graziano, 2007, p. 10). This argumentation stresses essentially the

need to extend the vertical and/or horizontal outlooks to an integrated view whereby policy-making at the national level could be seen as an outcome of domestic, supranational and international processes simultaneously.

1.3 Research method, questions, hypotheses and measurement

As for the method according to which the research matter would be investigated, the guiding principle was to follow a procedure capable of providing easy access to "meaning, process and context" (Devine, 2002, p. 199). It appeared this condition was to be fulfilled most fittingly by way of the qualitative method. To the quantitative praxis, as the other familiar tradition to which research design is traditionally carried out, the researcher follows from a positivist rationale with the assumption that 'reality' can only be achieved through a series of methodical observations and experiments (Marsh & Stoker, 1995). Yet, given that it is 'transferable' conclusions (Punch, 1998) which was eventually intended by the completion of this study, a better fit for its research design demanded a qualitative framework, for it spares more room for diversity (Devine, 1995). Such an aspiration did however not necessarily involve a categorical denial of quantitative tools. To test/verify the social phenomenon in question more compellingly, resting on for instance more than one research method (Guba & Lincoln, 1994, p.110), the study adopted further the 'triangulation' method.

Selection of the qualitative research method was intended to serve for investigation of two research questions, i.e. the extent of Europeanisation as far as the EU Member States' national immigration policies were concerned as well as similarities/differences between them in the same context. The end results to that effect were taken to be falling in one of the four major outcomes of Europeanisation: 'inertia', 'retrenchment', 'absorption' or 'transformation' (Börzel, 1999; Green-Cowles, Caporaso & Risse, 2001; Héritier & Knill, 2001; Radaelli, 2003). Accordingly, conditions corresponding to no observable policy changes in the national domain would translate into inertia. Symptoms of retrenchment would be drawn from 'negative' changes in light of immigration policies which became progressively less 'European'. In the event that this trend was 'positive', in other words, if the policy changes were observed to have aligned with the basic terms/conditions of Europeanisation, the inference would be that it was either absorption or transformation which occurred as a final outcome. While absorption would suggest that the degree of adaptation to the EU's institutional framework was of considerable value, transformation was to mark a far more

manifest outcome, so much so that national policy structures became thereby subject to comprehensive changes under the sway of the 'European' institutional framework.

Two main hypotheses were proposed to be explanatory for the investigation of research questions. The first one conjectured that there should be a negative correlation between the strength of a Member State's institutional framework and the extent of Europeanisation in the area of immigration. The second hypothesis established a further correlation between public attitudes towards immigration and the extent of Europeanisation. Accordingly, the more negative the public concerns about immigrants in a Member State were, the more marginal the degree of Europeanisation would be a matter of question on this matter. A twofold method was followed to test these hypotheses. To explore historical backgrounds, institutional structures and policy-making patterns, the chief method to serve as a template was textual analysis. Then, to support findings in accordance statistically, a second method was put to use in the form of numerical analysis. Three main sources were consulted for quantitative data here.

The first source for quantitative data was the Migration Integration Policy Index (MIPEX). This was indeed an assessment tool generated and propagated by the EU-supported and non-profit Migration Policy Group on the basis of a total of 148 indicators. These so-called 'policy indicators' (attached in Appendix 2) were formulated by a wide platform of scholars to benchmark the current immigration policies across 31 countries (many of which were part of the EU). The second source of quantitative data included the EU Commission's annual assessment reports on the selected cases violation of the EU law (in immigration matters). Examined here were 28 EU directives and regulations according to labour/legal immigration, irregular/illegal immigration and asylum-seeking issues, as the three chief areas of immigration. And finally, the last source of quantitative data covered a number of (Standard) Eurobarometer Surveys which were conducted over around 1000 face-to-face interviews amongst EU Member State citizens.

While the research made supplementary use of quantitative methods, by reference to interviews, survey reports and opinion polls as provided by the MIPEX and the European Commission, to provide depth and richness to its investigation, one needs to remember that the method of research inquiry in this framework was essentially qualitative and it was, for this reason, rather textual interpretations than 'numerical signs' to function as the key markers

for the investigated research matter. Enjoying qualitative and quantitative reasoning simultaneously helps no doubt reduce methodological complexity to a minimum. Yet, a main concern to mention here, which in fact applies to any study tackling Europeanisation as a research theme, was the challenges of singling out the net impact of the EU on the policy changes in Member States, in other words, whether or not the EU's influence was entirely separable from that of other sources (Keohane & Milner, 1996). To cope with this difficulty to a certain degree, the study adopted the bottom-up research model, alongside backward-mapping (Elmore, 1979) in search of lower/further sources of change other than the EU's adaptational pressure, as well as process-tracing (Bennett & George, 1997) to put these roots of change in a sequential order.

The cross-country analysis carried out in the research was an illustration of the case study method. Two sets of cases were chosen to this end. The first set comprised Germany and the UK, as two of the most established immigration destinations in Europe, according to the OECD statistics released lately (2011b). Added to these, a second set of cases was brought into use by way of Italy and Greece, in view of recent immigration patterns in the EU which seemed to extend over the southern periphery as well. To this comparative policy analysis, the independent variable was 'goodness of fit', i.e. the degree of compatibility between national policies/institutions and those of the EU, as far as immigration was concerned. The main dependent variable on the other side comprised the policy changes/responses the EU Member States appeared to hold in this context.

As already imparted, convergences/divergences between national immigration policies were explored here additionally through quantitative methods. Of particular relevance in this category were survey inquiries, provided for this research by the Migration Integration Policy Index (MIPEX) in the form of secondary data.

1.4 Data collection and analysis

The most common data collection techniques employed characteristically as part of qualitative methods are "(a) participating in the setting, (b) observing directly, (c) interviewing in depth, and (d) analysing documents and material culture" (Marshall & Rossman, 2006, p. 97). Given the large research scope its case selection demanded as opposed to the narrow resources and logistics held in the beginning to get this study underway, it would have yet been unfeasible to choose from one of the first three options in particular, no

matter how much they meant for the originality and cogency of the research. In the end, under existing circumstances, the remaining document/material culture analysis appeared to be the only viable choice here.

Limiting analysis of cases to four immigration lands, two from the old destinations in the north (as Germany and the UK) and two from the new in the south (Greece and Italy), is indeed illustrative of purposive sampling[8] and small-N approach[9]. While selection of cases could have well been expanded through other significant cases (such as France or Spain, where concentrations of third-country nationals rank today similarly at the top in Europe), it was believed that the original decision would be adequate to investigate the subject matter thoroughly, needless to say to the extent of their representativeness for the split between Europe's 'north' (or 'west') and 'south'. As it were, this divide is in literature often perceived to represent varying levels of institutional development in terms of the concerning countries' historical, socio-political and economic backgrounds (Finotelli & Sciortino, 2009).

Data in the form of primary sources were consulted insofar as they had connections to the institutional backgrounds of the selected cases. Common references to this end were the national laws/acts, the EC/EU Treaties, the Council's and the European Parliament's legal texts including Directives, Regulations and Decisions as well as the Commission's Communications. The bulk of secondary sources was comprised of publications from independent/non-profit organisations (for which the MIPEX was the primary source) and other academic entries most of which were registered in the Social Sciences Citation Index.

1.5 Research limitations

A major limitation for the undertaking of this work was the poor background of empirical findings. With its established theoretical principles, Europeanisation is today considered to offer a firm basis of research (Featherstone, 2003; Börzel, 2005), unlike a period of ontological uncertainty when it was regarded little more than an 'attention directing device'

[8] The qualitative approach consults chiefly "purposive sampling…to collect the data - mainly, data relating to people's judgment, preferences, priorities, and/or perceptions about a subject - and analyses it usually through sociological or anthropological research techniques" whereas the quantitative approach is known to use "random sample surveys and structured interviews to collect the data - mainly, quantifiable data - and analyses it using statistical techniques" (Carvalho & White, 1997, p. 1).

[9] Although the small-N approach might be criticised for its oversimplification of cases, there is actually no risk of bias as long as a deliberate negligence of a particular case makes no direct implications to the research findings (Dion, 1998).

(Olsen, 2002). Yet, its handling as part of the immigration context has been very rare, regardless of the fact that the latter was reportedly the EU's fastest developing policy field in the post-Amsterdam period (Monar, 2006). And even if there have been studies traversing the scope of Justice and Home Affairs (JHA), these were not necessarily of primary relevance to immigration in the first place (Kohler-Koch & Rittberger, 2006, p. 32).

Another area capable of raising similar reliability/validity questions is the generous use of secondary sources in this research. To be fair, this issue would actually be applicable to any research endeavor if it had ambitions to carry out a thorough and impartial investigation. After all, even for primary sources, there would almost always be second thoughts as to whether or not they were to have a 'soft'/'hard' nature (Moravcsik, 1998, as cited in Lieshout, Segers & van der Vleuten, 2004). In this sense, using parliamentary records or even legal documents might be misleading for reasons of their possibly distorted viewpoints, which is why they are in fact 'soft' by nature. In contrast, "internal government reports, contemporary records of confidential deliberations among key decision-makers…lengthy interviews with numerous policy makers" belong to the 'hard' category, constituting a far more reliable set of sources for research inquiry (Moravcsik, 1998, p. 82). Nonetheless, regardless of this reminder, it is important to bear in mind that this study set out by no means to pursue a positivist understanding of reliability. Of more weight here was rather 'rigorous subjectivity', 'transparency' and 'triangulation', all informed by "critical elements and wringing plausible interpretations…something one can pursue without becoming obsessed with finding the right or ultimate answer, the correct version, the Truth" (Wolcott, 1994, pp. 366-367).

Chapter 2 Conceptual framework

To map out the conceptual boundaries of immigration is not an easy task. It becomes even more so given the limited space in this work. Of many issues which may be closely affiliated with the research scope, two themes are picked out to dwell on in this chapter (aside from the leading part reserved for immigration as the central theme of the study). With its social, economic and political subtexts slanting widely towards immigration, citizenship crops up indeed to make the most adjacent connections to immigration. Added to that, as the legal/political weight of citizenship may shade topical concerns like 'diversity', multiculturalism is given here space as a third conceptual area, with the specific aim to bridge the first two themes in cultural terms.

2.1 Immigration

2.1.1 Historical and theoretical backdrop

Migration is an issue as old as the fig leaf. Driven by personal motivations, struggles to make a better living or live up to social, political and/or ideological preferences, generations of people have been on the move -whether individually or in groups, for a short interval or long- relentlessly. For all that chase in the lengthy history of migration, a relatively recent turning point is the advent of the nation-state. Indeed, understanding migration as a broader concept of immigration and emigration to describe the process of people's short or long term movement "within or across the borders of a state regardless of the form and driving forces lying behind"[10] takes as an origin essentially the construction of the nation-state. Arrival in a new land has been since then liable to border formalities, the regulation of which rests primarily upon national citizenship rights and possession of passports. Informed by this frame of reference, immigration research has adopted to date for the most part the "nation-state point of view of spatial mobility, because it is (still) the dominant conventional view of the world" (Favell, 2007, p. 271).

The earliest theoretical approaches to immigration were based on economic models. A seminal work amongst these is Ravenstein's (1889) *Laws of Migration* (Daugherty & Kammeyer, 1995). Accordingly, it is almost always material interests that drive people away

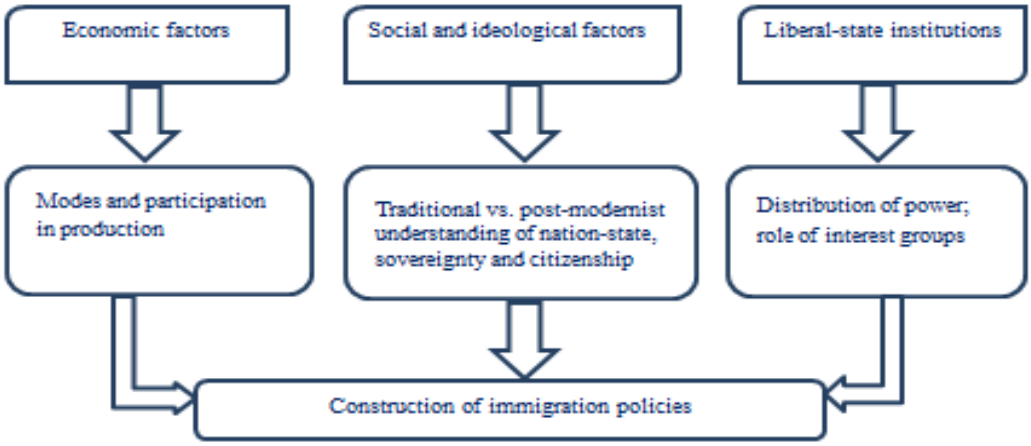
[10] European Commission, Home Affairs, e-Library, Glossary.

from their usual places of residence. Indeed, such 'push and pull' factors in pursuit of more affluent conditions came to structure investigation of most notably the early-20th century migratory movements from Europe to the United States, Canada and Australia (Lewis, 1954; Ranis & Fei, 1961; Sjaastad, 1962; Lee, 1966; Todaro, 1969; Frank, 1966; Harris & Todaro, 1970; Wallerstein, 1974, 1980; Piore, 1979; Todaro & Maruszko, 1987; Borjas, 1990; Massey et al., 1993). Central to most of these studies are subjects who "move from country A to country B and either settle for good (i.e., become 'immigrants') or move back home after reaching their economic objectives (i.e., become 'sojourners')" (Guarnizo, Portes & Haller, 2003, p. 1215).

Following economic models, studies from different disciplinary areas made contributions by centering on other aspects of migration. Sociological models looked for instance into the role of group dynamics and social structures on the basis of race, ethnicities and religion and their connection to 'assimilation' (Thomas & Zaniecki, 1918; Park & Burgess, 1921; Warner & Srole, 1945; Gordon, 1964; Alba, 1985; Alba & Nee, 1997; Faist, 2000). The field of vision these perspectives offered was then made larger by historical and geographical surveys which were taking into account the role of time and space in the first place (Stewart, 1941; Zipf, 1946; Isard, 1960; Wilson, 1981), while anthropological studies took as a goal to tackle chiefly kinship and marriage systems (Gonzalez, 1961; Graves & Graves, 1974; Kearney & Nagengast, 1989; Wilson, 1994).

The entry of political science into the scene was quite late, indeed just about a couple of decades ago, when a number of theoretical approaches emerged to have investigated the links between national sovereignty and migration (Hammar, 1985; Carens, 1987; Castles & Kosak, 1985; Freeman, 1995; Young 1996; Barbieri, 1998; Money, 1997; 1999; Hollifield, 2000; Meyers, 2000; Hondagneu-Sotelo, 2000; Zarembka, 2004; Bose, 2006). To be fair, majority of these analyses were built upon other disciplinary contributions, economics and sociology in the first place. While some underlined modes of production and participation, others compared traditional and post-modernist views of the nation-state, sovereignty and citizenship, and still others moved from the core institutions defining the liberal state to emphasize the role of interest groups and power distribution behind the making of immigration policies:

Figure 5: Immigration policy-making to political science theories



Based on Henry (2009, p. 699).

Immigration from an IR (International Relations) perspective was guided initially by the Cold War security discourse on foreign policy-making and diplomatic relations. A most relevant case in this sense was the handling of diplomatic relations between Cuba and the USA at the time, which played a critical role in shaping "the timing, size and social character" of the big migration waves almost always from the former to the latter (Mitchell, 1989, p. 682). The perception of external security threat in this period was typically military-induced, whereby immigrants added up hardly to a point of order for security debates by themselves as they appear to be doing today.

As of the 1970s, a series of world-wide developments including the political crisis in South-East Asia, the rise of military regimes in South America and the global oil crisis together with the ensuing economic setback marked the onset of a new period when flows of people from outside the territorial borders were causing great anxiety in host societies. A far more provoking development in this context was the end of the Cold War with which an increasing number of refugees fleeing from civil wars in Africa, the Balkans and the former Yugoslavia aroused further public concerns in target destinations, where immigrants held more and more a tarnished image, recalling at times even that of terrorists (Buzan, Waever & De Wilde, 1998; Meyers, 2000). Despite arguments against immigration as a separate security-agenda item, for this could risk an all-encompassing understanding of security (Walt, 1991), the

terrorist attacks in the early 2000s[11] aggravated the already tarnished perception of immigration.

An additional factor to consider in this thread was the latest EU enlargement which prompted reconsideration of immigration policies particularly in a number of economically better-off EU Member States. Linking integration issues which trod further on the heels of new accession states to the security and terrorism discourses, the heads of a few established immigration countries in Western Europe officially declared that the immigration/integration policies they had been pursuing since the 1980s failed to produce desired outcomes (Weaver, 2010).

2.1.2 Immigration in European context

Diverse as they may be, factors behind mass immigration in post-World War II Europe fall into two main and partly related patterns: economic/industrial interests and colonial legacies. The first two decades following the war saw inflows driven fundamentally by temporary guest worker schemes. In response to excessive labour demands, countries like Austria, Germany and Sweden designed and implemented a series of recruitment plans up to the early 1970s, attracting millions of newcomers, including returnees of ethnic origin who had previously been displaced by the war (Bauer, Lofstrom & Zimmermann, 2000). While labour shortages caused by booming economies applied also to France, the UK, the Netherlands or Belgium, which similarly turned to recruitment policies, the bulk of newcomers here originated from former colonies and in most cases were exempt from entry restrictions.

At the outset, most of these lands were well-prepared to provide essential resources for their immigrants. Yet, as economic prospects showed signs of downturn, most notably following the oil crisis in the early 1970s, the recruitment programmes in many lands were suspended. The ensuing period saw not only a change in the composition of immigrant population, for a considerable number returned to their countries of origin, but also in the ways immigration was viewed in host societies. Studies checking into public attitudes have come to indicate in various occasions that senses of antagonism towards immigrants have long been on the rise, regardless of where they are (Crawley, 2005).

[11] These are commonly known as the '9/11' events, caused by the airliner attacks against the World Trade Organisation and Pentagon in the USA, and the train bombings in London and Madrid in the ensuing period.

Spurred by socio-economic factors emerging dramatically in the last quarter of the 20th century, mainly as a consequence of the post-industrial changes across European societies (Betz & Immerfall, 1998), perceptions of immigrants as a threat to the host society became much greater in magnitude. A Eurobarometer survey conducted in the late 1990s revealed high levels of xenophobia in Member States, with more than 30% of the interviewees regarding themselves explicitly as racist. To the question of whether or not their country "benefits from the presence of immigrants from non-European Union countries", for instance, 48% thought it would "be better off" in the absence of immigrants (in comparison to the 1988 survey's 40%), while 12% believed their presence "makes no difference" (EB 47.1, 1997).

Public opinions featuring negative perceptions of immigration indeed called for a collective response amongst Member States. The earliest Member State cooperation on immigration matters took place as part of the global economic context in the 1970s and was largely based on an intergovernmental understanding. The 1992 Maastricht Treaty confirmed this means of cooperation by introducing the legal groundwork to the Community law and attaching it to Justice and Home Affairs (the so-called 'third pillar'). The ensuing Treaty of Amsterdam appeared to change this pattern by providing the Community with far-reaching supranational competences as far as immigration and asylum policies were concerned. The nearest Tampere Summit set out to undertake a series of multi-annual working programmes in order to fulfill the provisions and mandates decided at Amsterdam. Three such programmes have since then been put into force: the Tampere, Hague and Stockholm Programmes.[12] Regardless of the far-reaching action plans invested in these political and legal instruments, it appears today the joint handling of immigration could not go beyond intergovernmental decision-making. This verdict follows largely from Member States' deep-seated second thoughts when it comes to relinquishing power over 'sensitive' matters like immigration and foreign policy.

Regardless of this backdrop, the boundaries of a supranational level immigration policy have materialised in three core areas: labour migration, irregular migration and asylum matters.

2.1.2.1 Labour migration

Labour migration in EU terms is understood generally as the movement of persons from one state to another for the purpose of employment. The assumption concerning TCNs here is that

[12] Chapter 4 as the legal framework of the study provides more space for these.

they enter a Member State through recognised and authorised channels to work and live there in compliance with its national laws.[13] Reference to labour migration amounts in this sense almost always to legal migration.While the type of mobility here has a central role in fostering economic development in the long run and in coping with the EU's current demographic challenges, the Commission's proposals were often challenged by the Council on the grounds that each Member State had its own labour market needs (to be translated into their national laws).[14] There is in literature plenty of work addressing this reasoning. Studies focusing for instance on the UK, France and Germany appear to underscore tough competition so as to attract skilled labour from one another (Guellec & Cervantes, 2001; Wyckoff & Schaaper, 2005).

This 'race for talent' (Shachar, 2006) is in fact not restricted to the European level. It was already mentioned in a number of official occasions like the Lisbon Strategy or the Hague Council where the EU lands were called to reconsider their competition strategies in order that they could lure more skilled labour than their rivals like Japan or the USA (Papademetriou & O'Neil, 2004). More on that, an EC Communication[15] noted that varying terms and conditions applicable to the TCNs' entry, work and/or residence across the Member States would not serve for the overall interests of the Union. In this context, the 2004 Council in Brussels came up as part of the Hague Programme with a host of 'admission procedures' for labour immigrants[16], the regulation of which would be belonging to Member States individually.

This strategy inspired in essence the EU's Global Approach to Migration which as a new impetus to its external migration policy rhymed well with the formerly launched policy instruments such as the European Neighbourhood Policy. Adopted in late 2005 in the face of mass influxes of people seeking to cross into the Schengen Zone[17], the EU's Global Approach to Migration put its initial weight on migratory issues within the context of EU-Africa relations. The center of focus shifted in time towards the EU's south-eastern and eastern

[13] European Commission, Home Affairs, e-Library, Glossary.
[14] Some states seek to expand this scope further beyond their national borders so that the nationals could get ahold of further opportunities than what they readily find at the domestic labour markets.
[15] COM (2003) 336 final (not published in the Official Journal) on immigration, integration and employment.
[16] The Hague Programme (13.12.2004) Council 16054 [2004] 10.
[17] In late 2005, hundreds of African migrants stormed to Morocco's borders with the Spanish enclaves of Ceuta and Melilla (BBC News Africa, 'Africans Die in Spanish Enclave', 29 September 2005).

borders.[18] In late 2007, the EU's security agenda was expanded with a new emphasis on the promotion of democracy and the rule of law, calling on the treatment of all migration and asylum issues in one frame.[19] Or else, as it was voiced in the recently transposed Blue Card Directive, skilled labour would be scared away from Europe to other destinations.[20]

Another policy strategy by way of which the EU sought to bring this comprehensive approach into life was the import of labour via short-term/seasonal working. Signing mobility partnerships with third countries has so far been common practice within this framework.[21] In the absence of a clearly established legal basis yet purely dependent on the coordination skills of the EU, these mobility partnerships had however rather poor prospects. Seen in particular from the perspectives of third countries, the launch of such policy initiatives made serious implications for their labour markets. As it became clear with the Blue Card Directive, provisions concerning labour immigration catered essentially to the interests of business communities in destination countries, which in the countries of origin would amount to loss of human capital. With that in mind, the Commission projected later a 'win-win' offer in the form of for instance tax allowances to the countries of origin[22] which could help minimize the negative effects of brain drain. Added to that were assurances that an eventual circular migration would in the long run provide positive effects for third countries by way of remittances or extension of knowledge and experiences gathered in destination countries to the economic, social and political advantages of countries of origin. What's more, perhaps more importantly, the EU immigration law was making references to circular migration –but not mobility partnerships- as a gesture to consent TCNs' exemption from all legal actions, if they decided to return to their home lands at some point.[23]

The EU texts adopted under the heading of labour immigration so far are to a certain extent made up of short residence issues regarding students, pupils, unremunerated trainers/volunteers, scientific researchers and highly qualified workers. Yet, the largest part of

[18] Recent focus of FRONTEX on the southern borders revealed that in 2009, for instance, more than 150,000 illegal attempts were seized at the borders of the EU. Almost half of them took place in the Mediterranean and Atlantic (FRONTEX, 2009).
[19] COM (2007) 247 final.
[20] Council Directive 2009/50/EC.
[21] The EU has so far signed these agreements with Moldova, Cape Verde, Georgia, Armenia, Tunisia and Morocco. Besides the Mobility Partnerships which were established with Tunisia and Morocco in late 2011, a few more were on the way to mark the EU's interest in the recent democratisation movements across North Africa.
[22] COM (2004) 811 final.
[23] COM(2001) 127 final; Council Directive 2009/50/EC.

policy guidelines governing the extent of cooperation in this area are those regulating matters of integration, family reunion, long-term residence status and fair-treatment.[24]

2.1.2.1.1 Integration

A traditional understanding of integration suggests a one-way form of accommodation, known commonly as 'assimilation', whereby immigrants copy the norms and standards of the host societies with the aim to become similar to them (Entzinger & Biezeveld, 2003; Penninx & Martiniello, 2004). However, experience in a number of old Member States revealed that most TCNs had on that score opposite thoughts. Success in integration was to them not entirely dependent on themselves but instead on the opportunities the state would make available to all (Robinson & Reeve, 2006).

Indeed, following a Communication[25] and a Council document (14615/04), the Commission underlined in 2005 that integration referred to a "two-way process of mutual accommodation by all immigrants and residents of Member States".[26] Following a series of policy initiatives such as the 2007 European Fund for the Integration of TCNs, the 2008 European Pact on Immigration and Asylum and EU Integration Ministers' informal meetings at Potsdam and Vichy in 2007 and 2008 to discuss the reinforcement of integration policies, the 2009 Stockholm Programme[27] reiterated the role of 'mutual interaction' in integration matters to argue that success in this policy area was "the key to maximising the benefits of immigration". The 2009 Lisbon Treaty made nevertheless little room for integration matters. Article 79(4) TFEU states that the EU "may establish measures to provide incentives and support for the action of Member States with a view to promoting the integration of third-country nationals residing legally in their territories, excluding any harmonisation of the laws and regulations of the Member States". The inference to be made here is that there were from the perspective of Lisbon no legislative prospects for supranationalisation of integration legislation.

The EU's current integration framework holds three main components: a normative structure, exchange of information and funding for integration projects (Collett, 2008). The first leg is characterised by two main legal instruments: the Directives on Racial Equality and

[24] Presidency Conclusions, the Tampere Council, 15 and 16 October1999.
[25] COM (2003)336.
[26] COM(2005) 389.
[27] The Stockholm Programme, 2010/C115/01.

Employment Equality -aiming to eliminate discrimination in relation to gender, age and race- and the Common Basic Principles on Integration adopted in 2004 "to underpin a coherent framework on integration of third-country nationals".[28] The second leg of information exchange uses a number of policy instruments in keeping with the Open Method of Coordination (OMC). These are National Contact Points on Integration which meet up regularly to identify the best practices amongst Member States, handbooks and annual reports published from 2004 onwards, a European Integration Portal and a Forum to discuss and share related issues with all stakeholders across the EU and a shared platform of Social Protection and Inclusion Policies whereby Member States could efficiently emulate best policies on key social issues according to their agenda. The third component of the EU's integration framework concerns resources of funding: the Integration Fund targeting the newly arrived TCNs, the European Social Fund as part of a wider General Programme of Solidarity and Management of Migration Flows (for the prevention of social exclusion, promotion of equal opportunities and active participation in labour markets) and finally the Progress programme concerning funding of areas relating to employment, discrimination and diversity (Collett, 2008).

Though not bound by a supranational ordinance, there has in recent times been a rising trend towards language and civic tests within the broad context of integration. A twofold purpose is served through these integration tests. Accordingly, non-EU nationals become liable to a range of criteria including entry clearances, long-term residence permits, entitlement to family reunion and naturalisation, as decided by countries of destination. Added to that, integration tests serve also for immigrant selection. While most traditional immigration countries in Europe might have previously implemented similar policies as part of the requirement for TCNs' naturalisation process, the new understanding aims to formalise them country-wide (not merely at the regional level as before) and where applicable to apply them (for instance language tests) prior to newcomers' arrival, i.e. in the country of origin, already.

2.1.2.1.2 Family reunion

The Commission defines family reunion/reunification (considering the Directive 2003/86/EC) as "the entry of non-EU national's family members into and residence in a Member State by residing lawfully in that Member State in order to preserve the family unit, whether the family

[28] COM (2005) 389.

relationship arose before or after the resident's entry". Six Member States currently demand integration tests within the context of family reunion. This practice began in 2006 with the Netherlands, followed later on by France, Germany, Denmark, the UK and Austria in turn. The forms of the tests and levels of language proficiency required are in each of these countries different. The integration test of the Netherlands includes an oral interview and a society language test to be applied in the country of origin. The French version demands an additional written language test. Should these standards prove unsatisfactory, the applicant is asked to sign an integration contract pledging he/she will later attend a course designed for that purpose. The requirements in Germany and Austria are similar to those in France but exclude civic knowledge tests. The UK's chief requirement in that is an oral test to be applied in the country of origin. And finally, the Danish requirements are oral language and society tests which are held after newcomers' arrival. Except from Denmark, where the level of language proficiency cannot be below A2 level, all other five Member States demand A1 for family reunion applications.

With the exception of Denmark, all these Member States appear to require integration tests at a stage when applicants have not yet left their countries of origin. The same countries, except for the Netherlands this time, exempt refugees and the mentally disabled from these tests (Strik et al., 2010). Sanctions for failing the tests differ from one Member State to the other. While the Netherlands, Germany, the UK and Austria grant in such cases no entry clearance for the applicant, France delays family reunification for the same reason up to two months. However, if an applicant fails to meet relevant terms and conditions upon signing the French integration contract, the social benefits provided by the state could be terminated, renewal of residence permits declined, leading to expulsion from France in the end (Carrera, 2009, p. 332).

2.1.2.1.3 Long-term residence

The definition of long-term residence status in Member States is laid down by Council Directive 2003/109/EC.[29] According to Article 4(1), granting long-term residence to a TCN suggests providing him/her with legal residence upon his/her legal and continuous residence "within its territory for five years immediately prior to the submission of the relevant application". For its acquisition, Article 5(1) assigns Member States to check evidence for

[29] Council Directive 2003/109/EC.

(a) stable and regular resources which are sufficient to maintain himself/herself and the members of his/her family, without recourse to the social assistance system of the Member State concerned. Member States shall evaluate these resources by reference to their nature and regularity and may take into account the level of minimum wages and pensions prior to the application for long-term resident status;
(b) sickness insurance in respect of all risks normally covered for his/her own nationals in the Member State concerned.

Additionally, as Article 5(2) points out, this person may be required "to comply with integration conditions, in accordance with national law". If, however, there is a concern about "public policy or public security", depending on its "severity or type of offence […] or the danger that emanates from the person concerned" as well as "duration of residence and… existence of links with the country of residence", the Member State in concern reserves the right to deny application for long-term status (Article 6(1)).

Of particular notice in this context is the distribution of TCNs enjoying long-term status in Europe. About eighty percent of such people live in three Member States, i.e. Estonia, Austria, and Czech Republic. The number of people who have to date been able to acquire this status in Germany and France constitute less than one percent of the total sum.[30] These percentages were confirmed at the 2010 Ministerial Conference on Integration referring to barriers before TCNs' access to long-term residence and calling upon incorporation of TCNs' "integration issues in a comprehensive way in all relevant policy fields."[31]

Currently, fourteen Member States require integration tests as a condition for issuing long-term residence permits: Austria, Belgium, the Czech Republic, Denmark, Estonia, France, Germany, Italy, Latvia, Lithuania, the Netherlands, Portugal, Romania and the UK. While the language tests are essential for long-term residence permits in all these lands, the type of tests (oral or written) and proficiency levels required may be different. The language levels vary from A1 (the Czech Republic and France) and A2 (Austria, Latvia and the Netherlands) to B1 (Denmark, Estonia, Germany and the UK). Meanwhile, Denmark makes an exception by offering an option to choose between B1 level Danish and A2 Danish plus B1 level English.[32]

[30] European Commission (2011c).
[31] European Ministerial Conference on Integration. Zaragoza, 15 and 16 April 2010. Draft Declaration.
[32] The language test is based on the Common European Framework of Reference for Languages (CEFR), which classifies learners into three major divisions and six levels- A Basic User: A1 Breakthrough or beginner; A2 Waystage or elementary; B Independent User: B1 Threshold or intermediate; B2 Vantage or upper intermediate; C Proficient User: C1 Effective Operational Proficiency or advanced; C2 Mastery or proficiency.

For civic tests, new Member States such as the Czech Republic, Estonia, Latvia, Lithuania and Romania do not impose special requirements for the purpose of long- term residence permits. On the other side are a number of old EU members with long immigration histories like the Netherlands, Belgium, Denmark, France, Germany and the UK who require for long-term residence permits not only a minimum level of civic knowledge and/or language proficiency but also attendance to orientation courses.[33]

2.1.2.1.4 Fair treatment of third-country nationals

A closely relevant matter that occupies a central place within the context of labour immigration is TCNs' fair treatment. The issue came indeed as part of a commitment at the 1999 Tampere Council to provide non-nationals holding legal residence with rights and obligations comparable to those of Member State nationals. Accordingly, non-nationals with legal long-term status would have similar residence, education and employment rights (to those enjoyed by nationals) as well as obligations which were defined by the laws of the Member State they lived in. Such nationals, as the Tampere Council added further, could also enjoy at their discretion "the opportunity to obtain the nationality of the Member State in which they are resident."[34] It was to this end stressed that Member States needed to take all relevant measures against racism, discrimination and xenophobia for instance by learning from the best practices amongst themselves and cooperating with the Council of Europe and the European Monitoring Centre on Racism and Xenophobia. The Commission was asked for this purpose to submit a proposal on the implementation of Article 13 of the EC Treaty.[35] More on that, the Council requested that Member States consider the economic and demographic developments both across the Union and in the countries of origin and harmonise their national laws in relation to the conditions and characteristics of TCNs they hosted. Put differently, emphasis was laid here not only on Member States' reception capacities but also on historical and cultural links with sending countries.

[33] The contents and application of these courses may differ from one Member State to the other. Belgium's integration course applies for instance only to the Flemish Regions. In the Netherlands, it is at the discretion of municipalities to oblige TCNs to attend an integration course.
[34] Presidency Conclusions, the Tampere Council.
[35] With Amsterdam Treaty, the new Article 13 EC Treaty expanded the scope of Article 12 (formerly Article 6) which had come to authorise the EC to take action against discrimination in terms of "sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation" with an attachment to prohibition on the grounds of nationality.

The 2004 Brussels Council reaffirmed these commitments within the framework of Common Basic Principles on Integration and noted: "if immigrants are to be allowed to participate fully within the host society, they must be treated equally and fairly and be protected from discrimination."[36] A more recent reference to this issue was made in the 2009 Stockholm Programme which saw fair treatment as part of the EU's 'proactive' arrangements for immigrants and their rights. Like its predecessors, Tampere and the Hague, the Stockholm Programme emphasised the need for the EU to guarantee fair treatment of TCNs with legal residence. As formerly declared at Tampere and the Hague, the issue of fair treatment was attached to a 'vigorous' integration policy to ensure "rights and obligations comparable to those of citizens of the Union. This should remain an objective of a common immigration policy and should be implemented as soon as possible, and no later than 2014".[37] And finally, according to Article 79(1) TFEU (ex Article 63(3) and (4) TEC) of the 2009 Lisbon Treaty, the construction of a common immigration policy would ensure "at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings."[38]

The only supranational legal measure affecting the fair treatment category in this context is the Council Directive on TCNs' long-term residence (2003/109/EC). Laying out the necessary conditions for conferring and withdrawing the status for long-term residence, the Directive clarifies the basic rights non-EU nationals hold in this context, one of which is their fair treatment in host societies.

2.1.2.2 Irregular migration

To International Labour Organisation (ILO), irregular migration is "movement of a person to a new place of residence or transit using irregular or illegal means, without valid documents or carrying false documents"[39]. For the EU, the Directive 2008/115/EC defines an irregular migrant as "a non-EU national present on the territory of a Schengen State who does not

[36] Presidency Draft Conclusions, the Brussels Council, 18 November 2004.
[37] The Stockholm Programme (2010/C115/01), p.30.
[38] Consolidated Version of the Treaty on the Functioning of the European Union. 9 May 2008.
[39] International Labour Organisation, Bureau of Library and Information Services, ILO Thesaurus.

fulfil, or no longer fulfils the conditions of entry as set out in the Schengen Borders Code (Regulation 562/2006), or other conditions of entry, stay or residence in an EU State."[40]

To most recent statistics, the average number of people entering the EU zone each year by illegal or irregular means is more than half a million (European Commission, 2009; European Commission, 2011b). The EU's legal documents treating this issue in a binding way include a crowded set of directives and regulations.[41] To combat irregular channels of immigration, the Tampere and Hague Programmes initiated a soft-law instrument putting emphasis on partnership with the countries and regions of origin and transit. The Presidency Conclusions of the Tampere Council noted for instance that the EU was in need of "a comprehensive approach to migration addressing political, human rights and development issues in countries and regions of origin and transit". This approach aimed essentially at "combating poverty, improving living conditions and job opportunities, preventing conflicts and consolidating democratic states and ensuring respect for human rights, in particular rights of minorities, women and children". By the same token, the Hague Programme pointed out that an efficient management of migration flows involved "greater cooperation with third countries in all fields" [42] which required the EU to support third countries with "existing Community Funds where appropriate, in their efforts to improve their capacity for migration management" so that they could amongst others "build border control capacity…and tackle the problem of return".

Despite this common agenda, the EU's priorities in taking action against irregular immigration were not uniform. Following Kosovo events which provoked mass influxes of displaced persons, the Tampere Council made in that respect special reference to asylum-seeking as voiced earlier with the 1990 Dublin Convention.[43] The Hague Programme extended the coverage area to illegal immigration particularly in consideration of the EU's expansion of borders with the latest enlargement. At the Hague, one of the ten priority areas was developing an 'integrated management of the Union's external borders' which actually would serve for the purposes of free movement of persons (as stimulated by Schengen's

[40] Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals.
[41] A detailed account of these directives is given in Chapter 4.
[42] The Hague Programme, 'Ten priorities for the next five years'.
[43] Signed in 1990, the Dublin Convention came into force in 1997 to restrict the transit of asylum-seekers within the EU up to their preference. The idea behind this limitation was the assumption that asylum-seeking concerned principally a matter of international protection. The Convention was replaced in 2003 by the Dublin Regulation (or Dublin II Regulation) with the aim to speed up asylum seeking procedure (Council Regulation No 343/2003).

removal of internal border controls). Besides its emphasis on a common visa policy (which would operate through a joint visa information system and a European consular service to be developed in future), the Hague Programme saw to the establishment of the FRONTEX and the introduction of a biometric system to monitor TCNs' arrival/departure more efficiently. To the same end in this framework, the EU would also start sea-patrolling across the Mediterranean.

To provide financial coverage for these commitments specifically in the Schengen Area, the Council adopted a Decision in 2007 establishing the External Borders Fund (EBF) for 2007-2013 period, with a total €1820 million budget as part of the general programme "solidarity and management of migration flows."[44] With that, there would now be more space for the EU's general dialogue with the main sending/transit countries in Africa and Eastern Europe. While the EU aimed by this means to develop initiatives for a joint administration of surveillance and patrolling in the short run, the plan for the long-term was to help create jobs by way of development aids in these countries and make migration a less attractive option. Considering a series of political transformation waves sweeping across North Africa since the end of 2010, the Commission's latest Communication on 'dialogue for migration, mobility and security with the southern Mediterranean countries' for instance reported that "The EU stands ready to continue supporting all its Southern neighbours who are willing to commit to democracy, human rights, good governance and rule of law, and to enter into Partnerships with those countries to achieve concrete progress for the people."[45]

On the issue of human trafficking, the Tampere Council had previously voiced its determination to deal with economic exploitation of migrants at its source. To this end, a common policy framework would have to be developed in relation to visas and false documents, "including closer co-operation between EU consulates in third countries and, where necessary, the establishment of common EU visa issuing offices."[46] To impose sanctions against human traffickers, a set of legislative measures with an emphasis on the fragility of children and women would need to be introduced. For cooperation in the area of border control, and all applicant states wishing to share responsibility were invited to work closely with Europol and Member States by way of a number of policy instruments like

[44] Decision (EC) No 574/2007.
[45] COM (2011) 292 final.
[46] European Council (1999), Presidency Conclusions, Tampere Council.

technology transfer and exchange programmes to be applied particularly within the scope of maritime affairs.

Much in the same vein, to ensure a sustainable policy approach in addressing the problem of illegal migration, the EU developed a policy of voluntary return with respect to the Charter of Fundamental Rights. For reasons of limited Member State capacity, cooperation in this area was by this way being taken beyond the EU to involve sending and transit countries within the decision-making process. Following the 1999 Tampere Council which called for "assistance to countries of origin and transit to be developed in order to promote voluntary return", the 2000 Nice and 2001 Laeken Summits made further references to the prevention of illegal migration.

With the recent rise of 'unfounded' claims for asylum in mind, a number of commitments were made to introduce amongst others the 2003 Reception Conditions Directive 'laying down minimum standards for the reception of asylum-seekers'[47], the 2003 Dublin Regulation (Dublin II) assigning one single Member State to be accountable for processing asylum application[48], the 2005 Asylum Procedures Directive[49] urging Member States to give priority to the asylum procedure and the European Refugee Fund which would provide financial resources for the common asylum policy. As a further step in this framework, the Regulation 'establishing a programme for financial and technical assistance to third countries in the areas of migration and asylum'[50] was adopted. The main aim the EU held by this means was "to give specific and complementary financial and technical aid to third countries in order to support their efforts to improve the management of migratory flows in all their dimensions."[51]

As the EU Member States changed their national laws in pursuit of stricter measures for asylum, the issue of 'voluntary return' became gradually a controlling instrument. The Hague programme for instance stressed that

> Migrants who do not or no longer have the right to stay legally in the EU must return on a voluntary or, if necessary, compulsory basis. The European Council calls for the establishment of an effective removal and repatriation policy based on common

[47] European Council Directive 2003/9/EC.
[48] European Council Regulation (EC) No 343/2003.
[49] European Council Directive 2005/85/EC (Asylum Procedures Directive).
[50] Regulation (EC) No 491/2004.
[51] Regulation (EC) No 491/2004.

> standards for persons to be returned in a humane manner and with full respect for their human rights and dignity.[52]

Another major policy developed in fighting against illegal immigration includes Readmission Agreements. With Amsterdam's transfer of competences to the Community Method, the Commission became in charge of negotiating these agreements with the sending and transit countries on behalf of the Union.[53] While the Council was not willing to lose the upper hand at this point and moved to take them as a means to the facilitation of forced removals (as well as the use of the Return Fund), negotiations on that score were characterised by the EU's commitments to human rights, as proclaimed for instance under the 1951 Geneva Convention. In this context, extradition/expulsion of an immigrant regardless of the illegal status (s)he may hold would not be readily authorised so long as there were risks of death penalty, torture or any other inhumane conditions in the country of origin.

To sum up, the EU's policies concerning illegal immigration and human trafficking have so far served for three major goals. These are combatting problems at their sources, making illegal immigration as less attractive as it may get and returning immigrants with illegal status to their countries of origin (or transit countries).

2.1.2.3 Asylum

According to European Migration Network (EMN), which works as part of the Commission's DG Home Affairs, asylum suggests a "form of protection given by a State, on its territory, based on the principle of non-refoulement and internationally or nationally recognised refugee rights (e.g. access to employment, social welfare and health care)" (European Migration Network, 2012a). In more precise terms, this protection is granted to someone (asylum seeker) "who is unable or unwilling to seek protection in his/her country of citizenship and/or residence, in particular, for fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion." (European Migration Network, 2012a).

[52] The Hague Programme, 2005/C 53/01.

[53] The first round of agreements was signed in 2004 with Hong Kong, Macao and Morocco. This was followed in 2005 with Albania, Sri Lanka, in 2007 with Bosnia and Herzegovina, FYR of Macedonia, Montenegro, Moldova, Russia, Serbia and Ukraine, in 2010 with Pakistan, and in 2011 with Georgia. Negotiations are open with a number of countries like China and Algeria since 2002, Turkey since 2005 and with Cape Verde since 2009.

While perception of asylum on the basis of non-refoulement[54] could be tracked down to Ancient Greece and the Roman Empire (Lavenex, 1999), its formalisation followed largely from the massive refugee problem of the 1930s, which was caused essentially by Nazism/Fascism at the time. Although the purchase of these ideologies ceased to a minimum in the post-War era, the ensuing hostile climate of the Cold War urged the UN to establish an agency, i.e. UNHCR (United Nations High Commissioner for Refugees), which would be committed to providing humanitarian support for displaced and stateless persons. Soon after its establishment, the UNHCR made a major move to institutionalize a world-wide asylum system by ushering into the adoption of the Status of Refugees as part of the Geneva Convention in 1951.

The scope of asylum-seeking in the EU case applies only to non-EU nationals and stateless persons. To Council Directive 2003/9/EC, any such person is regarded as an asylum seeker unless (s)he asks for a different type of protection. There is however a string attached to this clause noting that the final decision concerning his/her application is to be taken at a later time.[55] There are in Member States a number of legal arrangements concerning this status. A most important one aside from national laws is the Charter of Fundamental Rights of the European Union which enshrines a wide array of social, economic and political rights not only for EU citizens but also for TCNs in Member States. While the drafting and proclamation of the Charter date back to 2000, it did not have a significant legal effect until becoming a part of the 2009 Lisbon Treaty. According to Article 18 of the Charter, "The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention and Protocol relating to the status of refugees and in accordance with the Treaty on European Union and the Treaty on the Functioning of the European Union". In essence, this provision hinted at other legal instruments such as the Geneva Convention and EC/EU Treaties upon which the legal content of the Charter was actually built.

The competences granted to the Community over asylum matters were previously defined under Article 63(1) and (2) EC Treaty. Accordingly, the Council would adopt

[54] The 1951 Geneva Convention's Article 33 formulates non-refoulement to ban the contracting states from expelling or returning "a refugee in any manner whatsoever to the frontiers or territories where his life or freedom would be threatened on account of his race, religion, nationality, membership or a particular social group or political opinion".
[55] Council Directive 2003/9/EC.

> 1. measures on asylum, in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and other relevant treaties, within the following areas:
> (a) criteria and mechanisms for determining which Member State is responsible for considering an application for asylum submitted by a national of a third-country in one of the Member States;
> (b) minimum standards on the reception of asylum-seekers in Member States;
> (c) minimum standards with respect to the qualification of nationals of third countries as refugees;
> (d) minimum standards on procedures in Member States for granting or withdrawing refugee status;
> 2. measures on refugees and displaced persons within the following areas:
> (a) minimum standards for giving temporary protection to displaced persons from thirdcountries who cannot return to their country of origin and for persons who otherwise need international protection;
> (b) promoting a balance of effort between Member States in receiving and bearing the consequences of receiving refugees and displaced persons

As it seemed, the EU legislation concerning asylum was here limited largely to setting 'minimum standards', which made no direct implications for adopting an overarching asylum system for the entire Union. A commitment to this latter end came with the 1999 Tampere Council where a 'Common European Asylum System' was envisaged in quest of expanding the 'minimum' coverage of protection for asylum-seekers. With Regulation 343/2003, in consequence, the Dublin Convention was replaced with 'Dublin II' setting rules on the procedures and responsibilities applying to the undertaking of asylum application in Member States. A series of directives and regulations were adopted in this period. These were most importantly Council Directives 2001/55/EC[56], 2003/9/EC[57], 2004/83/EC[58] and 2005/85/EC[59] as well as Regulations (EC) 343/2003[60] and (EC) 439/2010[61].

The primary EU law defining the current state of asylum issues in the EU is the Treaty of Lisbon. According to Article 78(1) TFEU

[56] Council Directive 2001/55/EC on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof.
[57] Council Directive 2003/9/EC on laying down minimum standards for the reception of asylum seekers.
[58] Council Directive 2004/83/EC on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.
[59] Council Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status.
[60] Regulation (EC) 343/2003 defining the criteria and mechanisms on the determination of the Member State responsible in asylum applications.
[61] Regulation (EC) 439/2010 establishing a European Asylum Support Office.

> The Union shall develop a common policy on asylum, subsidiary protection and temporary protection with a view to offering appropriate status to any third-country national requiring international protection and ensuring compliance with the principle of non-refoulement. This policy must be in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees, and other relevant treaties.

2.2 Citizenship

Citizenship at its very core serves as "the basic building block of political power. It conflates the right to reside and move about within a given territory and the obligation to defend these very same rights" (Mitra, 2012, p. 1). Although this understanding is not new to fuel academic debates, it is very much so when it comes to policy-making in the EU (Zapata-Barrero, 2009). Since the foundation of the EU, many Member States have gradually aligned with citizenship-based policy approaches, with the hope to relieve amongst others immigration-guided social and political tensions.

It goes without saying that immigration is today fairly instrumental to structure/give impetus to the EU's growth in economic terms. This was underscored in many policy documents from the 'Lisbon Strategy' to 'Europe 2020' within the context of securing "a prosperous, fair and environmentally sustainable future for all citizens."[62] While labour import serves significantly for this purpose, particularly in view of the well-known ageing population and pension costs across Member States[63], policy plans for citizenship has provided minimal space for 'newcomers'. As Bosniak (2008) puts it, this omission is informed largely by concerns about a coherent and unified political community, which in the absence of formal distinction between citizens and aliens could be at risk of termination.

Discussing citizenship in a broader spectrum, on the basis of global disparities in educational, social or economic opportunities, Shachar (2009, p.21) highlights in *The Birthright Lottery* that a great majority of the people living in severe poverty conditions are citizens of countries in Southeast Asia and sub-Saharan Africa. Bringing this together with arguments on a supranational framework of citizenship in Europe, Joppke (2010b) asks: "If citizenship in the comfort zone matters more than ever, why this nervous attempt, especially in Europe, to

[62] European Commission, Education and Training (2010). Focus: From the Lisbon Strategy to 'Europe 2020'.
[63] European Commission, Economic and Financial Affairs (2009). European Economy News: 'The clock is ticking…Ageing and the long-term sustainability of public finances'.

upgrade something the priceless worth of which is beyond doubt?" (p. 13). At stake here are obviously the implications of newcomers for nationality norms/regulations in host societies.

Pfetsch (2012) compares in this context the concerning 'legal modalities' of Germany, Spain, France and United Kingdom. While almost all these Member States were formerly quite open to welcoming foreigners, the regulations and laws adopted in recent years became highly restrictive in view of the changing values, historical, economic or demographic conditions (Pfetsch, 2012, pp. 123-126). The recent ratification of nationality/citizenship laws in these countries, particularly with respect to EU texts such as 2004/38/EC[64], demonstrates an obvious disposition towards differentiation as much as harmonisation of immigration. Following from this observation, one could today argue that citizenship across EU lands is closely related to the concept of exclusion for it suggests almost always dividing lines between the 'hosts' and 'aliens'.

In fact, the issue of exclusion concerns fundamentally "the substance of citizenship (what citizenship is)…its domain or location (where citizenship takes place), and…the class of citizenship's subjects (who is a citizen)" (Bosniak, 2008, p. 17). Scholars treat these fairly overlapping criteria often within the framework of political membership (Walzer, 1989) and common society (Barbalet, 1988; Held, 1995). This treatment becomes however quite complicated in the absence of agreement on where the weight should be laid. While some scholars contend that citizenship should be suggesting on top of everything legal links "between individual and polity; for others, it signifies active engagement in the life of the community. For some, it is largely a matter of individual justice, while for others still, it implicates pressing questions of collective identity" (Bosniak, 2000, p. 455). To sort these varying interpretations, Kymlicka & Norman (1994) offer classification under 'citizenship-as-rights', 'citizenship-as-activity', and 'citizenship-as-identity'. At its core, this categorisation reflects the main dimensions of citizenship: legal status/acquisition of rights, political participation and identity (Cohen, 1999; Carens, 2000; Kymlicka & Norman, 2000).

2.2.1 Citizenship as legal status

It would be fair to argue that no discussion on citizenship would today be meaningful in the absence of a legal framework. As it is most commonly acknowledged, "a citizen is someone

[64] European Parliament and Council Directive on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.

who possesses rights…denied in a legally stratified or segmented society to non-citizens and in all societies to resident aliens and foreigners" (Heater, 2004, p. 252). Bauböck (1994) names this provision 'nominal citizenship' whereby the state grants legal status to individuals by presenting a collection of rights in return for a set of obligations (for instance tax payment) they are bound to meet.

A chief contribution made to the study of citizenship on the basis of rights came from Marshall (1950) who designed a theoretical model in light of industrialisation and democratisation. Accordingly, the whole story starts with the industrialisation process which gradually led to the rise and expansion of 'civil rights' such as property protection or freedom of conscience. These civil rights formed in time the basis of democracy and political rights including the right to vote or freedom of speech, paving all the way to the emergence of 'social rights', for instance access to welfare state funds or the right to establish labour unions. While Marshall's proposal is key to bringing together the 'republican' and 'liberal' interpretations of citizenship, the launch of welfare state model rendered it lately somewhat ineffective. With that, the political rights turned to hold in most liberal democracies no more a prerequisite value for social rights.[65]

Besides Marshall's sociological understanding of citizenship, contributions came in more recent times from political theorists such as Judith Shklar (1991) and Rogers Smith (1998), who sought to explain the 'rights' dimension in the face of citizenship's exclusionary nature. For Shklar, in particular, citizenship refers to societal 'standing' which often works on a subordination logic denying the officially declared equal rights for individuals. Though inspired by differing national backgrounds and disciplines –the English history for Marshall's sociological model as opposed to the American national context for Shklar's political approach- Marshall and Shklar appeared to share a liberal-democratic perspective to address "the full and equal enjoyment by individuals of formal recognition and rights" (Bosniak, 2000, p. 465).

The locus of citizenship was until the second half of the 20th century widely regarded as the nation-state. While nation-states have hardly ever lost control over the distribution of rights,

[65] Many countries in Europe and Northern America allow non-citizens to vote in local or regional elections (Aleinikoff & Klusmeyer, 2002). Another recent development countering Marshall's historical account is freedom to choose EP representatives, which is no more restricted to voting in the country (Member State) of origin.

the post-World War II era saw the progressive rise of a human rights regime claiming an alternative source of rights. So much so that, the gradual transcendence of nation-states' jurisdiction encouraged some to come to the conclusion that for social rights including welfare benefits, health coverage or education, citizenship has lost its significance, at least for the EU (Sassen, 1996), where a new overarching model was already launched under the banner of 'European citizenship'. Soysal (1994) attributes this new notion to the recent rise of post-nationalism, which was informed largely by universal human rights. Further to the human rights discourse which cast doubts on the supremacy of the nation-state model, immigration and globalisation made significant implications most notably for sovereignty, territory and citizenry (Sassen, 2006; Benhabib, 2007).

The immigration bit of this argument meets the issue of democratic rights in Western liberal states. Benhabib (2001) for instance argues that these states exhibit a 'paradox of democratic legitimacy' by limiting citizenship to nationals despite the universal discourse of human rights and democracy. The issue of democratic legitimacy is in fact reminiscent of Rawls (1971) who with his 'differential principle' (arguing for a 'primordial' type of equality/the 'original position') suggests that inequalities are acceptable as long as they serve for the interests of 'the least disadvantaged' in the society (p. 83). The question this formulation poses relates indeed very much to where immigrants are positioned in the social hierarchy of host societies.

Rawls' Westphalian perception of citizenship has found criticism specifically in 'post-nationalist' discourses. Inspired by the political and social implications of globalisation and a number of groundbreaking projections like European citizenship, post-nationalism has come to offer a new understanding of citizenship whereby the rights that have traditionally been conferred onto citizens could now be accessible to non-citizens (Bauböck, 1994). In accordance, the role of the nation-states in deciding who should be regarded as members of a collective community is to be replaced with universal values such as human rights defining who deserves being part of that community. The idea addresses essentially a sort of 'cosmopolitan democracy' (Held, 1995) seeking to resolve the tension between human rights and legitimacy issues on the grounds of a catch-all conceptual paradigm. Fitting to this perspective is Kant's oft-revisited concept of 'cosmopolitan citizenship' and a world-wide legal order (Falk, 1995; Linklater, 1998) both of which have a fundamental purpose to transfer the balance of weight from national to international law (Habermas, 2006). Evidence comes here from the European Court of Human Rights and International Courts and Tribunals

which –with their supremacy over national codes of law- have for long been treating their subjects as cosmopolitan citizens in the first place.

Habermas (1987; 1992) has also presented a set of universal norms onto Rawls' conception of societal justice. Through a concept of 'constitutional patriotism' on the basis of Sternberger's (1990) '*Verfassungspatriotismus*', a shared sense of values has here been vouched brushing aside common histories or ethnic origins, as it is the case in 'Rawlsian' perception of justice. Accordingly, immigrants' major duty in a democratic constitutional state is no more than "the willingness to enter into the political culture of their new homeland, without having to give up the cultural form of life of their origins by doing so" (Habermas, 1994, p. 139). This is actually indicative of an all-embracing conception of citizenship seeking ways to escape "from the danger of segmentation—from the exclusion of alien subcultures and from a separatist disintegration into unrelated subcultures" (Habermas, 1994, p. 139).

The growth of interest in cosmopolitan citizenship has offered significant implications for immigration. It has promised in particular to enlarge the rights which were formerly truncated by the Westphalian system through 'translocal' or 'transnational' communities (Basch, Schiller & Blanc, 1993; Appadurai, 1996; Mandaville, 1999) so as to make sure immigrants could offset geographical distances between sending and receiving countries by for instance social and cultural means (Guarnizo & Smith, 1998). Such arguments have however prompted a split in scholarship between two wings of authors: those of 'control' vs. scholars commited to 'morality' (Bloemraad, 2000, p. 18).

To the 'control' wing, Brubaker's (1992) thesis regarding citizenship as "a powerful instrument of social closure" (p. 23) justifies criticising those who condemn "the nation-state to the dustbin of history" (p. 189). As state sovereignty is still central to the international system (Schuck, 1998), it is accordingly "far too early to dismiss the relevance of the nation-state and national citizenship" (Howard, 2006, p. 445). This objection rests largely on the observation that third-country nationals continue to face far-reaching restrictions (of rights and benefits) in the host societies they are part of. The familiar 'citizen vs. non-citizen' divide persists, above all, in political rights like voting and running for office. This is also the case for local elections in many EU lands, let alone national suffrage, during which non-citizens are denied voting rights irrespective of their permanent residence or long-time working status (Aleinikof & Klusmeyer, 2002; Bauböck, 2006; Groenendijk, 2008). Added to that, non-

citizens are in many lands still stripped of social rights such as welfare programmes which nationals could enjoy (Dell'Olio, 2005). Further, employers in public sectors across a number of Member States still select workers on the basis of their national citizenship (Mouritsen, 2009).

As for the 'morality' aspect of the debate, the issue at stake relates largely to the normative limits of state sovereignty. Contrary to those like Hailbronner (1989; 2000; 2006) who defends that citizenship is in essence a political decision of the states which for this reason could not be used as a policy-making tool on the basis of moral grounds, others like Carens (1989; 2005) argue that no matter how much legal freedom they possess, states do not have a similar moral freedom at their disposal to deprive immigrants of the rights that the nationals enjoy. This is not least because the former are already active "members of the state through their life and work in a country" (Bloemraad, 2000, p. 19).

Despite the fact that sixteen Member States currently allow local voting rights for non-citizens at varying levels, the type of rights that appears to be limited by citizenship still relates to political life. There is increasing pressure to extend political rights to non-citizens considering their contribution to states' economies, be that through labour or in the form of taxes. Some like Cesarini & Fullbrook (1996, p. 214) remember in this context as far back as the Magna Carta's 'no taxation without representation' principle which was vowing to ensure 'fairness' and 'return' in reference to basic rights (as cited in Bloemraad, 2000). Although immigrants have here a number of options to influence policy-making by way of for instance engagement with trade unions (Vranken, 1990; Penninx & Roosblad, 2000; Wrench, 2004), such alternative means have so far been far from offering effective tools due to absence of far-reaching voting rights at the national level.

2.2.1.1 Naturalisation

The very idea of citizenship concerns keeping individuals within the political boundaries of a state apparatus. As the size of immigrants rose all around in time, this calculation became challenged by questions particularly on the legal relationship between nationals and newcomers. A most practical solution to such challenges could be acquisition of the host country's citizenship through naturalisation. However, cross-national analyses indicate varying applications in this context. A common reference used in scholarship in this connection is Brubaker's (1990) comparative study which came to underscore discrepancies

in conceptualising citizenship between the leading countries of the EU. While for instance French citizenship accorded with the *jus soli* principle prescribing birthplace as the primary point of reference and reflecting therewith an understanding of territorial community for whom nationhood was "state-centered, universalist, and assimilationist, constituted by political unity but expressed through the pursuit of cultural unity", the German version hinged on the principle of *jus sanguinis* regulating acquisition of citizenship rights according to the community of descent (or the basis of nationhood), which essentially was "ethnoculturalist and Volk-centered" (Williams, 1995, p.146).[66]

There are currently 22 Member States requiring applicants for citizenship to be examined by way of integration tests, as a major condition for naturalisation.[67] For the language component of these tests, Denmark demands the highest proficiency level -with a score of B2- which is followed by Finland, Germany and Latvia asking for B1 to that effect. Apart from Bulgaria, the Czech Republic, Finland, Luxembourg, Malta, Poland and Slovenia, all other countries in this cluster demand as a condition for citizenship a satisfactory test result concerning 'knowledge of the society'. Some countries like Austria, Greece, Romania and Slovakia do not specify clear-cut benchmarks but instead require a 'basic', 'sufficient', 'good' or 'general' level of language/civic knowledge, respectively. In any case, these integration tests are in most Member States obligatory and constitute the final stage of the integration process (Groenendijk, 2004; Besselink, 2009).

If seen as "sanction-oriented" (Kostakopoulou, 2010, p. 8), such requirements make the impression of a unidirectional practice (Bagameri, 2011, p. 3) denying the Commission's emphasis on a two-way process of integration.[68] At this point, Carrera et al. (2011) refer to the "legally binding nature of the EU Charter of Fundamental Rights" suggesting it could be an

[66] Germany changed its traditional perspective in 2000 by switching to a conditional form of *jus soli*. Similar to models for instance in Ireland and the UK, acquisition of citizenship here became dependent largely on parents' legal status or length of residence permit. In Belgium, France, the Netherlands or Spain, on the other side, citizenship is acquired on the condition that minimum one parent was born in the country. One could in this context also refer to the practices in Belgium, Finland, France, Italy, the Netherlands, and the UK, where citizenship is not acquired automatically at birth but is granted at the discretion of parents or at the age of majority (Bauböck, 2008, p. 7.). This picture appears to be somewhat in disparity with that in traditional immigration countries like the US, Canada and Australia, where citizenship by descent works solely for the children of expatriates.

[67] These are currently Austria, Bulgaria, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, and the UK.

[68] COM (2003) 336.

effective tool to ensure socio-economic rights applicable "to 'everyone' (and not to nationals of the EU member states only)" (p. 7).

Theoretically speaking, naturalisation is a process through which a non-national becomes a full member of a national community by acquiring the citizenship of the nation-state in concern. While this transformation holds in its essence a legal purpose, some argue that there is actually nothing 'natural' about it (Goodman, 2010, p. 3). In accordance, while naturalisation starts with the application of a person hoping to qualify for the intended state's citizenship, the outcome of this process is open and by no means taken for granted, as it is for instance in the case of the *ex lege* procedure where the applicant does not have to make an application but is by birth, marriage or upon becoming an adult automatically 'naturalised' (OECD, 2011a, p. 25).

While the status of dual citizenship may emerge as a recipe to sort out such concerns, there is no consensus about it. Despite the fact that traditional immigration lands like the USA and Canada formulated such arrangements to meet the demands of their multiculturalist societies (Spiro, 2010), there is tendency amongst the EU Member States to buck the trend and change national laws to deter dual citizenship. Following a civic reform introducing a complementary use of *jus sanguinis* with *jus soli* recently, Germany for instance allows now holding one passport (except for cases relating to other EU Member State citizens). In a similar vein, France requires at present its would-be citizens to sign a charter called *Charte de Drois et des Devoirs du Citoyen Francais* as a verification of their consent, suggesting the civic rights gained therewith would be taken away if they happened to claim an additional citizenship on French soil.[69] More on that, although dual citizenship is legally acknowledged in the Netherlands, the Dutch government has recently proposed a new law with the aim to introduce certain limitations within the context of integration (Bevelander & Veenman (2006, p. 5).

Indeed, such procedures have for some time been a key component of the EU Member States' integration policies to make financial cuts and lower the social burden of integrating TCNs to their societies (Guild, Groenendijk & Carrera, 2009). To some, what appears to lie additionally behind these policy initiatives is the will to make selections amongst third-

[69] France TV Info, 'Une charte de droits et de devoirs pour devenir français'. 15 November 2011.

country nationals and keep the number of new incomers at a minimum (Joppke, 2007). It is for instance officially declared in Austria that the number of applications for naturalisation could be reduced by this means (Perchinig, 2010). Official statements in Member States like Denmark, Finland, Greece and Germany argue at this point that those with immigration backgrounds would in this way be not only familiarised with the major values and norms in the societies but also become far more self-supporting (de Groot, Kuipers & Weber, 2009; Fagerlund & Brander, 2010; Christopoulos, 2010). Nevertheless, given that these persons adopt through naturalisation both national and European forms of citizenship, a number of economically better-off Member States such as France and Germany have voiced their concerns for they would probably become the final destinations -via 'burden sharing'- should other EU Member States carry on providing easier access to citizenship than themselves (Lahav & Guiraudon, 2006).

2.2.2 Citizenship as political participation

While it becomes clear against this backdrop that legal status is integral to the political culture, it may fall short in defining citizenship alone. As a most traditional means to being part of the political community, political practice -as it is understood in the Western world- dates back to more than two thousand years ago. Historical surveys into citizenship begin commonly with the Ancient Greek states where participation in political life was reduced to citizens only. What Aristotle declared in *The Politics* –as one of the first treatises on citizenship- through "the man who is a citizen in a democracy is often not one in an oligarchy" (McKeon, 1941, pp. 1274b-1275a) was indeed indicative of citizens' role for a self-governing society at the time. Nonetheless, one should remember that freedom and equality amongst citizens in early Athens did not secure their participation in state affairs because the latter was arranged first and foremost on the basis of wealth and/or social status.

Regardless of its handicaps, the Athenian model of governance found broad purchase during the heyday of the Roman Empire. This was a time when a new conception of legal status, as St. Augustine of Hippo formulated it, outdid the political one to make a twofold definition of citizenship: one belonging to the earthly 'City of Man' and the other exclusive to the celestial 'City of God' (Arthur, 2008). Accordingly, the ultimate goal of individuals was denouncement of materialistic ambitions during their residence in the earthly cities of Rome, Babylon or alike for entitlement to future citizenship in the heavenly world (Perreau-Saussine, 2009). As it were, the early Roman approach to citizenship was the individual's warrant to

enjoy the temporary protection of rulers for whom participation was important to the extent it served for the ultimate purpose of a celestial form of citizenship. In this sense, the Athenian understanding of "the citizen as a political being" changed into the Roman perception of "the citizen as a legal being, existing in a world of persons, actions and things regulated by law" (Pocock, 1995, p. 34). When, however, the Roman Empire fell into the feudal lordships of medieval ages, citizenship's participatory role lost its significance. Machiavelli's *Discourses on Livy* came out towards the end of this period calling on search for a new 'self-rule' participation mechanism without, all the same, abandoning loyalty to the political community (Paul, Miller & Paul, 2006).

In a post-Reformation world following long religious struggles at the heart of Europe, a new political system prevailed as a response to the changing relationship between the rulers and the ruled. With the foundation of parliamentary sovereignty, the substance of citizenship began to extend political membership to a larger societal segment. Locke's *The Second Treatise of Government* voiced this inclusion by tying individual liberties to collective sovereignty. In that, Locke was actually not critical of concession to monarchy, but was campaigning for individual rights at a minimum level of participation. Rousseau criticised this conception of *citoyens* (citizens) later in his modern treatise, *On the Social Contract,* where he argued that citizenship was not only about obtaining legal status but instead "a way of life that required commitment to the common good and active participation in public affairs" (Dagger, 1997, p. 99), as for instance it was the case in Ancient Athens. Rousseau's classical republican criticism of the Lockean account of citizenship was also a challenge to the theoretical premises of Hobbes, Montesquieu, Hume and Smith, who sowed the seeds of liberalism in political theory by emphasising private ownership and community responsibility, provided it is for 'the good of the state'.

In *The Philosophy of Right,* considered besides *On the Social Contract* the other important modern treatise on citizenship, Hegel argued that citizenship in the modern state cannot simply hold an unwavering commitment to civic virtues as in antiquity (Soeharno, 2009). The role of legitimacy, as the argument went, had to be emphasised for a rightful membership in the modern liberal state. While the theoretical premises of this liberal viewpoint appeared to deny the republican tradition, there was room for civic virtues. A similar perspective was held by a number of nineteenth-century liberals such as Tocqueville and Mill who were committed to improving the civic principles of liberalism by way of 'effective' government control

(Keohane, 2002). In the end, both the republican and liberal traditions of citizenship sought to assign a self-governing role to citizens, albeit with varying degrees, binding them together by loyalty and affiliation.

Despite a much longer history at its roots, citizenship as political practice is linked predominantly to the rise of the nation-state. The more popular sovereignty individuals achieved through the nation-state, the firmer grip they got ahold of as to public affairs. They became by this means holders of "passive and active membership", which the nation-state topped up "with universalistic rights and obligations at a specified level of equality" (Janoski & Gran, 2002, p.13). The passive rights of sharing a legal system and active rights of political participation made way for membership to the state as a political organisation. Central to this understanding was the French Revolution's 'fraternity-equality' formulation, suggesting equal treatment to all on the basis of their attachment to the state. This vision did however not embrace non-nationals for they were not yet allowed to enjoy the rights nationals did. From this perspective, the nation-state had an exclusionary function in detaching 'hosts' from 'aliens'.

In more recent times, civic republicanism and participatory democracy made a comeback to stress the participation of citizens in political life. Following most prominently Hannah Arendt who argued "politics is something that needs a worldly location and can only happen in a public space, then if one is not present in such a space one is simply not engaged in politics" (qtd. in Canovan, 1974, p. 635), a number of contributors in the second half of the 20th century like Pateman (1970), Held (1987), Beiner (1992), Mouffe (1992) and Sandel (1996) stressed the role of political participation for its encouragement of civil relations and solidarity amongst citizens. In fact, following J.S. Mills, several liberals including T.H. Green and L.T. Hobhouse also underscored the role of political participation in democracy. By contrast, republicans and participatory democrats subscribed rather to normative values. Beiner (1992) for instance puts it quite explicitly by regarding citizenship as "active membership in a political community where the very fact of such membership empowers those included in it to contribute to the shaping of a shared collective destiny" (p. 105).

Next to their renewed emphasis on 'collectivity', addressing in particular the political community of the territorial nation-state (Walzer, 1992), an increasing number of dissenting voices, informed by the republican ideals to bring community members together or

transnational forms of political organisation to be taking place at multiple levels (Smith, 1994), rose to invoke alternatives such as 'local' forms of citizenship at the urban level (Magnusson, 1990, 2000; Isin, 2000). This latter line of thinking was indeed largely informed by the proliferation of transnational political movements such as grassroots activities, NGOs and human rights regimes, which longed for a global hold of citizenship (Falk, 1995). Such formulations were however disputed on the grounds that "citizenship can only be meaningfully practised within a distinct institutional context, that of the *political* community - a formal, organised, territorially-based community with some degree of sovereign self-governance" (Bosniak, 2000, p. 475, emphasis original). As there existed, accordingly, no established global polity, the likelihood of citizenship beyond the nation-state would be one of a fiction. In response to this state-oriented reflection on citizenship, a number of arguments were advanced to argue that the practice of citizenship were now exceeding the traditional norms, with their effects becoming visible for instance in the area of social movements (Bartlett, 2007), economy (Sennett, 2003), workplace (Lawrence, 2004) or in the family (Lister, 2001; Hindman, 2007).

It seemed in the end a new area of scholarship began to focus on a transnational form of civil society and its links with citizenship (Sassen, 2009, p. 236). Central to their interest was the new political organisation which was characterised by recent social, economic and political developments exceeding nation-states, ranging from the environmental context to that of human rights, and more specifically to the rights concerning workers or women (Guarnizo & Smith, 1998; Bonilla et al., 1998; Skevic, 2005; Merry, 2006).

2.2.3 Citizenship as identity

> Well me for example I do feel like being in between…I feel as neither nor a foreigner…or or well I don't know…sometimes when I am among Austrian girls…then I do feel like a foreigner…whereas I am not a I don't know I am not a pure foreigner I was only born here…and that is why I only know life as it is here…and I do not know what it's like over there that is why when I go there I feel myself somehow different. (Krzyzanowski & Wodak, 2007, p.1).

Being "endemic to the human condition" (Rosamond, 1997, p. 98), identity serves as the affective template for citizenship. It is 'felt' in all aspects of life, making an impression that the functions of citizenship in leading to societal organisation are actually based on identity in the first place. For common ties and membership in a political polity, however, such a

replacement does not always work. In essence, identity is about recognising feelings of attachment between individuals, whereas citizenship concerns attachment to a polity. It is in this sense through citizenship identity becomes a political concept (Delanty, 1996).

For a vast array of themes falling in its scope, in other words, identity is probably the least straightforward of all citizenship dimensions. Its conceptualisation covers a broad spectrum including personality, gender, social memberships, group characteristics, prejudices, intergroup conflicts, nationality or even cosmos (Bosniak, 2000). Yet, while these concepts may in all their relevance tell something about 'identity', they surely suggest different things. This point, that is, the fact that the very nature of 'identity' is fluid and unsettled finds widespread recognition in social science research. What Locke imparted in *An Essay Concerning Human Understanding* more than three centuries ago under 'Idea of identity suited to the idea it is applied to' (Nidditch, 1975, p. 203) was an early reference to its semantic ambiguity, which in modern times became gradually a substitute for 'difference' (Crosby, 1992) and a source of many theoretical insights for the analysis of race, ethnicity, nationality, gender, sexuality and culture (Taylor, 1989; Balibar & Wallerstein, 1991; Connolly, 1991; Kymlicka, 1995; Miller, 1995). Research in Comparative Politics has for instance come to tie it predominantly to nationalism and ethnic conflicts (Gellner, 1983; Giddens, 1984; Hobsbawm, 1990; Billig, 1995; Calhoun, 1997). The major focus of International Relations has often been the identity of states providing material for constructivist critiques of (neo-) realism and (neo-) liberalism (Kratochwil & Ruggie, 1986; Wendt, 1992; Katzenstein, 1996; Checkel, 1998). And with a familiar problematique at its very heart, EU Studies dedicate ample space to the issue of 'collective identity' in Europe (Inglehart, 1970; Duchesne & Frognier, 1995; Kohli, 2000; Wintle, 2000; Risse, 2001; Castells, 2002; Bruter, 2003; Delanty, 2003; Checkel & Katzenstein, 2009).

When all these various disciplinary foci are brought together, identity "tends to mean too much (when understood in a strong sense), too little (when understood in a weak sense), or nothing at all (because of its sheer ambiguity)" (Brubaker & Cooper, 2000, p. 1). For that reason, Simon (2004) reminds at this point that "the search for the essence of identity as a 'thing', say, in the form of a physiological or hard-wired mental structure would then be a futile effort" (p. 3). Since such an endeavour will probably end up with an 'analytic fiction', what remains for the social scientist is rather "viewing identities as mediators between the inputs we receive from the social world and our subsequent interactions with that world"

(McKinlay & McVittie, 2011, p. 6). This complexity stems from the affective quality of identity, which comes from internal abstractions in the form of emotions or senses of belonging. A fairly simple 'who am I?' self-query is in this connection capable of inflaming the 'self-other' conceptual divide when reformulated as 'am I who you are?'. As this dialectic makes affective elements inconceivable if detached from the exterior of the 'self' concept, the subject of identity becomes a principal concern for psychology and sociology.

Placing human behaviour at the center of his inquiry, one can approach identity issues from two main angles. The first and rather 'self-oriented' one offers views largely in psychological terms to focus on the complexity of internal processes at the personal level. The sociological premises the second approach draws from on the other side promises to extend this reach beyond personal/self aspects.

Inspired by discourses considering identity as a dynamic and inter-subjective construct (Lacan, 1977), psychological approaches have dedicated themselves to the introduction of foundational terms like 'identity searching', 'identity crisis', 'self-concept' and 'self-esteem'. The distinction Erikson (1950) makes between the 'ego identity' (representing the sense of 'continuity' a person's core being signifies) and the 'group identity' (marking the sense of 'discontinuity' the same person holds due to a multitude of social roles he/she is engaged in throughout a lifetime) corroborates this undertaking. Unlike psychologists, sociologists have associated identities with differentiated/complex social structures. To illustrate, contrary to Tajfel and Turner, who in their psychological models known as social identity theory (SIT) and the self-categorization theory (SCT) focus respectively on individuals' socio-cognitive processes, Stryker (1989) ignores in his sociological approach the role of internal processes such as 'cognition' or 'personality' to establish a straight link between individuals and groups in terms of social experiences (Kelleher & Leavey, 2004). Inspired by Hogg, Terry & White (1995), sociologists Stets & Burke (2000) highlight on the other hand commonalities between the two disciplinary perspectives and call for an integrated approach. The main argument put forth here is that all identities benefit from the same logic of 'self-verification process' (which concerns affirmation of self-meanings in relevant contexts), regardless of the fact that they rest upon different bases of persons or groups.

The explanatory frameworks drawn from psychology and sociology denote in the end two basic types of identity. There is on one side personal identity emphasising uniqueness of the

individual. Underscored on the other side is the same individual's membership to a group through social identity. As an individual is normally identified with a multitude of social memberships, reference to social identity comes usually in a plural form, i.e. 'social identities'. It is nevertheless possible to come across a third type of identity in literature as in the form of 'collective identity' which, based on the former two variants, makes a difference with the sense of agency it fosters amongst individuals. What comes as a consequence of this collective agency is generally thought to include a comparative "shared sense of 'one-ness' or 'we-ness' anchored in real or imagined shared attributes and experiences" vis-à-vis 'others' (Snow, 2001, p. 2). In rough terms, it is indeed this embedded 'collective action' in citizenship that brings the identity component to the fore, in coming to terms amongst others with diversity and belonging issues.

Studies tackling identity issues within the context of citizenship have recently been on the rise (Soysal, 2000; Kymlicka, 2002; Krzyzanowski & Wodak, 2007; Delanty, Jones & Wodak, 2007). Despite various thoughts emerging here as to how citizenship rights should be distributed, there is consensus on what matters to immigrants' identity in the first place. As it were, these are most importantly the formal citizenship the state confers on 'newcomers', the time spent and experiences accumulated in the host country and the extent of harmony between the new and the old cultures.

A most debated 'differentiated citizenship' in this context concerning whether rights should be equally shared between minority and majority groups (Young, 1989; 1990) is indeed informed by arguments suggesting it is actually social and civic rights that would lead to optimal cohesion in a political community (Kymlicka & Norman, 1994; 2000). Bearing in mind that such a multiculturalist reading has the potential to challenge the traditional understanding of citizenship –that identification with the state through a sense of compatriotism would be adequate to generate an overarching collective identity at the national level- a further school of thoughts came to argue that the nation-state is no more "the only game in town as far as translocal loyalties are concerned" (Appedurai, 1996, p. 165). There is in this context a burgeoning literature of transnational civil society (Keane, 1988; Cohen, 1995; Ehrenberg, 1999; Halperin & Laxer, 2003) inspired largely by recent developments within the context of economic globalisation as well as environmental concerns which called for urgent cooperation across national borders. It seemed, the main impulse for these readers of 'transnational identities' (Cohen, 1995) was a shared identity fostering in the foreground a

'transnational corporate culture' (Falk, 1995). To bring people together around this identity, there was need for a type of global citizenship, to be established perhaps most convincingly on humanitarian grounds (Wingenbach, 1998).

To be fair, trends in these scholarly thoughts correlate highly with global immigration moves (Benmayor & Skotnes, 1994; Urry, 2000; Geddes, 2000; 2003; Joppke, 1999; 2005; 2010a; 2010b) and interest in transnationalism (Portes, 1996; Westwood & Phizacklea, 2001; Vertovec, 2004). The best known transnational form of citizenship is of no doubt the one designed exclusively for EU citizens. While the case of European citizenship is based on the basic components of national citizenships, a fundamental question rises here to question cross-border ties bringing Europeans together. It becomes in this sense crucial to look first into its links to a shared collective identity in Europe, i.e. 'European identity'.

2.2.3.1 European identity

The official launch of European identity dates back to the Cold War days, when the then European Community was short of a far-reaching political image in the international scene. At the 1973 Copenhagen Summit, the then nine Member States of the EC decided to draw up a document to this end with the expectation that it would define their relations with the rest of the world more explicitly.[70] Indeed, this scheme paid off soon across a number of intra-community documents such as the 1976 Tindemans Report where proposals on a common foreign policy, defence collaboration and economic and monetary union were all offered in the name of *e pluribus unum*, suggesting 'a European people' (Kostakopoulou, 2001).

The elites were fairly convinced that the societal links amongst peoples of Europe would by this means be effectively reinforced (Lehmkuhl, 2001; Cerutti & Lucarelli, 2008). This frame of mind was preserved at the 1984 Fontainebleau Summit which called further upon the Adonnino Committee to create a 'Europe of citizens'. The most immediate outcome in this thread was adoption of the European Community flag, anthem and an EC passport as well as establishment of 'Europe Day' seeking "to lay the foundations of an ever closer union among the people of Europe."[71] The 1985 Schengen I Agreement, the promotion of town-twinning schemes in 1989, the introduction of European citizenship, consular cooperation in third countries, an EU ombudsman, the 1993 Maastricht Treaty's 'European' perspective of

[70] Bulletin of the European Communities, December 1973, Luxembourg.
[71] The Preamble of the 1957 Rome Treaty.

education and ‘youth’ exchange programmes all followed suit to establish feelings of solidarity amongst the citizens of the EC/EU. With commitments “to instil some ‘European consciousness among the peoples of Europe” (Shore, 2000, pp. 221-22), these political moves constituted evidently the basis of a ‘Europeanisation’ process which sought to transfer the economic benefits of the integration project into the political sphere.

While many had faith during this period in the existence of an overarching identity for Europeans (Inglehart, 1970; Commission of the European Communities, 1985), or at least a capacity for it (Bloom, 1990; Smith, 1991, 1992*)*, it was hard to put that conviction to an empirical test. The difficulty here lies particularly in measuring people’s genuine feelings which to Potter & Wetherell (1987) draw copiously on discursive strategies (as cited in Cinnirella, 1997, p. 21). In this sense, although one could appear to express favourable thoughts about the EU, these impressions might be misleading in coming to grips with a genuine attachment to the EU, for an overarching identity necessitates ferreting out feelings of belonging deep down.

Regardless of this empirical difficulty, research has made copious attempts to get to the substance of European identity. There appear three main paths followed to this end. First, an initial concern was to look into its existence or absence (Smith, 1991; Duchesne & Frognier, 1995; Eriksen, 2002; Breakwell, 2004; Meinhof, 2004). Based on the assumption that it was not an illusion, a second wave took to formulate its defining features (Risse, 2003; Herrmann & Brewer, 2004; Castano, 2004; Grundy & Jamieson, 2007). And finally, a third host of scholarship became committed to exploring the future prospects of a collective identity for Europe (Habermas, 2001; Nicolaidis, 2004; Rogowski & Turner, 2006). A thorough analysis of these various perspectives revealed a list of attributes characterising ‘Europeanness’. Accordingly, being a ‘European’ must be about sharing a geographical entity recognised officially as Europe; a common history together with a linguistic and cultural heritage in this geographical space; a religious heritage of Christianity as well as principles and values like tolerance, pluralism, democracy, human rights, rule of law and fundamental freedoms. Since a broad consensus over these characteristics was far from being in sight, nevertheless, a further perspective emerged to point out later on that it was in fact diversity -not uniformity- that marked the distinguishing quality of being ‘European’ (Delanty & Rumford, 2005).

To help reduce the 'conceptual overstretch' of European identity, Walkenhorst (2009, pp. 7-8) offered analysis on the basis of 'historical-cultural identity', 'political-legal identity', 'social identity', 'international identity' and 'post-identity commonness'. From a historical-cultural perspective, European identity would represent a shared European past as perceived in terms of common values and cultural origins. The political-legal identity viewpoint was actually a constructive recipe to sidestep primordialist outlooks (as the former historical-cultural understanding was suggesting) through political participation, democratic representation, principles of legitimacy and the status of citizenship. For social identity, the issue at stake was the need to bring forward an overarching collective identity in Europe, an image similar to that of 'people's Europe'. Next, if understood as a type of international identity, to Walkenhorst (2009), European identity would sink into its weakest form, conveying only just a collective image in the international arena. And finally, the post-identity commonness perspective was a reflection of post-modernist/post-nationalist theories seeking to bypass the vicious debate between primordialists/essentialists and constructivists to open up a broader space of universalism in embracing identity beyond the national level.

Regardless of the fact that these various perceptions provide useful insights in keeping up with a collective identity for Europe, there have been doubts concerning whether or not this is an urgent matter vis-à-vis the already existing collection of feelings at the national and sub-national levels. A number of sociological roadmaps have already been raised in this context. Should political communities be treated as cultural products or 'societal communities' in relation to their members' collective experiences (Parsons, 1967), an overarching identity for Europe becomes a necessary instrument. Yet, if such communities can be created through the interplay between system-related factors (Luhmann, 1994) or are made up of individuals' strategic choices, as seen by some rational choice theories[72], European identity comes as a redundant or counter-productive formulation (Hardin, 1995). In this sense, unless the EU is in need of an "extensive and far-reaching solidaristic behaviour from its peoples, [a] full-fledged collective identity is hardly needed" (Armingeon, 1999, p. 236).

Indeed, the challenges of ensuring whether or not a collective identity at the European level would function as a 'gap-filler' or a 'missing link' stems at a deeper level from a dilemma:

[72] Rational choice theorists do not have a shared position on identity. While the 'externalist' side ignores or at least reduces the concept of identity to emergent conditions, the 'internalist' rational choice theorists take identity as a means to understanding social action (Aguiar & de Francisco, 2009).

studying European identity from within or from without. If studied from without, Europe is generally sighted in terms of its similarities and differences vis-à-vis 'others', i.e. its economic and political contenders elsewhere in the world. The reason why this aspect is debatable rests on normative grounds. On one side, it is obvious that making a distinction between Europeans and non-Europeans is unavoidable or else "identity vanishes into diffusiveness" (Cerutti, 2008, p. 6). Yet, on the other side, basing European identity on a 'we-they' or 'us-them' divide might provoke antagonism amongst residents in a society, recalling in a way Huntington's (1993) 'clash of civilizations' thesis.[73] The other major source of difficulty with European identity, if studied from within, concerns its status in relation to national identities. Reducing European identity by this way to shared memories would however not necessarily make a positive impression when considered in view of the history of Europe, as this would evoke a countless number of wars and tragedies on its soil. The recent proposal of an alternative model around 'political identity' (Fuchs, 2000; Habermas, 2001; Cerutti, 2003; Meyer, 2004 -as cited in Fuchs, 2011, p. 39) is informed very much by this past to bring the least disputable aspect of European identity to the fore: a shared political culture informed by universal values such as democracy, human rights and the rule of law.

Habermas (1998) for instance offered in this context 'constitutional patriotism', to be capable of serving as a catalyst for convergence around a collective 'we-feeling' and working in tandem with 'deliberative democracy'. Despite this analytical attempt to reconcile 'particularist' principles with those of universalism, there was in fact, allegedly, nothing original about 'Europeanness' for such qualities could be applicable to many other corners of the world as well. What's more, such an offer might perhaps appeal to its original context, i.e. Germany, which formerly was a 'half nation' with an acutely 'compromised' form of nationality "on account of its Nazi past. But…other countries do not have a comparably difficult past, and therefore are better served by forms of liberal nationalism" (Müller, 2007, p. 5). Indeed, this latter scepticism about a possible European public sphere stems mainly from communitarian thoughts arguing on the basis of a so-called 'no *demos*' thesis (Gerhards, 1993; Grimm, 1995; Kielmansegg, 1996; Weiler, 1997, 1999) that a European-level of democracy is difficult to achieve so long as a perfect harmony between European masses is

[73] Following in the footsteps of modernisation theory, Huntington saw identity as a crucial basis of classification according to which individuals are grouped in clusters of 'civilisations' based most notably on their religious values. Such a view of civilisations as monolithic cultural blocks has however not appealed to a broad audience. A new scheme of 'equal but different' identities came up therefore to value cultural differences as important as those of the biological race (Hammond, 2007).

out of sight. Habermas' position would amount in this sense to "an oxymoron: as it is seen as simultaneously an attempt to bridge the universalism of basic rights and the particularity of a community of allegiance and identification" (Fossum, 2007, p. 4). In the end, a constitution for the EU would be "uneasily poised between a defence of universal values that is too 'thin' to mobilize people's allegiance and loyalty, and a reconstruction of European values that may become too 'thick' in the way in which Europeans use it as form of identification" (Castiglione, 2009, p. 44).

As covered earlier, the socio-psychological insights into identity, suggested for instance by the SIT (social identity theory), imply that a far-reaching group membership like European identity counts as only just one of the social identities Europeans appear to "borrow from their membership in social groups" (Castano & Yzerbyt, 1997, p. 2). While multiple social identities are informed essentially by the principle of 'sharedness', there are factors suggesting differentiation as well. With its similar conception of membership to more than one social group, the self-categorisation theory (SCT) of Turner (1978) suggests in a similar vein a multiplicity of identities of which categorisation at different levels of inclusion is capable of generating the ranking of one identity over the others. This does however not suggest that identification with one's nation takes place at the expense of others. Accordingly, if self-categorisations are secured at more than one level, national and European identities could be established in a mutually inclusive relationship (Guetzkow, 1955).

All in all, complementarity of national identity and European identity is largely a question of how identity is defined in the first place. If identities are taken to be fluid and ever-changing by character, European and national identities could be seen to follow a dynamic process of defining each other. Should, however, European identity be defined alongside essentialist approaches, there is little chance for uniformity, for a mere set of primordial features like cultural and linguistic similarities would roughly provoke putting one identity ahead of the rest, as if to excel or supersede them.

2.2.3.2 European citizenship

Compared to European identity, the notion of European citizenship appears to have gained a much wider purchase so far. Maastricht's commitment "to strengthen the protection of the rights and interests of its Member States through the introduction of a citizenship of the

Union"[74], according to which "Every person holding the nationality of a Member State shall be a citizen of the Union"[75], have the rights to move and reside freely within Member State territories[76]; vote and stand as a candidate here during local and EP elections[77]; enjoy diplomatic protection in third countries[78]; petition the European Parliament and apply to the Ombudsman[79] which would all be monitored by the Commission to be reporting to the European Parliament, the Council and the Economic and Social Committee on a regular basis, i.e. every three years[80] presented an overarching group membership for Member State citizens. Such an ambitious commitment was indeed recalling that of 'European identity', which formerly came to introduce with no less ambition construction of Euro-symbols like a Union flag, anthem and passport, the start of the European Parliament elections by direct universal suffrage, a new institution under the European Ombudsman and access to representation at any Member State's diplomatic mission abroad.

For all these, however, a string attached by way of Article 8(1) EC Treaty to the Amsterdam Treaty through "Citizenship of the Union shall complement and not replace national citizenship"[81] was manifesting how sensitive Member States were about the national tenets of citizenship. From this perspective, one could well argue that the main highlight of Maastricht was actually not that it introduced a supranational form of citizenship but the commitments it made to create an economic and monetary union.[82] Provoking scepticism in this context was amongst others the Edinburgh Summit which convened the same year as Maastricht with hardly an agenda item referring to European citizenship (Martiniello, 1995, p. 39). True, the introduction of a single monetary policy backed up by a single currency, i.e. the ECU (European Currency Unit) as the then 'Euro', was a remarkable progress for the European integration. However, the impression that an equally important supranational form of citizenship remained in Euro's shade was capable of raising doubts about the credibility of this fairly assertive project (of European citizenship).

[74] Title I, Article B of the Maastricht Treaty.
[75] Title II, Part 2, Article 8(1).
[76] Title II, Part 2, Article 8a(1).
[77] Title II, Part 2, Article 8b(1, 2).
[78] Title II, Part 2, Article 8c.
[79] Title II, Part 2, Article 8d.
[80] Title II, Part 2, Article 8e.
[81] Article 8 was replaced by Article 17 to make the first paragraph now read "Citizenship of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union. Citizenship of the Union shall complement and not replace national citizenship."
[82] Title II, Provisions Amending the Treaty, Article 3a.

To be fair, European citizenship was not really a political objective in its own right as it was first and foremost the national domain to determine who could earn this title. Since the actual locus of political power was remaining therewith still in Member States (Hall, 1995), it would be reasonable to state that there was a subordinate relationship between the two citizenships, recalling Turner's (1990) placement of citizenship along 'top-down' vs. 'bottom-up' and 'passive' vs. 'active' axes of distinction. From this viewpoint, European citizenship appears to fit rather to a passive or top-down model for it emerged as a compromise between the institutions of the EU and Member States but not as a consequence of "some kind of mobilization of the grassroots citizens of Europe" (Bryant, 1991, as cited in Martiniello, 1995, p. 42). Much in the same way, Delanty (1997) views European citizenship as "a second order citizenship…defining Europe by reference to the non-Europeans" (pp. 296-297). This quality runs parallel to that of European identity which was introduced similarly in reference to the nation-state model as well as "an essentialist conception of political communities (nations) coterminous with and grounded in homogeneous and spatially contiguous cultural communities" (Painter, 2002, p. 101).

Meanwhile, a nation-state guided construction of European citizenship did in fact not align well with contemporary cultural and political theories for these had already shifted their focus onto issues like transnationalism, plurality of identities or multiculturalism (Mouffe, 1993; Kymlicka, 1994; Benhabib, 1996, 2002; Isin & Wood, 1999; Delanty, 2000; May, 2002, 2010). Taking European citizenship as a corollary to national sovereignty only would in this sense mean turning a blind eye to for instance the impacts of globalisation which have long been signalising that a state-centered citizenship and *demos* became increasingly dependent upon sub-national and supranational identities (Shaw, 1997). This projection indeed amounts to a post-national understanding of membership (in the form of multiple citizenships) maintaining that the nation-state is no longer the only legitimate form of polity to identify with (Soysal, 1994).

What remained as an unresolved issue here was how to build a European *demos* independent from the traditional method of nation-building. As formerly mentioned, Habermas' 'constitutional patriotism' favouring a 'European Constitution' in coordination with a deliberative model of democracy found criticism not only for its alleged ignorance of the fact that some countries were already at ease with a liberal form of nationalism (Müller, 2007) but also for overstating a European public sphere with no *demos* at sight (Gerhards, 1993; Grimm,

1995). In this context, Weiler (1997) suggested conceptualising "European Demos and citizenship as part of a polity with multiple political Demoi to which its members belong simultaneously…in what may be called 'concentric circles'" (p. 119). Central to this formulation was consideration of European citizenship as the expression of a particular identity or an '*ethos* of Europe' (Weiler, 1995, p. 337). Nonetheless, this proposal was also disputed for a number of reasons. Shore (2004) for instance found it "deeply flawed" because it was "too abstract and rationalistic in inspiration" and "peculiarly elitist, sterile and soulless" which had "a curious romanticism attached to the idea of 'transnational', 'deterritorialized' and 'hybrid' identities" (pp. 35-37). The only aspect this rather harsh criticism spared was the separation of nationality from citizenship, which suggested commonly that the links to democracy can be established through citizenship, not nationality.

To sum up, the overall impression of a supranational form of citizenship is that it rings different bells to different thoughts. From an essentialist vantage point, most notably, the construction of European citizenship does not put enough weight on the role of ethnicities, languages or traditions. Those subscribing to constructivism reassure however that European citizenship is still in the making, just as the EU's competences in pursuit of a political community are (Giesen & Eder, 2001; Trenz & Eder, 2004; Fossum & Schlesinger, 2007). Accordingly, if Europeans need a strong foothold for an all-embracing identity to this end, they need to make sure that such an identity is "no longer conceived as a higher order of reality than politics or something that 'underlies' politics" (Eder, 2001, p. 238).

2.3 Multiculturalism

A main undercurrent of the contemporary immigration debate in Europe is without a doubt multiculturalism. As a far-reaching concept often used in the context of cultural diversity concerning gender, class, race or ethnicity by ideological or political means (Willett, 1998), multiculturalism took off in the late 1960s at an official level in Canada, where it became gradually part of the government's policy strategy to address ethno-cultural plurality.[83] Regardless of its functional use, however, it is today to some a 'floating signifier' (Gunew, 2004, p. 28) with many different interpretations (Taylor, 1994; Kymlicka, 1995; Kincheloe & Steinberg, 1997) depending on the historical context it is placed in. A number of factors like

[83] Following a series of recommendations by the Royal Commission on Bilingualism and Biculturalism, the federal government in Canada finally passed the Official Languages Act in 1969. This was followed in 1971 with the introduction of a federal policy, known as the Multiculturalism Policy, within a Bilingual Framework (Fortier, 2008, p. 1).

national political culture or colonial legacy make for example multiculturalism in Canada and the USA (characterised largely by Québécois nationalism and the race discourse, respectively) differ from that in the European context, which is informed to a great extent by the colonial past of traditional immigration countries like Britain, the Netherlands and France as well as post-immigration experiences of "'old' hosts that did not consider themselves as such (for example, Germany)" and new routes like Italy, Spain and Greece which, despite acknowledgement at the (political) elite level, "find it even harder to adopt a multicultural approach" (Triandafyllidou, Modood & Zapata-Barrero, 2006, p. 1).

For all that, the term multiculturalism was not a buzzword until recently. Following early debates and policy developments on multicultural implications of citizenship, which the EU's Maastricht Treaty prompted further with its introduction of European citizenship, the unprecedented 9/11 terrorism discourse brought issues concerning multiculturalism quickly to the foreground. A primary consequence of this recent discourse in Europe was disorientation of European citizenship, "increasingly linking a religion (Islam) with violence and anti-Western values" (Triandafyllidou, Modood & Zapata-Barrero, 2006). Migration agenda became incrementally anchored to that of security in major EU Member States which for some time had already been grappling with the thorny issue of integrating their minorities. During a Christian Democratic Union (CDU) party meeting in 2010, Chancellor Angela Merkel announced in this context that Germany's attempts to establish a multicultural society "utterly failed".[84] In a short while, at a security conference in Munich, her British counterpart David Cameron criticised 'state-sponsored' multiculturalist policies and underscored the need for a stronger identity for the UK to prevent people from resorting to extremism.[85] Like Merkel and Cameron, the then French President Nicolas Sarkozy also declared the failure of multiculturalist policies by blaming them for being far more oriented to the identity of newcomers than that of France.

Such proclamations resonated seemingly for the most part in economically better-off Western European lands[86], where it became clear that the costs of 'ethnocultural pluralism', which were traditionally attributed to newcomers' lack of civic integration to the host societies

[84] *The Guardian*, 'Angela Merkel: German multiculturalism has "utterly failed"', 17 October 2010.
[85] BBC News, `'State multiculturalism has failed', says David Cameron`, 5 February 2011.
[86] Meanwhile, countries like Luxembourg and Norway, which were once known to possess ethnically homogenous populations, also took their share by attracting progressively immigrants with diverse ethnic backgrounds.

(Joppke, 2007), would not readily disappear (Levy, 2000). Informed by rising levels of cultural and ethnic diversity which came as a consequence of "increased migration since the mid-1980s, and the prospect of yet more immigration as new states join the European Union" (Diez Medrano, 2009, p. 84), the critical voices heard at the highest state level were in this sense the culmination of reactions to the political handling of multiculturalism, which proved fruitful for neither minority nor majority groups.[87] The perceived differences between these two groups pushed on the other side to a power struggle whereby the former yearned for acquisition of the same economic, social and political rights as enjoyed by the latter.

The theoretical basis of multiculturalism is characterised to a great extent by identity politics (Scott, 1992). As the forerunner in this field, Will Kymlicka based his liberal theory essentially on John Rawls' perception of wealth and distributive justice. Tackling perceptions of 'inequality' as felt by minorities, Kymlicka (1995, p. 4) argued in *Liberalism, Community, and Culture* and *Multicultural Citizenship* that post-war liberal theory was in need of furthering the human rights discourse, which alone cannot resolve chronic problems concerning languages, rights to education and cultural integration. The assumption that the state could secure basic individual rights (and protect ethnic identities) by distancing itself with 'benign neglect' (Glazer & Moynihan, 1975) was to Kymlicka (1995) purely hypothetical and for this reason required a supplement of 'minority rights' where the emphasis had to be on the "principles of individual liberty, democracy, and social justice" (p. 6). Three types of 'group-differentiated' rights were offered in this context: 'self-government rights', 'polyethnic rights', and 'special representation rights'. Through 'self-government rights', minority groups were to get ahold of a shield of territorial jurisdiction which would promise them greater political autonomy. Since this projection did not include the entirety of immigrant minorities, a second set of 'polyethnic rights' was formulated as a means to safeguarding languages and cultural practices applicable to immigrants. And finally, 'special representation rights' would ensure active participation and representation for all minority groups in the state's political system. To this specific end, Kymlicka (1995) detached here national minorities (indigenous groups) from ethnic ones (immigrants).[88]

[87] While the distinction between majority and minority groups has obviously to do with the numerical size, this is in the context of multiculturalism closely related to discrimination or marginalization on the basis of culture (Lee & Fiske, 2006). Should the public domain be defined entirely by the culture of the majority group, minorities are automatically forced to dispense with their cultural or linguistic practices "as the necessary price of entry to the civic realm" (May, 2002, p. 137).

[88] Unlike national minorities such as the Maoris in New Zealand, the Aborigines in Australia or the Native Americans in the USA, ethnic minorities are groups of people who join a society as newcomers with the hope to

An important issue to clarify at this point is the way(s) in which 'societal' cultures are of relevance to national cultures. Given that common values, memories and institutions are in a nation-state connected through a shared set of social practices, one might interpret the two forms of culture as variants of the same conception. This presumption is however more far-fetched than it sounds considering national minorities' split from ethnic minorities like immigrants who generally are thought to leave their societal cultures back in their countries of origin. While Kymlicka's 'special representation rights' allowed national minorities to keep to their specific cultures and immigrants and embrace their cultural particularities via 'polyethnic rights', minority groups were here also promised protection against illiberal practices from within, for example in the form of abusing freedom and equality amongst their own group members. A distinction was therefore made in this specific context between 'internal restrictions' and 'external protections':

> The first kind is intended to protect the group from the destabilising impact of internal dissent (e.g., the decision of individual members not to follow traditional practices or customs), whereas the second is intended to protect the group from the impact of external decisions (e.g., the economic or political decisions of the larger society) (Kymlicka, 1995, p. 35).

Kymlicka's liberalist guidance constituted obviously the "clearest starting point in Anglophone political theories of multiculturalism" (Modood, 2007, p. 21). That said, the theoretical perspective Charles Taylor put forth appeared to be competitive on the grounds that Kymlicka's liberalist formulation was too individual oriented and promised little room for culture. Stressing that the individual agency would not be meaningful in the absence of social and cultural identities, Taylor (1994) argued in his renowned essay 'The Politics of Recognition' that minorities suffered largely because they were denied 'political recognition' (which was granted to majorities). Although liberalism was claiming to treat all individuals as equal citizens, accordingly, "what many cultural groups" were in need of was not recognition "of their sameness, but of their distinctness" (Kukathas, 2004, p. 255). For that, Taylor (1994) believed such a view of liberalism could in its most favourable interpretation offer only a short term solution to minorities' cultural survival.

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preserve their ethnic identities and traditions but holding no "legitimate claim to self-government" (Kukathas, 2004, p. 252).

Taylor's 'recognition' argument suggesting that minorities are imprisoned within "a confining or demeaning or contemptible picture of themselves" (1994, p. 25) could not escape criticism, either. To 'critical multiculturalists', for instance, it was short of "positionality, in which people are defined not in terms of fixed identities, but by their location within shifting networks of relationships, which can be analysed and changed" (Maher & Tetreault, 1994, p. 164). Informed by social construction of identities, the 'positionality' argument highlighted 'change' in societal roles, which Taylor allegedly did not take into account in his 'politics of difference' thesis. Be that as it may, the underlying tenets of 'politics of difference' were adopted by many theorists (Young, 1990; Tully, 1995, 2003; Devaux, 2000; Baumeister, 2000). Questioning the conception of 'the common good', Young (1990) for instance argued for political representation on the basis of 'a heterogeneous public'. The main concern here was "participatory structures in which actual people, with their geographical, ethnic, gender and occupational differences, assert their perspectives on social issues within institutions that encourage the representation of their distinct voices" (Young, 1990, p. 116). In light of efforts seeking to create a homogeneous public, a notion of 'group-differentiated citizenship' was introduced here for the interests of 'oppressed' groups, highlighting the rights these could further enjoy vis-à-vis those of the 'privileged'.

The debate on the liberalist roots of multiculturalism, as prompted by Kymlicka and Taylor, inspired a wide range of models. Propositions such as 'difference multiculturalism' (Turner, 1993), 'insurgent multiculturalism' (Giroux, 1994) and 'critical multiculturalism' (Chicago Cultural Studies Group, 1994) were grouped by Delanty (2003) in the form of 'traditional', 'modern' and 'post-modern' categories. Accordingly, traditional multiculturalism is characterised by 'monoculturalism' (based on denial of cultural diversity, which for instance Japanese citizenship appears to have endorsed by equating ethnicity with nationality), 'republican multiculturalism' (which as in the French case seems like a 'culture blind' model making no official recognition of cultural diversity), 'pillarisation' (illustrated formerly by the educational system in the Netherlands in line with Protestant and Catholic denominations) and 'liberal multiculturalism' (inspired by the 'melting pot' model in the USA). The category of modern multiculturalism comprises on the other hand three sub-divisions: 'communitarian multiculturalism' (as posited through Taylor's politics of recognition, which may be applicable to India, Ireland, Canada or Belgium), a 'liberal communitarian' version (for instance, the 'salad bowl' model offered by Habermas (1998), Parekh (2000) or Touraine (2000), based on the colonial history of Britain and the Commonwealth) and

'interculturalism' (through Watson's (2000) model regarding cultural difference as a 'positive virtue' in light of cultural awareness, tolerance and knowledge of other cultures). And finally, post-multiculturalism gathers three more versions including 'radical multiculturalism' (the main form of which applies to contemporary USA, where the former liberal 'melting model' fits to the frame of race rather than ethnicity), critical multiculturalism (underscoring being 'different' as in the case of disadvantaged groups) and 'transnational multiculturalism' (informed most notably by globalisation).

2.3.1 Criticism of multiculturalism

Regardless of these diverse perspectives offering what a multiculturalist society should principally be made up of, a growing wave of recent thoughts came to deny almost all scenarios attached with multiculturalism. While it is not easy to identify the exact roots of these antagonistic dispositions, a most suspected source is the '9/11 events' which rose to link the subject matter largely to the terrorism discourse (McGhee, 2008). The major point addressed alongside this line of criticism was multiculturalism's promise of 'multiple loyalties' about which some had for long been sceptical about because it would almost always jeopardise attachment to the nation-state (Schlesinger, 1998; Huntington, 2004). Despite reassurances maintaining that it was actually lack of minority rights that disintegrated 'the bonds of civic solidarity' (Kymlicka, 2002), those sensitive to national identity were fearing "that without a primary loyalty to the nation-state, the civic, political, and even moral community of a country" would gradually dissolve into obscurity with "problems ranging from limited democratic engagement to a lack of interest in the policies of redistribution" (Bloemraad, Korteweg & Yurdakul, 2008, p. 160).

A most leading critical outlook came in this vein from the feminist wing which discredited multiculturalism's claims of "respect for all cultural traditions", for they were not taking into account "all cultural traditions" (Pollitt, 1999, p. 27). It was in this sense not realistic to conceive of a state adopting multiculturalist policies at risk of 'recognising' those who deny the rights of their own group members, for instance women's right to education (Okin, 1998).[89] This criticism was shared by liberal egalitarians arguing that multiculturalism did not at all align well with liberal principles and for this reason could not be adopted as a public policy (Barry, 2001). Despite its commitments to cultural pluralism, multiculturalism, as the

[89] A specific issue here is the financial support the state provides for religious education. Feminist critics argue against such fundings in the context of right to culture for these generally serve for the sole benefit of 'boys' (Okin, 1999).

criticism went, was in fact ignoring the distinction of public and private spheres -which is a central component of liberalism- because it saw no harm in allowing room for groups capable of intruding upon others' rights during their power quest for public and/or private spheres.

Moving on, cosmopolitan critics also argued against a monolithic understanding of culture. To them, an unceasing process of societal interaction in a globalised world introduced "bits of cultures… into our lives in different sources" (Waldron, 1992, p. 110) but not necessarily claimed "purity of the impure" or the "immutability of the historical" (Benhabib, 2002, p. 11). In that case, the "multiculturalist resistance to seeing cultures as internally riven and contested" would be little more than carrying over "visions to selves" (Benhabib, 2002, p. 16). Mitigation or restoration of uneven power relations necessitated to this train of thoughts a form of 'politics of equality' within the framework of a 'different but equal' logic (Mahajan, 2002). States from this perspective had to "acknowledge rather than ignore cultural particularities" (Gutmann, 1994, p. 5). And if there were cultures committed to principles other than those offered by liberalism, a narrow interpretation of 'recognition' was to be avoided or else it would end up producing only limited diversity (Tomasi, 1995; Parekh, 2000; Deveaux, 2000). A typical example given at this link was the case of indigenous peoples who despite their non-liberal practices could still be worthy of respect in terms of their societal organisations (Spinner-Halev, 2006, p. 549).

It seems against a background of such critical outlooks rounding off cultures/groups alike would risk major differences/inequalities they hold intrinsically, for instance in the form of 'internal minorities' or 'minorities within minorities' (Eisenberg & Spinner-Halev, 2004). This would, put differently, amount "to an overly narrow focus on 'identity' as singular—as if one's cultural membership were unmediated by other social factors such as gender, sexual orientation, age, marital status and the like" (Shachar, 2001, p. 30). In any case, considering particularly 'politics of recognition' and 'politics of equality', one could argue that the likelihood for a shared platform of cultural plurality is contingent upon how successful a country's integration policy is. Accordingly, success in the integration of immigrant minorities rests on skillful management of immigration policies for which a common language and culture should come in the first place. While immigrants may be at a disadvantageous position in this picture, the situation is first and foremost illustrative of 'civic consciousness' (Taylor, 2011).

2.3.2 Integration, participation and assimilation

As already mentioned, multiculturalism in Europe was until recently not a focal point of political interest. A number of developments such as the

> rise of nationalism in Eastern Europe after the fall of the BerlinWall in 1989, the attraction of communitarian thinking in the 1980s, the increased political activism of religious conservatives in the 1980s in the USA, and the increase in Muslim immigrants to Western Europe in the 1970s and afterwards…all brought about an enlarged interest in the role that groups play in theory and practice (Spinner-Halev, 2004, p. 546).

When this course of events became further clouded in the early 2000s with the '9/11 events' in the USA (followed by bomb attacks in Spain and Britain), multiculturalism was declared at many fronts to be a 'fiasco', with immigrants' failure to integrate into their host societies, as the primary wrongdoer (Joppke, 2004). Of a number of urgent actions taken in this context was recourse to civic integration courses and tests which some countries like the Netherlands decided to apply in the very country of origin. Given the complexity of its application, the new understanding of integration went apparently out of the ordinary to make it an admission requirement for immigration (De Heer, 2004). Further to that, new legislations have been introduced for instance in France, banning 'ostentatious' religious clothing and symbols like the Sikh *turban*, Muslim *hijab*, Jewish *kippas* and Christian crosses.[90] Much in a similar vein other EU Member States like the UK banned polygamy, female circumcision or arranged marriages, as practiced by some of their immigrants, in consideration of the rising voices of dissent in public circles (Phillips & Saharso, 2008), while a German court ruled quite recently that young boys' circumcision for religious reasons -carried out traditionally by Jewish and Muslim communities- equalled 'bodily harm' and had to be declared illegal.[91]

These revisionary acts have indeed come into being under the guidance of not only political parties but also alongside academic, journalistic and public discourses. It came out, in accordance, the road to integration demanded participation in a host country's societal, economic and political systems. In this new immigration context, while immigrants opting willingly for integration could, as former British PM Tony Blair addressed, be happily welcome providing "they have internalised prevailing 'values'", others perceived to be rejecting "liberal democratic norms…are to be excluded through the revocation of their rights

[90] *Financial Times* (2008) 'Sikhs urge Sarkozy to lift turban ban', January 25, 2008.
[91] BBC News Europe, `German Court rules circumcision is 'bodily harm', 26 June 2012.

to citizenship and legal residency and, in extreme cases, their detention, denaturalisation and deportation" (Triadafilopoulos, 2011, p. 862).

With its quest for social cohesion and political participation of minority groups via citizenship, the issue of integration is without doubt an integral part of multiculturalism theories. This basic premise is however open to debate considering that participation through contribution to economic activities, access to educational institutions or residential resources would not always suffice for integration because a certain degree of involvement would take place even without a reward of legal citizenship status or legal residence (Leitner & Ehrkamp, 2003). This is indeed where the question of assimilation comes into play.

The rise of assimilation as a significant political instrument is closely related to the 'exhaustion' of a 'state-sponsored' multiculturalism discourse. On one side, multiculturalism demands 'recognition' of diversity so that "the qualities of out-groups are not stigmatized…but rather reconstitute the notion of civil competence within the public sphere" (Mitchell, 2004, p. 642). What assimilation necessitates on the other side is the opposite: it requires the reinforcement of "public/private split by separating out 'difference' and relegating it to the private sphere" (Mitchell, 2004, p. 642). Nevertheless, as some argue, a 'backlash' against multiculturalism and a switch to civic integration -be that through assimilation or otherwise- does not necessarily suggest exclusion on the basis of ethnicities but instead a new understanding of citizenship as a reward for an 'adequate' degree of integration (Bauböck, 2006, 2008).

Propagating a discourse underlining the failure of multiculturalism, "state policies of assimilationism and exclusion represent a return to a recuperative national project that seeks to (re)locate a universalist notion of civil society firmly within the bounded contours of the nation state" (Mitchell, 2004, p. 645). In so being, assimilation policies might be regarded as "historically the first and sociologically the most 'natural' response to the contradiction between public civility and private particularity" (Alexander, 2006, p. 422). This perception receives however the same criticism as multiculturalism, in particular from non-liberal critics, because immigrants or minorities would by this means be urged to pick up on liberalist principles. As Joppke & Morawska (2003) for instance point out, pressure to acquire host societies' languages and liberalist values may be an indication of the assimilation discourse.

Accordingly, those who fail to resist this pressure are labeled as individuals opting out from participation in civic life, which is why they allegedly deserve social exclusion.

2.4 Review

A central theme of this study is immigration whose conceptual boundaries are determined largely by citizenship. Following the Westphalian state system which installed national citizenship as a core component of international relations, migration became an issue resting upon progressively restrictive formalities including amongst others authorisation of official documents like passports, visas and working permits. Political research on immigration has against this background almost always taken as a base the nation-state vantage point. A multidisciplinary span enriched this enterprise. Research models affiliated with economic, sociological, historical, anthropological and political principles gave way to a wide spectrum of outcomes by offering various points of emphasis, most notably material incentives, social structures, spatial elements, family induced motivations and state interests, as far as the interplay between immigration and national citizenship is concerned.

Three interrelated components are of primary relevance for this conceptualisation: legal status, political participation and identity. Legal status is often located ahead of political participation and identity as the scope of the latter two is generally thought to be guided by the former's emphasis on 'rights'. That said, mere dependence on rights is bound to remain ineffective in cases when contribution/involvement of individuals in the political system as well as their affective quality are neglected at a broader scale. Yet, no matter how much attachment to the state through emotional bonds matters for a voluntary participation in the political community, the very nature of identity holds capacity for being problematic, irrespective of the copious interdisciplinary approaches dedicated to that cause.

Another major theme the study conceives of as central to its research theme is multiculturalism. Conceptualised generally within the context of citizenship, multiculturalism was first brought into use in the 1960s by the Canadian government as part of its internal political strategy to come to terms with ethno-cultural plurality. Regardless of its functional use, however, the recent rise of critical voices declining multiculturalism in state, public and academic domains indicates how convoluted citizenship has become in the face of immigration policies. While it could be a remedy for the flaws of multiculturalism (Schierup, Hansen & Castles, 2006), an upsurge in "resident noncitizens as well as nonresident, or

external citizens" (Barry, 2006, p. 17) brought about a new conception of 'transnationalised' citizenship, which came to make a wide array of implications. The introduction of European citizenship with the 1992 Maastricht Treaty had in this context a significant value particularly for the connection it established between territoriality and citizenship. While citizenship was traditionally anchored with the legal status as introduced by the nation-state, the advent of European citizenship offered a different viewpoint, in particular with its alternative sight on 'national membership' and sovereignty. This formulation was however taken by many with a pinch of salt seeing that the 'gate-keeping' role was still firmly belonging to the nation-state.[92] And if "the traditional, classical vocabulary of the citizenship" should still be elementary to the EU version, "its very introduction into the discourse of European integration is problematic" (Weiler, 1999, p. 327). As there appeared in this sense no overarching European *demos*, attachment to the Union on the basis of a new formulation of citizenship was far from being realistic (Weiler, 1995). At stake here was obviously a short-sighted European political identity which appeared to give the supranational form of citizenship not much room to survive. As Mouffe (1992) notes

> if Europe is not to be defined exclusively in terms of economic agreements and reduced to a common market, the definition of a common political identity must be at the head of the agenda and this requires addressing the question of citizenship. European citizenship cannot be understood solely in terms of a legal status and set of rights, important as these are (p. 8).

Seen from this perspective, the subject of European citizenship plays a critical role in testing citizenship beyond the conceptual boundaries of the nation-state. Nevertheless, this argumentation is disputed on the grounds that citizenship cannot be a legal issue about "existing social groups of quasi-primordial nature in order to convert them into a political entity" but instead "a concept of social stratification from which the consciousness of belonging together" or differentiation between in- and out-groups "largely ensues" (Besson & Utzinger, 2008, p. 188). From this perspective, the argument that European citizenship cannot survive in the absence of a European *demos* is not plausible because "the status of citizenship and the identity of the *demos* are functionally linked through a process of mutual reproduction" (Besson & Utzinger, 2008, p. 188). Regardless of a given set of rights, citizenship includes in this regard being part of a political entity on the basis of democracy or what Bellamy (2001) refers to in more profound terms as 'the right to have rights'.

[92] Article 17 TEU (Treaty of the European Union, Maastricht Treaty) attached here a string emphasising "citizenship of the Union shall complement and not replace national citizenship".

The discussion of who to include within (and who to exclude from) the stretch of citizenship, rests, as far as the above-mentioned mutual relationship is concerned, very much on social cohesion/civic integration. Still, the recent rise of terrorism discourse made this issue more precarious than it always was. Multiculturalism as a thematic element across scholarly debates was prior to '9/11' placed largely within the context of human rights/universalism. Yet, it appears, the issue has for some time been linked for the most part to national identity, as a result of which the former promise of 'multiple loyalties' is now declared 'null and void'.

The entire backcloth presented through citizenship and multiculturalism so far is essentially informed by three competing schools of political thought. As first, the liberal understanding of citizenship connotes largely to legal status by which members of a political entity are granted social, political and civil rights in return for which they are bound with a number of obligations. Seen from this perspective, citizenship is in the first place "a matter of entitlement" rather than "political participation or civic commitment" (Bellamy, Castiglione & Shaw, 2006, p. 9). Despite different lenses they consult to come to terms with cultural plurality, liberalists see multiculturalism largely as a means to accommodating and protecting diversity "to promote liberal values such as equality, autonomy, toleration or equal respect. Thus, although it may well allow a degree of cultural preservation or protectionism, that isn't the central aim or *telos* of this approach" (Ivison, 2010, p. 3).

Then, for the republican citizenship, 'rights' are backed up typically by political participation. Based on models retrieved from Ancient Greece which restricted participation to citizens but not 'subjects', republicans demand stronger commitments from individuals, through commitment to civic and political life, at the very least. Conceptualisation of the 'nation' requires in this sense further than "the basis of descent, a shared tradition and a common language" to include more of 'praxis' and exercise of civil rights actively (Habermas, 1992).

Last, to communitarians, citizenship brings people together within a political community on the basis of shared norms and values. Membership of citizens is here characterised through moral qualities like loyalty and solidarity binding community members to one another (Martiniello, 2000). Contrary to liberals and republicans who look alike by subscribing to universalist principles in orientation, communitarians credit a protective logic allowing for

‘recognition’ of minority groups like immigrants provided that the latter would concede the majority groups’ cultural privileges (Ivison, 2010).

Chapter 3 Theoretical framework

The EU's raison d'être as a political actor is often met with scepticism in scholarship. Cooperation in the early stages between Member States (the so called 'European Political Cooperation') was reportedly shallow and lame. Amidst polemics over the 'normative' role attached distinctively in international terms (Duchene, 1973; Manners, 2002), the EU's growing institutional structure at the internal level led gradually to "the creation and dissemination of a range of new databases, the scope for systematic testing and falsification of theories" bringing about in the end "an increasingly promising arena for the practice of 'normal science'" (Pollack, 2005, p. 379). This chapter will begin with a preface to this new field which in literature is filed as theory in EU Studies. The main aim intended here is to locate Europeanisation in this broad framework before it is subsequently presented as the main theory of the research.

3.1 Theory in EU Studies

To be sure, social sciences abound with theories, paradigms, approaches or schools of thinking which scholars turn to one way or another to reify research challenges. Featuring alongside this diversity is a long standing rivalry initiated from one perspective for what is supposedly not explained, formulated or accomplished from those of the rest. This issue, put differently, the fact that a theory's supremacy relates closely to its competitive strength over the others has been informative also for EU Studies. Nonetheless, though fairly prolific, this relatively young area is a derivative of International Relations (IR) and has to date not been impressive enough to reassure its own agenda or at least anything further than what the latter or Comparative Politics already said (Hollis & Smith, 1990).

The IR theory is generally known to have risen upon a long legacy of 'bloody conflicts' to give insights into how further outbreaks of war could be prevented. To change the world for the better, both liberalists and realists had faith in the give-and-take between theory and practice, while the realist agenda rather filtered it "by trying to understand as dispassionately as possible the constraints on realising the vision which the 'utopians' had been too anxious to embrace" (Burchill et al., 2005, p. 9). In fact, up to the post-War era when the European integration took a start with its *sui generis* configuration, it was the realist paradigm which found more audience in the IR field. Commitments made by EC/EU have since then been

analysed in many ways over a series of grand-, middle- and small-range theories (Nugent, 2003). The forerunner in the first cluster was neo-functionalism which captured scholarly attention with its liberalist 'spill-over' motto. To neo-functionalists, the safety valve of a war-free Europe was a system of mutual interests -as their predecessors, functionalists, had similarly formulated (Mitrany, 1943)- which, if states could take advantage of it collectively, had the potential to let integration in one sector expand into others through a 'spill-over' process (Haas, 1958; Lindberg, 1963). The heyday of neo-functionalism coincided with Deutsch's 'transactionalism'[93] which as a theoretical contribution maintained that the horizontal relations across Member States could one way or another release a 'sense of community' (Deutsch et al., 1967). A certain shift of 'loyalties' for a supranational rule would however not guarantee unconditional commitment to the European ideals (Lerner & Gorden, 1969).

Indeed, the 'empty chair' crisis[94] of the 1960s cast a shadow over the neo-functionalist arguments which were soon declared 'obsolete' by the founder Haas himself (Schmitter, 2004) as if to submit itself clearly to Hoffmann's (1964) 'intergovernmentalism'. Classified in literature as 'classical intergovernmentalism', this second grand theory also found criticism because it appeared to explain nothing but why Member States would not really volunteer for further integration. This issue was later filed down by Moravcsik (1993, 1998) under 'liberal intergovernmentalism' to highlight not merely the deceleration of the integration in the 1960s but also the EU's historic achievements up to the 1986 Single European Act (SEA). In any case, the 'comeback' of realism (hence neo-realism) was by this means declaring the nation-state once again as the core unit of the international system "in spite of all the remonstrations to the contrary" (Hoffman, 1966, p. 895).

The early 1990s saw a transformation in the EU-guided research bringing about its own research agenda with multiple perspectives (Pollack, 2005). The EU began to appear thereafter as a system of 'governance without government' further beyond an international organisation (Majone, 1994). As the macro exposure of grand-theories could not shoot the details of this new EU picture, a number of meso-level/middle-range theories rose to put

[93] The term 'transactionalism' is essentially meant to stand for the role of transaction level/communication which is capable of increasing sense of trust amongst people.
[94] The 'empty chair' crisis of 1966 came as the culmination of France's boycott series of the Council's meetings upon failure to receive veto rights for its 'highly significant' national interests. This was indeed a blow to paralyse the Community method and therewith supranationalisation of the integration process.

emphasis on the EU's capacity to govern 'effectively and democratically' (Scharpf, 1999; Schmitter, 2000). The leading multi-level governance (MLG) approach (Marks, 1993; Jachtenfuchs, 1995; Majone, 1996; Kohler-Koch & Eising, 1999 and Kohler-Koch & Rittberger, 2006) argued in this cluster that the EU became a system of governance marked by "a unique set of multi-level, non-hierarchical and regulatory institutions, and a hybrid mix of state and non-state actors" (Hix, 1998, p. 39). Perceiving the EU as a complex decision-making system with multiple actors (the state being only one of them), MLG theorists focused primarily on the weakening of the state which could, as they claimed, no more be defined as a sovereign actor but a body of rules or formal institutions (Marks et al., 1996).

As another meso-level approach the main tenets of which were in fact reminiscent of MLG, the policy network approach (Marsh & Rhodes, 1992; Peterson, 1992) conceived across governmental and non-governmental networks of "actors, each of which has an interest, or 'stake' in a given…policy sector and the capacity to help determine policy success or failure" (Peterson & Bomberg, 1999, p. 8). Separating these networks as 'horizontal and vertical' (Heinelt & Smith, 1996), 'open issue and closed policy' (Peters, 1998), 'dyadic and triadic' (Ansell, Parsons & Darden, 1997) and 'generalised and task specific' (Marks & Hooghe, 2004), policy network theorists aimed to show the ways in which structure and agency conflicted each other.

Further theoretical approaches the meso-level cluster comprises besides the MLG and policy network analyses are rational choice institutionalism, historical institutionalism and sociological institutionalism which altogether are classified in literature under 'new institutionalisms' (Hall & Taylor, 1996). With a commitment to relocate institutions back into the heart of politics and society (Radaelli, 2003, 2004), these analytical approaches dwelled principally on "particular slices of the EU polity" (Rosamond, 2000, p. 126), through various lenses, such as the 'calculus approach' of rational choice institutionalists focusing specifically on the consequences of national preferences (Hall & Taylor, 1996), the temporal emphasis of historical institutionalists underlining the 'path dependent' character of institutional arrangement (Thelen, 1999) and the 'cultural approach' of sociological institutionalists explaining the link between institutions and agents in reference to the 'logic of appropriateness' (March & Olsen, 1998). Added to these, a more recent formulation came in this category via discursive institutionalism (Schmidt, 2000, 2002; Schmidt & Radaelli, 2004), which emerged as a synthetic approach bringing the older 'new institutionalisms'

together. To do that, discursive institutionalism referred to ideational factors to underscore the role of discursive interaction across institutional networks (Schmidt & Radaelli, 2004).

With its 'logic of appropriateness' and emphasis on social norms, like sociological institutionalism (Katzenstein, 1996, p. 5), social constructivism aligned also with the second wave of theoretical approaches. That said, what made social constructivism different from the rest in this group was the weight it put on the 'finality' of the EU (Wiener & Diez, 2004). In so doing, social constructivists were especially critical of the rationalist school for they seemed to dwell too much on material interests rather than key attributes of European integration such as cultural richness and ideational factors. Nonetheless, it is important to underline here that there was no uniform structure applicable to the ontological basis of social constructivism.[95]

A further theoretical approach which represented the 'normative' school of thoughts amongst the meso-level theories was characterised by Habermas' (1996) social theory of 'deliberative democracy' (Checkel & Katzenstein, 2009). Pointing to an inclusive political framework at a universal level (rather than an economic one), theorists subscribing to deliberative democracy (Eriksen, 2006; Pensky, 2008) asserted that a constitution for the EU could gather Member State citizens around a shared European goal. Those searching for a supranational identity on the basis of the EU's 'normative power' (Manners, 2002) could also be associated with this group.[96]

Despite their different focal points, the roots of all these perspectives -be they of MLG, policy network analysis, various forms of institutionalism, social constructivism or deliberative democracy- could be tracked down to the end of the 1970s when 'policy-making' at the EU-level became central to scholarly interest (Wallace, Wallace & Webb, 1977). In contrast to neo-functionalists and intergovernmentalists who perceived the European integration as a dependent variable, theorists in this latter generation focused collectively on the EU's complex institutional structure. Viewing the EU foremost as an aggregate of policies and

[95] Constructivism is far from being monolithic. Some constructivists like Checkel (1998) do not necessarily deny the rationalist position, for they for instance do not reject "science or causal explanation: their quarrel with mainstream theories is ontological, not epistemological. The last point is key, for it suggests that constructivism has the potential to bridge the still vast divide separating the majority of IR theorists from postmodernists" (p. 327).

[96] The emphasis laid on 'identity' was in essence characterised by the 'social' character of institutions which in the EU case had already been developing since their establishment in the 1950s (Christiansen, Jørgensen & Wiener, 2001).

politics at national and supranational levels (Jachtenfuchs, 2001, p. 250) and highlighting implications of identity formation for the European integration (Chryssochoou, 2000), this line of arguments came to extract gradually an independent variable from the European integration. It is indeed against the background of this 'governance/normative turn' that 'Europeanisation' could be best illustrated, as a theoretical approach drawing largely on policy diffusion across the EU's complex institutional network with a certain extent of supranationalisation as its independent variable.

3.2 Europeanisation

3.2.1 Defining Europeanisation

Research on European integration has for some time been engrossed first and foremost in the EU's domestic impacts. Cutting across a wide range of policy areas, this undertaking is associated essentially with a new research field by the name of 'Europeanisation'. Despite the obvious rise of research interest for it "or perhaps even because of it", attempts to define this new field remain all the same somewhat poor and confusing (Mair, 2004, p. 338). The hitherto recourse to its conceptualisation in an array of policy fields from trade, commerce and environment to external affairs provokes its "faddish use" in various contexts which might "easily obscure its substantive meanings" (Featherstone, 2003, p. 3). While Europeanisation in a narrow sense suggests "a response to the policies of the European Union (EU)" its scope "is broad, stretching across existing member states and applicant states, as the EU's weight across the continent grows" (Featherstone, 2003, pp. 3-4). This coverage might at times extend beyond reference to the EU and embrace for instance the cultural influence of former European colonial powers away from their current territorial boundaries.

Although a shared definition did not come into being for long (Olsen, 2002; 2003), Europeanisation suggests at present to political scientists "the direct and indirect processes between EU member states and between the EU and individual member states, through which actors, policies and institutions influence each other structurally, ideologically and procedurally" (Palmowski, 2011, p. 636). An initial definition attempt came from Andersen & Eliassen (1993) who through 'Europeification' referred to a certain degree of power share between the EU and national governments. Ladrech (1994) furthered this interpretation to include "an incremental process re-orienting the direction and shape of politics to the degree that EC political and economic dynamics become part of the organisational logic of national politics and policy-making" (p. 69). In a similar vein, Radaelli (2000, p. 4) mentioned a host

of processes whereby the EU action at social, economic and political levels become "incorporated in the logic of domestic discourse, identities, political structures and public policies". Börzel's (1999) former reference as a "process by which domestic policy areas become increasingly subject to European policy-making" (p. 574) indeed drew from the same reasoning.

The contribution of Risse, Green-Cowles & Caporaso (2001) sought to address the distinctly European structures which "formalize interactions among the actors, and of policy networks specialising in the creation of authoritative European rules" (p. 4) and the functionalist roots of European integration (Haas, 1958). This perspective was indeed denying that of Bulmer & Burch (2000) who in underscoring the multiplicity of policy-making factors argued that "European integration is not just 'out there' as some kind of independent variable" (p. 9). These explanatory attempts were expanded later to include

> Processes of a) construction, b) diffusion and c) institutionalization of formal and informal rules, procedures, policy paradigms, styles, 'ways of doing things' and shared beliefs and norms which are first defined and consolidated in the EU policy process and then incorporated in the logic of domestic (national and sub-national) discourse, political structures and public policies (Radaelli 2003, p. 30).

Indeed, Radaelli's broad definition appeared to give substance to the multifaceted nature of Europeanisation, which Dyson & Goetz (2002, p. 2) had previously pointed out:

> It is sometimes used narrowly to refer to implementation of EU legislation or more broadly to capture policy transfer and learning within the EU. It is sometimes used to identify the shift of national policy paradigms and instruments to the EU-level. (Other)…times it is used in a narrower way to refer to its effects at the domestic level…or in a more expansive way to include effects on discourse and identities as well as structures and policies at the domestic level (qtd. in Howell, 2002, p. 6).

A wide range of perceptions like these could however risk overrrating the 'shadow of hierarchy' as in the case of Member States (Börzel, 2010) or the 'shadow of conditionality' for accession states (Schimmelfennig & Sedelmeier, 2005), which would "screen out other domestic causes" in conceptualising Europeanisation (Bulmer & Burch, 2005, p. 864). This warning is indeed informed by research findings regarding the rather neglected dimension of Europeanisation, i.e. its influence in faraway regions. Jetschke & Murray (2012) argued on this score that the EU Treaties played an inspirational role in the construction of the 2008

ASEAN Charter. Such evidence does not necessarily suggest that the signatories of the Charter became by this means somewhat Europeanised, yet similar arguments apply in fact theoretically to supranationalisation/Europeanisation of other states. For EU Member State candidates, to illustrate, accession to the EU involves by all means a certain extent of institutional adaptation. It would however be erroneous to argue that the EU is here the only source of change leading to domestic reforms (Noutcheva & Düzgit, 2012).

3.2.2 Scope of Europeanisation

The hitherto attempts to understand Europeanisation have addressed three main prerequisites for its conceptualisation: capacity of states to accommodate to the EU's institutional framework; acquisition of norms and values attached to Europe such as democracy, rule of law or human rights; and identification with the historical past of Europe. The first imperative concerning institutional adaptation falls in essence within the research scope of political science where scholars' attention is generally drawn by the analysis of national/subnational actors. The latter two conditions relating to norms/values together with identity/belonging seem to reflect for the most part sociological, psychological and anthropological undertakings.

With a backdrop of insights into the confines of the EC/EU (Green-Cowles, Caporaso & Risse, 2001) and approaches questioning the limits of supranationalisation (Flockhart, 2010), these undertakings have so far postulated two dimensions of Europeanisation. As Börzel & Risse (2003) observe, it has been mainly the 'policy' dimension that captured scholars' interest in the first place. Aside from several studies focusing on the EU domain (Goetz & Hix, 2001), the second dimension of 'politics' has not found much purchase. Schmidt (2008) attributes this 'escape' essentially to the weak image of EU-level politics. In the case of immigration for instance, most studies can be catalogued under 'policy', with their general tendency to look into labour, refugee/asylum, family reunification and irregular aspects.

The four main conditions by which domestic institutional change is brought about are taken to be 'domestic incentives', 'degrees of (limited) statehood', 'democracy vs. autocracy' and 'power asymmetries' (Börzel & Risse, 2012, pp. 11-14). The first scope condition of domestic incentives is essentially a description of whether or not domestic actors' move to initiate EU-guided reforms at home is at their own discretion. As research has come to demonstrate in the case of accession candidates (Schimmelfennig & Sedelmeier, 2004; 2005), Europeanisation is informed here to a great extent by the 'conditionality principle'. This tool operates like a code

of conduct within the broader context of 'liberal reform coalitions' whereby the EU aspires for overhauling corrupt or authoritarian regimes by offering them opportunity to consolidate their power via approval of EU requirements (Börzel & Pamuk, 2012). For that, 'the logic of appropriateness' is conveyed through 'norm entrepreneurs' for the simple purpose of 'doing the right thing to do' (Börzel & Risse, 2007). Such domestic incentives are not necessarily limited to the EU's immediate sphere of influence. As Börzel & Risse (2012) maintains, processes of 'emulation' are applicable to all places as long as policy adaptation fits the interests of domestic actors (p. 11).

The second scope condition concerning degrees of (limited) statehood has to do with states' capacity in policy-making, which by definition suggests discontinuance for domestic change. While it is difficult to show at length how diffusion mechanisms are influenced, a number of actors including business circles may push states significantly into domestic reforms. This is particularly the case for states with fragile institutional structures. Considering a certain degree of 'normative' character involved here, which in fact applies to all states seeking to increase their legitimacy, one can argue that there is always a potential to "induce domestic and regional actors to adopt EU institutional solutions" (Börzel & Risse, 2012, p. 12).

Democracy vs. autocracy as the third scope condition concerns in essence states' eagerness for domestic change via democracy. This is indeed a significant issue in view of the costs of adaptation for EU requirements, which for democratic states with market economies are far lower than they are for authoritarian states. From this perspective, aligning with the EU standards would be a cost-effective option for the latter. However, as pressure from civil societies in authoritarian states is almost always at a minimum, the EU's influence upon domestic change in these countries is often limited. It is possible to claim all the same "that regime type is not a dichotomous variable, but there are degrees of democracy and autocracy" (Börzel & Risse, 2012, p. 12). This argument is supported by research on the EU-induced institutional change in countries with varying democratisation levels (Van Hüllen, 2012; Noutcheva & Düzgit, 2012; Spendzharova & Vachudova, 2012; Börzel & Pamuk, 2012).

Power asymmetries, as the last scope condition for domestic change, relates essentially to differences between the EU and target states in terms of their material/ideational resources. For countries with great economic and political resources, exerting pressure for accommodation to the EU standards has so far proved to be highly demanding. Indeed, there

is in Europe hardly a country which could even out the EU's capabilities with symmetrical arrangements. Seen from this angle, it would obviously be to the interest of the EU's neighbourhood to establish close ties with the Union. Nonetheless, this scope condition suggests a lower value for, say, the BRICS (Brazil, Russia, India, China, and South Africa) into which the EU's sphere of influence does not stretch wide enough (Jetschke & Murray, 2012). Such economic and political power balance may even take a discursive meaning (Barnett & Duvall, 2005), as in the cases of China and some Latin American states like Venezuela or Cuba, which in many occasions have come to challenge the EU's discourses on democracy and human rights. It would in this sense be fair to conclude that the more the EU is "able to exert direct influence and adaptational pressure for institutional change, the greater the material power asymmetries in its favour" (Börzel & Risse, 2012, p. 14).

3.2.3 Models for Europeanisation

The initially launched 'top-down'/'downloading' model in Europeanisation research follows broadly from the premise that institutional adaptation at the national level sources chiefly from norms/regulations designed at the EU (Risse, Green-Cowles & Caporaso, 2001). A major determinant to this effect is the 'goodness of fit', suggesting there exists a certain degree of (in)compatibility between the national and supranational institutional frameworks (Börzel & Risse, 2003). Other than that, institutional adaptation is also contingent upon an intrinsic form of motivation characterised by a range of what is termed as 'mediating factors', 'veto points' or 'facilitating factors', which are all capable of animating or intimidating states' decisions vis-à-vis supranational guidelines (Héritier & Knill, 2001).

Challenging this top-down perception, a follow-up model holds that one could indeed come to terms with the basic patterns of EU-level policy-making by starting first and foremost at the Member State level. As the launch of the Common Agricultural Policy and the establishment of the Monetary Union formerly manifested,[97] it is accordingly highly likely that Member States seek to maximise their interests at each turn, as part of their grand strategies. To this 'bottom-up' understanding (Börzel, 2002; Radaelli & Pasquier, 2007), states seek to reduce the burden of downloading supranational guidelines by transposing their agenda into the supranational sphere. Based to a certain extent on the rational-choice understanding, which regards the EU as little more than a means to the advancement of national interests (Laffan &

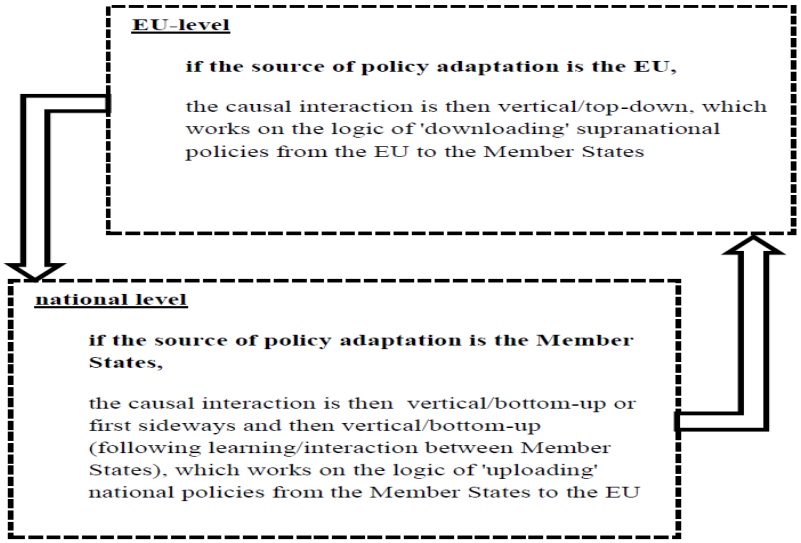
[97] These initiatives were in fact serving for the long term strategic plans of France and Germany (Börzel & Risse, 2003).

Stubb, 2003), the bottom-up model considers Europeanisation to be a process whereby Member States are in search of exporting their own policy goals to the EU, at every opportunity they seize (Bulmer & Burch, 1998).

Put in brief, the bottom-up understanding of Europeanisation (as launched to be an alternative to the top-down model) tracks down the origin of policy adaptation to its domestic roots. Still, one needs to remember that this perception rests not only on a vertical reasoning but also on a horizontal one, i.e. a 'sideways' form of interaction with other states, whether EU members or not, which could eventually push domestic systems to undergo a process of change collectively (Radaelli, 2000). A sample governance tool which supports this thesis is the Open Method of Coordination (OMC). As a mode of governance aiming at 'best practices' amongst the EU Member States, the OMC essentially intends to help share mutual experiences, bringing about eventually a broader platform of 'learning' process.[98] Here, the degree of learning and implementation of best practices depend on the exchange of cultural, social and political exercises which presumably have the capacity to generate policy convergence between Member States and the institutions of the EU (Quaglia et al., 2007).

With this in mind, it is possible to argue that the eventual policy adaptation at the national level is in fact an aggregate of multiple levels of interaction:

Figure 6: Causal interaction in Europeanisation



[98] Radaelli (2003, p. 52) distinguishes here between 'thin' and 'thick' types of learning. While the former involves actors' readjustment to remain close to their original positions, 'thick learning' occurs when actors make radical strategic changes.

Accordingly, policy-making starting in a national setting at one time is subject to supranational and/or international influences concurrently, promoting in the end renewal/reproduction of policy adaptation at another time.

3.2.4 Mechanisms of Europeanisation

Intrinsic in these two basic models of Europeanisation are a number of mechanisms, which can be classified into 'physical or legal coercion', 'utility calculations', 'socialisation' and 'persuasion' (Börzel & Risse, 2012). The first mechanism of physical or legal coercion looks over how readily states accommodate to the EU's 'external' influence (Holzinger, Knill & Sommerer, 2007). While the EU does not typically exercise 'coercion' in its third party engagements, one might recall the 'conditionality principle' throughout the accession talks with candidate states, for instance, insofar as it invokes a restrictive logic when the question is one of replacing the legal order in these countries. Such a potential does however not necessarily suggest the use of 'force' in its traditional meaning. Being an accession candidate requires by definition a series of conditions to be met for the ultimate membership to the Union, the most important of which is probably law enforcement. Seen in this sense, a certain degree of coercion is actually an intrinsic quality of diffusion prescribing that Member States comply with the norms and legal requirements as assigned by the EU's supranational framework.

The second mechanism of utility calculations concerns the sizing up of states vis-à-vis the technical/financial aids offered by other states or international actors. The EU makes use of these aid packages commonly as part of its conditionality and 'capacity-building' schemes to get its institutional model adapted in candidate and neighbourhood countries (Vachudova, 2005; Schimmelfennig & Sedelmeier, 2005; Börzel, Pamuk & Stahn, 2008) with hints of economic prosperity or environmental protection in return (Sedelmeier, 2012; Spendzharova & Vachudova, 2012; Börzel & Pamuk, 2012; Noutcheva & Düzgit, 2012). That being the case, a negative assessment of such incentives in that their costs would probably outweigh the potential benefits might urge rearrangement of national strategies in the end. One can on that account argue that "the more the EU itself is interested in market access to other regions", the less it is likely for utility calculations as an "influence mechanism to matter" (Börzel & Risse, 2012, p. 7).

The third mechanism of socialisation (March & Olsen, 1998) functions very much in line with 'the logic of appropriateness'. In accordance, states do not necessarily seek to maximise their self-interests in the first place but instead aim to meet a host of basic social requirements (Johnston, 2007) informed by complex learning processes such as 'habitualisation' or 'talking the talk'. To this understanding, the EU is a big 'socialisation agency' (Checkel, 2005) or a 'teacher of norms' (Finnemore, 1993) for Member States, accession candidates and neighbourhood countries. Needless to say, the size of the EU as a role-model depends largely on the concerning state's willingness to embrace its regulations/norms such as liberal democracy (Van Hüllen, 2012; Börzel & Pamuk, 2012).

The fourth mechanism of persuasion is comparable to 'the logic of arguing', whereby actors aim "to persuade each other about the validity claims inherent in any causal or normative statement" (Börzel & Risse, 2012, p. 8). The EU applies this tool specifically in its relations with a candidate, neighbourhood or any other third-country as part of its external relations. Similar to socialisation, the EU consults persuasion regularly alongside its 'conditionality' strategy to induce accession candidates into adopting its institutional or normative validity and appropriateness (Kelley, 2004). While this strategy is also important in geographically far-away countries, it is usually the EU's 'communicative skills' for the promotion of European norms -human rights, democracy and the rule of law, most notably- that appears to be the chief policy instrument the EU uses in expanding its sphere of influence into these countries (Lenz, 2012; Jetschke & Murray, 2012).

3.2.5 Phases of Europeanisation

Leaving their varying points of emphasis aside, one could track down all these formulations (of Europeanisation mechanisms) to economic integration models, for instance that of Pinder (1968) where a common framework for policy coordination is achievable either through positive/voluntary cooperation or a negative one with some sort of coercion involved in it (Rosenbaum, 2003). Depending on the level of misfit between the national and supranational levels, the consequent degree of domestic change is accordingly observable in three states, 'absorption', 'accommodation', and 'transformation', (Börzel & Risse, 2003). The absorption state refers here to a minimum need for alignment with the EU's institutional framework. For accommodation, a sizeable measure of institutional adaptation is needful. As the highest state of domestic change, transformation relates to a thorough replacement of existing policy structures on the basis of supranational guidelines.

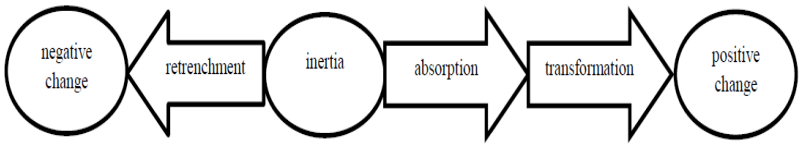
Table 4: Configuration of domestic change

Phases	Characteristics	Degrees
Absorption	no substantial policy adaptation	low
Accommodation	sizable policy adaptation	moderate
Transformation	paradigmatic policy adaptation	high

Based on Börzel & Risse (2003, p. 69-70).

The four outcomes presented in the same vein formerly by way of 'retrenchment', 'inertia', 'absorption' and 'transformation' (Börzel, 1999; Green-Cowles, Caporaso & Risse, 2001; Héritier & Knill, 2001) follow from the very same logic indeed. Here, the direction of domestic policy change hinges on inertia, denoting a situation of no observable domestic change. Retrenchment stands for a negative trend suggesting policies have receded from becoming 'European' in the end. Absorption on the other hand is indicative of a considerable degree of positive change towards the EU's institutional framework. And finally, transformation marks paradigmatic positive changes replacing domestic policy structures from head to toe.

Figure 7: Direction of domestic change



Based on Radaelli (2003, p. 35).

3.2.6 Europeanisation and other research areas

3.2.6.1 Europeanisation, EU integration and globalisation

First off, there has been in scholarship a clear tendency to cut Europeanisation and EU integration from the same cloth, so to say, and speak of their eventual convergence. Such perceptions are indeed based on the two fields' ontological dispositions which are commonly engaged with description of structural changes in Europe "variously affecting actors and institutions, ideas and interests" (Featherstone, 2003, p. 3). Yet, as Risse, Green-Cowles & Caporaso (2001) argue, Europeanisation boasts a process which is far more inclusive than that of European integration.

For Europeanisation, the main talk of the town was in the beginning its 'substance' in relation to concepts like internationalisation or globalisation. Such a comparison drew essentially from the increasingly 'nested' policy-making structures at national and international levels, or the 'new modes of governance', suggesting signs of harmonisation between the EU and Member States could be evocative of globalisation (Gourevitch, 1978). Conceptualised in rough terms as the removal of boundaries most notably in the face of expanding international organisations such as the World Bank, International Monetary Fund and the World Trade Organisation (Held & McGrew, 2002), globalisation was for Europeanisation seemingly a major source of guidance given that the latter is similarly inspired by a dynamic institutional network as demanded by the EU's integration process (Wallace, 2000a). This projection is however denied by some like Risse, Green-Cowles & Caporaso (2001) on the grounds that it is poor in holding 'something exclusive' to Europe/the EU.

While acknowledging its role "as a conduit for global forces", Schmidt (2002) believes that Europeanisation is in fact a sort of buttress against such forces "opening member states to international competition in the capital and product markets" but at the same time securing their 'EU exclusive' interests amongst others "through monetary integration and the Single Market" (p. 14). Accordingly, with its far-reaching regulations and commitments to a shared political project, the institutional structure of the EU outdoes other international/regional economic authorities.

As for links between regionalisation and globalisation, several scholarly thoughts have come to stress the virtues of liberal democracy or 'embedded liberalism' (Ruggie, 1983; 1996) as the normative framework of Europeanisation is commonly known to hold when referring to institution building beyond the national level. Despite their consensus on the merits of liberalism, scholars in this group hold different predispositions. The neo-liberalist students of Hayek (1976) and Kegan & Ohmae (1990) have for instance a pro-globalisation position, whereas subscribers to liberal internationalism like Hinsley (1986) favour regionalisation instead. Conceding to the primacy of liberal democracy as a governance model, some like Held et al. (1999) meanwhile bid for a 'better working' globalisation via 'cosmopolitan democracy'. When seen in light of the cosmopolitan nature of regional organisations like the

EU (Habermas, 1998), Europeanisation could to this understanding be promoted on the condition that it serves for a benign form of globalisation.[99]

Granted that there is in literature much faith in liberal values in establishing links between Europeanisation and its liberal roots, one needs to take into account also 'protectionists' who essentially argue for strengthening state competences so that threats guided by liberal democracy against national-sovereignty could be effectively driven away (Leftwich, 2000). To this reasoning, regional organisations like the EU would be desirable as long as they would defer to the powers of the state. Some critics on the other hand frown upon the EU's operational capacity for being subservient to the International Monetary Fund (IMF) and the World Trade Organisation (WTO) and imposing therewith rigid practices such as welfare cutbacks or deregulation of labour markets (Scharpf, 2002). With its attachment to Western standards, Europeanisation is from this perspective little more than a facilitator of globalisation (Rosamond, 1999). An alternative working system to draw from this argument is a new governance model based on the principles of equality, self-governance and direct democracy (Falk, 1995; Callinicos, 2000). Europeanisation could in this sense be a 'filter' for further liberalisation/'Americanization' (Leibfried, 2000) or function as an 'antidote' to globalisation offsetting for instance the latter's detriments to social justice (Graziano, 2003).

By and large, it would in the end be fair to argue that both Europeanisation and globalisation enjoy the same "continuum of policy-making that spreads from the country, through the European arena, to the global level" (Wallace, 2000b, p. 7). Despite idiosyncracies and eccentricities to bear in mind here, one could draw parallels between supranationalisation of Member State policies and globalisation movements for they appear to follow from the same systemic principles such as free market rules, (Western) liberal democracy or liberalization.

3.2.6.2 Europeanisation and transnational diffusion

There is against this backdrop tendency to place Europeanisation within the larger framework of transnational diffusion research (Holzinger, Knill & Sommerer, 2007; Simmons, Dobbin & Garrett, 2008; Gilardi, 2012). As a matter of fact, the basic features and conditions of Europeanisation are not in denial of those specific to transnational diffusion at all, which on the contrary would be quite instrumental in shedding light upon the EU's domestic impacts

[99] The perceived threat of globalisation can be observed in literature through concomitant use of terms like 'harnessed', 'tamed', 'humanized' and 'managed' (Jacoby & Meunier, 2010).

(Börzel & Risse, 2012). Given that Europeanisation is a "special instance of policy and institutional diffusion" and diffusion "a process through which ideas, normative standards, or…policies and institutions spread across time and space", research in both areas can serve to iron out the creases of for instance the 'top-down' perspective (Börzel & Risse, 2012, p. 5).

Accordingly, both areas of research set their sights on three 'logics of social action'. Based on an instrumental type of rationality, 'the logic of consequences' addresses the self-interested drive of actors who are all 'utility maximisers'. Then again, 'the logic of appropriateness' argues for a normative type of rationality stressing that actors follow rules to 'do the right thing' for the overall purpose of integrating into a community. And finally, 'the logic of arguing' points out with some 'communicative' rationality that actors' primary goal is to persuade each other on the basis of a set of norms and arguments they could substantiate in depth (Habermas, 1981; Risse, 2000).

On could in fact reduce these 'logics of social action' to 'direct' and 'indirect' types of diffusion (Börzel & Risse, 2012). Scholarship in Europeanisation has so far tended to quote from direct diffusion according to which the balance of influence between the supranational and national domains tilts in favour of the former. For the indirect type of diffusion on the other hand, 'emulation', as one may also refer to it, the direction of influence stems from the national side. Accordingly, when states are after the right 'way of doing things' (the logic of appropriateness) or 'best practices' (the logic of consequences), they could simply download a sample institutional model from within, which prompts no urgency to subscribe to a supranational model dictated by the EU.

3.2.7 Review of literature

Given these qualities attributed widely to Europeanisation, it seems scholarship has already done away with its post-ontological underpinnings (Caporaso, 1996 -as cited in Featherstone, 2003), irrespective of the difficulty to locate links between structure and agency. Besides scholarly works tackling its nature, mechanisms and consequences (Olsen, 2002; Radaelli, 2003; Börzel & Risse, 2003; Lenschow, 2005; Caporaso, 2007), there is abundance of research studying the issue of domestic change as far as actors, institutions and ways of doing things are concerned (Ladrech, 2005; Bulmer & Radaelli, 2005; Börzel, 2005). Added to these are recent analyses whose major emphases appear to be on the EU's impact both within the

framework of enlargement and beyond the European context (Sedelmeier, 2006; Schimmelfennig, 2007 -as cited in Exadaktylos & Radaelli, 2009, p. 508).

A SSCI (Social Sciences Citation Index) scan over the last twenty years reveals an increase of this research interest (Featherstone, 2003, pp. 5-6):

Table 5: SSCI entries on Europeanisation (1981-2001)

Years	Number of entries
1981-88	3
1989	2
1990	1
1991	4
1992	2
1993	9
1994	8
1995	3
1996	5
1997	6
1998	7
1999	20
2000	24
2001	22
Total	116

Source: Featherstone (2003, p. 5).

Most of these analyses have sought to give publicity to the historical, transnational-cultural, institutional and policy-based outcomes of Europeanisation. From a historical perspective, Europeanisation appears to serve as a means to promoting the EU's institutional structure and 'way of life' across Europe's geographical boundaries, for instance by way of colonisation (Olsen, 2003). Accordingly, former imperial powers such as France, Spain, Portugal, the Netherlands and Britain have distributed their national values under the guise of European civilisation. The main focal point of transnational-cultural accounts of Europeanisation is its understanding on the basis of ideas, identities or cultural norms exchanged between countries with respect to political culture (Pamir, 1994), cultural assimilation (Soysal, 1994) or citizenship (Joppke, 1995). Next, there is research tying Europeanisation to EU membership to observe the ways in which EU accession influences political parties (Ladrech, 1994; Holden, 1999; Cole, 2001), non-governmental actors like trade unions (Turner, 1996) or public administration (Wessels, 1998; Jørgensen, 1999; Bulmer & Burch, 2001). A final area of Europeanisation research relates to the EU membership's policy-based outcomes. Here, the

main concern is the EU's regulatory capacity to produce domestic change in different sectors such as employment and social policy (Doogan, 1992), environment (Nilson, 1993; Jordan, 1998), agriculture (Rothstein et al., 1999) and foreign policy (Wallace, 1994; Knutsen, 1996; Agh, 1999; Featherstone, 2000).

A more up-to-date scan of the SSCI database covering a ten-year period of research in the same context (between 2002 and the second half of 2012) delivers as many as 702 hits:

Table 6: SSCI entries on Europeanisation (2002-2012)

Year	Number of entries
2002	34
2003	21
2004	47
2005	60
2006	51
2007	54
2008	87
2009	110
2010	100
2011	95
2012 (first half)	43
Total	702

Based on Social Sciences Citation Index, Thomson Reuters, 2012.

Of these publications, the first three thematic categories fall in the disciplinary fields of Political Science (286 entries), Public Administration (144) and International Relations (67) with respect to their given entry titles in database. A detailed configuration of these contributions is as follows:

Table 7: SSCI entries on Europeanisation according to disciplinary areas (first five)

Disciplinary fields	Number of entries	Percentages
Political Science	286	41%
Public Administration	144	21%
International Relations	67	10%
Other areas	497	28%
Total	702	100%

Percentages are rounded off to the nearest value.
Based on Social Sciences Citation Index, Thomson Reuters, 2012.

While research entries up to 2005 appear to relate to Europeanisation *per se* (Knill & Lehmkuhl, 2002; Fligstein & Merand, 2002; Börzel, 2002b; Featherstone, 2003; Eder, 2004)

or its implications for the old EU members (Knodt, 2002; Roederer-Rynning, 2002; Irondelle, 2003; Gualini, 2003; Geyer, 2003; Sotiropoulos, 2004; Economides, 2005), a great number of more recent contributions concern chiefly the latest accession states (Gorton, Löwe & Selei, 2005; Baun et al., 2006; Hille & Knill, 2006; Gasior-Niemiec & Glinski, 2007; Krasovec & Lajh, 2008; Lewis, 2008; Spirova, 2008; Andreou & Bache, 2010; Bache, 2010; Debus, Müller & Obert, 2011; Spendzharova & Vachudova, 2012; Tanasoiu, 2012), accession candidates (Fink-Hafner, 2008; Oguzlu & Ozpek, 2008; Vujovic & Komar, 2008; Ulusoy, 2008; Onis & Yilmaz, 2009; Bache & Tomsic, 2010; Muftuler-Bac & Gursoy, 2010; Noutcheva & Düzgit, 2012) and the neighbourhood countries (Gabanyi, 2005; Melnykovska & Schweickert, 2008; Barbé, 2009; Gänzle & Muentel, 2011; Petrov & Kalinichenko, 2011; Börzel & Pamuk, 2012).

As for research on Europeanisation of national immigration policies, scholarship on that matter does not have an old history. The newly growing interest in this policy area relates very much to the fairly recent abolition of the EU's third pillar of Justice and Home Affairs. Following the 1997 Amsterdam Treaty, the area of immigration policies moved into the jurisdiction of the Community method, known formerly as the first pillar. There is in scholarship a twofold perception of this relocation. While some view a high degree of supranationalisation in there (Thielemann, 2002), others find it only marginal (Vink, 2002; Geddes, 2003). To Ette & Faist (2007), this divided picture could be attributed to the overly descriptive quality of research in this policy area which allows for "only few insights about the underlying driving forces of the European impact on its member states" (p. 10).

Regardless, there has been a growing number of studies with their main focus on the extent of Europeanisation in Member States' national immigration policies, such as those of Germany (Tomei, 2001; Ette & Kreienbrink, 2007; Prumm & Alscher, 2007), the UK (Geddes, 2005; Ette & Gerdes, 2007; Bache, 2008), the Netherlands (Vink, 2001, 2002, 2005), Spain (Fauser, 2007) or Greece, Cyprus and Malta (Ladi, 2011). For comparative analyses with theoretical emphasis, contributions from Thielemann (2002), Lavenex & Ucarer (2002), Geddes (2003) and Grabbe (2005) are of particular notice. It appears however these analyses have often tended to put weight on security aspects, dwelling most typically on asylum-seeking, yet reserving little space for other central themes like irregular immigration, labour immigration or family unification. Further, most studies were carried out to compare supranationalisation of immigration policies amongst either newest Member States like those from Central and

Eastern Europe (Schimmelfennig & Sedelmeier, 2005) or old Members such as the UK, Italy and Germany (Mastenbroek, 2005) but not in the form of cross-country analyses between the two clusters (Ette & Faist, 2007, p. 13).

3.3 Analysis

Academic scholarship has no apparent consensus in conceptualising 'domestic change'. Regardless of the rising number of studies dedicated to that end, the substance attached with Europeanisation has in these works been incurring "the risk of 'conceptual stretching'" (Radaelli, 2003, p. 27). And without a firm basis of empirical work,[100] theoretical approaches introduced in this framework are apt to remain overcast.

Put in a nutshell, there are two models often consulted to describe the ways in which Europeanisation 'occurs'. A leading top-down approach overlooks the national context as a primary source of domestic policy change. From this 'downloading' viewpoint, in other words, the strategic choices of Member States which might be ruling over the EU norms and regulations in the background appear to deserve little attention. In the context of migration, for instance, the fact that the interior ministers of Member States formerly took advantage of various Council meetings to sidestep the challenges they encountered in their national parliamentary sessions (Guiraudon, 2000) is to the top-down understanding of Europeanisation hardly a telling matter. The following bottom-up model however pays homage to this last point. What comes fundamental in accordance is the design of "a politics of Europeanisation rather than a Europeanisation of policy" (Geddes, 2007, p. 55), suggesting the EU action is transferable to Member States as long as it poses no major challenges against domestic agenda. In this sense, the introduction of Justice and Home Affairs (JHA) as the third pillar of the Maastricht Treaty could be interpreted as a precautionary 'national interest-driven' move to control the intensity of immigration, regardless of the fact that people's mobility was an elementary component of the European integration. Despite the follow-up Amsterdam Treaty's achievement in annexing JHA matters to the Community pillar through an 'Area of Freedom, Security and Justice', the introduction of derogations to the EU's last enlargement restricting people's mobility in eight of the ten new Member States (where

[100] Lodge (2006) for instance argues that the existing empirical literature may already be flawed for the collected data in this framework are usually subject to manipulation by states.

migratory outflows were thought to be most likely) could then be viewed as a backstage manoeuvre, casting shadows upon any supranationalisation attempt whatsoever.

It is possible to argue in light of key policy factors that the bottom-up understanding of Europeanisation emerges to be more eclectic, accounting for a myriad of pathways whereby norms/values might be diffused into national institutional structures. Bringing a further dimension into the limelight from the same perspective is for instance an additional 'sideways' approach to Europeanisation, in terms of the horizontal influence of one Member State upon the other or a similar type of interaction between Member States and non-EU countries. From this perspective, states' learning from one another plays in domestic policy-making as significant a role as accentuated alongside vertical impacts. In the foreign policy framework, arguments tying Europeanisation of France's foreign affairs largely with those of its German counterpart (Wong, 2007) come as a reflection of this latter approach.

It is against this background (of a more comprehensive and inclusive perspective) this study decided to adopt the bottom-up understanding as its research model of Europeanisation. Such an integrative approach, as it is widely believed here, could to a large extent serve well as a solution to the 'equifinality' problem (Müller & de Flers, 2009) observed typically in the separation of dependent and independent variables.

Chapter 4 Legal framework

To present insights into the supranational legal framework which has for some time been acting upon Member States' national immigration policies in various degrees, this chapter reviews the EU's chief legal texts concerning immigration. Of many such texts which are of first order of importance in this scope, two main sets stand in the foreground. On one hand are treaties, directives and regulations, as the primary and secondary law instruments, which have direct and indirect effects on Member States' national legal orders.[101] There are on the other side opinions, resolutions, recommendations or guidelines developed by the EU for policy actions which despite a certain degree of legal value do not have binding effects. These two sources of legal texts are in literature commonly known as the EU's hard and soft law measures.

4.1 Hard law

4.1.1 EC/EUTreaties

The EU's policy-making in the area of immigration has a history defined by national sensitivities. A hard evidence for that is the belated incorporation of TCNs (third-country nationals) into the EU legal order, only with the 1997 Treaty of Amsterdam. Amsterdam was indeed a turning point for a possible common immigration policy ahead. With its entry into force in 1999, decision-making on immigration was removed from the third pillar's inter-governmental structure[102] and extended to the Community Method. According to Article 67(1) EC Treaty, the Council could now make unanimous decisions (upon the Commission's proposal or a Member State's initiative and consulting the European Parliament) only for another five years. Then again, as emphasised in the second paragraph, its competences in relation to immigration and asylum would "be governed by the co-decision procedure established in Article 251 EC Treaty and qualified majority vote". While this proclamation (of

[101] Article 258 of TFEU and 106a of the Euratom Treaty lay down Member States' responsibility for the timely transposition and thorough implementation of the EU's primary and secondary law instruments. If a Member State fails to do so, i.e. if it commits an act of 'non-compliance', the Commission (having observed the act itself or following a complaint) is in charge of starting the pre-litigation procedure by investigating over the matter, sending a letter of 'formal notice' to the Member State and then demanding a 'reasoned opinion', if the breach of law persists. Should the non-compliance action remain, the infringement case is finally referred to the European Court of Justice, which opens the litigation procedure to promulgate an appropriate penalty in response.

[102] Meanwhile, as the capacity of the European Commission, European Parliament and European Court of Justice (which are commonly known as the EU's supranational institutions) was raised to a higher level of efficiency, Denmark, Ireland and the UK opted out from the enforcement of the relating Title IV to avoid subordination of the EU law in the interests of their own 'civil law' structures.

the unanimity voting rule's imminent removal) appeared to end the hitherto sway of intergovernmentalism, Article 63(3) EC stated that the Council would continue regulating immigration policy on issues concerning

> (a) conditions of entry and residence, and standards on procedures for the issue by Member States of long-term visas and residence permits, including those for the purpose of family reunion;
> (b) illegal immigration and illegal residence, including repatriation of illegal residents

In 2004, the Council extended the scope of Qualified Majority Voting (QMV) to the removal of internal border controls on persons, application of standards for internal border checks and a maximum three-month long freedom of movement for TCNs within the European Union (Article 62(1)). QMV became in this way applicable to cooperation amongst Member States on matters of asylum-seeking, illegal immigration as well as repatriation of illegal immigrants (Article 63(2b) and Article 63(3b)). However, areas which were often perceived to have a direct connection to Member States' justice and security policies (such as legal immigration) would continue to be part of the third pillar (Title VI of the TEU).

Marking the third pillar's differentiation from the first pillar's 'Community Method', Article 29 TEU demanded that the former should continue to drop competences relating to immigration in the hands of Ministers of Interior and/or Justice "to provide citizens with a high level of safety within an area of freedom, security and justice by developing closer cooperation between police forces, customs authorities and other competent authorities in the member states". An obviously intergovernmentalist understanding in this way was inducing, however, a disparaging effect on the EU's supranational image (Balzacq & Carrera, 2006, p. 4).

The most recent legal arrangements concerning supranational immigration policies[103] are traceable to the 2009 Lisbon Treaty ('Treaty on the Functioning of the European Union', TFEU). Having abolished most importantly the hitherto three-pillar administrative structure[104] by extending the former third pillar policy areas further to the co-decision procedure (now

[103] The new Title V TFEU, following the Title IV EC, was now called the 'Area of Freedom, Security and Justice'.
[104] In doing that, Lisbon kept largely to the 2004 Draft Constitutional Treaty, which consolidated the EU's three pillars in a unified text.

called the 'Ordinary Legislative Procedure') and QMV,[105] Lisbon sought indeed to provide a *de jure* character for Amsterdam. To this end, it also replaced the formulation of Title IV EC Treaty to gather all issues concerning immigration under Title V TFEU, or as it was now called the 'Area of Freedom, Security and Justice' (AFSJ). Here, in Chapter 1 (General Provisions), Article 67(1) and (2) (formerly Article 61 EC and Article 29 TEU) read

> 1. The Union shall constitute an area of freedom, security and justice with respect for fundamental rights and the different legal systems and traditions of the Member States.
> 2. It shall ensure the absence of internal border controls for persons and shall frame a common policy on asylum, immigration and external border control, based on solidarity between Member States, which is fair towards third-country nationals. For the purpose of this Title, stateless persons shall be treated as third-country nationals.

Articles 77, 78, 79 and 80 in Chapter 2 ('Policies on border checks, asylum and immigration') dealt with these issues far more comprehensively. Commitments to common inmmigration policy were made through Article 79(1) (formerly Article 63(3) and Article (4) EC) which declared

> The Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings.

To demonstrate the institutional setup for these goals, Article 79(2) maintained that the European Parliament and the Council would be adopting measures in relation to

> (a) the conditions of entry and residence, and standards on the issue by Member States of long-term visas and residence permits, including those for the purpose of family reunification;
> (b) the definition of the rights of third-country nationals residing legally in a Member State, including the conditions governing freedom of movement and of residence in other Member States;
> (c) illegal immigration and unauthorised residence, including removal and repatriation of persons residing without authorisation;
> (d) combating trafficking in persons, in particular women and children.

[105] Article 68 TFEU.

Initially, these paragraphs gave the impression that Lisbon was for the area of immigration far more revolutionary than Amsterdam. Nevertheless, such thoughts were actually being dismayed by Article 79 (5) TFEU which noted

> This Article shall not affect the right of member states to determine volumes of admission of third-country nationals coming from third countries to their territory in order to seek work, whether employed or self employed.

Regardless of this word of caution, the Treaty of Lisbon introduced a remarkable change into the ECJ's sphere of influence. With Lisbon, the AFSJ (formerly JHA, Justice and Home Affairs) came under the purview of the ECJ and so could the Court now rule on all cases except for those crossing into Member States' domestic legal provisions or judicial cooperation in criminal matters and police cooperation (Article 276 TFEU). Other than this, to ease the restrictions of Amsterdam Treaty on the ECJ's jurisdiction over asylum and immigration policy, the new Article 267 TFEU (formerly Article 177 EC Treaty and Article 234 EC Treaty) enabled for instance all Member State courts and tribunals to work closely with the ECJ on asylum, immigration and civil law questions.[106] What's more, to introduce "an integrated management system for external borders,"[107] Amsterdam's 'minimum standards' were replaced at Lisbon with 'uniform standards'[108] with which the EU could now develop 'common policies' for all individuals. For legal TCNs, the EU laws were reinforced through a set of conditions defining basic terms of working, moving or residing in Member States.

While it is at this stage fairly premature to hypothesise in relation to these legal adjustments, one could argue that Lisbon's impressions for the EU's decision-making procedures have been fairly promising. To say the least, the Commission may now start at its discretion the standard co-decision procedure for directives and regulations on immigration, insofar as there is reference to it in the TFEU.

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[106] Article 267 TFEU states: "The Court of Justice shall have jurisdiction to give preliminary rulings concerning: a) the interpretation of the Treaties; b) the validity and interpretation of acts of the institutions, bodies, offices or agencies of the Union. Where such a question is raised before any court or tribunal of a Member State, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court to give a ruling thereon. Where any such question is raised in a case pending before a court or tribunal of a Member State against whose decisions there is no judicial remedy under national law, that court or tribunal shall bring the matter before the Court. If such a question is raised in a case pending before a court or tribunal of a Member State with regard to a person in custody, the Court of Justice of the European Union shall act with the minimum of delay".

[107] Article 77 TFEU.

[108] Article 63 TFEU.

4.1.2 Directives and Regulations

The objectives formulated in the EC/EU Treaties have so far been achieved through a number of legal acts which differ from one another on the basis of their binding and non-binding legal effects. The binding legal instruments are regulations (to be applied in their entirety across all Member States), decisions (which are applicable directly to what/whom they are addressed) and directives (the application of which depends on its conversion by Member States' into their own legal systems). There are on the other side also legal acts which the EU issues in a non-binding fashion such as recommendations (suggesting courses of action without earmarking legal consequences) and opinions (imposing no legal obligations).

The supranational legal context regulating the field of immigration in a binding way rests essentially upon a set of directives and regulations which can be categorised by reference to their effect on the three main areas of immigration: labour/legal immigration, irregular/illegal immigration and asylum-seeking issues. There are in the area of legal immigration six main binding documents. These are Council Directive 2003/86/EC on the right to family reunification, Council Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents, Council Directive 2004/114/EC on conditions of third-country nationals' admission for the purposes of studies, pupil exchange, unremunerated training or voluntary services, Council Directive 2005/71/EC on a specific procedure for admitting third-country nationals for the purposes of scientific research, Council Directive 2009/50/EC (the Blue Cards Directive) on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment and the Regulation (EC) 1030/2002 amended by Regulation (EC) 380/2008 defining uniform format for residence permits.

The number of binding EU texts concerning irregular/illegal immigration is by far the biggest. There are sixteen key directives and regulations here. On the directive side are Council Directive 2001/40/EC concerning the mutual recognition of decisions on the expulsion of third-country nationals, Council Directive 2001/51/EC supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985, Council Directive 2002/90/EC defining the facilitation of unauthorised entry, transit and residence, Council Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities, Council

Directive 2004/82/EC (the Carriers Liability Directive) on the obligation of carriers to communicate passenger data, Council Directive 2008/114/EC on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection, Council Directive 2008/115/EC (the Return Directive) of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals, Council Directive 2009/52/EC (the Employers' Sanctions Directive) providing minimum standards on sanctions and measures against employers of illegally staying third-country nationals, Directive 2011/36/EC of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.

The regulations issued in this field so far are Regulation (EC) 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX), Regulation (EC) 2725/2000 concerning the establishment of 'EURODAC' for the comparison of fingerprints for the effective application of the Dublin Convention, Regulation (EC) 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement, Regulation (EC) 2252/2004 on standards for security features and biometrics in passports and travel documents issued by Member States amended by Regulation (EC) 444/2009, Regulation (EC) 562/2006 amended by Regulation (EC) 265/2010 concerning the movement of persons with long-stay visas, Regulation (EC) 1931/2006 laying down rules on local border traffic at the external land borders of the Member State amended by Regulation (EU) 1342/2011 of the European Parliament and of the Council and Regulation (EC) 767/2008 concerning the Visa Information System and the exchange of data between Member States on short-stay visas amended by Regulation (EC) 810/2009.

And finally, for the area of asylum-seeking, the six most notable binding EU documents are Council Directive 2001/55/EC on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, Council Directive 2003/9/EC (the Reception Conditions Directive) on laying down minimum standards for the reception of asylum-seekers, Council Directive 2004/83/EC on minimum standards for the qualification and status of third-country nationals or stateless persons as

refugees or as persons who otherwise need international protection and the content of the protection granted, Council Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status, Regulation (EC) 343/2003 defining criteria and mechanisms on the determination of the Member State responsible in asylum applications and Regulation (EC) 439/2010 establishing a European Asylum Support Office.

4.2 Soft law

4.2.1 Open Method of Coordination

A major reference commonly made in scholarship on the Open Method of Coordination (OMC) is the 2000 Lisbon Strategy for which the heads of the EU Member States set as a goal at the time for the next decade "to become the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion" (European Council, 2000, §5). This strategic goal was to be facilitated by identifying and adopting the best policy practices amongst Member States, which they were advised to perform by subscription to a 'peer reviewing' procedure called Open Method of Coordination.

While it was with the 2000 Lisbon Strategy that the OMC became operative at the national level, its origins date back to the 1992 Maastricht Treaty. Despite many novelties which Maastricht came to introduce -the Economic and Monetary Union (EMU) was probably the most memorable amongst them- several countries voiced their concerns to that effect. While Danish voters for instance did not approve of the new supranational arrangements and declined the draft Treaty at a referendum, those in France gave the go only by a narrow margin (Schäffer, 2004, p. 8). There was in Germany not a similar crisis of consent; however, the Constitutional Court's position on the Treaty was not entirely clear. In any case, Maastricht started a convergence process on the basis of a number of criteria required for accession to the EMU (De la Porte, Pochet & Room, 2001). To fulfill these standards, Member State governments were not urged with a top-down course of action but instead were asked to develop methods of their own which would at the end of each year be reviewed by way of assessment reports. Regardless of Maastricht's agenda guided by the EMU, the Summits at Copenhagen (1993) and Essen (1994) set in motion the White Paper (the so called 'Delors plan') and a host of non-binding objectives to deal with the problem of unemployment and social cohesion. To avoid more Commission involvement in national

policy-making, as Maastricht rose to do, which at that stage would obviously jeopardise the formerly granted 'permissive consensus' to supranationalisation, a soft law apparatus was considered more appropriate. For this purpose, the EC Directorate-General (DG) for Economic and Financial Affairs along with DG for Employment & Social Affairs would be monitoring and reporting each year on the achievement of the 1994 Essen Council's objectives.

These two sets of mechanisms, one linked to Maastricht's commitment to the EMU and the other to that of Essen, which collectively featured "common objectives, national implementation and surveillance by the Commission and member states" were indeed constituting the basis of the OMC (Schäfer, 2004, p. 8). The process launched therewith paved the way to the 2000 Lisbon Council which introduced the OMC's 'benchmarking' qualities as

> 1. fixing guidelines (common objectives) for the Union combined with specific timetables for achieving the goals with the member states set in the short, medium and long terms;
> 2. establishing, where appropriate, quantitative and qualitative indicators and benchmarks (common indicators) against "the best in the world", tailored to the needs of different member states and sectors as a means of comparing "best practice";
> 3. translating these European guidelines into national and regional policies by setting specific targets and adopting measures, taking into account their differences; the translation of the common objectives into national policy plans provided by the member states to the European Commission in the form of National Action Plans (NAPs).[109]

Intended originally with social inclusion and employment concerns in mind, the OMC's sphere of influence was with the Treaty of Amsterdam extended to immigration-related issues. Observing the need for coordination in this context, the Commission issued in 2001 a Communication.[110] The role of the OMC here was support for the legislative process by encouraging collective action between national policies. To this end, the Commission was to work for the establishment of 'European guidelines' by launching political initiatives as far as immigration was concerned. Adding up to the Commission's role, the Council would accordingly be bringing about a series of multi-annual guidelines which Member States could

[109] European Council (2000), Presidency Conclusions of the Extraordinary Lisbon European Council of 23–24 March, SN100/1/00, Brussels.
[110] COM(2001) 387.

use in keeping with a timetable for their 'National Action Plans'. This course of action would then be subject to a monitoring process whereby policy changes, if needed, would be put into place on a yearly basis. Meanwhile, to help facilitate the legislative procedure, the European Commission would draw out 'Synthesis Reports' to highlight problem areas and possible solutions (Caviedes, 2004; Velluti, 2007).

4.2.2 Monitoring programmes: from Tampere to Stockholm

To coordinate management across Amsterdam's AFSJ, into which immigration issues were now integrated, the EU decided to launch a series of five-year working programmes. The layout of the underlying 'roadmap' procedure -as these programmes were meant to monitor- has to date been (re)designed in three different occasions: at Tampere, the Hague and Stockholm Councils. First, the 1999 Tampere Summit called for the development of a common European immigration policy based on "partnership with countries of origin; a common asylum system; fair treatment for third-country nationals; and management of migration flows."[111] As part of the Amsterdam Treaty, the AFSJ was at the Tampere Council given precedence over other policy issues and put on top of the Union's political agenda to be run on a timetable. Accordingly, the Commission would draw up a scoreboard to review the progress in AFSJ every six months.[112]

The directives the EU adopted in the course of the Tampere Programme (1999-2004) included those on family reunification (European Council Directive 2003/86/EC), long-term residence (European Council Directive 2003/109/EC), studies, pupil exchange, unremunerated training or voluntary service (European Council Directive 2004/114/EC) and finally scientific research (European Council Directive 2005/71/EC). Although the European Commission initially made a proposal 'on the conditions of entry and residence of third-country nationals for the purpose of paid employment and self-employed economic activities'[113], the Council declined it arguing that there was compromise for neither single entry permits nor rights for migrants between Member States.

[111] European Council (1999), Presidency Conclusions, Tampere, 15 and 16 October 1999.
[112] Scoreboards presented under the Tampere Programme were COM (2000) 167 final, COM (2000) 782 final, COM (2001) 278 final, COM (2001) 628 final, COM (2002) 261 final, COM (2002) 738, COM (2003) 291 final and COM (2003) 812 final.
[113] COM(2001) 386 final.

Following the Tampere Council, the 2001 Summit at Laeken[114] called for an Action Plan on illegal immigration and trafficking of human beings in the EU, which was adopted later at the 2002 Seville Council.[115] Much in the same vein, the Commission proposed in 2005 the Common Agenda for the Integration of Third-Country Nationals (COM 2005/389). As Tampere's follow-up, the 2004 Hague Programme identified for the next five years (2005-2009) four important priority areas: defining a balanced approach to migration, developing integrated management of the Union's external borders, setting up a common asylum policy and maximising the positive impact of immigration. For "a more effective, joint approach to cross-border problems such as illegal migration, trafficking in and smuggling of human beings, terrorism and organised crime, as well as the prevention thereof"[116], the Hague Programme called special attention to fundamental freedoms and rights. The level of achievement was here to be measured through a mid-term 'scoreboard' evaluation, as was employed at Tampere.

Conforming to the needs of the Hague, the Commission adopted a Green Paper in early 2005 'on an EU approach to managing economic migration'. The main aim here was to establish a forum between the Member States, the EU institutions and civil society on how to regulate the entry and residence of TCNs seeking employment within the Community legislative framework. The contents of the Green Paper were in fact reminiscent of the key points addressed alongside the (declined) directive proposal in 2001, as far as the rights of third-country workers and the Community principle were concerned. Drawing on the Green Paper, the Commission presented a policy plan on legal migration[117] for the 2006-2009 period. As a roadmap for legal migration, which would provisionally replace the withdrawn directive, this policy plan sought essentially to cope with economic and demographic challenges, putting more weight on immigration. Another area which was equally emphasised here related to the link between migration and development. Drawing on the 2002 Communication, which was the Commission's first move to establish links between the two policy areas, the Commission released in 2005 a further Communication underscoring the link between economic and social development.

[114] European Council (2001), Presidency Conclusions, Laeken.
[115] European Council (2001), Presidency Conclusions, Seville.
[116] COM (2005) 184 final.
[117] COM (2005) 669.

Two directives were adopted during the course of the Hague: the Return Directive (2008/115/EC), 'on common standards and procedures in Member States for returning illegally staying third-country nationals'[118], and the Blue Card Directive (2009/50/EC), 'on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment.'[119] With fewer legal acts it passed in comparison to Tampere, the Hague Programme was in essence preoccupied with monitoring the implementation of the former directives. A supervision of this kind was for instance the Commission's report[120] on the directive concerning family reunification (2003/86/EC). The transposition of this directive was according to the report satisfactory, with the exception of its implementation in a few Member States which happened to slow down visa procedures even in the case of family members whose entry applications were already accepted.

With the end of the Hague Programme, a new EU agenda was put in place at the 2009 Stockholm Summit. As the third in the series to stay in use until the end of 2014, the Stockholm Programme identified its chief priority areas as labour migration, illegal migration, migration and development, integration, rights of third-country nationals together with asylum issues.[121] In so doing, Stockholm appeared to dwell more on the external dimension of migration compared to its predecessors. In reference to the EU's Global Approach to Migration,[122] it addressed the role of working closely with the third countries for which coordination between Europol, Eurojust, the Fundamental Rights Agency, FRONTEX and civil law was highly significant. Of several concrete goals added to the agenda items in this

[118] Despite being the first important EU migration legislation endorsed jointly by the European Parliament (EP) and the Council under co-decision procedure, the Return Directive was criticised particularly by a number of UN agencies and civil society organisations on the grounds that the Member States did not seem to show enough care for the security of migrants they returned[118]. Further to security, criticism was also launched in reference to the issue of 'dignity', which allegedly was ignored by Member States during return or deportation of immigrants. As a result, several NGOs called it the 'directive of shame' (Lutz, 2010).

[119] One of the major issues the Blue Card Directive brought up was concerning the position of developing countries which following this legal arrangement were were apt to lose their most educated workforce.

[120] Commission's Report on the application of Directive 2003/86 on the right to family reunification published on 8 October 2008, MEMO/08/611.

[121] European Council. The Stockholm Programme – an open and secure Europe serving and protecting citizens. Official Journal of the European Union. 4 April 2010.

[122] The EU's Global Approach underscores the management of legal migration which demands fight against irregular immigration and the reinforcement of migration and development links. To this end, a set of mechanisms are to be implemented: "i) mobility partnerships for enhanced migration management cooperation between the EU and individual third countries; and ii) migration profiles to enhance migration data management and promote evidence-based policy-making in EU partner countries" (International Organisation for Migration, 2010, p. 151).

context, a most important one was the construction of the Common European Asylum System (CEAS) by 2012.[123]

4.2.3 European Pact on Asylum and Immigration

Apart from the three working Programmes of Tampere, the Hague and Stockholm, a number of political initiatives have recently been undertaken on migration management. Declaring "its conviction that migration issues are an integral part of the EU's external relations", the Council under the 2008 French Presidency stressed that the 2005 Global Approach to Migration could "make sense only within a close partnership between the countries of origin, transit and destination."[124] To be able to control illegal immigration, as the argument went, there was need for organisation of a more comprehensive legal migration framework. In an attempt to make the achievements of Tampere and the Hague Programmes sustainable (for instance harmonisation of border policies, endorsement of a common visa policy, definition of terms concerning labour immigration and commitments to controlling illegal immigration by establishing the FRONTEX), the Council announced in the end that it was time to adopt the European Pact on Immigration and Asylum

> in a spirit of mutual responsibility and solidarity between Member States and of partnership with third countries, to give a new impetus to the definition of a common immigration and asylum policy that will take account of both the collective interest of the European Union and the specific needs of each Member State.[125]

This was indeed not a legally binding political initiative. The Council sought to make its structure by this means more relevant to the upcoming Stockholm Programme, ensuring: "The programme that will be the successor of the Hague Programme in 2010 will, in particular, enable the Pact to be transposed further into practical actions".

Considering the needs of national labour markets, most notably, the European Pact on Immigration and Asylum proposed a few important recommendations. To some, nonetheless, the method it followed to do so made the impression of an initiative overstating the EU's intergovernmental mode of governance vis-à-vis national migration policies (Carrera & Guild, 2008, p. 8). To illustrate, when referring to legal migration, the Pact opted for using 'immigration choisie' (selective immigration), which in France was at the time a highly

[123] The Stockholm Programme's course of action was stilling running at the time this thesis was being written.
[124] Council of the European Union, Draft of the European Pact on Immigration and Asylum, September 2008.
[125] Council of the European Union, Draft of the European Pact on Immigration and Asylum, September 2008.

debatable way of reference used in the context of immigration due to the implications it made to the varying political interests between the state and those with TCN origins. Yet, as indicated in the Presidency Conclusions of Tampere, such a policy-making approach was not limited to "the exclusive preserve of the Union's own citizens. Its very existence acts as a draw to many others world-wide who cannot enjoy the freedom Union citizens take for granted"[126]. Seen from this perspective, while the Pact was praising Tampere's achievement of supranationalisation in many areas, it was denying on the other side the Union's broader aim to achieve 'an open and secure European Union', where 'openness' was indicative also of fair treatment.

[126] Presidency Conclusions, the Tampere European Council.

Chapter 5 Analysis of cases

This chapter provides empirical material for the study. The research model used to look into the similarities/differences and analyse the extent of Europeanisation across the EU Member States' immigration policies is the eclectic bottom-up approach, which intrinsically embraces also the top-down understanding, as formerly argued. The bottom-up reading starts accordingly with a general survey into the selected countries' immigration histories, institutional structures, principal actors involved in immigration management as well as national immigration laws and policies. Aside from refererences to a series of Eurobarometer opinion polls, the cross-examination here exploits two main sources of empirical analysis: the MIPEX (Migration Integration Policy Index) and the EU Commission's annual reports concerning immigration. While the MIPEX data are meant to view further from the 'uploading' vantage point, an inquiry into Member State policies by reference to implementation of the EU law (on the basis of the EU Commission's annual reports) is believed to convey chiefly a 'downloading' reading of Europeanisation. The time span stretching in broad terms over ten years to that end rests on indeed the bulk of these two sets of data which are accessible for the most part from 2004 onwards.

5.1 Country profiles

5.1.1 Germany[127]

Table 8: Basic migration statistics

Net migration (2009)	-13,000
TCN immigration (2008)	237,901
Largest third countries of origin (2008)	Turkey, Serbia and Montenegro, Iraq
TCN population (2009)	4,655,215
TCN as part of population (2009)	5.70%
Foreign born as part of population (2009)	8.80%
Permits delivered for family (2009)	54,139
Permits delivered for work (2009)	16,667
Permits delivered for study (2009)	31,345
Permits delivered for humanitarian reasons (2008)	37,500
TCN employment rate (2009, change since 2006)	48.00%; +3.5%
National employment rate (2009, change since 2006)	70.90%; +3.4%

[127] 'Germany' here is taken to represent its present-day political status, that is, following re-unification of the *Bundesrepublik Deutschland* ***and*** *Deutsche Demokratische Republik* in October 1990.

TCN unemployment rate (2009, change since 2006)	18.30%; -5%
National unemployment rate (2009, change since 2006)	7.50%; -2.3%
Nationality acquisitions (2008, change since 2005)	94,470; -22,771

Source: MIPEX III (2011).

To recent statistics, Germany is one of the leading EU Member States whose foreign population stock amounts to just under ten percent:

Table 9: Stocks of foreign population in Germany

of total population	**2001**	**2002**	**2003**	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**	**2011**
in thousands	7,319	7,336	7,335	6,717	6,756	6,751	6,745	6,728	6,695	6,754	6,931
in percentages	8.9	8.9	8.9	8.1	8.2	8.2	8.2	8.2	8.2	8.3	8.5

All thousands are rounded off to the nearest value.
Source: OECD (2011b)

An overview of the EU history demonstrates Germany as a *Musterknabe* (Prümm & Alscher, 2007, p. 73). From early days on, it sought indeed to sustain a leading position in the EC/EU by customizing/promoting the founding layouts of the European integration. This agenda-setting role has however also been challenged by moments of hesitation. Since the Amsterdam Treaty, governance at the national and subnational levels manifested signs of foot-dragging, blocking further integration attempts in the area of immigration.

Such wavering steps in incorporating relevant supranational legislation into the domestic law could to a large extent be attributed to the slumping public attitudes towards a progressively growing size of immigrants in the country. An opinion poll checking into citizenship and senses of belonging in the early 2000s indicated that 59% of the Germans considered immigrants to be making no contribution worthy of mention to their country (Special Eurobarometer 60.1, 2004). Perhaps more importantly, almost half of the interviewees (49%) saw the latter as a 'threat' to their way of life:

Table 10: German citizens regarding immigrants as a threat to their way of life (in percentages)

Responses (options)	**Germany**	**EU 15**
Totally agree	12	16
Tend to agree	27	26
Tend to disagree	34	30
Totally disagree	15	18
Don't know	12	10

Source: Special Eurobarometer Wave 60.1.

Leaving this aside assuming that a diverse range of social, economic or political conditions may have been in play to change German perceptions of immigration, as elsewhere in Europe, one could argue that the norms and conventions of the EU have in broad terms presented no major challenges for Germany. To be fair, seen within the post-WW II global context, the country's earliest supranational commitments like the European Coal and Steel Community (ECSC) and the European Economic Community have often been informed by its willingness to integrate into the West. Spurred domestically by a pro-integrationist voice amongst the elites, Germany, together with France, played more often than not a cardinal role in the European integration process. As of the 1990s, nevertheless, the governments -particularly in the *Länder*- appeared to voice their concerns about loss of 'subsidiarity' on a number of issues, if competencies were to be transferred further to the supranational level (Hellmann et al., 2005). While a pro-integrationist mindset was still preserved, it was alongside this perception that the federal governments came to deny the country had become one of immigration already, irrespective of the statistics indicating that the massive waves of immigration it had been attracting in the post-war period were quite steady. Put more precisely, the balance of net migration reached between 1950 and 1993 to more than 12 million amounting to "80% of the population growth. The new microcensus of 2005 indicated that 15 million out of 82 million inhabitants have a migratory background, that means are either born abroad or are descendants of parents of whom at least one is not born in Germany" (Kolb, 2008, p. 2).

The abandonment of this denial in the 1990s (that Germany is not a land of immigration) brought about the main objectives of present day German migration policy. These are the traditional policy of minimising unwanted immigration characterised by refugees, asylum-seekers or undocumented immigrants and the relatively newer competition policy of attracting highly skilled labour. The first objective was indeed applicable also to the EU-level, yet the second one "remains attached to the nationstate, as the German position is to maintain labour migration as a field of exclusively national competence" (Prümm & Alscher, 2007, p. 74). For this latter position, the legislative role of the *Bundesrat*, as the representative body of the German *Länder* at the federal level, has a significant value.[128] Regardless of the consensus-oriented German politics informed largely by interest groups, the binding effect of laws in

[128] The German legislature has a bicameral structure of the *Bundestag*, as the federal parliament elected by the people, and the *Bundesrat*, made up of members appointed by the *Länder*.

cases of direct influence on the *Länder*'s interests necessitates the joint approval of the parliament's both chambers, i.e. the *Bundesrat* and *Bundestag*.

5.1.1.1 Institutional structure

According to the Basic Law, the executive and legislative powers in Germany (*Bundesrepublik Deutschland*) are shared between the Federation (*Bund*) and the Federal States (*Länder* or *Bundesländer*), each of which has its own government, parliament and constitution. Sharing the Federation's law-making authority, the *Länder* hold principally the right to legislate on their own as long as the issue in concern is not conferred directly to the federal dimension. There are in this connection several policy areas which are up to legislation between the two levels concurrently, others being subject to the Federation's exclusive power. Should the Federation enact a law on issues where federal regulation is "necessary in the national interest" (German Basic Law, Art. 72 (2)), the *Länder* cannot act alone. This power share between Berlin and sixteen Federal State capitals is further expanded through municipal administrations amongst others when it comes to migration and asylum issues, making up altogether a three-legged executive layout (Rudzio, 2006, p. 319).

The judiciary power in Germany is regulated by the *Gerichtsverfassungsgesetz*, *GVG* (Courts Constitution Act). Aside from the Federal Constitutional Court, there are accordingly five main court types: ordinary courts such as the *Bundesgerichtshof* (Federal Court of Justice), which is responsible for most civil cases and criminal matters; courts of administrative law such as *Bundesverwaltungsgericht* (Federal Administrative Court); courts in charge of tax law like *Bundesfinanzhof* (Federal Court of Finance); courts accountable for labour law, for instance, *Bundesarbeitsgericht* (Federal Court of Labour); courts of social law like *Bundessozialgericht* (Federal Social Court) and constitutional law courts whose primary duty is to monitor the review and interpretation of the Constitution (Basic Law). *Bundesverfassungsgericht* (Federal Constitutional Court) occupies the highest rank in this category (Böckenförde, Wiesner & Nora, 2006).

The centralised and unitary nature of the federal system orders that many sensitive issues including migration and asylum be treated at more than one level.[129] The veto power the federal states hold conjures up in this regard their key position for the interplay between

[129] The legislation handled purely at the *Länder* level relates in this context to science, education and police matters.

horizontal and vertical levels of cooperation (Schmidt-M.G., 2003). Delegates representing the federal state governments constitute the *Bundesrat* as a second chamber which deliberates upon federal bills endorsed by the Parliament (German *Bundestag*), with the right to ratify them in cases of administrative interest for the *Länder*. For appeal laws (concerning all other cases), the *Bundestag*'s word has an absolute value.

5.1.1.2 Actors involved in immigration management

While immigration management is essentially up to the *Länder*'s initiative –residence permits and passports are for instance liable to *Ausländerbehörden* (Foreigners Authorities of the Federal States)- issues concerning integration were transferred with the 2005 Immigration Act to the federal government's jurisdiction. Certain policy areas such as accommodation of asylum-seekers are however subject to the federal states, which need to cooperate with the federal police or law enforcement offices in cases where deportation of a foreigner is imminent. Decisions concerning asylum applications and refugee status are initiated by the Federal Office for Migration and Refugees. Entitlement to political asylum became, after the Immigration Act's entry into force in 2005, subject to the sole authority of the Federal Minister of the Interior.

Responsibility over immigration and asylum matters is divided typically between the executive and operational levels (Schneider, 2009, pp. 17-21). The key institutions at the executive level are *Bundesministerium des Innern*, *BMI* (Federal Ministry of the Interior), which is accountable for not only the formulation of migration and integration policies at the federal level but also technical and legal supervision of how relevant issues are to be administered by federal offices, and *Bundesministerium für Arbeit und Soziales*, *BMAS* (Federal Ministry of Labour and Social Affairs), which provides legal service for foreigners' accession to the labour market, including their integration by way of language courses and a consultation network named 'Integration through Qualification'. There are additionally several other important government-based units like the Diplomatic Missions of the *Auswärtiges Amt* (Federal Foreign Office), issuing in accordance with the Residence Act's Section 71(2) all visa and passport issues abroad; *Beauftragte der Bundesregierung für Migration*, *Flüchtlinge und Integration* (Federal Government Commissioner for Migration, Refugees and Integration), providing consultancy and supportive legislation service for the Federal Government (according to the Residence Act's Sections 92, 93 and 94) and *Beauftragte der Bundesregierung für Aussiedlerfragen und nationale Minderheiten in*

Deutschland (Federal Government Commissioner for Issues on Repatriates and National Minorities in Germany), which is in charge of the Federal Government's *Spätaussiedler* (ethnic German immigrants) affairs.

At the operational level, on the other side, the main actors are *Bundesamt für Migration und Flüchtlinge*, *BAMF* (Federal Office for Migration and Refugees), which as part of the Federal Ministry of the Interior accounts for carrying out all asylum related proceedings, including management of the *Ausländerzentralregister* (Central Aliens Register) and implementation of the EU's operational tasks, funding programmes, integration courses as well as several international agreements such as the Dublin II Regulation, the 1951 United Nations Convention Relating to the Status of Refugees and the European Convention on Human Rights; *Bundesverwaltungsamt*, *BVA* (Federal Office of Administration), which organises the entry and admission of *Spätaussiedler* and registers data into the Central Aliens Register and Schengen Information System (SIS); *Bundespolizei*, *BPol* (Federal Police), conducting as part of the Federal Ministry of the Interior all air, water and land operations for the prevention of illegal entries of all sorts, from human trafficking to smuggling, both inland and at the borders; Police Forces of the Federal States (*Landespolizei*), which is in charge of controlling foreign nationals in *Bundesländer* for public order and safety and in case of unlawfulness their removal within 30 to 50 kilometres to the border zone in cooperation with the *BPol*; Foreigners Authorities of the Federal States (*Ausländerbehörden*), which according to the Residence Act's Section 71(1) lays out most of the measures for passport and residence permits, *Bundeskriminalamt*, *BKA* (Federal Criminal Police Office), which provides assistance to the Federal Office for Migration and Refugees by working out asylum-seekers' fingerprints through AFIS (Automatic Fingerprint Identification System) as well as analysing and reporting data through the EU's EURODAC and *BPol*'s INPOL systems and *Bundesagentur für Arbeit*, *BA* (Federal Employment Agency), which approves, denies or cancels foreign nationals' employment in accordance with the Residence Act's sections 39-41 (Federal Office for Migration and Refugees, 2009).

Application of third-country nationals for citizenship is up to the local *Ausländerbehörden* depending on a number of prerequisites. Accordingly, naturalisation process starts by submitting a form of request in person, having completed 16 years of age; for those under 16, application must be made by parents (Federal Office for Migration and Refugees, 2011). Eligibility for naturalisation requires having legal residence in Germany for minimum eight

years; completing an integration course (qualification requires seven years); declaring allegiance to the German constitution and having adequate command of the German language (Nationality Act 2000, Section 10(1)). Upon investigation by the *BPol* as well as institutions like the Federal Office for the Protection of the Constitution, the final decision-maker is the Federal Ministry of the Interior.

There are other than these official departments a number of non-governmental institutions, interest groups or stakeholders that also take part –though rather indirectly- in the management of immigration issues. The most notable amongst these are the United Nations' High Commissioner for Refugees (UNHCR), Pro-Asyl, the autonomous refugee councils of the *Länder*, International Organisation for Migration (IOM) and numerous *Ausländerbeiräte* (advisory boards of foreigners) working in cooperation with the city councils.

5.1.1.3 National immigration laws and policies in historical perspective

The major influx of mass immigration in German history dates back to the onset of the *Gastarbeiter* recruitment in the 1950s. As Vogel & Cyrus (2000, p. 11) observes, however, the historical backdrop was indeed characterised right after the end of World War II, when big numbers of ethnic Germans started to return from different corners around Europe. There came alongside this inflow also those from the new German Democratic Republic, whose size amounted altogether to some 12 million until the rise of the Berlin Wall in 1961.

Table 11: Post-war immigration to Germany

Period	Feature
1945-1961	*Aussiedler*/ethnic German immigrant influxes
1961-1973	*Gastarbeiter* recruitment programme
1973-1989	family unification
1989-2000	the new naturalisation law
2000- …	divided immigration policy

Source: Vogel & Cyrus (2000, p. 11).

The first Aliens Law concerning immigration issues in Germany came into force in 1965, following the decision to launch a wholesale recruitment of foreign workers, which continued with intervals until 1973. Before the Aliens Law, it was a host of administrative guidelines and ruling cases issued by courts that regulated alien matters in Germany. The *Gastarbeiter* phase which lasted in rough terms from the building of the Berlin Wall to the global oil crisis

in 1973[130] was initiated at the discretion of a large platform of employers, labour unions and official governing bodies, which collectively agreed to import labour from a number of countries mostly from the south of Europe.[131] Enormous as the flow of foreign labour may have been in time, the recruitment programme was actually designed to work on a temporary basis. And yet, despite the *Anwerbestopp* (the end of recruitment) in the early 1970s, one third of these workers –an estimate about two million, according to the Federal Department of Statistics (*Statistisches Bundesamt*, 1999)- decided to stay in Germany.

The ensuing period of immigration (1973-1989) was marked by the arrival of the family members -of those staying to continue employment- whose residence rights were secured by the *Grundgesetz* (the German Basic Law).[132] With the new waves of EU enlargement and a series of programmes initiated until 1984 to encourage the return of *Gastarbeiter*, the core issue causing a main concern at the state level was integration of immigrants into the host society. As the country confronted in time more inflows than was initially planned, a draft law was made to (re)codify rights of entry and residence. Following this so called Aliens Act which came into force in 1991, immigrants were given a statutory right to naturalisation, which after a long process became attached with German citizenship as a legal right and was codified into the 'Law on Foreigners and Aliens'. As a consequence, naturalisation became restricted with twenty-three years of age initially on the condition of residence with a minimum length of eight years, six years of formal school attendance and lack of conviction of serious crimes. For those above the age limit, the main requirement was residence in Germany for minimum fifteen years (without being charged with petty offences and enjoying any type of state-sponsored social assistance).

An important legal source to consider in the context of family reunification is the German Basic Law, grounded essentially upon universal human rights (including the international law concerning the rights of refugees). With its Constitution tied firmly to the principle of 'dignity'[133], treatment of asylum matters in Germany has often proved fairly liberal, so much

[130] While the German authorities initially attempted to reduce the number of a new flow of foreign workers by increasing the recruitment fee from DM 300 to DM 1,000, the oil crisis in the Arabian Peninsula urged the end of the recruitment programme (Gonzalez-Ferrer, 2007, p. 13).
[131] The initial agreement made with Italy in 1955 was followed by those signed later on with Spain and Greece (1960), Turkey (1961), Morocco (1963), Portugal (1964), Tunisia (1965) and Yugoslavia (1968), as the domestic economy showed signs of labour shortages in the post-WW II period.
[132] Article 6 (1) of the Basic Law reads: "Marriage and the family shall enjoy the special protection of the state".
[133] Inspired by the Kantian maxim, '[a]ct so that you treat humanity, whether in your own person or in that of another, always as an end and never as a means only', the *Grundgesetz* is anchored to the "architectonic value of

so that it was in many occasions the main reason why the state could not deny asylum-seekers, even if there might be a general tendency to do so (Joppke, 1999). For this reason or another, there were between 1980 and 1989 around 700,000 asylum-seekers in Germany:

Table 12: Asylum applications, 1980-1989

Land	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989
Germany	107,818	49,391	37,423	19,737	35,278	73,832	99,649	57,379	103,076	121,318
EC/EU total	149,037	129,709	93,026	70,579	97,837	157,280	189,538	166,780	215,250	283,421

Source: United Nations High Commissioner for Refugees (UNHCR), Geneva, 2001.

The number of these applications surged throughout the 1990s to two millions, chiefly as a consequence of the post-Cold War liberation movements:

Table 13: Asylum applications, 1990-1999

Land	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Germany	193,063	256,112	438,191	359,401	127,210	166,951	149,193	151,700	143,429	138,319
EC/EU total	402,027	492,391	673,947	549,696	301,693	307,629	260,423	290,570	340,430	414,444

Source: UNHCR (2001).

About half of some three million people who sought for German asylum in the 1980s and 90s were granted the right to have it. Indeed, the collapse of the Iron Curtain and the Berlin Wall in 1989 made direct implications at this point. Large numbers of immigrants swarmed to the then Federal Republic of Germany claiming right to accommodation and financial coverage. A massive influx of not only Eastern and ethnic Germans from the former communist block (as restrictions in this context became largely nullified in the early 1990s), but also of asylum-seekers from elsewhere had a stirring effect in the host society. To cope with further pressure following the German unification in the mid-1990s, Eastern Germans were denied the right to accommodation in the formerly Western territory, while a *de facto* quota (followed later on by a number of legislative restrictions) was imposed upon ethnic German immigration.[134] Added to that, several legislative and administrative measures were taken to make the asylum procedure more demanding. The souring figures urged the governing CDU/CSU (Christian

human dignity", suggesting "each person is valuable per se as an end in himself, which government and fellow citizens must give due respect" (Eberle, 2008, pp. 3-4; bracket original).

[134] When the National Socialist rule ended, millions of Germans living away from the German territory were granted the right to acquire citizenship by the *Grundgesetz* on the condition of settlement (defined essentially by the Federal Displacement and Refugee Act). While a marginal number of Germans could enjoy this right over the Cold War period, the early 1990s saw a dramatic rise to that effect. In response, the 1990 Ethnic Germans Reception Act and the 1993 Law to Settle the Results of the War redefined ethnic citizenship to deny it for instance to those born after 1993 (Vogel & Cyrus, 2000, p. 12).

Social Union) and FDP (Free Democratic Party) coalition as well as the opposing SPD (Social Democratic Party) to come up in 1992 with a new policy paradigm collectively. To this 'asylum compromise', Article 6 of the Basic Law saw a fundamental change to grant the right to asylum-seekers, provided they would not cross into Germany via 'safe third countries' (Giesler & Wasser, 1993).[135] The Constitutional Court's confirmation of this amendment in 1996 gave the green light to keep immigration flows under control, which soon became an official policy paradigm. In accordance, issuing of residence permits to foreigners became extremely limited to cases of most notably "seasonal workers, contingency workers, Jewish migrants from the former Soviet Union – and above all in the case of family reunification" (Prümm & Alscher, 2007, p. 76).

In 1999, the German Basic Law saw amendments making room for more flexible requirements, the most important of which was expansion of citizenship by way of the *jus soli* principle to be working in tandem with the *jus sanguinis*.[136] Following this change, a proposal was made in 2000 to put a points-based system in use for highly skilled foreigners, designed in fact specifically for the sector concerning information technology. A maximum five-year long visa status, as planned with the points-based system became however unappealing with the crisis impacting the IT industry soon. Similar efforts in quest of 'brain gain' were made in 2001 when a draft bill was initiated in order to manage and restrict immigration, regulate the stay of foreigners and integrate non-EU citizens more effectively.[137] In accordance, the existing legislation on foreigners (*Ausländerrecht*) was to be improved in favour of non-EU immigrants, to bring the ethno-cultural understanding of immigration policy to an end. For this purpose, a series of changes allowing for less bureaucracy during visa processes were put in place. These attempts became however inconclusive upon rejection by the oppositional CDU & CSU block, thanks to their majority seat in the Bundesrat.[138] To be fair, this resistance was backed up with a wide-reaching public support alongside the rising

[135] The 'safe third-country' rule regulates the conditions under which a refugee can be declined at the intended country's external borders or sent back to the sending countries by route of which (s)he has arrived in the destination country. The principle enables states on the other side to deny a refugee's asylum demand pointing at the sending country's protection of human rights in agreeable terms (European Parliament, 2000).

[136] With that, one could become entitled to German citizenship as long as (minimum) one of the parents had an unlimited residence permit (*unbefristete Aufenthaltserlaubnis*) for at least three years, an unlimited right to residence (*Aufenthaltsberechtigung*) or a legal permanent residence in Germany for minimum eight years.

[137] Draft legislation: *Gesetzentwurf der Fraktionen SPD und BÜNDNIS 90/DIE GRÜNEN. Entwurf eines Gesetzes zur Steuerung und Begrenzung der Zuwanderung und zur Regelung des Aufenthalts und der Integration von Unionsbürgern und Ausländern* (*Zuwanderungsgesetz*).

[138] The bill was declined despite the independent commission (chaired by CDU MP Rita Süssmuth) propped up by a large platform of trade unions, local governments and high-level delegates from employers' associations.

unemployment figures at the time, spurred amongst others by the '9/11 attacks' which provoked EU-wide concerns about foreigners as a potential threat to public security. That said, in 2004, the draft bill managed to pass in the Parliament after long negotiations.

Despite a certain degree of compromise made by the opposition, the 2005 Immigration Act did not include the entirety of what was previously envisioned. Of particular importance here was the 1973 recruitment ban which remained in effect[139] instead of the formerly espoused points-based system concerning the selection of highly skilled foreign workers. Permanent residence for third-country researchers was also disposed of from the originally intended draft coverage. There were nevertheless a number of radical changes introduced with the new law. A most notable one was the additional one-year visa extension provided for foreign students in case they would wish to stay in Germany upon graduation from a (German) university for employment purposes. Added to that was a permanent residence permit granted to high-profile non-EU scientists, managers as well as self-employed individuals investing minimum one million Euros in their business and creating at least ten new jobs upon a three-year residence permit. Meanwhile, asylum-seekers with validated applications became with the new law entitled to a three-year long provisional residence permit. Should the conditions in the beginning continue to apply, accordingly, the temporary status would turn into an unlimited one.[140] What's more, foreigners who suffered non-state or gender-specific persecution in their countries of origin could now enjoy refugee status. Those fitting to this profile were previously (based on the 1951 Geneva Convention) subject to a temporary suspension of deportation, for reasons of non-refoulement in their country of origin. With the Immigration Act's entry into force, they could, as in the case of asylum applicants, receive an unlimited residence permit following a probation period of three years (which would also provide access to the labour market).[141]

On interior security matters, those charged with terrorist activities or 'provoking hatred' in public became subject to restriction of freedom, should deportation be out of the question.[142]

[139] Exceptions were issued by a further decree enabling the application of recruitment to certain professions such as IT specialists, nurses and seasonal agricultural workers.
[140] Currently, such asylum applicants are offered unlimited residence permits with no probation period.
[141] While this issue is currently regulated under the 2008 Asylum Procedure Act, its legal basis is the 1997 *Asylbewerberleistungsgesetz* (the Asylum Benefits Act), which sought support for asylum-seekers and other foreigners with no permanent residence. The Residence Act, as part of the Immigration Act, offers in this context further support on for instance matters relating to residence permits and subsidiary protection.
[142] Due to its potential to violate the German Constitution, extension to administrative detention (as demanded by the CDU/CSU opposition) was not adopted.

Last but not least, the Residence Act (of the 2005 Immigration Act) brought forward language and integration classes which are compulsory for non-EU immigrants.[143] Failure of attendance to these classes could cost them loss of certain social benefits and/or non-renewal of their residence permits. All schooling expenses within the framework of integration of immigrants would be met by the federal government.[144]

Following the 2007 *Richtlinienumsetzungsgesetz*, which transferred eleven EU directives into the national law[145], the German Immigration Act underwent a series of key changes. Amendments relating to the German asylum and refugee law were characterised by the implementation of the Qualification and Procedure Directives (the Council Directive 2004/83/EC and the Council Directive 2005/85/EC, respectively) as of January 2009 and the *Arbeitsmigrationssteuerungsgesetz* (Labour Migration Control Act)[146], which began to allow access to the labour market for designated migrant groups.

Besides federal acts that are subject to the consent of the Parliament and the *Bundesrat*, there are certain ordinances decreed by the Federal Government/Minister in charge and confirmed in most cases by the *Bundesrat*, to be contributing to the regulation of employment, residence and integration of third-country nationals and asylum-seekers: the Residence Ordinance, the Employment Ordinance, the Employment Procedure Ordinance, the Ordinance on Integration Courses and the Ordinance on Determining Asylum Competences (Schneider, 2009, p. 16).

[143] Besides provisions introduced by the 2005 Residence Act, the entry of non-EU nationals intending short-term stay is essentially regulated by the Schengen Convention.

[144] Such courses were at the time applicable to the (*Spät*-) *Aussiedler*, i.e. ethnic German immigrants from Eastern Europe and Central Asia.

[145] These were Council Directive 2002/90/ EC on the facilitation of unauthorised entry, transit and residence; Council Directive 2003/86/EC concerning the right to family reunification; the Council Directive 2003/110/EC concerning assistance in cases of transit for the purposes of removal by air; the Council Directive 2003/109/EC on the status of long-term resident Third-Country Nationals; the EP and Council (joint) Directive 2004/38/EC concerning the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States; the Council Directive 2004/81/EC concerning the residence permit issued to Third-Country Nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities; the Council Directive 2003/9/EC on minimum standards for the reception of asylum seekers; the Council Directive 2004/83/EC concerning minimum standards for the qualification and status of Third-Country Nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted; the Council Directive 2004/114/EC concerning the conditions of admission of Third-Country Nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service; the Council Directive 2005/71/EC concerning a specific procedure for admitting Third-Country Nationals for the purposes of scientific research and finally, the Council Directive 2005/85/EC concerning minimum standards on procedures in Member States for granting and withdrawing refugee status.

[146] Act to Control the Immigration of Highly Skilled Foreigners qualifying for the Labour Market and to amend further regulations of the Resident Law of 20 December 2008, Federal Law Gazette I, 24 December 2008.

When the transitional period suspending labour migration from the Central and Eastern European Countries expired in 2011, workers from these Member States were granted unrestricted access to the labour markets in Germany. Shortly after this, the government adopted the 'Concept for Securing the Skilled Labour Base' so as to encourage skilled labour, in light of the declining working-age population.[147] Accordingly, a list of demanded jobs on the domestic labour markets was to be specified by the Federal Employment Agency twice a year. The pre-2009 minimum salary to be paid to highly skilled TCNs was however lowered. To keep domestic labour intact, a new law called *Berufsqualifikationsfeststellungsgesetz*, *BQFG* (the Professional Qualifications Assessment Act) on the assessment of TCNs' professional qualifications came into force in 2012. While nationality became with this 'Recognition Act' no more a relevant condition for job applications, foreign qualifications were now to be evaluated to the extent they would make preferable options vis-à-vis those of the German citizens (OECD, International Migration Outlook, 2012).

5.1.1.4 Citizenship and naturalisation policies in Germany

TCNs' access to German citizenship was for a lengthy period of the twentieth century restrictive. Following an official view of naturalisation as an exceptional practice rather than as part of the legal order even for the latter generations of immigrants, the last decade saw considerable liberalisation movements bringing about today's pro-naturalisation policy (Williams, 2010, p. 14). This development came along with a discursive change whereby Germany's denial of being an immigration country up to the 2000s was abandoned at the state level, promising ease of TCNs' naturalisation process.

Despite scepticism about the effects of the *Staatsangehörigkeitsgesetz* (StAG), which entered into force as of 1 January 2000, the past decade witnessed remarkable changes in legislative and administrative practices giving clear signals that the temporary understanding of immigration was taking to a permanent form (Green, 2004). In retrospect, the ethnic-based perception of citizenship in the post-war period was in this sense an official strategy against that of the German Democratic Republic (GDR), i.e. 1967 *Staatsbürgerschaftsgesetz der Deutschen Demokratischen Republik*. To circumvent the GDR's official framework which granted citizenship to the nationals of other communist states such as Vietnam (alongside the

[147] *BMAS*, *Bundesministerium für Arbeit und Soziales* (Federal Ministry of Labour and Social Affairs) Action Programme of the Federal Government (2008): Labour Migration's Contribution to Securing the Skilled Labour Base in Germany.

repatriation agreements), the Federal Republic's *jus sanguinis* would serve as a safety valve. Nonetheless, with the end of the Cold War and the re-unification of Germany, the ethnicity-based citizenship appeared to be a loophole attracting large waves of immigration to Germany. While it became clear that German ancestry was no more a deterrent measure, debates in relation to German national identity became widespread in light of pressure from the second- and third-generation of immigrants, who despite their birth and education in the country were still not naturalised, as there was no room for *jus soli* citizenship in the German law until the legislative reform in 1999.

Informed to a large extent also by the pressure of the European Court of Human Rights (ECtHR) and the European Court of Justice (ECJ), which came to play an increasingly important judiciary role in the late 20th century Europe, the 2000 Nationality Act introduced three major sets of changes to citizenship coverage (Howard, 2006). The first set comprised reduction of length of stay for residency from 15 to 8 years (on the condition of a valid residence permit, lack of criminal convictions, gainful employment and willingness to dispense with former citizenship), an oath of loyalty for the 'free and democratic order of the Constitution' and language tests administered at the *Länder* level. The second package of changes on citizenship brought forward, as defined by Article 4 of the new law, the extension of the *jus sanguinis* principle with that of the *jus soli*. Accordingly, children born in Germany could now enjoy automatic entitlement to German citizenship on the condition of an eight-year long residence permit or a three-year long unlimited residence permit to be declared by one of the parents. That said, the *jus soli* practice did not really include the entirety of TCNs, as it demanded a record of unbroken paid-employment with no dependence on German State's welfare benefits. And finally, the third component of the 2000 Nationality Act as far as naturalisation was concerned included the *Optionsmodell* which regulated basic terms and conditions applying to dual citizenship. Accordingly, children receiving German citizenship through the *jus soli* procedure were allowed to hold dual citizenship until adulthood, provided that they would make a choice between the two citizenships before reaching 18 years of age.[148]

[148] At the time this dissertation was being written, the new coalition government was close to a deal which would extend dual citizenship to Germany-born TCN children and naturalised Germans.

5.1.2 The United Kingdom[149]

Table 14: Basic migration statistics

Net migration (2009)	182,000
Foreign-born immigration flow (2007)	237,000
Largest third countries of origin (2008)	India, USA, Pakistan
TCN population (2008)	2,406,000
TCN as part of population (2008)	3.90%
Foreign-born as part of population (2008)	6.60%
Permits delivered for family (2009)	121,280
Permits delivered for work (2009)	116,670
Permits delivered for study (2009)	268,525
Permits delivered for humanitarian reasons (2009)	6,602
TCN employment rate (2009, change since 2006)	57.40%; -2%
National employment rate (2009, change since 2006)	69.90%; -1.7%
TCN unemployment rate (2009, change since 2006)	11.20%; +1.5%
National unemployment rate (2009, change since 2006)	7.60%; +2.2%
Nationality acquisitions (2008, change since 2005)	129,260; -32,495

Source: MIPEX III.

Seeing into its recent foreign population stocks over the last decade, one can observe a steady increase in the UK's immigration density:

Table 15: Stocks of foreign population in the UK

of total population	**2001**	**2002**	**2003**	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**	**2011**
in thousands	2,587	2,584	2,742	2,857	3,035	3,392	3,824	4,186	4,348	4,524	4,785
in percentages	4.4	4.4	4.6	4.8	5.1	5.7	6.4	6.9	7.1	7.4	7.7

All thousands are rounded off to the nearest value.
Source: OECD (2011b).

While this trend applies in fact to many other immigration lands in Europe, a significant factor to bear in mind for the British case is the country's nearly two century-long colonial rule overseas. The strong links it retained over the entire 20th century with the Old and New Commonwealth countries[150], which formerly were under its imperial rule, resulted in rising

[149] Intended with the United Kingdom is what the official name of the country reads: the United Kingdom of Great Britain and Northern Ireland. For practical purposes, however, there will be occasional use of 'British' and 'Britain' in reference to the entire country.

[150] These two groups of fifty-four independent states make up altogether the Commonwealth. While the Old Commonwealth consists of the pre-1945 dominions (which gained independence before 1945), namely Australia, New Zealand, South Africa and Canada founded together with the UK the British Commonwealth (which later took the name the Commonwealth). The others making up the New Commonwealth are the remaining forty-nine Asian and African countries which gained their independence in the 1960s and 1970s. To

flows of immigrants from them, particularly as of the end of World War II. In recent times, of the 1995-2004 period for instance, the net international migration to/from the UK by nationality was calculated as follows:

Table 16: Net migration to/from the UK (in thousands)

Period	All nationals	British nationals	non-British nationals	EU nationals	Commonwealth nationals (old and new)	Other foreign nationals
1995	75	-52	127	23	56	48
1996	54	-62	116	29	47	41
1997	47	-60	107	18	50	38
1998	139	-23	162	33	72	57
1999	163	-23	186	8	80	98
2000	163	-57	220	6	101	113
2001	172	-53	225	11	101	113
2002	153	-91	245	11	101	133
2003	151	-85	236	14	107	115
2004	223	-120	342	74	164	104

All values are approximate, i.e. rounded off to the nearest thousand.
Source: UK Government Home Office (2004). Command Paper 6690.

Accordingly, of around two million migrants who came to the UK between 1995 and 2004, some 880,000 originated from the Old and New Commonwealth countries, about 227,000 from other Member States and ca. 860,000 from non-EU countries (other than Old/New Commonwealth). Given some 630,000 British nationals who moved overseas in this period, the net migration amounted to 1.3 million in approximate figures.

To be fair, it was economic demands that gave rise to the arrival of newcomers (from former colonies in the first place). Yet, as the size of inflows reached a peak in the 1960s, a protectionist mindset grew gradually in public, with rising levels of xenophobia and antagonism towards immigrants. This tendency appears fairly intact today, as shown by recent surveys demonstrating more than half of the interviewees with extremely conservative attitudes, so much so that they consider immigrants to be a threat to their way of life:

Table 17: British citizens regarding immigrants as a threat to their way of life (in percentages)

Responses (options)	UK	EU 15
Totally agree	28	16
Tend to agree	26	26
Tend to disagree	24	30
Totally disagree	13	18
Don't know	9	10

Source: Special Eurobarometer Wave 60.1

qualify for membership (of the Commonwealth), this latter group was required to recognise that the Crown is 'the symbol' and chair of the association.

One needs to mention in this context a central issue that made earlier British immigration policy somewhat distinctive, which in rough terms could be described as the weak role of 'client politics'. Contrary to many countries in Europe where non-political actors such as interest groups, NGOs and courts exert considerable pressure against a backdrop of economic trends or international human rights, politics of immigration has for most of British history been characterised predominantly by the ruling executive (Ette & Gerdes, 2007). A secondary feature of this traditional pattern stands out most notably in the form of an utterly discriminatory immigration policy, which in the early 1970s "selected white over nonwhite…and wealthy…over poor ones" (Messina, 2007, p. 235).

Much in a similar vein, regarding policies in relation to the supranational goals of the EU, the UK comes to mind as a fairly 'selective' land. A tendency to associate this attribute with some "Anglo-Saxon exceptionalism" (Ette & Gerdes, 2007, p. 93) indeed takes the foundation of the European Communities as a reference point, when the UK declined to take part in the then European Coal and Steel Community and the ensuing 1956 Rome Treaty. Following two unsuccessful attempts in 1963 and 1967, it managed to accede to the EC as a member state in 1973. Yet, even many years after its membership to the EC/EU, the UK was still charged with "failure to find a point of equilibrium in European policy in terms of either politics or relationships with other member states" (Wallace, 1997, p. 677). While this puzzle loosened up to a certain extent towards the end of the 1990s, the UK was for many still a country failing to grasp its "advantages of membership…relationship with the other leading member states, and…the direction that it would like the European Union to take" (Allen, 2005, p. 120).

Following its decision to stay outside the Schengen Agreement in the 1980s, the UK carried on with its traditional indifference to supranationalisation moves in the 1990s. To illustrate, most importantly, it opted out from the Amsterdam Treaty's Title IV on visas, asylum and immigration. True, the aftermath of Amsterdam saw signs of changes (for instance, during the 2002 Seville European Council, the UK worked with the hosting Spain closely to come up with an effective anti-discrimination directive on illegal immigration); however, patterns marking some kind of 'standoffishness' were still in place when it came to harmonisation at the EU-level.

5.1.2.1 Institutional structure

The United Kingdom has a Westminster-based unitary government system working to the principles of parliamentary democracy and holding responsibilities devolved to the Scottish Government in Edinburgh, the Welsh Assembly Government in Cardiff and the Northern Ireland Executive in Belfast. There are in accordance with this semi-autonomous governing structure three main legal systems: the English law applying in England and Wales, the Scots law in Scotland and Northern Ireland law in Northern Ireland. The judiciary of the UK is not constituted by a single body but instead separate legal systems in these regions. The broader jurisdiction belongs to Supreme Court of the United Kingdom, the Special Immigration Appeals Commission, Employment Tribunals and Employment Appeal Tribunal (UK Government Cabinet Office, National Archives, 2007). Although the UK Parliament and Government at Westminster are responsible for all 'reserved' matters for Scotland and Northern Ireland, such as local government, justice, agriculture, education and health, and all 'non-transferred' matters for Wales, like public expenditure, law and order, they do not deal with issues concerning for instance tax collection or police services devolved generally to the Scottish Parliament, the National Assembly for Wales and Northern Ireland Assembly (UK Government, Cabinet Office, National Archives, 2010).

The political system involves representation of local constituencies in the House of Commons through election of parliament members and a government. The three main political parties that came to rule throughout most of British political life are the Labour Party, the Conservatives (Tories) and the Liberal Democrats. There is further to the elected House of Commons also the House of Lords, which makes up the unelected chamber of the Parliament. Choosing ministers from both chambers, the Prime Minister seeks to rule the government activity with the aid of the non-partisan UK Civil Service. For each policy area, there are Parliamentary Select Committees which lobby for their constituencies and/or certain interest groups.

The chief government department in charge of immigration (and asylum) policy is the Home Office led by the Home Secretary (representing the Home Department) who works in collaboration with a Minister of State to structure government policy in accordance with the ideological commitments of the party in power (voiced often as 'manifestos'). The branch of the Home Office that regulates non-British citizens' all bureaucratic formalities -as far as their entry and stay in the UK is concerned- is the UK Border Agency (UKBA). The UKBA is in

this sense a shadow agency of the Home Office responsible for the prevention of illegal immigration and maintenance of controls at borders (entry ports).[151] According to the 2007 UK Borders Act, the border control is carried out largely by the UKBA's Immigration Officers rather than direct police involvement. Working in cooperation with the UKBA, a number of separately elected Local Councillors are in charge of immigration matters.

The current legal framework pertaining to immigration is based on the 1971 Immigration Act, which underwent a series of amendments through the 1999 Immigration and Asylum Act, the 2002 Nationality, Immigration and Asylum Act, the 2004 Asylum and Immigration Act, the 2006 Immigration and Nationality Act, the 2007 UK Borders Act and finally 2009 Borders, Citizenship and Immigration Act. Besides a host of statutory instruments making up secondary legislation together with the EU-sourced regulations and directives, a rich reservoir of case law is ordered by the Asylum and Immigration Tribunal and Special Immigration Appeals Commission to govern the complex network of immigration policy-making and practice in the UK.

5.1.2.2 Actors involved in immigration management

According to the 1971 Immigration Act,[152] rules concerning immigration matters are generally characterised by the Home Secretary following approval of both chambers of the Parliament. Added to that, the Home Secretary is entitled to exert his/her sole initiative in certain individual cases, bearing in mind the courts' supervision may cause restrictions in practice. Other than the Home Secretary, the State Secretary for borders and immigration is the other top-rank bureaucrat responsible for the UKBA at the ministry level. Employed by the UKBA and appointed by the State Secretary, Immigration Officers are entitled to the examination of entry clearances besides their monitoring duties like arresting those in case of breach of law. As part of the UKBA, the Entry Clearance Officers (ECOs) working at Visa Services of British Missions are at the helm of granting visas.[153] In cases where cooperation with a neighbouring country is required, the controlling activity is performed at the concerning foreign port.

[151] It brings together the tasks carried out previously (before 2008) by the Foreign and Commonwealth Office's UK Visa Services, Her Majesty's Revenue and Customs (HMRC) and the Border and Immigration Agency.
[152] The relevant sections are 1(4) and 3(2).
[153] One needs to make sure at this point that arrival and entry are under British law not regarded as the same concepts. If a case is a 'leave to enter', it is usually the Immigration Officer at the UK port of entry who grants the visa.

Administration of asylum issues belonged previously to the National Asylum Support Service (NASS) which worked as part of the former Immigration and Nationality Directorate (IND). Despite continuing reference to NASS across the Home Office, it was actually disbanded in 2006 transferring its functions to numerous UKBA units such as the Casework Resolution Directorate (CRD), which is in charge of handling old cases, and the office of the New Asylum Model (NAM), which processes asylum claims. Asylum applications are made to Immigration Officers either while or after crossing into the UK territory. On entry, asylum-seekers are required to apply for 'leave to enter' the UK in return for which they are either detained during the course of application or granted temporary admission.

For statutory instruments, the Asylum and Immigration Tribunal (AIT), being an executive agency as part of the Ministry of Justice, hears to adjudicate cases appealed by the Secretary of State in a 'fast-track procedure'. A Chief Inspector is in charge of monitoring the AIT's deeds. The appeals governed by the AIT concern the decision of granting leave to enter or remain. For claims of unfair denial of support, the First-tier Tribunal (formerly knowns as the Asylum Support Tribunal) is responsible. For detention purposes, a number of non-official security firms are authorised by the UK Border Agency. These firms cooperate with airline/carrier companies which are officially required to contribute to the security process by checking visas and passports.

Aside from these main actors, there are also a number of international stakeholders which have fundamental roles in immigration management. Two such leading organisations are the UNHCR, i.e. United Nations High Commissioner for Refugees (which working in close cooperation with the UK Government is in charge of protecting the rights of refugees and improving asylum conditions) and the IOM, International Organisation for Migration, which also works closely with the British government to advise on matters relating to asylum-seekers' voluntary return to their country of origin.

Other key non-governmental organisations that contribute to the making and application of immigration policy are the International Centre for Migration Policy Development, Chatham House and the Refugee Council. As far as legal advice to asylum-seekers is concerned, several charity organisations such as the Refugee Legal Centre, the Immigration Law Practitioners' Association, the Immigration Advisory Service and Asylum Aid have fundamental duties. Besides government units which provide statistical and other relevant

knowledge database like the Home Office's Research Development Statistics Directorate (which works as part of the UKBA), and the Analysis, Research and Knowledge Management Directorate, there are also research centers which make publications on immigration and asylum issues like the Refugee Study Centre and Information Centre about Asylum and Refugees as well as academic units such as the University of Oxford's Centre on Migration, Policy and Society (COMPAS) and the University of Sussex's Centre for Migration Research.

5.1.2.3 National immigration laws and policies in historical perspective

The historical turn in making the United Kingdom a country of immigration dates back to the post-war period when large waves of immigrants from former colonies began to come for labour purposes. This large-scale move was backed up by entry and citizenship priorities specific to the Commonwealth citizens, who in the post-war period were not labeled straightforward as 'aliens', for their accession to the UK was subject to entry clearance. This was indeed a response to British labour shortages at the time, which was well-received by a large-scale supply up to the early 1960s, when such labour demands took a twist to fall and public opposition to immigration rose considerably.

While the predominantly Conservative-led governments sought in this era to attract foreign labour for the purpose of restoring Britain's war-stricken infrastructure, a fundamental drive lying behind was the UK's 'superpower image' which by reinforcing links with the newly independent ex-colonies (mostly of Commonwealth nations) could be revitalised to a certain extent. Supported by a citizenship regime[154] which was in favour of further inflows until the 1960s, migration remained usually in reasonable margins, as proportional to labour market needs. The succeeding Labour government did not fully back immigrant import when it most importantly passed the 1968 Commonwealth Immigrant Act, which introduced under the guise of 'partiality' a racialised division between Commonwealth citizens (Sales, 2007). With this Act, the Commonwealth citizens were stripped of the right to free movement (to the UK) with the exception of those born in the country or with British passports (Herlitz, 2005).

The replacement of the Labour government by the Conservatives in 1970 was informed largely by the latter's election campaign promising to carry out reforms in the immigration law and terminate the ongoing immigration waves in particular from the New Commonwealth

[154] According to the 1948 British Nationality Act (BNA), nationals of the former colonies were entitled to British citizenship and entry rights even if they were officially treated as permanent residents in these lands.

(Hampshire, 2005). With specific provisions to make changes to that effect, a new act was enshrined into the UK law in 1971. The 1971 Immigration Act imposed restrictions regarding family reunification as well. To the 1982 House of Commons archives, the number of the Commonwealth immigrants fell between 1971 and 1980 from an estimate 126,000 to 87,000 (Herlitz, 2005, p. 18). Interestingly, the entry into force of the new Act in 1973 synchronised with the UK's accession to the EC, making way for the communitarisation of the British labour markets, providing EEC citizens with free movement, as envisaged by the provisions of the 1957 Rome Treaty, yet lifting on the other side the same privileges granted formerly to the Commonwealth citizens. Upon new concerns at the labour market, the Thatcher government launched the 1981 British Nationality Act to bring forward a new understanding of British citizenship. As of 1983, accordingly, the old citizenship status of 'the Citizens of the United Kingdom and Commonwealth' was replaced with 'the Citizens of the United Kingdom and Others'. Much in the same vein, the *jus soli* principle enabling automatic citizenship to UK born children (which was in force since the 1914 British Nationality Act) turned to the *jus sanguinis* "to maintain the alien status of generations of immigrant families born in the host country" (Schain, 2008, p. 12).

Concerns about rising numbers of asylum-seekers[155] and refugees gave way to a new Immigration Act in 1988 and with that visa controls for nationals of India, Pakistan, Bangladesh, Sri Lanka, Nigeria and Ghana (as part of the Commonwealth). While the higher rates in the 1990s stemmed essentially from family reunification and settlement, a national policy on asylum/refugee matters was at the time still out of sight.[156] To this end, the Conservative government introduced in 1996 the Asylum and Immigration Act to stop the growing influxes.[157] The new Act put into use additional provisions from the 1993 Asylum and Immigration Appeals Act, such as restriction of social benefits and abolition of the right to permanent accommodation for refugees. To raise efficiency in a number of areas from economic migration to border control, the subsequent Labour government took measures like

[155] The area of asylum was not a major concern in the 1971 Immigration Act. This was possibly because the average annual entry of asylum applications until the 1990s remained around a relatively low number of 10,000 (in comparison to many other leading immigration countries). As the figures came to rise to 70,000s in 1991, a full body of legislation was worked out on asylum issues, paving the way through the 1993 and 1996 Asylum and Immigration Appeals Act for the 1999 Immigration and Asylum Act, which all introduced new procedures on cases of appeal, conditions of support and enforcement. Despite surging numbers (of 100,000s) in the early 2000s, claims for asylum started to fall in the second half to some 30,000 at most (UK Home Office, 2009).

[156] The perception of the immigrants by the host society as competitors for social services and rare jobs peaked in this period.

[157] Meanwhile, the 1951 Geneva Convention was incorporated partially into the Immigration Rules.

lowering incentives for labour import and doing away with welfare benefits for asylum-seekers. Further to the establishment of the NASS (National Asylum Support System), to be in charge of a stricter control of asylum applications, the police officers became authorised to detain and arrest asylum-seekers in cases when their applications had no valid grounds.

While the 1951 Geneva Convention (on the status of refugees) was not entirely transferred into the British law, there were references to it for instance in the 1993 and 1996 Asylum and Immigration Appeals Act, the 2002 Nationality, Immigration and Asylum Act 2002, the 2004 Asylum and Immigration Act, the 2006 Immigration, Asylum and Nationality Act and the 2006 Regulations (concerning the cases of refugees and persons in need of humanitarian protection) together with the Immigration Rules. Cases falling into the area of human rights were supported by the introduction of the 1998 Human Rights Act. With that, treatment of migrants became recognised as a subject of the ECHR (European Convention on Human Rights).[158]

The number of foreign workers contributing to UK labour force coupled in recent times. As part of national schemes to enforce more influential policy measures in this context, the British Parliament passed in 2007 the UK Borders Act. Through this one of the two chief legislation documents concerning immigration in present day UK (the other being the 2009 Borders, Citizenship and Immigration Act), the UKBA's authority was expanded to help combat illegal labour by for instance allowing for automatic deportation of foreigners in case of imprisonment for more than one year or criminal offences such as drug dealing, rape and manslaughter. Besides several quasi-police powers provided for immigration officers during search, entry and increased detention under an 'e-borders' programme (introducing further use of technological methods such as biometric identity cards), the new act also made room for a points-based system to encourage skilled labour import.[159]

Following the 2008 Immigration and Citizenship Bill designed to overhaul and simplify the immigration law, the 2009 Borders, Citizenship and Immigration Act was adopted as the

[158] Incorporation of the Human Rights Act into the UK law suggested that asylum claims be now made under the ECHR's Article 3 concerning actions against degrading treatment like torture. According to the 1993 Asylum and Immigration Appeals Act, which covered the cases of refugees in Sections 1 and 2, immigration rules could not stand in contradiction with the Geneva Convention.

[159] This was a five-tier points-based system designed to make the long immigration process simpler by enforcing single application to replace all schemes concerning entry clearance and work permit. The so-called five tiers were the highly skilled (tier one), skilled with job offer (tier two), low skilled (tier three), students (tier four) and temporary workers/youth mobility (tier five).

second chief document of contemporary immigration legislation. Accordingly, immigration officers became entitled to perform revenue and customs duties in border issues, leaving the department of HMRC (Her Majesty's Revenue and Customs) to take care of internal revenue and customs affairs. Other than these, the Borders, Citizenship and Immigration Act brought in also new citizenship rules. Tying foreign nationals' eligibility for naturalisation to an eight- or five-year (in cases of marriage) permanent residence, the Act introduced the 'probationary citizenship leave' as a new temporary 'leave to remain' category with which immigrants would provisionally be denied access to labour markets and welfare benefits. What's more, the new Act assigned the Secretary of State a duty 'to safeguard and promote' the welfare of children. Here, automatic British nationality was granted to UK born children provided one of the parents was a Commonwealth citizen or a foreign BAF (British Armed Forces) member.

Although citizenship provisions in the Borders, Citizenship and Immigration Act were to come into force as of July 2011, the newly elected coalition government did not opt to go ahead with the scheme declaring its wish to reduce the number of immigrants from third countries. The new Home Secretary launched to this end reform plans to bring in a type of immigration quota.[160] As of April 2012, following this move, a number of changes were introduced to the Immigration Rules under the points-based system (tiers 1, 2, 4 and 5). In effect, access to student visa regulations, for instance, became tighter than before.[161]

5.1.2.4 Citizenship and naturalisation policies

Third-country nationals' access to British citizenship was until recent times far more liberal than it is at present. As of the early 2000s, a broadly conservative frame of mind came to introduce further restrictive changes to naturalisation, following the progressive rise of immigrants and asylum-seekers.[162] While a counter-immigration attitude during the parliamentary discussions of the 2002 Nationality, Asylum and Immigration Law was largely specific to the Conservative Party, the debates concerning the 2006 Immigration, Asylum and

[160] While the Home Office sought to make fundamental changes to the student visa system after detecting 'widespread abuse' in the points-based system's Tier 4, there were also intentions to curb non-EU rooted economic migration by revising Tiers 1 and 2 as well as plans to reform the routes to family reunification.

[161] For those applying for student visas or degree programmes in the UK, for instance, the required English proficiency score went up from a minimum B1 intermediate level of English (according to the Common European Framework of Reference for Languages, CEFR) to B2 upper intermediate level. To the coalition government's compromise package, there would with such changes be reportedly more than 25% fall on the number of foreign students coming to Britain each year (Travis, 2011).

[162] As a matter of fact, such discourses were formerly part of the UK's post-war immigration policy as well, most notably under the Conservative Governments in the early 1970s.

Nationality and the 2009 Borders, Citizenship and Immigration Laws indicated a surge of anti-immigration rhetoric at a greater platform (UK Parliament, 2005a: c. 275; 2009b: c. 190, 193, 207; 2009e: 1172). In consequence, requirements in the naturalisation context became far more demanding in a 'firm-but-fair system' (UK Parliament, 2009b, c. 174; 2009e, c. 1130-1131).

Given its long colonial/post-colonial relations with the Commonwealth countries, the UK has often been quite diffident in developing "a free-standing citizenship policy" (Williams, 2010, p. 10). Granting naturalisation today on the basis of marriage, registration of minor children according to a parent's nationality or residence permits given to refugees and highly skilled TCN workers is from this perspective quite reasonable (Danzelman, 2009). More on that, informed by a number of external factors such as the 2001 airliner attacks in the USA and the 2005 London bombings, the UK came to adopt a far stricter outlook to language and integration regulations in recent times.

Current application of third-country nationals for citizenship in the UK starts by contacting the UK Border Agency. The initial step involves showing in person provided the applicant has completed 18 years of age (UK Border Agency, 2012). Eligibility for naturalisation requires having a 'sound mind', 'good character', 'lawful residence' (of five years, in normal circumstances, or three years in the case of being 'married or in a civil partnership with a British citizen'), adequate knowledge of English, Welsh or Scottish Gaelic as well as 'life in the UK' and intention for a predominantly UK-based residence. Following the enquiry procedure, which may possibly include the applicant's interview by the police or any other state official, the Home Office declares its final decision on the naturalisation process.

5.1.3 Greece

Table 18: Basic migration statistics

Net migration (2009)	27,000
TCN immigration (2008)	49,035
Largest third countries of origin (2008)	Albania, Ukraine, Georgia
Third-country nationals population (2009)	767,919
TCN as part of population (2009)	6.80%
Foreign-born as part of population (2009)	8.30%
Permits delivered for family (2009)	22,637

Permits delivered for work (2009)	16,383
Permits delivered for study (2009)	1,489
Permits delivered for humanitarian reasons (2009)	1,275
TCN employment rate (2009, change since 2006)	66.60%; -1.3%
National employment rate (2009, change since 2006)	61.20%; +0.2%
TCN unemployment rate (2009, change since 2006)	10.30%; +2.3%
National unemployment rate (2009, change since 2006)	9.50%; +0.6%
Nationality acquisitions (2008, change since 2004)	16,920; 15,024

Source: MIPEX III.

Immigration is not a long-established policy field in Greece. As the country was until recent times rather a 'sending' one, the introduction of a comprehensive policy area on immigration matters does not date back to more than a couple of decades ago. To the latest statistics, that said, stocks of foreign population in Greece have been on the rise:

Table 19: Stocks of foreign population in Greece

of total population	**2001**	**2002**	**2003**	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**	**2011**
in thousands	356	437	473	533	553	570	643	734	840	810	757
in percentages	3.2	4.0	4.3	4.8	5.0	5.1	5.7	6.5	7.4	7.2	6.7

All thousands are rounded off to the nearest value.
Source: OECD (2011b).

Indeed, with the fall of the Iron Curtain, large numbers of immigrants from the Balkans as well as some former Soviet states took to the destination of many politically and economically well-off (mainly EU) countries, one of which was Greece. The Greek share from this mobility was in rough terms some 630,000 people marking a gigantic rise from an estimate 167,000 foreign residents up to around 797,000 (Kasimis & Kassimi, 2004). Judging by around 10,250,000 Greek population in 1991 and 10,950,000 in 2001 (according to the 1991 and 2001 censuses, respectively), one can argue that the percentage of foreign nationals residing in Greece amounted in time to just under 10 percent of the entire Greek population,[163] which indeed marks the highest rise of immigration amongst the EU lands in this period (Avramopoulou et al., 2005, p. 2). The results of the latest 2011 census revealed that the population of Greece turned to 10,787,690, a figure marking about 1.6% fall in comparison to that of 2001.[164]

[163] According to the 2011 OECD Report on International Migration Trends, 57% of this entire immigrant profile was constituted by Albanian citizens.
[164] To the Hellenic Statistical Authority, the methodology followed during the 2011 census was in line with the new EU regulation, to make a difference from the earlier ones for the first time. Counted here was the de facto population, i.e. those with permanent residences and who are available during the census, rather than those who

In retrospect, the migrant flows to Greece were of a larger scale. Some 1.4 million people from the Balkans/Turkey and about 350,000 others from mainly Turkey and Egypt came here with the end of the Balkan Wars and in the period after the Second World War (Gropas & Triandafyllidou, 2007, p. 141). For that, however, the unfavourable political and economic conditions up to the 1980s urged a growing number of nationals to leave the country, most notably for countries like the USA, the UK, Germany and Australia.

Current immigration profile in Greece is characterised mainly by low-skilled foreign workers, who kept coming in big waves regardless of the overwhelming red-tape requirements. The growth of Greek labour market demands was obviously a major reason behind these flows. And it was for the main actors of economy here, who were chiefly small- and medium-sized family businesses, common practice to search for cheap labour, albeit with some 40% loss this would suggest for the GDP (Gropas & Triandafyllidou, 2005, pp. 11-12).

A further factor to consider in the entire Greek immigration context is the weak public discourse. As "stakeholders and operators (such as migrants' associations and specialised NGOs) are left out of the dialogue about migration policies and legislation" (Avramopoulou et al., 2005, p. 1), there is more elbow room for illegal entries here, for which the geographical position serves ideal conditions (with some 6,000 big- and small-sized islands and 16,000 km long maritime borders), making the country in this sense one of the front-line gateways to the EU.[165]

As Greece was all but prepared for the growing inflows in recent times, attitudes towards immigration turned increasingly negative. The issue from the perspective of an average Greek citizen is today almost equivalent with unemployment or criminality (Zarafonitou, 2009). A survey conducted in the early 2000s demonstrated that 69% of the nationals viewed immigrants to be threatening for –or at least non-conforming to- the Greek way of life, placing the country in this category on top of all Member States:

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could be present at a particular location during the count. This statistical method ruled out automatically recently arrived immigrants with no permanent legal residence in Greece. In any case, as the Hellenic Statistical Authority has not released further details on immigration data, it would at this stage be premature to make comments on the course of immigration.

[165] To the Greek Police, most illegal immigrants come by way of Albania, FYROM, Bulgaria and Turkey.

Table 20: Greek citizens regarding immigrants as a threat to their way of life (in percentages)

Responses (options)	Greece	EU 15
Totally agree	35	16
Tend to agree	34	26
Tend to disagree	21	30
Totally disagree	7	18
Don't know	3	10

Source: Special Eurobarometer Wave 60.1

Since this tendency was also illustrative of the political elite's position, the official response was for the most part search for 'zero immigration' policies, which indeed was firmly embraced until the end of the 1990s. Legislative action throughout this period aimed as a matter of course at measures such as "controlling external borders; restricting immigration of third-country nationals of non-Greek ethnic origin; safeguarding internal security; and fighting illegal immigration" by "granting full responsibility for managing the status and rights of aliens to the Ministry of Public Order" (Mavrodi, 2007, p. 157). While there have since then been signs of liberalisation, in compliance with the EU harmonisation goals in this policy field, the extent of approximation has often remained limited with respect to the social, political and economic conjuncture in the country.

5.1.3.1 Institutional structure

(The Hellenic Republic of) Greece is a parliamentary democracy where the executive power is exercised by the elected government and the president at the highest official level. The president's duties are largely ceremonial, leaving political power primarily in the hands of the prime minister. The legislative powers belong to the unicameral parliament, which from 1967-1974 was controlled by the military junta. The current constitution regulating the political structure came into force in 1975, with the end of the junta period. The judiciary system is made up of three Supreme Courts (the Council of State, the Court of Cassation and the Court of Auditors), a number of administrative and civil courts (The Constitution of Greece, 2001).

Politics of immigration as understood in conventional terms is to be secured by the judiciary power without being subject to public leverage (Soysal, 1994). The competences of the courts in the Greek case have however proved to be somewhat limited so far, when compared in particular to those of the executive. The socialist Panhellenic Socialist Movement (PASOK) and the conservative New Democracy (ND) as the mainstream political parties came to hold

deep-rooted powers, which became even more chronic following the junta constitution. It is indeed this long-lasting legacy that came to be decisive for the appointment of judiciary posts and recruitment of technocrats through political parties, not by means of civil service as in many democracies elsewhere. A cursory look at the administrative arrangements throughout the 1981-1989 and 1990-1992 periods reveals that many posts in the civil service structure became occupied on the basis of party loyalty (Sotiropoulos, 1993).

While this system is reminiscent on one hand of a 'cartel party' model[166] in which the authority of one-party prevails across the entire political spectrum (Katz & Mair, 1995), the Greek system fits in fact hardly to such a pronouncement, owing to bitter competition ruling party politics. Nevertheless, the prevailing party power over the post-dictatorship period helped detour challenges/obstacles before government bills quite straightforwardly. Regardless of the fact that a somewhat poor judicial configuration has left the executive rule often unchecked, a prominent character of the political scene in Greece has been 'client politics'. This feature comes as a consequence of the political elite's close affiliation with the private sector which often led to various corruption practices such as tax evasion and labour fraud (Inman, 2012).

With this nature of domestic politics in order, the course of Greek immigration policies has in the general run of things introduced weak outcomes for the TCNs. Each time a government attempted to initiate reforms, the chronic attributes of the party system struck back, consolidating the already intermingled political class and business interests. In recent times, however, this status-quo appeared to inflict serious losses. The two electoral contests in 2012 after five years of economic recession and political uncertainty brought about dormant cleavages between for instance the rural and the urban, the old and the young and the tax evaders and tax payers. The rising popular discontent with the recently announced austerity measures reinvigorated the formerly marginal anti-bailout parties to attain high scores. In the end, the traditional PASOK/New Democracy dominance appeared to be shattered by the remarkable success of minor parties.[167]

[166] The criteria for this model as offered by Pempel (1990) apply in particular to PASOK's composition.

[167] The major highlight of the May 2014 EP elections was SYRIZA, which as a coalition of the left-wing fractions took advantage of the deep fissures in the resigning PASOK government. A similar success was valid also for the Golden Dawn (of the right extremists) while the anti-European Communist Party (KKE) suffered big electoral losses.

5.1.3.2 Actors involved in immigration management

According to Act 3386/2005, entry to Greek territory is subject to the authority of the Ministry of Interior and its departments, most notably the Hellenic Police. All entries through airports, sea ports and terrestrial checkpoints are coordinated primarily by the Ministries of Interior, Foreign Affairs, National Defense, Justice, Economy, Transport and Mercantile Marine.[168] Conditions and procedures concerning all visas and entry clearances are determined by the Ministry of Foreign Affairs.[169] While these are as a rule of thumb issued by the Greek Consular Offices in the countries of residence, passport control officers at entry gates are charged with similar duties.

Issuance of work permits/allowance for financial activities in Greece is subject to the initiative of the Board of Labour Inspectors, which works under the Ministry of Employment and Social Protection. Application for residence permits (concerning both issuance and renewal) is made at the Prefectures/Municipalities of residence. Here, the administrative authorities make an initial analysis of the concerning application and extend it to the Foreigners and Immigration Service of the Regions,[170] which has an option to invite the applicant for an interview prior to that of the Immigration Committee. Following the Immigration Committee's decision, the Secretary General of the Region issues the residence permit.

For asylum matters, the Presidential Decree 220/2007 defines the Hellenic Police as the responsible authority for processing asylum applications. The police units assigned specifically for this area are the Asylum Departments of the Aliens Police, the Security Departments of the State Airports and the Security Divisions and Sub-divisions of the Police Department. The main decision-maker for entitlement of asylum is the Director of the Aliens Division. Following that as a second authority is the Recourse Committee working under the Ministry of Interior, Public Administration and Decentralisation. The Recourse Committee's decision is up to the confirmation of the Minister of Interior, Administration and Decentralisation who may declare an accepted asylum application void, should the occasion arise. A final authority accountable for the granting of asylum is the Council of State. The so-called Hospitality Centers reserved specifically for asylum-seekers work as part of the

[168] To these ministries, one can also add the Ministry of Public Order, which was abolished between 2007 and 2009 to work under the Ministry of the Interior as a General Secretariat.
[169] Act 3386/2005, Article 6 (7).
[170] The state structure is divided further into Regions and Prefectures.

Ministry of Health and Social Solidarity. Added to that, the Greek Council for the Refugees provides asylum-seekers and refugees with social services and consultation, to which the Greek Ombudsman may additionally advise for legal support. Much in the same context, the National Commission for Human Rights acts as a supervisory board to observe grey areas of legislation in terms of human rights and international law.

Access to Greek citizenship starts by application at the residence community/municipality. With an attachment of important supplementary documentation including proof of identity, residence permit and criminal record, the concerning application is then forwarded to the Prefecture, which depending on the result of the examination may involve an interview, as a further step, to be taking place at the Ministry of Interior's Naturalisation Committee.[171] The last and absolute decision-maker in the Greek citizenship process is the Minister of the Interior.

In view of lack of social research constituting a big gap in the poor management of immigration policies, the Greek state has for some time been funding and supervising a number of institutes such as IMEPO (Migration Policy Institute) and EKKE (the National Centre for Social Research), in quest of constructive/informative statistical data in this context. While IMEPO initiates on that score comparative research amongst the EU Member States as far as immigrants' education, welfare and health levels or their participation at labour markets are concerned, EKKE provides in-depth analyses on national contribution to the European Social Survey by compiling research on legislation and stakeholders (Avramopoulou et al., 2005, p. 13).

There are further than these a number of non-governmental national/international organisations taking part in immigration management. The Recourse Committee for instance informs the UNCHR about asylum cases. The UNCHR monitors here not only domestic applications in relation to asylum-seekers and refugees but also organises seminars for Greek institutions like the Police Authorities and provides financial support for the schools in this scheme.

[171] According to Act 3284/2004, the main requirements of Greek citizenship for a third-country national are being an adult, having legal residence in Greece for 10 years (or for 5 years if the applicant holds an officially recognised refugee status), not having a criminal record for more than one year and demonstrating adequate knowledge of Greek language, culture and history.

5.1.3.3 National immigration laws and policies in historical perspective

As previously indicated, large waves of immigration to Greece in the late 1980s were illustrative of an untimely happening which caught the state officials unprepared. The first comprehensive Greek law on immigration matters was formulated in 1991. With its title 'on the entry, exit, sojourn, employment, removal of aliens, procedure for the recognition of refugees and other measures', this new law (1975/1991) sought in the first place to facilitate the removal of illegal entrants and stop economic immigration for the general purpose of 'zero immigration policy'. While the law focused fundamentally on prevention and settlement of undocumented immigration, it also aimed to align with the 1985 Schengen Treaty and the 1990 Dublin Convention (ratified in the same year as Law 1996/1991).

As the 1990s saw no major decline in the size and pace of illegal immigration, two presidential decrees (358/1997 and 359/1997) were introduced to make way for a regularisation programme.[172] Upon weak success owing to state services' organisational problems in coping with the reception and examination of an increasing number of applications –with almost 372,000 immigrants applying for the white card and 213,000 for the green card (Gropas & Triandafillidou, 2005, p. 35)- the second regularisation programme was presented in 2001 (in support of Law 2910/2001) aiming most notably at those excluded in the first programme. With its supplementary theme of 'naturalisation and other measures', the new law had a more liberal nature to cope with immigration issues in the long run. To this end, it contained provisions on legal immigration areas such as family reunion, education and employment, as well as conditions of asylum seeking, other than tightening border controls. Following that, shortly, some 362,000 immigrants applied for legal residence (Gropas & Triandafillidou, 2005, p. 36). As part of the same scheme, a three-year action plan (the Action Plan for the Social Integration of Immigrants) was introduced in the same year to take effect for the 2002-2005 period. Measures taken in this connection were mostly relating to immigrants' access to labour markets and health services as well as xenophobic/racist tendencies against them. Since these provisions were not fully implemented (Cholezas & Tsakloglou, 2008), a supplementary act (Act 3202/2003) was launched upon consultations with the NGOs, trade unions and the Greek Ombudsman, in the first place, to introduce a series of amendments as of 2004.

[172] Within the framework of this first regularisation programme, the so-called white card (officially known as Temporary Residence Permit Card) and the green card, allowing a limited duration of residence, were introduced.

With its fairly intricate administrative procedure regulating most notably the areas of education and employment, the 2001 law is usually regarded as a turning point for the history of immigration policies in Greece. It was indeed the first comprehensive migration law initiated by the government on the basis of an action plan and backed up financially by the European Commission and the European Social Fund. That said, failure to manage particularly economic immigration and illegal entries soon gave rise to a new law (3386/2005) updating the former legal provisions and incorporating the EU Directives 2003/109/EC (relating to the status of long-term residents) and 2003/86/EC (concerning the right to family reunification) into the domestic law. With Act 3386/2005, third-country nationals' entry, residence and social integration to the host society were further revised to introduce a number of changes such as putting an end to separate work/residence permits and increasing application costs from €150 up to €450 depending on the duration of stay.[173]

The 2005 Law regulated also conditions of financial investment in Greece. To Articles 24-27, those investing a minimum amount of €300,000 in Greece would be granted an unlimited residence permit or a limited one in the case of €60,000 investment for independent financial activities. Added to that was the development in another important area, namely protection against human trafficking, the details of which were presented in Articles 46-52. Moving on, Articles 53-60 were covering the provisions on the right to family reunification and Articles 67-69 regulating the status of long-term residents in conformity with the EU Directives 2003/86/EC and 2003/109/EC. Accordingly, the main requirement for long-term residence was the basic knowledge of the Greek history, language and culture.

The deportation procedure in Act 3386/2005 was defined in Article 76, while Article 84 banned undocumented foreign nationals from access to social security and public services, with the exception of hospital services in emergency cases. Children of these non-nationals were exempted from any form of legal status through Law 2910/2001. While Act 3386/2005 is today still in force, it has seen a number of amendments within the framework of Act 3536/2007. Article 18 of this latter act introduced a small-scale regularisation programme on residence permits, modifying specifically conditions of renewal and waiver of application charges for under-age children.

[173] Following reactions by several NGOs, these costs became later inclusive of dependent family members.

For the regulation of asylum matters in particular, the legal origins date back again to Law 1975/1991, which following several revisions such as the Presidential Decree 83/1993 took a final form and went into force in 1996 to accord domestic asylum policies with the 1990 Dublin Convention and the Community legislation. Following this move, a number of other Presidential Decrees envisaged improvement of asylum matters, most importantly Presidential Decree 189/1998, which sought to grant the right to employment for refugees and asylum-seekers, Presidential Decree 61/1999 on the 'Procedure of Recognition of a foreign refugee, withdrawal of recognition and deportation, entry of family members and ways of cooperation with the Representative of the UN High Commission for the refugees in Greece', Presidential Decree 220/2007 on the 'Adaptation of the Hellenic Legislation to the provisions of Council Directive 2003/9/EC, regarding the minimum requirements for the reception of asylum-seekers in member states', Presidential Decree 96/2008 on the 'Adaptation of the Hellenic Legislation to the provisions of the Council Directive 2004/83/EC for the establishment of minimal requirements for the recognition and the status of nationals of third countries or stateless as refugees or as persons that require international protection for other reasons' and Presidential Decree 90/2008 on the 'Adaptation of the Greek Legislation to the provisions of Council Directive 2005/85/EK with regard to the minimal specifications on the procedures under which the member states grant and recall the status of refugee' (European Migration Network, 2008, pp. 15-16).

With the entry into force of the Dublin II Regulation in 2003, Greece became accountable for processing asylum applications in the first country of entry into the EU. Bearing in mind that it was for asylum-seekers already a major gateway to the EU[174], the Dublin II prompted a big rise of returned asylum-seekers in Greece. To reform the asylum system further, the Greek Parliament passed in 2011 a new law changing the location of refugees' first contact from the police to civilian organisations and introducing a new appeals system. A first system of reception and decentralised offices was drawn up in this framework depending on the availability of financial resources.

In 2011, a further immigration law was passed in the Greek Parliament. Besides significant reforms such as incorporation of the EU 'Return Directive' into the domestic legislation, the

[174] Council Regulation No 343/2003.

new law introduced biometric residence permits to align with the EC Regulations 1030/2002 and 380/2008[175] and replaced the Municipality Offices as the former places of application for non-EEA national permits with 'One-Stop' local administration centers. For the implementation of these provisions, the Greek Government cautioned that there might be possible delays, particularly in view of the newly launched national austerity plans, which had recently introduced a set of strict economic measures such as cutting down on government staff.

5.1.3.4 Citizenship and naturalisation laws in Greece

For most of the Greek nation-building history, most importantly as of the independence movements from the Ottoman Empire in the first half of the 19th century, the nationality laws and policies largely followed ethnocentric lines. Granting citizenship rights since then almost exclusively to those with an ethnic descent, "the development of Greek institutions and legal norms has systematically privileged the interests of national unity often at the expense of the rights of individuals and minorities" (Anagnostou, 2011, p. 1). This frame of mind on the basis of a homogeneous nation-state was sustained in the post-WW II period during attempts to reinforce external borders and form new democratic institutions. Allocation of citizenship rights according to parental descent for instance continued up to the collapse of the junta regime in 1974, which despite large-scale political moves to restore democracy introduced no major changes as far as restrictions on minority rights were concerned (Howard, 2006). While there were reform packages concerning nationality laws and policies in the meantime (which apparently challenged the formerly restrictive policies), the main objectives these were seeking concerned 're-ethnicisation' schemes, questing for mainly *homogenes* (those with Greek origins) but not *allogenes* (non-ethnic Greeks) of any kind, be they newly immigrated TCNs or minorities with long residential past in Greece. The state authorities aimed to lower in contrast the rising number of naturalisation applications in recent times, by way of for instance imposing application fees or lengthier residence requirements (Christopoulos, 2010).

Since the 1990s, however, the Greek governments initiated a series of reforms abolishing first Article 19 of the Greek Nationality Code (as the major source of discrimination for TCNs' naturalisation until then), which eventually paved the way for a new legal arrangement in 2010 bringing forward far less restrictive policies in this context. With this new Law

[175] Those applying for residence permits with six years of age and above became now liable to submission of digital photographs and fingerprints.

3838/2010, the TCNs' acquisition of citizenship on the basis of residence (*jus domicili*) and birth in Greece (*jus soli*) was granted for the first time in the history of Greek immigration. As a matter of fact, the roots of this reformation process can be traced to the 2001 Immigration Law and the 2004 Greek Nationality Code. Following the completion of an initial regularisation programme launched in 1997, the Law 2910/2001 law was the first concise immigration law to attach great importance to legal immigration (by proclaiming proper routes of entry for employment and family reunification) with its new regularisation programme (which particularly aimed at those excluded from the earlier programme). The government change bringing the Conservatives to the power in 2004 was conducive to the formulation of a new citizenship law, namely the Greek Nationality Code. As a follow-up to the former PASOK-iniated reform process, the ND Government introduced stateless persons acquisition of citizenship on the condition of birth to a Greek parent or birth in Greece. That said, access to naturalisation was for foreign nationals largely curbed, due to the long bureaucratic procedure required for entitlement, irrespective of their ownership of legal residence in the country.

With the arrival of PASOK to power in the following term, a new citizenship law was passed. This Law 3838/2010 (of the 'Contemporary provisions for Greek Citizenship and the political participation of coethnics and legally residing immigrants') put an end to the historical *allogenes-homogenes* distinction. Introducing the maiden use of the *jus soli* principle, the new law provided naturalisation and citizenship acquisition for all TCN immigrants. Accordingly, a Greek-born child of at least one non-Greek parent with a five-year long residence permit could enjoy citizenship at birth. Acquisition of citizenship applied therewith also to TCNs' children with minimum six grades of school attendance. Further, a seven-year (and uninterrupted) legal residence would now be the lowest benchmark for naturalisation application.

While the former law's vague requirement under 'the moral quality and personality' of the citizenship applicant was with Law 3838/2010 abolished, the new law put in place integration tests, with the specific aim to measure qualification for citizenhip on the basis of a ground-level knowledge of Greek history and civilization, involvement in economic activity, familiarity with the domestic political institutions and participation in the organisational and political system as other Greek citizens (Law 3838/2010, Article 5A). Apart from this new regulation, which in fact was already in use in many other EU Member States, the formerly

declared naturalisation precondition of the EU long-term resident status became with the new law subject to certification of adequate Greek language and history, but not necessarily by way of attendance to state-run courses like in some Member States.[176] A yet another gain non-nationals made with the new law concerned political participation. Despite several prerequisites demanded to that end, such as holding a long-term residence permit and minimum five-year stay in the country, foreign nationals were now granted local voting rights in Greece (OECD, International Migration Outlook, 2012).

Recently, nonetheless, the highest administrative court in Greece, i.e. the Council of the State (CoS), ruled that the newly introduced *jus soli* principle as well as the right to vote TCNs acquired for local elections were contravening the Greek Constitution. The ground for violation according to the CoS was that a naturalised third-country national would never be able to embody a strong attachment with the Greek nation, nor 'Greek consciousness' in its proper sense (Anagnostou, 2011, p. 28).

5.1.4 Italy

Table 21: Basic migration statistics

Net migration (2009):	318,000
TCN immigration (2008):	283,687
Largest third countries of origin (2008):	Albania, Morocco, China
TCN population (2009):	2,759,528
TCN as part of population (2009):	4.60%
Foreign born as part of population (2009):	6.50%
Permits delivered for family (2009):	75,153
Permits delivered for work (2009):	106,134
Permits delivered for study (2009):	10,011
Permits delivered for humanitarian reasons (2009):	1,431
TCN employment rate (2009, change since 2006):	61.80%; -3.9%
National employment rate (2009, change since 2006):	57.50%; -0.9%
TCN unemployment rate (2009, change since 2006):	37.30%; +1.8%
National unemployment rate (2009, change since 2006):	7.80%; +1%
Nationality acquisitions (2008, change since 2004):	53,700; 41,766

Source: MIPEX III.

[176] Initially, proof of adequate Greek knowledge did not comprise certificates from higher educational institutions like universities or state departments but was limited exclusively to accredited high-schools or special courses coordinated by the state.

Similar to the Greek case, the history of mass immigration in Italy is not so long. A notable expansion of immigrant size dates back here only to the end of the 1970s. This rise reached in recent times to all-time highs, making the country a yet another immigration hub in the entire European Union.

From *Resurgimento* (the Italian unification) in 1861 to the 1970s, more than 26 million Italians lefts for the Americas, Australia and other European countries, with some two fifths of the outflow stemming from the southern regions of the country (Del Boca & Venturini, 2003, p. 1). The chief reason behind this massive emigration was the countrywide poor economic conditions at the time. There were until the second quarter of the post-WW II period hardly any inflows. With the improvement of domestic economic conditions (particularly in the northern regions) and as a consequence of the above-mentioned lands' closure of borders following the oil crisis in the 1970s, the route of migration from the Third World to Europe was diverted considerably to the south. What made Italy here additionally attractive was its relatively weak colonial connections -when compared for instance to the UK, the Netherlands, Belgium and France- which made somewhat better public image in the Third World (Veikou & Triandafyllidou, 2000). In any case, for one reason or another, Italy was soon a back door to many northern European lands turning from a sending country to one of the biggest receiving EU Member States at present (Calavita, 2004).

The early inflows to Italy were characterised essentially by Eastern European, Latin American, Asian, Middle Eastern and North African migrants and asylum-seekers most of whom were escaping severe economic and political conditions in their countries of origin. Following this first wave, the 1980s saw the rise of undocumented migrants coming often illegally as "fishermen, carpenters, street-vendors or on the tomato harvest; women from Eritrea, Somalia and the Philippines; and Chinese entrepreneurs running restaurants or cottage industries and employing fellow-nationals of both sexes" (Zincone & Caponio, 2006, p. 2). The large extent of this undocumented flow, as confirmed officially by the 1981 census, was for modern Italy quite a new phenomenon. There was now a strong demand of informal labour in the newly flourishing urban areas, in particular, the industrial north. Two main structural characteristics accounted for flows to these places: the "large underground economy and a rigid segmentation of the labour market" (Veikou & Triandafyllidou, 2000, p. 4).

Despite recurrences of economic crisis which as a matter of course led to a significant decline in annual quotas, immigration to Italy is today still at high levels. To current OECD statistics (2012), waves of newcomers specifically from Eastern Europe (as a consequence of the Iron Curtain's collapse) and the Southern Mediterranean space (of North African countries led particularly by Libya) have pushed stocks of foreign nationals to some 5 million in recent times, amounting steadily to 8% of the entire Italian population.

Table 22: Stocks of foreign population in Italy

of total population	**2001**	**2002**	**2003**	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**	**2011**
in thousands	1,448	1,549	1,990	2,402	2,671	2,939	3,433	3,891	4,235	4,570	4,826
in percentages	2.5	2.7	3.5	4.2	4.6	5.0	5.8	6.6	7.1	7.6	8.0

All thousands are rounded off to the nearest value.
Source: OECD (2011b).

An inevitable consequence of these soaring figures was the negative image of immigrants in the country. Surveys seeing into recent senses of belonging/citizenship deliver that almost half of the Italians (48%) do not view immigrants to be contributing to their country significantly (Special Eurobarometer 60.1, 2004). Accordingly, those seeing them as a threat to their way of life constitute 38% of the population:

Table 23: Italian citizens regarding immigrants as a threat to their way of life (in percentages)

Responses (options)	**Italy**	**EU 15**
Totally agree	11	16
Tend to agree	27	26
Tend to disagree	30	30
Totally disagree	24	18
Don't know	8	10

Source: Special Eurobarometer Wave 60.1

With multiple factors lying behind such perceptions, from cultural to economic concerns in a wider global context, particularly in the last two decades, these figures are indeed important to understand the default position of public opinion in present-day Italy, which apparently has a largely anti-immigrant character.

5.1.4.1 Institutional structure

Modern day (Republic of) Italy is a parliamentary democracy. The executive power belongs to the government elected for five years under the rule of the Prime Minister, known also as

the President of the Council of the Ministers. The current multi-party composition came into being when the fascist rule ended in the early post-WWII period. The two main parties in this structure have so far been *Partito della Democrazia Cristiana* (Christian Democratic Party) and *Partito Comunista Italiano* (Italian Communist Party) ahead of several small but influential parties, such as the neo-fascist *Movimento Sociale Italiano* (Italian Social Movement) and the leftist *Partito Socialista Italiano* (Italian Socialist Party).

All these parties have in fact seen a series of nominal/structural changes since the end of the Cold War. Following prosecutions concerning corruption of several party members, the Christian Democratic Party was replaced by *Partito Popolare Italiano* (Italian Popular Party), while a number of new parties such as *Forza Italia* alliance, *Lega Nord* (the Northern League),[177] as a federalist movement in the north, and *Alleanza Nazionale* (the National Alliance), being a successor of the neofascist Italian Social Movement, rose to dominate the right and centre-right of the Italian political party system. The *Partito Comunista Italiano* (PCI) became in this same period *Partito Democratico della Sinistra* (Democratic Party of the Left), which turned later into *Democratici di Sinistra* (Democrats of the Left). With recent developments, the center-weight political scene became populated by many small parties. Following short-lived alliances like the House of Freedoms on the right wing and the leftist *Ulivo* (Olive Tree), *Partito Democratico* (the Democratic Party) came to the scene as a new centre-left party, after the Christian Democratic Party joined *Margherita*, as another centrist party. This urged *Forza Italia* to merge with *Alleanza Nazionale* for a new formation under *Popolo della Libertà* (People of Freedom). The centre-right alliance collapsed in 2010 when *Alleanza Nazionale* turned into *Futuro e libertà per l'Italia* as yet another centre-right party.

The legislative power in Italy is exercised through a bicameral system. Accordingly, the 945 elected members (*parlamentari*) of the Parliament (*Parlamento Italiano*) are distributed between two houses, 315 for the Senate (*Senato della Repubblica*) and 630 for the Chamber of Deputies (*Camera dei Deputati*). While these two chambers work for a maximum five years and all bills are subject to their approval before turning into laws, the President of the

[177] This was formerly a separatist party aspiring for an independent northern Italy, the so-called *Padania*. In time, however, it converted its 'anti-southern' programme into an 'anti-immigration' agenda.

former has privileges to act as the Head of State when there is need for a new President of the Republic.[178] The Senate is thus regarded traditionally as the upper house of the legislature.

The higher layer of the judicial power is constituted by the Supreme Law Council and the Constitutional Court. These two legal authorities observe, as vested by the Constitution of the Italian Republic, legitimacy of the government rule and mediate independently across the State's power distribution. The main parts of the Constitution are Articles 1 to 12 introducing *Principi Fondamentali* (Fundamental Principles), *Diritti e Doveri dei Cittadini* (*Rights and Duties of Citizens*) as defined by Articles 13 to 54 and *Ordinamento della Repubblica* (Organisation of the Republic) by Articles 55–139 which are ultimately appended by a number of *Disposizioni transitorie e finali* (Transitory and Final Provisions). Besides its significance in marking the end of the fascist rule in the post-war era, the Constitution has today a conciliatory role to maintain a careful balance between the three main ideologies of party politics in Italy (known also as the 'constitutional compromise'): the Roman Catholic-rooted democratic solidarity, appreciation of socialist and/or communist principles to a certain extent and finally a liberal interpretation of the Italian society and politics (Smyth, 1948).

5.1.4.2 Actors involved in immigration management

The organisation of asylum and migration policies in Italy is managed at the ministry level essentially by the Ministry of Interior (*Ministero Dell'Interno*). The duties of the ministry cover a wide range from citizenship issues, entry, residence and integration of newcomers to irregular immigration. This broad authority was reduced recently, with the formation of a technical government in late 2011, when Ministry for International Cooperation and Integration was established to be in charge of migration and integration matters only. The job division between the two ministries is defined by the Central Directorate for Immigration and Asylum Policies, which assigns the main tasks upon a Coordinating and Monitoring Committee and a special Technical Working Group. Coordination at the sub-national level, as far as integration policies are concerned, is administered by way of the Territorial Councils for Immigration, consisting of representatives from all political parties at the local level (Cesarini et al., 2011, p. 5).

[178] Apart from his/her chief roles such as appointing the Prime Minister and judges for the *Corte Costituzionale della Repubblica Italiana* (Constitutional Court) as well as presiding over *Consiglio Superiore della Magistratura* (the Supreme Law Council), the President of the Republic has a symbolic meaning to represent national unity since the *Resurgimento*, the unification of city states in 1876.

The main departments of the Ministry of Interior are the Department for Civil Liberties and Immigration and the Department of Public Security. The Department for Civil Liberties and Immigration is structured around a number of sub-units such as Central Directorate for Civil Rights, Citizenship and Minorities, Central Directorate for Immigration and Asylum Policy and Central Directorate for Assistance to Immigrants and Asylum-seekers. Each of these directorates is accountable for coordinating and monitoring the acts of the Territorial Councils within the Prefectures and the management of irregular migration and asylum-seeking. The main functions of the Department of Public Security include on the other hand controlling external borders via National Police offices, i.e. the *Questure*, at the provincial level as well as issuing/extending residence permits through the Single Desk for Immigration, which works as the office of liaison for the Department. The Italian National Police, *Polizia di Stato*, serves also under the Department of Public Security to deal with matters relating to foreigners, most notably on issues concerning return procedures in the case of lack of legal status.

Serving at the ministry level for management of immigration and asylum (other than the Ministry of Interior) are also *Ministero degli Affari Esteri* (Ministry of Foreign Affairs) and *Ministero del Lavoro e della Previdenza Sociale* (Ministry of Labour and Social Security). While the Ministry of Foreign Affairs contributes in this framework mainly by issuing visas to non-EU citizens through its Diplomatic Missions abroad, the Ministry of Labour and Social Security is in charge of identifying needs for foreign manpower and developing policies to cover the social welfare interests of immigrants.

At the implementation level on the other hand are the *Prefettura* (the Prefectures) which principally seek through the Territorial Councils to deal with legal aliens' social cohesion by for instance coordinating initiatives formulated in the Provinces. A supplementary role within the prefectures is provided by the Single Desks which essentially observe the formality procedures non-EU citizens need to follow, such as their residence permits, entrance to the labour markets and family reunification. The main state institutions to consult in this context are the Local Police Headquarters which are in charge of issuing and renewing residence permits in the first place. For patrolling services, it is since 2002 the Central Directorate for Immigration and Border Police which has a superlative authority. The main area of responsibility is about guarding activities here. Working in coordination with the Italian Navy, police forces, *Carabinieri* (national military office) and harbour offices, the Directorate develops and adopts all relevant measures/initiatives to counter illegal immigration.

Besides stakeholders at the state level, there are a number of social partners that aim to protect the rights of immigrant workers in Italy. These include a broad range from trade unions and employers' associations such as *Confederazione Generale Italiana del Lavoro* (Italian General Confederation of Labour), as the biggest trade union, *Confederazione Italiana Sindacati Lavoratori* (Italian Confederation of Trade Unions and *Unione Italiana del Lavoro* (the Italian Labour Union), *Confindustria* (Italian Employers' Federation) to immigrant associations like *Associazione Nazionale Oltre Le Frontiere* (The National Association Beyond Borders), as well as religious institutions, the most important of which are the Catholic Church, entrusted by the Vatican's Pontifical Council ('for the Pastoral Care of Migrants and Itinerant People') to meet immigrants' spiritual needs, *Caritas Italiana*, dedicated to helping immigrants integrate in the Italian society, and *Fondazione Migrantes*, which provides pastoral care not only to third-country nationals in Italy but also Italians abroad (Jonjic & Mavrodi, 2012).

5.1.4.3 National immigration laws and policies in historical perspective

Despite the fact that Italy has often performed ahead of many other Southern European EU members in making legal arrangements for immigration purposes, it was only in 1986 the first nation-wide law was here introduced to that effect. The relevant provisions were up to that moment restricted largely to foreign citizens' legal stay in the country. To be fair, this narrow coverage was based on the far-reaching perception of immigrants, who were almost always associated with working illegally (Zincone & Caponio, 2006). With the enactment of Law 943/1986, conditions for entrance, admission and residence of foreigners into Italy were regulated not only to meet interior security needs but also to provide equal rights for newcomers vis-à-vis Italian citizens. Given its deficits mainly in the legalisation of immigrants (in particular refugees), this early legal arrangement was replaced later with Law 39/1990. The new law, also known as the Legge Martelli Law, came to be the first act to introduce visa requirements for many of the sending countries, to reform deportation procedures and to impose sanctions for those staying illegally and/or engaged in immigrant smuggling/trafficking. What's more, with Law 39/1990, asylum-seeking procedure saw a certain measure of revision for the first time to ease applications made by those from non-EU countries (Sopemi, 1991).

The current legislation governing immigration matters in Italy is based on two chief legal texts: Law 40/1998 ('Turco-Napolitano Law') and Law 189/2002 ('Bossi-Fini Law'). In fact, both laws came as a response to the political developments at the time, most notably in relation with developments across the former Republic of Yugoslavia, Albania and Somalia. The civil wars in these lands provoked a series of big-scale illegal immigration and asylum-seeking flows destined for Italy, as a result of which it became urgent to revise domestic legislation concerning immigration.[179]

In view of increasing illegal entry rates, the 1998 Turco-Napolitano Act was designed to take new measures the most important of which was probably establishment of detention centres. While the new law was committed to the improvement of conditions enjoyed by TCNs in Italy, such as easing conditions for working permits at the labour markets, it introduced a host of new quotas (through the introduction of the *Decreto flussi,* as a law decree brought in use to fix the number of newcomers coming by way of legal channels). These provisions were changed with the Bossi-Fini Act, which as a formulation of the centre-right coalition government took deeper consideration of security concerns. In effect, new policy tools like limiting legal entries and applying non-flexible procedures for residence permits were developed to combat undocumented entries in a more effective way. Further, with Law 189/2002, temporary detention of irregular immigrants was extended to maximum 60 days. Meanwhile, a 'sea landings-decree' brought further authorisation to the Italian Navy for use in maritime traffic, in case of clandestine attempts in open sea (Rusconi, 2010). The Bossi-Fini Act did not modify social/family rights; however, it was alongside these amendments the largest extent of regularisation was managed on this matter in the recent history of European immigration history.[180]

There have more recently been additional legislative rearrangements in this framework. With the so-called 'Security Package' including Law 125/2008 and Law 94/2009, a series of changes were made on irregular immigrants' detention and imprisonment, return of aliens, fees for citizenship application (of €200) and residence permits (€80-€200 during first issues and renewals) as well as a new host of family reunification regulations which became stricter in nature. Added to that, the 'Integration Agreement' in 2010 introduced two-year 'points-

[179] Indeed, being a signatory of the Schengen criteria as of the mid-1980s, Italy was already required to practise frequent border controls against uncontrolled immigration (Finotelli & Sciortino, 2009).
[180] During the right-wing government in this period, more than 600,000 people became subject to this process (Rusconi, 2010).

based' stay applicable to foreigners (exclusively adults) in the context of residence permits. This arrangement brought in also compulsory language tests for the acquisition of long-term residence permits. What's more, with the second security package launched in 2010, municipalities became authorised to monitor renewal of residence-permits. When provisions concerning the EU Directives 2004/38/EC and 2008/115/EC were in 2011 finally completed, a number of new provisions became applicable to financial resources, detention measures and return of EU citizens. And finally, on matters relating to highly qualified workers and employers hiring illegally staying TCNs, two more Council Directives were transposed in 2012 (2009/50/EC and 2009/52/EC).

5.1.4.4 Citizenship and naturalisation policies in Italy

More than half of some 40,000 recent applications for Italian citizenship were based on residential status, followed closely by cases concerning family reunion (Jonjic & Mavrodi, 2012, p. 101). Although the number of entries yielding naturalisation increased slightly in the last years, Italy ranked here lower than the EU average, due to the high rate of unfulfilled applications (European Migration Network, 2012b, p. 30). Indeed, a cursory look into the Italian law reveals that eligibility criteria in the context of citizenship are more restrictive than they are in many immigration countries across the EU. Current provisions are for the most part extensions of the 1992 Citizenship Act, Law 91/1992 (and regulations DPR 572/1993 and DPR 362/1994), with most of them grounded upon the principle of *jus sanguinis*. There is however room for *jus soli* as well, regulating the status of persons with birth on Italian soil "whose parents are unknown, Stateless or cannot pass on their citizenship to their child according to the laws of the State of which they are citizen" as well as "of unknown parentage found on Italian soil and whose natural citizenship is impossible to ascertain" (*Ministero degli Affari Esteri*, 2012). Three main applicant profiles stand out here: persons who have lost their citizenship and wish to reinstate it due to birth in Italy, those claiming citizenship as descendants of Italian citizens and foreign citizens applying for Italian citizenship.[181]

[181] Recently, in 2011, President Giorgio Napolitano started a debate by arguing that the relevant legal order in force was in need of revision, considering particularly the aging population in the country as well as the rise of immigrant children in recent times, who without citizenship rights appeared to experience serious challenges in their school life. A first area of debate following this argumentation was whether or not the principle of *jus sanguinis* should be switched entirely to *jus soli*. While the then Minister of Interior was in favour of the former, on the condition that a certain period of residence would be required of TCN parents, the Minister for International Cooperation and Integration came up with a proposal arguing for *jus culturae*, which would expand the eligibility criteria for citizenship also to minors provided they would study in Italy (European Migration Network, 2012b).

The basic requirement for automatic acquisition is the history of parentage in Italy (providing there are no stories of renouncement involved in the background). For acquisition by claim, official documentation is a prerequisite. Accordingly, "foreign or Stateless descendents (up to the second degree) of Italian citizens can claim citizenship" as long as they could provide the state department with a valid "birth certificate; certificate of Italian citizenship of mother or father or a direct ancestor up to the second degree; certificate of residence, where requested". This rule does however not dismiss those without Italian descent. The primary document demanded from claimants born on Italian soil is "continuous legal residence in Italy up to legal age, and upon declaration of their desire to do so" (*Ministero degli Affari Esteri*, 2012). For naturalisation, knowledge of the Italian language and culture is a must.

Third-country nationals are granted naturalisation rights on the condition that they have here a minimum ten-year-long legal and continuous residence. Access to citizenship is for refugees, stateless persons and those with co-ethnic backgrounds (for instance ethnic Italians from the former Yugoslavian Republic) much easier. To Article 9 of the 1992 Citizenship Act, refugees and stateless persons need to fulfill five years of continuous stay (it is for non-EU citizens ten years and for other EU citizens four years), while minimum period for naturalisation in the case of TCNs with Italian backgrounds is three years, with the exception of a must-have two years from minors (Zincone & Basili, 2013, p. 6).

Although *Il Popolo della Liberta* and *Partito Democratico* tended to cooperate as the two major political parties to reduce TCNs' minimum period from ten to five years in recent times, the entire process ended up with a new set of restrictive amendments. With the 2009 Security Act, most importantly, TCNs marrying Italian citizens became subject to the requirement to possess two years of legal residence at least (which formerly was six months). Article 1 of Law 94/09 introduced additionally a payment of €200 fee to apply for citizenship.

5.2 Data on MIPEX[182]

Managed currently by the British Council and the Migration Policy Group[183] and co-financed by the European Commission under the scheme of European Fund for Third-country

[182] The core source of reference used here was MIPEX's interactive website (www.mipex.eu).
[183] Migration Policy Group is a Brussels-based think-tank which initiates research on migration related issues including equality, discrimination and integration.

Nationals, the MIPEX was first launched in 2004 as the European Civic Citizenship and Inclusion Index to measure the then EU-15 governments' commitments to their immigration agenda comparatively. The ensuing MIPEX II was released in 2007 to add up policies concerning immigrants in the ten new EU Member States, as well as Canada, Norway and Switzerland. The third in the series, MIPEX III, was concluded in 2011 to bring Japan and Australia as the new countries in focus. With its final form, MIPEX III drew on a wide array of contributions from 37 NGOs, universities, research institutes, think-tanks and more than 150 national experts in 31 countries across Europe and North America in seven main areas: labour markets, family reunion, education, political participation, long-term residence, access to nationality and anti-discrimination.

To explore into immigrant matters, the MIPEX project uses policy indicators checking into the highest standards as pointed out by relevant EU legal texts and Council of Europe Conventions. Added to these are EU-wide policy recommendations in cases where a country's performance remains at minimum standards. Policy indicators are formulated as questions targeting a particular component of one of the seven intended policy areas.[184] Legal and policy materials informing these questions are entirely official. They are compiled by the Migration Policy Group to give the final form of the index.

Answers to policy indicators are obtained out of three options. The highest standards of equal rights, duties and opportunities concerning TCNs are scored with 3 points, while 2 marks policies that are not mature yet, and 1 standing for default value to demonstrate gaps/deficits in national policies vis-à-vis EU legal texts. These scores receive an average value for each of the seven main areas of integration, representing the 'dimension score'. The dimension scores are then averaged together to identify the overall score for a country. To make a thorough comparison here, the 1-2-3 scale used in the beginning is later calculated over the 0-50-100 scale, according to which 100% marks the highest score.

5.2.1 Germany

5.2.1.1 Labour markets

With its sixth post on the MIPEX III list, Germany is regarded as a 'slightly favourable' country when its labour market policies are viewed from the perspective of the third-country

[184] A full list of these indicators is available in Appendix II, as part of MIPEX III.

nationals. Non-EU workers enjoy here a limited degree of equal access and rights. Following the 2007 EU-*Richtlinienumsetzungsgesetz*, which quested for more participation in society, the CDU, CSU and FDP coalition government decided to reduce labour shortages for white-collar positions such as doctors, scientists or engineers by way of qualified immigration from abroad. It seems, however, this move has so far proved less fruitful than intended. While local governments set their sights on an efficient public sector and try to include more TCNs, the basic procedures required for TCNs' employment have been meeting bureaucratic hurdles between *Länder* and professional organisations. In effect, a significant portion of the newcomers are today employed below their genuine levels of qualification. What's more, apart from cases of 'urgent official needs', they almost never have access to the public sector.

Table 24: Conditions for TCNs at German labour markets

Access	
Immediate access to employment	50
Access to private sector	100
Access to public sector	50
Immediate access to self-employment	50
Access to self-employment	100
Access to general support	
Access to public employment services	100
Equality of access to education and vocational training, including study grants	0
Recognition of academic and professional qualifications acquired outside the EU	50
Targeted support	
State facilitation of recognition of skills and qualifications obtained outside the EU	50
Measures to further the integration of third-country nationals into the labour market	100
Additional measures to further the integration of third-country nationals into the labour market	100
Support to access public employment services	100
Workers' rights	
Membership of and participation in trade unions associations and work-related negotiation bodies	100
Equal access to social security	100
Equal working conditions	100
Active policy of information on rights of migrant workers by national level (or regional in federal states)	100
Germany average	77
EU average	57

Based on MIPEX III.

5.2.1.2 Family reunion

TCN families residing in the EU are in ideal conditions subject to the same rights and responsibilities as families from Member States. In Germany, which ranks 17th on MIPEX, newcomers may upon arrival make applications for family reunification through a free and

brief procedure, to cover additionally their parents/grandparents, on condition that these are in need of family care. Unless they are fraudulent and/or threatening for the country's security, these applications cannot be declined. For examinations required under the scheme of long-term residence, Germany joins old immigration countries like the Netherlands, Denmark and France, which all demand language (and culture) tests from TCN spouses in their countries of origin. These tests are in the German case not free of charge. The length of time as required from the person applying for family union (sponsor) is changeable, depending on the degree of his/her affinity to the beneficiary. Refusal/withdrawal requires consent of both sides, leaving room for appeal.

Table 25: TCNs' family reunion conditions in Germany

Eligibility	
Family reunion eligibility conditions (average)	50
Eligibility conditions for partners other than spouses (average)	75
Eligibility for minor children	50
Eligibility for dependent relatives in the ascending line	50
Eligibility for dependent adult children	50
Conditions for acquisition of status	
Pre departure integration conditions (average)	57
Upon arrival integration conditions (average)	32
Accommodation requirement	50
Economic resources requirement	50
Maximum length of application procedure	100
Costs of application and/or issue of permit or renewal	50
Security of status	
Duration of validity of permit	50
Grounds for rejecting, withdrawing or refusing to renew status	0
Before refusal or withdrawal, due account is taken of (regulated by law)	100
Legal guarantees and redress in case of refusal or withdrawal	100
Rights associated with status	
Right to autonomous residence permit for partners and children reaching age of majority	50
Right to autonomous residence permit in case of widowhood, divorce, separation, death, or physical or emotional violence	50
Right to autonomous residence permit for other family members having joined the sponsor	0
Access to education and training for adult family members	100
Access to employment and self-employment	100
Access to social security and social assistance, healthcare and housing	100
Germany average	60
EU average	60

Based on MIPEX III.

5.2.1.3 Educational standards

The educational standards third-country nationals enjoy in Germany rank 17th on MIPEX, particularly in view of the pupils/students with migration backgrounds who are not entirely integrated with the multilayer school system here. While this might also have to do with own migration experiences, there are obvious patterns indicating that most projects intended to encourage access to schools are reliant upon the financial resources and political will, which are restricted to a certain number of schools or a particular stage in educational career. Pupils/students may enrol at the *Länder* level in all types/tracks of schools, yet a mechanism allowing for healthy placement (to assess learning experiences of a pupil/student before arrival to Germany) is still missing. Additionally, while pupils of TCN origin can enjoy support and funding for being socially disadvantaged, equal opportunities do not apply to all cases, given that only five *Länder* provide them with legal service regardless of whether or not their parents are 'undocumented'. Schools can obtain rich resources of performance data, thanks to for instance periodically arranged panels on national education. What's more, immigrant languages are taught both in and outside classroom, with curricula fostering 'diversity', though rather incompletely as these do not cover all immigrant cultures. Regardless of several language assessment tools such as those provided by 'FörMig', there are no official standards regarding language learning and/or teacher training, nor are there state-sponsored programmes targeting intercultural education. A recent development in this context demonstrates all the same a rising interest in many *Länder* as to encouragement of TCNs for study in educational sciences and/or become teachers.

Table 26: Educational standards for TCNs in Germany

Access	
Access and support to access pre-primary education	50
Access to compulsory-age education	50
The assessment in compulsory education of migrants' prior learning and language qualifications and learning obtained abroad	0
Support to access secondary education	50
Access and support to access and participate in vocational training	50
Access and support to access and participate in higher education	50
Access to advice and guidance on system and choices at all levels of compulsory and non-compulsory education	50
Targeting needs	
Requirement for provision in schools of intensive induction programmes for newcomer pupils and their families about the country and its education system	0
Provision of continuous and ongoing education support in language(s) of instruction for migrant pupils (average)	50
Policy on pupil monitoring targets migrants	100
Targeted policies to address educational situation of migrant groups	0
Teacher training and professional development programmes include courses that address migrant pupils' learning needs, teachers' expectations of migrant pupils and specific teaching strategies to adress this	0

New opportunities	
Provision of option to learn immigrant languages (average)	100
Provision of option to learn immigrant cultures (average)	0
Measures to promote social integration through school (average)	50
Measures to support migrant parents and communities in the education of their children	50
Intercultural education for all	
Inclusion of intercultural education and appreciation of cultural diversity in school curriculum	50
State support for public information initiatives to promote the appreciation of cultural diversity throughout society	50
Possibility to modify school curricula and teaching materials to reflect changes in diversity of the school population	0
Adaptability of daily life at school based on cultural or religious needs to avoid exclusion of pupils	50
Measures to support bringing migrants into the teacher workforce	100
Inclusion of intercultural education and appreciation of cultural diversity for all in teacher training and professional development programmes	50
Germany average	43
EU average	39

Based on MIPEX III.

5.2.1.4 Political participation

Ranking eighth on the MIPEX scale and considered 'slightly favourable' as far as immigrants' political participation are concerned, Germany provides its TCNs with certain privileges, such as freedom to join political parties (even if some of these may deny internal positions to non-nationals) and civil society organisations. Such services do not cover the basic rights given to nationals, like for instance voting (the revision of which requires a constitutional change but has so far been out of sight). Integration into the political system is to a certain extent encouraged by the *Länder* and municipalities so that TCNs could elect their own groups. At the national level, however, such representatives are appointed by national governments, which may provide funding in return for cooperation/consultation.

Table 27: TCNs' political participation in Germany

Electoral rights	
Right to vote in national elections	0
Right to vote in regional elections	0
Right to vote in local elections	0
Right to stand for elections at local level	0
Political liberties	
Right to association	100
Membership of and participation to political parties	100
Right to create media	100
Consultative bodies	
Implication of foreign residents at national level (average)	30
Implication of foreign residents at regional level (average)	80

Implication of foreign residents at capital city level (average)	80
Implication of foreign residents on local city level (average)	80
Implementation policies	
Active policy of information by national level (or regional in federal states)	50
Public funding or support of immigrant organisations on national level	100
Public funding or support of immigrant organisations on regional level	100
Public funding or support of immigrant organisations on local level in capital city	100
Public funding or support of immigrant organisations on national level in city	100
Germany average	64
EU average	44

Based on MIPEX III.

5.2.1.5 Long-term residence

As a major component of its integration policies, long-term residence is a fairly demanding procedure in Germany. To the 31-country MIPEX list, the current situation here deserves the 24th place. Relevant conditions are almost comparable to those concerning full citizenship, as seemingly no other country stipulates as many requirements as Germany does for long-term residence. While many EU countries demand in this context basic documents such as legal incomes or language knowledge, the related process in the German case starts with a comprehensive integration test. For tertiary education, within the scheme of attracting international students, Germany‘s performance lags behind that of an average old immigration land like the Netherlands, Denmark, Belgium, Austria or Sweden, for reasons of red tape/comprehensive paperwork.

Table 28: Long-term residence conditions for TCNs in Germany

Eligibility	
Eligibility conditions (average)	50
Is time of residence as a pupil/student counted?	0
Periods of absence allowed previous to granting of status	50
Conditions for acquisition of status	
Integration conditions (average)	32
Economic resources requirement	0
Maximum length of application procedure	0
Costs of application and/or issue of status	0
Security of status	
Duration of validity of permit	100
Renewable permit	100
Periods of absence allowed after granting of status	0
Grounds of rejecting, withdrawing or refusing to renew status	100
Protection against expulsion. Due account taken of:	100
Expulsion precluded	0

Legal guarantees and redress in case of refusal, non-renewal or withdrawal	100
Rights associated with status	
Residence right after retirement	100
Access to employment (with the only exception of activities involving the exercise of public authority), self-employment and other economic activities, and working conditions	100
Access to social security, social assistance and healthcare, and housing	100
Recognition of academic and professional qualifications	50
Germany average	50
EU average	59

Based on MIPEX III.

5.2.1.6 Access to nationality

Third-country nationals enjoy naturalisation rights in Germany providing they hold permanent residence. While these were offered to the first generation via entitlement, the second generation could acquire citizenship by birth. Achievement of citizenship is here generally regarded as a stepping stone for better integration. In the absence of economic and linguistic integration, however, it is not possible to have access to this scheme thoroughly. While many EU members allow for dual-citizenship, Germany reduced it to EU nationals from 2007 to 2013 during the CDU, CSU & FDP coalition government. The new CDU & SPD coalition in 2014 expanded the scope, nevertheless, to include those born in Germany as well.

Table 29: TCNs' access to nationality in Germany

Eligibility	
First generation immigrants	50
Periods of absence allowed previous to acquisition of nationality	100
Requirements for spouses, partners and cohabitees of nationals (average)	100
Second generation immigrants (born in the country)	100
Third generation immigrants (born in the country)	100
Conditions for acquisition	
Language requirements and exemptions (average)	45
Citizenship/integration requirements and exemptions (average)	83
Economic resources requirement	0
Criminal record requirement	0
Good character clause	100
Maximum length of application procedure	0
Costs of application and/or issue of nationality title	0
Security of status	
Additional grounds for refusing status	0
Discretionary powers in refusal	100
Additional elements taken into account before refusal	0
Legal guarantees and redress in case of refusal	100
Grounds for withdrawing status	100

Time limits for withdrawal	100
Withdrawal that would lead to statelessness	50
Dual nationality	
Requirement to renounce / lose foreign nationality upon naturalisation for first generation	50
Dual nationality for second and/or third generation.	50
Germany average	59
EU average	44

Based on MIPEX III.

5.2.1.7 Anti-discrimination measures

The German law provides more room than the EU's minimum requirements for prohibition of ethnic, religious and racial discrimination in most areas. One might all the same encounter discrimination on the basis of nationality. Despite progress since 2008, NGOs in Germany do not have far-reaching roles, which is why the country ranks only 22nd on the MIPEX list. Those facing discrimination can enjoy the support service of the Federal Anti-discrimination Agency, whose powers are however quite limited. Compared to several EU members such as Sweden and the United Kingdom, which hold strong legislative mechanisms at the state level, Germany performs somewhat poorly on that score.

Table 30: Anti-discrimination measures in Germany

Definitions and concepts	
Definition of discrimination includes direct and indirect discrimination, harassment and instruction to discriminate	50
Definition of discrimination includes discrimination by association and on basis of assumed characteristics	0
Anti-discrimination law applies to natural and legal persons	100
Anti-discrimination law applies to the public sector	100
Legal prohibitions in matters of discrimination	50
Restriction of freedom of association, assembly and speech is permitted when impeding equal treatment	0
Existence of specific rules covering multiple discrimination	50
Fields of application	
Employment and vocational training	50
Education (primary and secondary)	100
Social protection, including social security	100
Social advantages	100
Access to and supply of goods and services available to the public, including housing	50
Access to and supply of goods and services available to the public, including health	50
Enforcement mechanisms	
Access for victims, irrespective of grounds of discrimination to judicial, criminal and administrative procedures	100
Alternative dispute resolution procedures	50
Grounds for access for victims	100
Average length of procedures	50
Shift in burden of proof	50

Acceptance by national legislation of courts accepting situation testing and statistical data as evidence	50
Protection against victimisation	100
State provides financial assistance to pursue complaint where victims do not have the necessary means and interpreter free of charge	100
Role of legal entities with a legitimate interest in defending principle of equality	0
Range of legal actions	0
Range of sanctions	0
Discriminatory motivation treated as aggravated circumstance	0
Equality policies	
Specialised Equality Agency has been established with a mandate to combat discrimination	50
Specialised Agency has the powers to assist victims	50
Specialised Agency acts as a quasi-judicial body	0
Specialised Agency has the legal standing to engage in proceedings in name of the complainant	0
Specialised Agency has the power to instigate proceedings in own name, lead own investigation and enforce findings	0
State itself disseminates information and provides and ensures structured social dialogue on discrimination with civil society	0
Existence at national level of mechanisms to ensure compliance with anti-discrimination and equality law, and governmental/ministerial units working on these grounds	0
Obligation for public bodies to promote equality in their functions and ensure that their contract partners respect non-discrimination	0
Law provides for introduction of positive action measures and assesment of these measures	50
Germany average	59
EU average	48

Based on MIPEX III.

5.2.2 The UK

5.2.2.1 Labour markets

A TCN-oriented labour market revision has for the UK hardly been the case in recent times. The conditions TCNs enjoy here are ranked at the 16th place on MIPEX, due to their average standards relative to counterparts elsewhere in Europe. Qualification to the points system is in the UK of vital importance as only thereafter can TCNs achieve comparable rights to those of nationals. All job services are open to immigrants. For that, however, access to social security services are largely denied, which differs radically from what several old immigration destinations such as France and Germany offer in this context. Unlike those, say, in Germany, Denmark and Sweden, TCNs can in the UK enjoy little official support from the state.

Table 31: Conditions for TCNs at British labour markets

Access	
Immediate access to employment	50
Access to private sector	100
Access to public sector	100
Immediate access to self-employment	50
Access to self-employment	100

Access to general support	
Access to public employment services	100
Equality of access to education and vocational training, including study grants	50
Recognition of academic and professional qualifications acquired outside the EU	50
Targeted support	
State facilitation of recognition of skills and qualifications obtained outside the EU	100
Measures to further the integration of third-country nationals into the labour market	0
Additional measures to further the integration of third-country nationals into the labour market	0
Support to access public employment services	0
Workers' rights	
Membership of and participation in trade unions associations and work-related negotiation bodies	100
Equal access to social security	0
Equal working conditions	100
Active policy of information on rights of migrant workers by national level (or regional in federal states)	0
UK average	55
EU average	57

Based on MIPEX III.

5.2.2.2 Family reunion

With a 20th place on MIPEX, policies regarding family reunion in the UK are not worthy of praise. The average performance has broadly to do with the TCNs' weak societal integration here. While basic requirements for the married are quite similar to those in many immigration lands across Europe, TCN couples under 20 can enjoy no family reunification rights in the UK (these start for nationals at the age of 18). To be fair, this bias stems largely from intentions to discourage forced marriages, as observable in families with third-country national backgrounds. Access to public benefits is here not level with that of nationals, which makes the UK in this category one of the seven European MIPEX countries limiting non-EU citizens' rights.

Table 32: TCNs' family reunion conditions in the UK

Eligibility	
Family reunion eligibility conditions (average)	100
Eligibility conditions for partners other than spouses (average)	50
Eligibility for minor children	50
Eligibility for dependent relatives in the ascending line	0
Eligibility for dependent adult children	0
Conditions for acquisition of status	
Pre departure integration conditions (average)	100
Upon arrival integration conditions (average)	100
Accommodation requirement	50
Economic resources requirement	50

Maximum length of application procedure	0
Costs of application and/or issue of permit or renewal	50
Security of status	
Duration of validity of permit	100
Grounds for rejecting, withdrawing or refusing to renew status	0
Before refusal or withdrawal, due account is taken of (regulated by law)	100
Legal guarantees and redress in case of refusal or withdrawal	100
Rights associated with status	
Right to autonomous residence permit for partners and children reaching age of majority	0
Right to autonomous residence permit in case of widowhood, divorce, separation, death, or physical or emotional violence	50
Right to autonomous residence permit for other family members having joined the sponsor	0
Access to education and training for adult family members	100
Access to employment and self-employment	100
Access to social security and social assistance, healthcare and housing	0
UK average	54
EU average	60

Based on MIPEX III.

5.2.2.3 Educational standards

Thanks to policies providing migrant pupils with a decent support system in schools, the UK earns the seventh place on MIPEX in terms of educational standards. This quality is closely related to the priorities recent UK governments have been attaching with as far as the issue of 'diversity' is concerned. Though criticised at times, British schools are known to promote a wide range of cultural, racial and religious services in line with the 2000 Race Relations Amendment Act. These services are since 2006 in place to help contribute to societal 'cohesion', through most importantly 'Citizenship Education' (in particular with respect to its 'identity and diversity' component). There is in the UK also an organised teacher training/development network laying special weight on candidates from ethnic minorities. To data on TCN pupils' achievement and segregation in British schools, the UK's education policies are 'slightly favourable'. Migrant families can here hardly benefit from language orientation programmes or training opportunities.

Table 33: Educational standards in the UK

Access	
Access and support to access pre-primary education	50
Access to compulsory-age education	50
The assessment in compulsory education of migrants' prior learning and language qualifications and learning obtained abroad	50
Support to access secondary education	100
Access and support to access and participate in vocational training	50

Access and support to access and participate in higher education	50
Access to advice and guidance on system and choices at all levels of compulsory and non-compulsory education	50
Targeting needs	
Requirement for provision in schools of intensive induction programmes for newcomer pupils and their families about the country and its education system	0
Provision of continuous and ongoing education support in language(s) of instruction for migrant pupils (average)	17
Policy on pupil monitoring targets migrants	100
Targeted policies to address educational situation of migrant groups	100
Teacher training and professional development programmes include courses that address migrant pupils' learning needs, teachers' expectations of migrant pupils and specific teaching strategies to adress this	100
New opportunities	
Provision of option to learn immigrant languages (average)	25
Provision of option to learn immigrant cultures (average)	0
Measures to promote social integration through school (average)	50
Measures to support migrant parents and communities in the education of their children	0
Intercultural education for all	
Inclusion of intercultural education and appreciation of cultural diversity in school curriculum	100
State support for public information initiatives to promote the appreciation of cultural diversity throughout society	100
Possibility to modify school curricula and teaching materials to reflect changes in diversity of the school population	100
Adaptability of daily life at school based on cultural or religious needs to avoid exclusion of pupils	100
Measures to support bringing migrants into the teacher workforce	100
Inclusion of intercultural education and appreciation of cultural diversity for all in teacher training and professional development programmes	50
UK average	58
EU average	39

Based on MIPEX III.

5.2.2.4 Political participation

TCNs' political participation in the UK is viewed to deserve the 13th position by MIPEX standards. Despite being in one of the oldest immigration countries in Europe, TCNs are not allowed to vote in local/national elections here, with the exception of those holding Commonwealth citizenship. For that, however, all non-EU nationals are granted basic liberties to establish for instance their own political organisations. Nonetheless, contrary to recent trends in several EU Member States, the British state does not recognise them as consultative bodies.

Table 34: TCNs' political participation in the UK

Electoral rights	
Right to vote in national elections	50
Right to vote in regional elections	50
Right to vote in local elections	50
Right to stand for elections at local level	50
Political liberties	

Right to association	100
Membership of and participation to political parties	100
Right to create media	100
Consultative bodies	
Implication of foreign residents at national level (average)	0
Implication of foreign residents at regional level (average)	0
Implication of foreign residents at capital city level (average)	0
Implication of foreign residents on local city level (average)	0
Implementation policies	
Active policy of information by national level (or regional in federal states)	100
Public funding or support of immigrant organisations on national level	50
Public funding or support of immigrant organisations on regional level	50
Public funding or support of immigrant organisations on local level in capital city	50
Public funding or support of immigrant organisations on national level in city	50
UK average	53
EU average	44

Based on MIPEX III.

5.2.2.5 Long-term residence

Long-term residence in the UK is ranked on MIPEX at a dramatic 31st place, which amounts to the last post on the entire list. Contrary to EU citizens, non-EU nationals are here not granted the right to permanent residence automatically. There was in this vein a fairly demanding procedure called 'indefinite leave to remain' until recently, for which the TCNs were required to follow security coverages to qualify for a certain degree of basic rights. The 2009 Borders, Citizenship and Immigration Act did not promise much for third-country nationals in this context. For permanent residence, they became required with the entry into force of the new law to wait up to eight years, regardless of their legal status. Students and a segment of workers were excluded from this application as their cases would be dependent upon a period of three- to five-year-long probation, depriving them of public benefits. Further, with the new law, they became subject to limitations concerning for instance travelling outside the UK.

Table 35: Long-term residence conditions for TCNs in the UK

Eligibility	
Eligibility conditions (average)	0
Is time of residence as a pupil/student counted?	0
Periods of absence allowed previous to granting of status	0
Conditions for acquisition of status	
Integration conditions (average)	68
Economic resources requirement	0

Maximum length of application procedure	0
Costs of application and/or issue of status	0
Security of status	
Duration of validity of permit	0
Renewable permit	0
Periods of absence allowed after granting of status	0
Grounds of rejecting, withdrawing or refusing to renew status	0
Protection against expulsion. Due account taken of:	50
Expulsion precluded	0
Legal guarantees and redress in case of refusal, non-renewal or withdrawal	100
Rights associated with status	
Residence right after retirement	100
Access to employment (with the only exception of activities involving the exercise of public authority), self-employment and other economic activities, and working conditions	100
Access to social security, social assistance and healthcare, and housing	100
Recognition of academic and professional qualifications	50
UK average	31
EU average	59

Based on MIPEX III.

5.2.2.6 Access to nationality

Ranked currently at the 11th place on MIPEX, the UK was until recently considered a working model in terms of its citizenship policies towards third-country nationals. The 2009 Act introduced however complications in the naturalisation process. Unlike in several other immigration lands, such as France, Sweden or the Netherlands, the citizenship standards in the UK require now lengthier procedures chiefly because of the newly attached probation period.

Table 36: TCNs' access to nationality in the UK

Eligibility	
First generation immigrants	50
Periods of absence allowed previous to acquisition of nationality	0
Requirements for spouses, partners and cohabitees of nationals (average)	75
Second generation immigrants (born in the country)	100
Third generation immigrants (born in the country)	100
Conditions for acquisition	
Language requirements and exemptions (average)	65
Citizenship/integration requirements and exemptions (average)	42
Economic resources requirement	0
Criminal record requirement	0
Good character clause	0
Maximum length of application procedure	100
Costs of application and/or issue of nationality title	0

Security of status	
Additional grounds for refusing status	0
Discretionary powers in refusal	0
Additional elements taken into account before refusal	100
Legal guarantees and redress in case of refusal	100
Grounds for withdrawing status	0
Time limits for withdrawal	100
Withdrawal that would lead to statelessness	0
Dual nationality	
Requirement to renounce / lose foreign nationality upon naturalisation for first generation	100
Dual nationality for second and/or third generation.	100
UK average	59
EU average	44

Based on MIPEX III.

5.2.2.7 Anti-discrimination measures

British laws and policies in the context of anti-discrimination prove according to latest MIPEX figures way above the average standards (second best in Europe, after Sweden). Although the 2006 Equality Act previously called for the establishment of the Equality and Human Rights Commission, to fight racial, ethnic and religious discrimination, the concerning plan was lacking enforcement mechanisms, giving for instance active roles to NGOs in court decisions (like in many other countries across Europe and North America). With the introduction of the 2010 Equality Act, TCNs are offered here legal protection in a wider range of policy issues, from age, gender, race, religion to disability, sexual orientation, maternity and marriage/civil partnership.

Table 37: Anti-discrimination measures in the UK

Definitions and concepts	
Definition of discrimination includes direct and indirect discrimination, harassment and instruction to discriminate	100
Definition of discrimination includes discrimination by association and on basis of assumed characteristics	100
Anti-discrimination law applies to natural and legal persons	100
Anti-discrimination law applies to the public sector	100
Legal prohibitions in matters of discrimination	100
Restriction of freedom of association, assembly and speech is permitted when impeding equal treatment	100
Existence of specific rules covering multiple discrimination	100
Fields of application	
Employment and vocational training	100
Education (primary and secondary)	100
Social protection, including social security	100
Social advantages	100

Access to and supply of goods and services available to the public, including housing	100
Access to and supply of goods and services available to the public, including health	100
Enforcement mechanisms	
Access for victims, irrespective of grounds of discrimination to judicial, criminal and administrative procedures	100
Alternative dispute resolution procedures	50
Grounds for access for victims	100
Average length of procedures	0
Shift in burden of proof	100
Acceptance by national legislation of courts accepting situation testing and statistical data as evidence	100
Protection against victimisation	100
State provides financial assistance to pursue complaint where victims do not have the necessary means and interpreter free of charge	100
Role of legal entities with a legitimate interest in defending principle of equality	0
Range of legal actions	0
Range of sanctions	50
Discriminatory motivation treated as aggravated circumstance	100
Equality policies	
Specialised Equality Agency has been established with a mandate to combat discrimination	100
Specialised Agency has the powers to assist victims	100
Specialised Agency acts as a quasi-judicial body	0
Specialised Agency has the legal standing to engage in proceedings in name of the complainant	0
Specialised Agency has the power to instigate proceedings in own name, lead own investigation and enforce findings	100
State itself disseminates information and provides and ensures structured social dialogue on discrimination with civil society	100
Existence at national level of mechanisms to ensure compliance with anti-discrimination and equality law, and governmental/ministerial units working on these grounds	100
Obligation for public bodies to promote equality in their functions and ensure that their contract partners respect non-discrimination	100
Law provides for introduction of positive action measures and assesment of these measures	100
UK average	86
EU average	59

Based on MIPEX III.

5.2.3 Greece

5.2.3.1 Labour markets

The restrictions its TCNs face at labour markets offer Greece a moderate 19th place on MIPEX. This post is in fact worse than those of other immigration destinations in southern Europe, most notably Portugal and Spain, where third-country nationals are subject to restrictions neither in the public sector nor in self-employment. Obscured by weak legal prospects at labour markets, access to the public sector is not fostered equally here. Non-EU citizens must fight here a hampering red tape procedure to be able to start their own business, with no promises for social security, equal working conditions or general support from the

state. In brief, regardless of a number of recent improvements most notably in the area of family reunion, non-EU nationals' access to employment remains to be 'slightly unfavourable' in Greece.

Table 38: Conditions for TCNs at Greek labour markets

Access	
Immediate access to employment	50
Access to private sector	100
Access to public sector	0
Immediate access to self-employment	50
Access to self-employment	0
Access to general support	
Access to public employment services	100
Equality of access to education and vocational training, including study grants	50
Recognition of academic and professional qualifications acquired outside the EU	100
Targeted support	
State facilitation of recognition of skills and qualifications obtained outside the EU	0
Measures to further the integration of third-country nationals into the labour market	0
Additional measures to further the integration of third-country nationals into the labour market	0
Support to access public employment services	0
Workers' rights	
Membership of and participation in trade unions associations and work-related negotiation bodies	100
Equal access to social security	100
Equal working conditions	100
Active policy of information on rights of migrant workers by national level (or regional in federal states)	0
Greece average	50
EU average	57

Based on MIPEX III.

5.2.3.2 Family reunion

With a fairly low 24th place on the MIPEX list, Greek performance concerning non-EU nationals' family reunion ranks far below the average of many old/new immigration countries in Europe. Unlike in many EU Member States, sponsors are required here to fulfil extremely demanding conditions and bypass bureaucratic hurdles for eligibility, such as administrative delays applicable to permanent residence permits. Parents and adult children are excluded from the coverage in this framework. While families are granted better rights at present, thanks to Law 3801/2009 granting reunited family members full access to employment, security of status cannot go beyond the average.

Table 39: TCNs' family reunion conditions in Greece

Eligibility	
Family reunion eligibility conditions (average)	50
Eligibility conditions for partners other than spouses (average)	50
Eligibility for minor children	50
Eligibility for dependent relatives in the ascending line	0
Eligibility for dependent adult children	0
Conditions for acquisition of status	
Pre departure integration conditions (average)	100
Upon arrival integration conditions (average)	100
Accommodation requirement	50
Economic resources requirement	0
Maximum length of application procedure	50
Costs of application and/or issue of permit or renewal	0
Security of status	
Duration of validity of permit	100
Grounds for rejecting, withdrawing or refusing to renew status	0
Before refusal or withdrawal, due account is taken of (regulated by law)	50
Legal guarantees and redress in case of refusal or withdrawal	50
Rights associated with status	
Right to autonomous residence permit for partners and children reaching age of majority	50
Right to autonomous residence permit in case of widowhood, divorce, separation, death, or physical or emotional violence	50
Right to autonomous residence permit for other family members having joined the sponsor	0
Access to education and training for adult family members	100
Access to employment and self-employment	100
Access to social security and social assistance, healthcare and housing	100
Greece average	49
EU average	60

Based on MIPEX III.

5.2.3.3 Educational standards

Policies concerning non-EU nationals' education in Greece are ranked at an average 18th place on MIPEX. As in many other EU Member States, pupils with TCN origins are offered here access to all layers of the school system. Yet, the same pupils face barriers when it comes to language learning and ongoing support, which many old immigration countries have in recent times been effectively dealing with. Policies encouraging intercultural education thoroughly, like in Germany, Sweden, Spain and Portugal, are in Greece still out of sight.

Table 40: Educational standards for TCNs in Greece

Access	
Access and support to access pre-primary education	50
Access to compulsory-age education	100
The assessment in compulsory education of migrants' prior learning and language qualifications and learning obtained abroad	50
Support to access secondary education	50
Access and support to access and participate in vocational training	50
Access and support to access and participate in higher education	50
Access to advice and guidance on system and choices at all levels of compulsory and non-compulsory education	0
Targeting needs	
Requirement for provision in schools of intensive induction programmes for newcomer pupils and their families about the country and its education system	0
Provision of continuous and ongoing education support in language(s) of instruction for migrant pupils (average)	67
Policy on pupil monitoring targets migrants	0
Targeted policies to address educational situation of migrant groups	0
Teacher training and professional development programmes include courses that address migrant pupils' learning needs, teachers' expectations of migrant pupils and specific teaching strategies to adress this	100
New opportunities	
Provision of option to learn immigrant languages (average)	75
Provision of option to learn immigrant cultures (average)	75
Measures to promote social integration through school (average)	25
Measures to support migrant parents and communities in the education of their children	0
Intercultural education for all	
Inclusion of intercultural education and appreciation of cultural diversity in school curriculum	50
State support for public information initiatives to promote the appreciation of cultural diversity throughout society	0
Possibility to modify school curricula and teaching materials to reflect changes in diversity of the school population	100
Adaptability of daily life at school based on cultural or religious needs to avoid exclusion of pupils	0
Measures to support bringing migrants into the teacher workforce	0
Inclusion of intercultural education and appreciation of cultural diversity for all in teacher training and professional development programmes	100
Greece average	42
EU average	39

Based on MIPEX III.

5.2.3.4 Political participation

Greece ranks 17th on MIPEX as far as the TCNs' political participation in the country is concerned. Thanks to Law 3838/2010, there has here been significant progress in granting non-EU residents political rights like voting at local elections. New integration councils, regardless of their limited powers, seek to promote further democratic values at the national level. This might in medium- to long-term pave the way for representation of immigrants in the so-called National Commission for Migrants' Integration. There is however no funding for TCN-established civil society organisations (as for instance in Portugal).

Table 41: TCNs' political participation in Greece

Electoral rights	
Right to vote in national elections	0
Right to vote in regional elections	0
Right to vote in local elections	50
Right to stand for elections at local level	50
Political liberties	
Right to association	100
Membership of and participation to political parties	100
Right to create media	100
Consultative bodies	
Implication of foreign residents at national level (average)	0
Implication of foreign residents at regional level (average)	0
Implication of foreign residents at capital city level (average)	30
Implication of foreign residents on local city level (average)	30
Implementation policies	
Active policy of information by national level (or regional in federal states)	50
Public funding or support of immigrant organisations on national level	0
Public funding or support of immigrant organisations on regional level	0
Public funding or support of immigrant organisations on local level in capital city	0
Public funding or support of immigrant organisations on national level in city	0
Greece average	40
EU average	44

Based on MIPEX III.

5.2.3.5 Long-term residence

TCNs fulfilling standard requirements for long-term residence can enjoy in Greece basic security options and rights as guaranteed by the EU law. This issue is however quite tricky, as the rate of successful applicants to benefit from that coverage is generally lowered by highly restrictive conditions such as application fees. Although Law 3838/2010 reduced the €900 application to €600 recently, it still appears to be much higher than what many of the 31 countries on MIPEX list demand. Added to that, while many EU Member States demand no more than a basic income and language knowledge for long-term residence, Greece asks its TCNs to document high income as well as integration course/test scores. To be able to attend state-sponsored classes on this latter score, there apply yearly quotas and long waiting lists. The Greek score in terms of long-term residence is in the end lower than the EU average.

Table 42: Long-term residence conditions for TCNs in Greece

Eligibility	
Eligibility conditions (average)	75
Is time of residence as a pupil/student counted?	50
Periods of absence allowed previous to granting of status	50
Conditions for acquisition of status	
Integration conditions (average)	39
Economic resources requirement	0
Maximum length of application procedure	50
Costs of application and/or issue of status	0
Security of status	
Duration of validity of permit	100
Renewable permit	50
Periods of absence allowed after granting of status	0
Grounds of rejecting, withdrawing or refusing to renew status	100
Protection against expulsion. Due account taken of:	50
Expulsion precluded	0
Legal guarantees and redress in case of refusal, non-renewal or withdrawal	100
Rights associated with status	
Residence right after retirement	100
Access to employment (with the only exception of activities involving the exercise of public authority), self-employment and other economic activities, and working conditions	50
Access to social security, social assistance and healthcare, and housing	100
Recognition of academic and professional qualifications	100
Greece average	56
EU average	59

Based on MIPEX III.

5.2.3.6 Access to nationality

An average 14th position by 2010 MIPEX grading on this matter owes much to the newly adopted and relatively more liberal Greek citizenship. Following Law 3838/2010, TCNs' eligibility for nationality has now become comparable to that in old immigration countries. In accordance, all non-EU nationals' children can now enjoy Greek citizenship at birth or obtain dual citizenship automatically without having to face extra administrative hurdles as in the past. For naturalisation, however, the citizenship scheme seems to demand an exorbitant €700 fee (despite reduction from €1,500). The new citizenship package does not guarantee constitutional protection, indicating applicants and new citizens hold here one of the most insecure (second worst) conditions amongst the 31 MIPEX countries. They can for instance be left 'stateless' on many grounds, regardless of the length of their Greek citizenship.

Table 43: TCNs' access to nationality in Greece

Eligibility	
First generation immigrants	100
Periods of absence allowed previous to acquisition of nationality	100
Requirements for spouses, partners and cohabitees of nationals (average)	25
Second generation immigrants (born in the country)	50
Third generation immigrants (born in the country)	100
Conditions for acquisition	
Language requirements and exemptions (average)	40
Citizenship/integration requirements and exemptions (average)	25
Economic resources requirement	100
Criminal record requirement	0
Good character clause	100
Maximum length of application procedure	50
Costs of application and/or issue of nationality title	0
Security of status	
Additional grounds for refusing status	0
Discretionary powers in refusal	0
Additional elements taken into account before refusal	0
Legal guarantees and redress in case of refusal	50
Grounds for withdrawing status	0
Time limits for withdrawal	0
Withdrawal that would lead to statelessness	0
Dual nationality	
Requirement to renounce / lose foreign nationality upon naturalisation for first generation	100
Dual nationality for second and/or third generation.	100
Greece average	57
EU average	44

Based on MIPEX III.

5.2.3.7 Anti-discrimination measures

Ranking 20th on MIPEX, Greece's anti-discrimination policies in relation to TCNs are below the MIPEX average. Unlike in many EU Member States, discrimination on the basis of nationality is not explicitly forbidden in the Greek law. Further, as there is no legal statement dismissing racial profiling categorically (like in the UK and France), non-EU nationals in Greece remain extremely vulnerable. They may benefit from assistance by the state or NGOs, only without direct access to equality bodies, not least because supervisions/investigations (most importantly by the Ombudsman) have no primary relevance to enforcement here.

Table 44: Anti-discrimination measures in Greece

Definitions and concepts	
Definition of discrimination includes direct and indirect discrimination, harassment and instruction to discriminate	50
Definition of discrimination includes discrimination by association and on basis of assumed characteristics	50
Anti-discrimination law applies to natural and legal persons	100
Anti-discrimination law applies to the public sector	100
Legal prohibitions in matters of discrimination	0
Restriction of freedom of association, assembly and speech is permitted when impeding equal treatment	50
Existence of specific rules covering multiple discrimination	0
Fields of application	
Employment and vocational training	50
Education (primary and secondary)	50
Social protection, including social security	50
Social advantages	50
Access to and supply of goods and services available to the public, including housing	50
Access to and supply of goods and services available to the public, including health	50
Enforcement mechanisms	
Access for victims, irrespective of grounds of discrimination to judicial, criminal and administrative procedures	100
Alternative dispute resolution procedures	0
Grounds for access for victims	50
Average length of procedures	0
Shift in burden of proof	100
Acceptance by national legislation of courts accepting situation testing and statistical data as evidence	0
Protection against victimisation	100
State provides financial assistance to pursue complaint where victims do not have the necessary means and interpreter free of charge	100
Role of legal entities with a legitimate interest in defending principle of equality	50
Range of legal actions	0
Range of sanctions	100
Discriminatory motivation treated as aggravated circumstance	50
Equality policies	
Specialised Equality Agency has been established with a mandate to combat discrimination	50
Specialised Agency has the powers to assist victims	100
Specialised Agency acts as a quasi-judicial body	0
Specialised Agency has the legal standing to engage in proceedings in name of the complainant	100
Specialised Agency has the power to instigate proceedings in own name, lead own investigation and enforce findings	0
State itself disseminates information and provides and ensures structured social dialogue on discrimination with civil society	100
Existence at national level of mechanisms to ensure compliance with anti-discrimination and equality law, and governmental/ministerial units working on these grounds	0
Obligation for public bodies to promote equality in their functions and ensure that their contract partners respect non-discrimination	0
Law provides for introduction of positive action measures and assesment of these measures	50
Greece average	50
EU average	59

Based on MIPEX III.

5.2.4 Italy

5.2.4.1 Labour markets

With a 10th place on MIPEX, the conditions Italy provides the third-country nationals at its labour markets are above the EU average. For integration of legal TCN workers into the Italian economy, there are no visible barriers put by the state. Nonetheless, the equal access and support provided here are counterbalanced by a poor skill/qualification assessment. Indeed, contrary to those in many old immigration lands, as well as in new ones like Portugal, public service in Italy does not seem to make full use of non-EU residents. This handicap stems mainly from the lack of 'targeted support', which eventually pushes TCNs outside the legal labour market.

Table 45: Conditions for TCNs at Italian labour markets

Access	
Immediate access to employment	100
Access to private sector	100
Access to public sector	0
Immediate access to self-employment	100
Access to self-employment	100
Access to general support	
Access to public employment services	100
Equality of access to education and vocational training, including study grants	100
Recognition of academic and professional qualifications acquired outside the EU	50
Targeted support	
State facilitation of recognition of skills and qualifications obtained outside the EU	50
Measures to further the integration of third-country nationals into the labour market	50
Additional measures to further the integration of third-country nationals into the labour market	0
Support to access public employment services	0
Workers' rights	
Membership of and participation in trade unions associations and work-related negotiation bodies	100
Equal access to social security	100
Equal working conditions	100
Active policy of information on rights of migrant workers by national level (or regional in federal states)	50
Italy average	69
EU average	57

Based on MIPEX III.

5.2.4.2 Family reunion

Reunification of families with a migration background is secured in Italy by relatively new laws and policies, which with a fairly decent sixth position appears as 'slightly favourable' by

MIPEX standards. Despite this relatively high ranking, one needs to be mindful of a number of basic and critical procedures which, as one gathers from recent data, may have been overlooked. The issue relates in particular the case of non-EU families who cannot enjoy rights to secure residence, work and study entirely here. Sponsors of non-EU national origins are required to meet extremely high standards for family reunion, concerning accommodation in the first place. What's more, the 120/2008 decree does not allow TCNs' elderlies to benefit from the right to family renion.

Table 46: TCNs' family reunion conditions in Italy

Eligibility	
Family reunion eligibility conditions (average)	75
Eligibility conditions for partners other than spouses (average)	50
Eligibility for minor children	100
Eligibility for dependent relatives in the ascending line	50
Eligibility for dependent adult children	50
Conditions for acquisition of status	
Pre departure integration conditions (average)	100
Upon arrival integration conditions (average)	100
Accommodation requirement	0
Economic resources requirement	50
Maximum length of application procedure	50
Costs of application and/or issue of permit or renewal	0
Security of status	
Duration of validity of permit	100
Grounds for rejecting, withdrawing or refusing to renew status	100
Before refusal or withdrawal, due account is taken of (regulated by law)	50
Legal guarantees and redress in case of refusal or withdrawal	100
Rights associated with status	
Right to autonomous residence permit for partners and children reaching age of majority	100
Right to autonomous residence permit in case of widowhood, divorce, separation, death, or physical or emotional violence	50
Right to autonomous residence permit for other family members having joined the sponsor	100
Access to education and training for adult family members	100
Access to employment and self-employment	100
Access to social security and social assistance, healthcare and housing	100
Italy average	74
EU average	60

Based on MIPEX III.

5.2.4.3 Educational standards

There is today an obvious need in all EU Member States to make educational standards meet the growing 'diversity' demands in their host societies. The situation in Italy does not seem to

be promising on this matter. Considering the schools which are far from giving priorities to teaching 'life in harmony', one can argue that pupils with a migration background are here often underprivileged. While TCNs under 18 have irrespective of their status access to school systems and may enjoy general support for the disadvantaged, there exist no clear tools enabling placement of newcomers at the right level. Compared to those in many other EU Member States, Italian school curricula do not lay much emphasis on immigrant languages, overlooking intercultural education right from the start.

Table 47: Educational standards for TCNs in Italy

Access	
Access and support to access pre-primary education	50
Access to compulsory-age education	100
The assessment in compulsory education of migrants' prior learning and language qualifications and learning obtained abroad	0
Support to access secondary education	0
Access and support to access and participate in vocational training	50
Access and support to access and participate in higher education	0
Access to advice and guidance on system and choices at all levels of compulsory and non-compulsory education	50
Targeting needs	
Requirement for provision in schools of intensive induction programmes for newcomer pupils and their families about the country and its education system	0
Provision of continuous and ongoing education support in language(s) of instruction for migrant pupils (average)	50
Policy on pupil monitoring targets migrants	100
Targeted policies to address educational situation of migrant groups	50
Teacher training and professional development programmes include courses that address migrant pupils' learning needs, teachers' expectations of migrant pupils and specific teaching strategies to adress this	100
New opportunities	
Provision of option to learn immigrant languages (average)	0
Provision of option to learn immigrant cultures (average)	0
Measures to promote social integration through school (average)	50
Measures to support migrant parents and communities in the education of their children	50
Intercultural education for all	
Inclusion of intercultural education and appreciation of cultural diversity in school curriculum	100
State support for public information initiatives to promote the appreciation of cultural diversity throughout society	0
Possibility to modify school curricula and teaching materials to reflect changes in diversity of the school population	0
Adaptability of daily life at school based on cultural or religious needs to avoid exclusion of pupils	50
Measures to support bringing migrants into the teacher workforce	0
Inclusion of intercultural education and appreciation of cultural diversity for all in teacher training and professional development programmes	100
Italy average	41
EU average	39

Based on MIPEX III.

5.2.4.4 Political participation

Ranking 14th on MIPEX, political opportunities offered to TCNs in Italy are below the EU average. Non-EU nationals are here not granted voting rights for local elections and it seems the necessary constitutional change to that end will not take off the ground in near future. Apart from rare practices like in Rome's town council whereby non-EU nationals are currently allowed to elect Adjunct Counsellors, consultative bodies in Italy are not encouraged. To be fair, basic political liberties are respected here in some measure and there is funding allocated for third-country nationals. Yet, these remain largely superficial by comparison to the challenges the latter face. To illustrate, non-EU nationals wishing to own/publish newspapers here are allowed to do so only when they have native co-propriators.

Table 48: TCNs' political participation in Italy

Electoral rights	
Right to vote in national elections	0
Right to vote in regional elections	0
Right to vote in local elections	0
Right to stand for elections at local level	0
Political liberties	
Right to association	100
Membership of and participation to political parties	100
Right to create media	0
Consultative bodies	
Implication of foreign residents at national level (average)	30
Implication of foreign residents at regional level (average)	40
Implication of foreign residents at capital city level (average)	100
Implication of foreign residents on local city level (average)	40
Implementation policies	
Active policy of information by national level (or regional in federal states)	0
Public funding or support of immigrant organisations on national level	100
Public funding or support of immigrant organisations on regional level	100
Public funding or support of immigrant organisations on local level in capital city	100
Public funding or support of immigrant organisations on national level in city	100
Italy average	50
EU average	44

Based on MIPEX III.

5.2.4.5 Long-term residence

Non-EU residents in Italy enjoy a certain degree of security until they obtain long-term residence. Compared to several EU Member States such as Austria, Belgium, Spain and Portugal which currently extend long-term residence also to students, Italian laws and policies

are somewhat less liberal, not least because long-term residence is here not entirely standardised with legal immigration. It is all the same possible to argue that requirements in this category are relatively less demanding than those applicable to family reunion and naturalisation. With the 2009 Security Act, language and integration rose to be the main requirements for long-term residence qualifications.

Table 49: TCNs' long-term residence in Italy

Eligibility	
Eligibility conditions (average)	25
Is time of residence as a pupil/student counted?	0
Periods of absence allowed previous to granting of status	50
Conditions for acquisition of status	
Integration conditions (average)	43
Economic resources requirement	100
Maximum length of application procedure	100
Costs of application and/or issue of status	50
Security of status	
Duration of validity of permit	100
Renewable permit	100
Periods of absence allowed after granting of status	0
Grounds of rejecting, withdrawing or refusing to renew status	50
Protection against expulsion. Due account taken of:	50
Expulsion precluded	50
Legal guarantees and redress in case of refusal, non-renewal or withdrawal	100
Rights associated with status	
Residence right after retirement	100
Access to employment (with the only exception of activities involving the exercise of public authority), self-employment and other economic activities, and working conditions	100
Access to social security, social assistance and healthcare, and housing	100
Recognition of academic and professional qualifications	100
Italy average	66
EU average	59

Based on MIPEX III.

5.2.4.6 Access to nationality

As Italy turned from a 'sending' country to one of immigration, its eligibility criteria for nationality became highly restrictive. Unlike in many other cases, citizenship is here not granted automatically to second/third generations. The residence requirements are together with those in Spain the most demanding in Europe. Non-EU nationals appear to be excluded

from many areas of life regardless of their birth in the country. Italy holds all the same a seventh place by MIPEX standards on this matter thanks to the basic conditions for equal citizenship which third-country nationals have for some time been enjoying. In light of its big diaspora in many countries and the rise of sojourners lately, the Italian law permits now dual citizenship as a general rule, which it formerly denied in the case of a further citizenship.

Table 50: TCNs' access to nationality in Italy

Eligibility	
First generation immigrants	0
Periods of absence allowed previous to acquisition of nationality	0
Requirements for spouses, partners and cohabitees of nationals (average)	50
Second generation immigrants (born in the country)	50
Third generation immigrants (born in the country)	50
Conditions for acquisition	
Language requirements and exemptions (average)	100
Citizenship/integration requirements and exemptions (average)	100
Economic resources requirement	0
Criminal record requirement	0
Good character clause	100
Maximum length of application procedure	50
Costs of application and/or issue of nationality title	0
Security of status	
Additional grounds for refusing status	100
Discretionary powers in refusal	0
Additional elements taken into account before refusal	0
Legal guarantees and redress in case of refusal	100
Grounds for withdrawing status	100
Time limits for withdrawal	100
Withdrawal that would lead to statelessness	100
Dual nationality	
Requirement to renounce / lose foreign nationality upon naturalisation for first generation	100
Dual nationality for second and/or third generation.	100
Italy average	63
EU average	44

Based on MIPEX III.

5.2.4.7 Anti-discrimination measures

Italy ranks 15th on MIPEX in terms of its anti-discrimination policies towards third-country nationals. Despite improvements, in particular following the European Commission's general call to make legal revisions in this category, the weakest equality policies in the EU are ascribed to Italy. Its Office for Racial Discrimination in particular is largely ineffective

(second worst in Europe after that of Spain). In the event of racial, religious or ethnic discrimination, it is primarily the EU law that provides legal source of reference. A diversity charter concerning the business sector has already been adopted; however, promotion of equality is far from being a priority goal here.

Table 51: Anti-discrimination measures in Italy

Definitions and concepts	
Definition of discrimination includes direct and indirect discrimination, harassment and instruction to discriminate	100
Definition of discrimination includes discrimination by association and on basis of assumed characteristics	0
Anti-discrimination law applies to natural and legal persons	100
Anti-discrimination law applies to the public sector	100
Legal prohibitions in matters of discrimination	50
Restriction of freedom of association, assembly and speech is permitted when impeding equal treatment	100
Existence of specific rules covering multiple discrimination	0
Fields of application	
Employment and vocational training	100
Education (primary and secondary)	100
Social protection, including social security	100
Social advantages	100
Access to and supply of goods and services available to the public, including housing	100
Access to and supply of goods and services available to the public, including health	100
Enforcement mechanisms	
Access for victims, irrespective of grounds of discrimination to judicial, criminal and administrative procedures	100
Alternative dispute resolution procedures	50
Grounds for access for victims	100
Average length of procedures	0
Shift in burden of proof	50
Acceptance by national legislation of courts accepting situation testing and statistical data as evidence	50
Protection against victimisation	100
State provides financial assistance to pursue complaint where victims do not have the necessary means and interpreter free of charge	100
Role of legal entities with a legitimate interest in defending principle of equality	100
Range of legal actions	0
Range of sanctions	100
Discriminatory motivation treated as aggravated circumstance	100
Equality policies	
Specialised Equality Agency has been established with a mandate to combat discrimination	0
Specialised Agency has the powers to assist victims	50
Specialised Agency acts as a quasi-judicial body	0
Specialised Agency has the legal standing to engage in proceedings in name of the complainant	0
Specialised Agency has the power to instigate proceedings in own name, lead own investigation and enforce findings	0
State itself disseminates information and provides and ensures structured social dialogue on discrimination with civil society	50

Existence at national level of mechanisms to ensure compliance with anti-discrimination and equality law, and governmental/ministerial units working on these grounds	0
Obligation for public bodies to promote equality in their functions and ensure that their contract partners respect non-discrimination	0
Law provides for introduction of positive action measures and assesment of these measures	0
Italy average	62
EU average	59

Based on MIPEX III.

5.3 Symmetry between national and supranational policies

To check into the extent of harmony between the EU and national policy-making levels, the study consults at this point the Commission's annual assessment reports, adopting a rather top-down perspective, that is, without being mindful of where the EU law drew its origins from before diffusing into the national law. The analysis made to that end, in quest of the selected cases' breach of EU immigration law during the period of analysis, covers transposition and implementation of twenty-eight legal texts, which were all issued in the form of directives/regulations, and for this reason have binding effects on national legal/political orders. The breakdown of these documents across the three main immigration areas, i.e. labour/legal immigration, irregular/illegal immigration and asylum-seeking issues, is as follows:

Table 52: EU legal texts on labour migration

Text	Date of release	Transposition deadline
Council Directive 2003/86/EC on the right to family reunification	22/09/2003	03/10/2005
Council Directive 2003/109/EC on TCNs who are long-term residents	25/11/2003	23/01/2006
Council Directive 2004/114/EC on TCNs' admission for study or training purposes	13/12/2004	12/01/2007
Council Directive 2005/71/EC on TCNs' admission for scientific research	12/10/2005	12/10/2007
Council Directive 2009/50/EC Blue Cards Directive (on highly qualified TCN workers)	25/05/2009	19/06/2011
Regulation (EC) 1030/2002 defining a uniform format for residence permits	13/06/2002	13/06/2002

Table 53: EU legal texts on irregular immigration

Text	Date of release	Transposition deadline
Council Directive 2001/40/EC on the mutual recognition of decisions concerning TCNs' expulsion	28/05/2001	02/12/2002
Council Directive 2001/51/EC supplementing the Schengen Agreement	28/06/2001	11/02/2003
Council Directive 2002/90/EC on unauthorised entry, transit and residence	28/11/2002	04/12/2004
Council Directive 2004/81/EC on TCNs' residence permits in the cases of trafficking or other actions illegal immigration	29/04/2004	06/08/2006

Council Directive 2004/82/EC on the obligation of carriers to communicate passenger data	29/04/2004	05/09/2006
Council Directive 2008/114/EC on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection	8/12/2008	12/01/2011
Council Directive 2008/115/EC -the Return Directive- on common standards and procedures for returning illegally staying TCNs	16/12/2008	24/12/2010 &24/12/2011 (for Article 13(4))
Council Directive 2009/52/EC on minimum standards on sanctions and measures against employers of illegally staying TCNs	18/06/2009	20/07/2011
Directive 2011/36/EC on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA	05/04/2011	06/04/2013
Regulation (EC) 2007/2004 establishing the FRONTEX, European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union	26/10/2004	26/10/2004
Regulation (EC) 2725/2000 concerning the Establishment of 'EURODAC' for the Comparison of Fingerprints for the Effective Application of the Dublin Convention	11/12/2000	11/12/2000
Regulation (EC) 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement	15/03/2001	15/03/2001
Regulation (EC) 2252/2004 on standards for security features and biometrics in passports and travel documents issued by Member States	13/12/2004	13/12/2004
Regulation (EC) 562/2006 establishing the Schengen Borders Code on the rules governing the movement of persons across borders	15/03/2006	15/03/2006
Regulation (EC) 1931/2006 laying down rules on local border traffic at Member States' external land borders and amending the provisions of the Schengen Convention	20/12/2006	20/12/2006
Regulation (EC) 767/2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas	09/07/2008	09/07/2008

Table 54: EU legal texts on asylum issues

Text	**Date of release**	**Transposition deadline**
Council Directive 2001/55/EC on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on relevant measures	20/07/2001	31/12/2002
Council Directive 2003/9/EC -the Reception Conditions Directive- on laying down minimum standards for the reception of asylum-seekers	27/01/2003	06/02/2005
Council Directive 2004/83/EC on minimum standards for the qualification and status of TCNs or stateless persons as refugees or as persons who otherwise need international protection	29/04/2004	10/10/2006
Council Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status	01/12/2005	01/12/2007&01/12/2008 (for Article 15)
Regulation (EC) 343/2003 defining criteria and mechanisms on the determination of the Member State responsible in asylum applications	18/02/2003	18/02/2003
Regulation (EC) 439/2010 establishing the European Asylum Support Office	19/05/2010	19/05/2010

As formerly explained, the breach of EU law here is decided in accordance with a twofold legal procedure exercised by the EU Commission and European Court of Justice. As guaranteed by Article 258 of TFEU and 106a of the Euratom Treaty, Member States are responsible before the Commission for the timely transposition and thorough implementation of the EU law. If a Member State somehow fails to do so (that is, if it commits an act of 'non-compliance'), the Commission starts the 'pre-litigation' procedure to conduct investigation over the matter, sending a letter of 'formal notice' to the Member State and demanding a 'reasoned opinion' from it, if the breach of law persists. Should non-compliance remain, the

infringement case is finally referred to the European Court of Justice, which runs the 'litigation' procedure in order to impose a fitting sanction.

5.3.1 Germany

Based on the Commission's annual assessment reports (drawn up by the Directorate-General of the Home Affairs Department) on the Community law's implementation in Member States, the EU legal documents which Germany infringed upon between 2005 and 2012 and the legal actions processed in response are as follows:

Table 55: Germany's infringements of EU Home Affairs Law

Year	Area of law	Infringement of	Actions taken	Number of infringements
2005	Labour migration	2003/86/EC on family reunification	formal notice	5
	Irregular migration	2002/90/EC on unauthorised entry, transit and residence	formal notice and reasoned opinion	
	Asylum	2003/9/EC on reception of asylum-seekers	formal notice and reasoned opinion	
2006	Labour migration	2003/86/EC on family reunification; 2003/109/EC on long-term residence	reasoned opinion; formal notice and reasoned opinion	8
	Irregular migration	2004/81/EC on residence in illegal cases; 2004/82/EC on carriers' communication of passenger data; 2002/90/EC on unauthorised entry, transit and residence	formal notice; formal notice; referred to ECJ	
	Asylum	2003/9/EC on reception of asylum-seekers; 2004/83/EC on minimum standards for stateless persons	referred to ECJ; formal notice	
2007	Labour migration	-	-	2
	Irregular migration	2004/81/EC on residence in illegal cases	reasoned opinion	
	Asylum	2004/83/EC on minimum standards for stateless persons	reasoned opinion	
2008	Labour migration	-	-	0
	Irregular migration	-	-	
	Asylum	-	-	
2009	Labour migration	-	-	0
	Irregular migration	-	-	
	Asylum	-	-	
2010	Labour migration	-	-	0
	Irregular migration	-	-	
	Asylum	-	-	
2011	Labour migration	2009/50/EC on highly qualified workers	formal notice and reasoned opinion	4
	Irregular migration	2008/115/EC on common standards and procedures for returning illegal entries/stays	formal notice and reasoned opinion	
	Asylum	-	-	
2012	Labour migration	2003/86/EC on family reunification	formal notice	1
	Irregular migration	-	-	
	Asylum	-	-	
Total				20 for 28 texts in total

For the 28 EU legal texts Germany was throughout the selected assessment period supranationally bound by, there were 20 occurrences of law breach. The distribution of infringements across the three areas of immigration was fairly symmetrical, making it hard to

declare that documents in one area were violated more frequently than those in others. Considering the traditional patterns of immigration policy-making in Germany, one could all the same draw a number of inferences, in coming to terms with what may have been conducive to this effect.

A cursory look at the German governmental agencies delivers a set of special supranational units ('task forces') representing the EU. With the entry into force of the Maastricht Treaty in 1993, the legislative structure appointed here a special committee to be responsible for relations with the EU. The 'Committee of European Union Affairs' which became legally attached to the *Grundgesetz* at the time operates currently as the back stage of the German Parliament's policy-making on European issues. Different from its equivalents elsewhere, this particular committee can issue binding opinions besides those released by the federal government. Apart from its active participation in many supranational policy areas ranging from the EU's institutional reform packages or enlargement to cooperation with the European Parliament or amendment of EU Treaties, the Committee of European Union Affairs is as a matter of course also involved in the blueprint of national legislation. Partly because of this active collaboration, and partly not, a common tendency observed thus far in the decision-making of immigration is a country-wide compromise, particularly as far as border and asylum issues are concerned (Geddes, 2003). To illustrate, in the initial stages, the Tampere Council's decision to promote cooperation amongst Member States found hardly any challenge in the German Parliament. Trends of communitarisation remained largely intact over years during many coalition governments, which saw support on the side of oppositional parties as well.

The main law regulating immigration matters in present day Germany is the 2005 Immigration Act. The ratification of the act came after a long negotiation process and occasional foot-dragging at the *Landtags* (state parliaments), coming finally into force as capable of bridging the European Commission's proposals with the national legislation on immigration. In cases of a lack of compromise between political parties, special hearings of experts or committees were held. To illustrate, following the CDU's demand for a revision of the Council Proposal on Minimum Standards on Procedures in Member States for Granting and Withdrawing Refugee Status (COM (2002) 326 final) arguing "the German airport protocol, the safe country principle and the principle of unfounded appeal were endangered", the government established a hearing of experts, which eventually approved of the proposal.

Similarly, the Council Directive 2004/83/EC ('on Minimum Standards for the Qualification and Status of Third-country Nationals or Stateless Persons as Refugees or as Persons Who Otherwise Need International Protection and the Content of the Protection Granted'), which gave rise to a friction between the governing SPD & Greens and the oppositional CDU & CSU, was adopted only after the Committee on Human Rights recommended its acceptance. Despite such challenges, however, there was by no means tendency towards a denial of communitarisation efforts, if not for a number of compromises made to keep immigration within reasonable limits at the most. What often became a matter of intensive debates were policy instruments concerning the 'safe third-country' status. In any case, "the so-called 'escape to Europe' itself has never been questioned by any political party" (Prümm & Alscher, 2007, p. 80).

As formerly argued, the 1997 Amsterdam Treaty was a milestone for the incorporation of supranational immigration policies into the national context. When the Treaty transferred some of the competences covered as part of the third pillar of Justice and Home Affairs previously to the first pillar/Community Method, many aspects of migration -from asylum to visa regimes- became subject to communitarisation. Regardless of the fact that Germany was already an 'agenda-setter' for the handling/formulation of former Treaties, Amsterdam was surely a turning point for German immigration and asylum policy. Yet, its formerly supporting attitude towards introduction of the QMV at the Maastricht Summit acquired in the aftermath of Amsterdam initially an oppositional character, in particular on matters relating to asylum and refugee issues. This turn reasoned from the *Länder's* rising concerns about loss of political leverage in the event that they would need to share their competences with other lands in relevant policy areas (Hellmann et al., 2005).

The follow-up 1999 Tampere European Council was clearly a projection of Amsterdam as it brought forward many directives and regulations on Europeanisation of immigration policies, such as the launch of a joint framework on asylum and illegal migration. While Germany appeared to back these communitarisation attempts, its major focus remained rather on undocumented aspects of migration (Santel & Weber, 2000). Following Tampere, the Summits at Laeken (2001), Seville (2002) and Thessaloniki (2003) all underscored the priority areas voiced at Amsterdam, like measures against human trafficking, smuggling and all types of illegal migration including the issue of illegal residence. Adaptation of supranational political instruments such as regulations and directives into German legislation

has not always followed the same path. Since incorporation of directives into the national legislation allowed for 'fine-tuning', there arose complications leading delays such as on the expansion of refugees' entitlement rights. Except for the 'safe third-country' case, however, there were for the German policy framework no major areas of misfit in this context.

Before the Treaty of Amsterdam came into force, the coalition between CDU/CSU and FDP drew to a close after some sixteen-year-long service. As one of their first policy changes, the new coalition of SPD and the Greens sought to upgrade the existing immigration policy (Bade & Bommes, 2000). From a supranational perspective, this was a natural consequence of the recent EU regulation which required screening individual cases of asylum, despite the former coalition's so-called 'asylum compromise' enabling public access. Indeed, this policy commitment helped the political elite recognise for the first time that Germany was an immigration country. Regardless of that, however, the new immigration policy was largely restrictive, not least because it introduced further prerequisites for legal residence in Germany.

Despite the apparent paradigm shift in Germany's official immigration discourse, there were signs of reluctance to this effect. To illustrate, during the Convention drawing up the EU Constitution in 2003, both government and opposition parties stressed the need for veto powers on matters concerning asylum and refugee policy. The then Foreign Minister Joschka Fischer's letter, prepared in collaboration with the SPD and CDU delegates, to the Convention President Valery Giscard d'Estaing voiced German concerns about switch to qualified majority voting in the area of immigration, seeing that the issues on that score concerned the internal policy's 'most sensitive' component (Mahony, 2003). As a clear reflection of interior concerns, this rather 'conservative' demand came at a time when the Interior Minister Otto Schily was trying to pass a controversial law on immigration, which was found 'too soft' by the CDU, as the main opposition party holding a majority in the Bundesrat.

It is possible to argue in retrospect that many supranational measures did not have a major influence on the routine course of action in German immigration policy. To illustrate, the proposal for Council Directive 2003/9/EC laying down minimum standards for the reception of asylum-seekers (which was calling Member States to prevent successive migratory movements by limiting asylum-seekers' right to move, but at the same time providing them with reasonable standards of living by way of for instance health care) had already been

pronounced in the German national law in reference to the social benefits for asylum applicants (*Asylbewerberleistungsgesetz*).

Indeed, the intended prevention of 'asylum shopping' as part of 'burden-sharing' was surely welcome by Germany, as a top destination for asylum-seekers in Europe. In this context, however, the approval of the Council Directive 2001/55/EC ('on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof') the same year appeared to modify the concerning rights in view of the fact that asylum-seekers' access to the German labour market and possible demands for family reunification were previously out of the question. Implementation of this directive was suggesting that the German state would not have a full grip on asylum/refugee matters in its own territory. Observing similar concerns from other Member States, the Commission issued soon another proposal (COM/2001/510) for a directive which the Council approved of in 2004 with an amendment declaring Member States can deny the protection of asylum-seekers as long as this can be secured by other parties or international organisations (Council Directive 2004/83/EC). Placing improvement of subsidiary protection into the asylum/refugee context (which was secured under the 1951 Geneva Convention), this directive expanded the main scope of the German asylum policy. A forum of debates started in this connection on the concept of state persecution as a prerequisite for minimum residence, which previously produced no positive outcomes for the protection of stateless people. In consequence, the 2005 Immigration Act made room for the implementation of non-state persecution as part of the *Aufenthaltsgesetz* (Residence Act).[185]

For asylum procedures, the Commission's proposal –via COM (2000) 578 final- sought in particular to build a joint framework of appeal provisions amongst the newly acceding member states. This attempt was however also an opportunity for the old Member States to make adjustments in their own standards, which were obviously much higher than those of the former. In accordance, issues concerning safe countries of origin and safe third countries became subject to EU implementation. More on that, the Council's acceptance of a revised proposal in 2004 granted additionally the right to legal advice in case of denial and the right to

[185] The Immigration Act is composed of the Residence Act (*Aufenthaltsgesetz*), the Act on the General Freedom of Movement for EU Citizens (Freedom of Movement Act-EU) and amendments to additional legislation (Federal Ministry of the Interior, 2005).

appeal at the ECtHR. This rather top-down application appeared to threaten initially Article 16a of the German Basic Law, which came to deny refugees the right to reassessment of individual cases.

Despite this contradiction with the Basic Law, the new regulation did not pose a major threat in practical terms, as Germany had following the latest enlargement waves become surrounded by states which -with the exception of Switzerland- had already signed the 2003 Dublin II Convention.[186] Similar to the Dublin II Convention, the Council Directive 2004/83/EC sought to come up with effective methods to disable secondary migration. Much in the same vein, the Commission's 1999, 2000 and 2002 proposals raised the issue of children's age to qualify for family reunification. The importance of the issue lay in identification of an upper age limit above which residence and entry clearance would have to fall in another framework (than that of family reunification). Following a hot debate during the negotiations of the 2005 Immigration Act, it was agreed that those above 16 years of age could not benefit from this option in Germany (BAMF, Bundesamt für Migration und Flüchtlinge, 2004).

For the issue of undocumented migration, the objectives as set forth by the Council Directives 2001/40/EC and 2001/51/EC (concerning mutual recognition of expulsion and harmonisation of financial sanctions against carriers (vehicles) engaged in activities such as clandestine transportation[187], respectively) were incorporated into the 2005 Immigration Act.[188] Following the 2005 Immigration Act, the EU Directives Implementation Act (*Richtlinienumsetzungsgesetz*) exposed German asylum and immigration law to a number of important changes. While the Immigration Act enabled amongst others harmonisation of the refugees' right of residence –provided their status would be acknowledged under the 1951 Geneva Convention- and the involvement of non-state actors in persecution upon entitlement to asylum initially under Article 16a of the German Basic Law, the Directives Implementation Act transposed a total number of eleven EU directives (which were concerning the issue of protection in the same context) into the national law. Accordingly, changes in the Basic Law, which became communitarised in close reference to the humanitarian framework, would

[186] Regulation (EC) 343/2003. Accordingly, as stipulated by Regulation (EC) 2725/2000, states where asylum applications were made became responsible for entrance to the EU providing it would for this purpose use a so-called EURODAC fingerprint system. The safe third state became in this way no more a critical issue for the German asylum policy, which traditionally perceived the matter as 'normative' (Hailbronner, 2006).
[187] This provision was already envisaged by the Schengen Agreement (Article 26).
[188] §58(2) and (3) and §63 *AufenthG*, respectively.

apply specifically to the granting of residence for temporary protection (§24, *AufenthG*), residence for persons enjoying refugee status on the basis of the Geneva Convention (§25, Paragraph 2, *AufenthG*), residence for persons entitled to subsidiary protection (§25, Paragraph 3, *AufenthG*) and victims of human trafficking (§25, Paragraph 4 a, *AufenthG*).

For the areas concerning fight against illegal immigration and enhancement of security, Regulation 539/2001 issued a list of countries (in compliance with the 1985 Schengen Agreement and the 1990 Convention Implementing the Schengen Agreement) whose nationals were subject to visas. As part of combatting illegal immigration, a European visa policy was drawn up to envisage a uniform set of criteria on visa applications, including agreements on the facilitation of visa agreements with the third countries. For short-term stays of not more than 90 days (out of an entire period of six months) as well as for the issuing of transit visas using the Schengen area, the statutory basis of the European law was constituted by Regulation 810/2009 establishing a Community Code on Visas.

5.3.2 The UK

To the Commission's annual reports on breach of the Community law, the legal texts the UK infringed between 2005 and 2012 in two of the three main areas of immigration (given that the UKcame to enjoy like Ireland and Denmark an opt-out clause from Amsterdam's labour immigration component[189]) and the legal actions administered by the Commission in response are as follows:

Table 56: The UK's infringements of EU Home Affairs Law

Year	Area of law	Infringement of	Actions taken	Number of infringements
2005	Labour migration	-	-	1
	Irregular migration	-	-	
	Asylum	2003/9/EC on reception of asylum-seekers	formal notice	
2006	Labour migration	-	-	1
	Irregular migration	-	-	
	Asylum	2004/83/EC on minimum standards for stateless persons	formal notice	
2007	Labour migration	-	-	1
	Irregular migration	-	-	
	Asylum	2004/83/EC on minimum standards for stateless persons	reasoned opinion	
2008	Labour migration	-	-	1
	Irregular migration	-	-	

[189] However, this option allowed the UK Government to enjoy a three-month period in case it would want to change its position to cooperate in this area.

	Asylum	2004/83/EC on minimum standards for stateless persons	referred to ECJ	
2009	Labour migration	-	-	0
	Irregular migration	-	-	
	Asylum	-	-	
2010	Labour migration	-	-	0
	Irregular migration	-	-	
	Asylum	-	-	
2011	Labour migration	-	-	1
	Irregular migration	2008/114/EC on critical infrastructures and their assessment	formal notice	
	Asylum	-	-	
2012	Labour migration	-	-	0
	Irregular migration	-	-	
	Asylum	-	-	
Total				5 for 22 texts in total

It seemed, accordingly, for the 22 EU legal texts the UK was throughout the assessment period accountable for, there were 5 occurrences of law breach in total. Since the UK had an opt-out clause from the EU legal texts concerning labour immigration and most law infringements took place within the context of asylum, it is hard to speak of a symmetrical distribution of violations across the three areas of immigration.

To put it as a backdrop, the UK's accession to the EC in 1973 did not bring a radical turn in its traditional immigration politics. The ruling governments led often by the Conservatives and the Labour Party adopted in principle almost always a 'gatekeeping' role, sticking to the main principles of immigration policy-making (regardless of their restrictive consequences for the course of supranationalisation). As Bulmer & Burch (1998; 2004) observed, such a cautious strategy was founded on systemic markers like the centralised, sovereignty-based and majoritarian governing structure of the British political system, which more often than not denied policy dispositions calling for alignment with the EU's *modus operandi*.

Policy-making in immigration matters has broadly been managed by the Home Office so far. For most of its history, the decision-making method the Home Office adopted to that effect was intergovernmental. One can however observe an increase of commitments to the EU's multi-level/coalition-building for some time. In the absence of a constitutional basis supporting supranationalisation of immigration in proper terms, such moves of approximation remained somewhat limited. With its long established praxis of common law, the British legal system was indeed far from catching up with the EU's supranational dispositions which came to be traditionally informed by the Roman law (Allen, 2005). While the domestic legal

structures were for instance following the 1998 Human Rights Act[190] geared to a certain extent towards the European model, adaptation of the Community law to the domestic/national legislation remained low, around fifteen percent at most (Page, 1998). What's more, despite a seemingly radical change for the national government system, as it normally would suggest a considerable shift of political weight from the executive to the judiciary level, the ECHR's incorporation into the domestic legal system did not make major implications for the legislative sovereignty, mainly because of the British courts failing to urge the UK Parliament -at times of incompatibility with the ECtHR decisions- into adopting the legislation of the latter (Flinders, 2005). Harmonisation at low levels did in the end not amount to high levels of Europeanisation.

A major relevant case concerned here detention of foreign nationals for an uncertain period (on suspicion of terrorist activities), which appeared to cause controversy between the provisions of the 2001 Anti-Terrorism, Crime and Security Act and the ECHR. In this respect, the Lords of Appeal in Ordinary, as the predecessor of the current Supreme Court of the UK, issued a 'declaration of incompatibility', resulting ultimately in the change of the legislation, albeit with its minor effects on the case of detainees. A more recent clash in the same context arose again between the ECtHR and the Supreme Court of the UK in 2011 over the use of 'hearsay evidence', i.e. evidence from victims and witnesses who do not show at the courtyards. While challenging the testimony of a witness was to the ECtHR contingent upon attendance to court hearing, the Supreme Court commented otherwise. Following objections from British lawyers, the grand chamber of the ECtHR refined its position to back the UK court. This was however not a vindication for the British cause entirely, as the ECtHR found in a follow-up case conviction of an appellant by the British government unfair and ordered the UK to pay him financial recompensation for costs and damages (Bowcott, 2011).

Apart from signs of misfit as far as the judicial system is concerned, another source of friction between the British and European politics of immigration relates to domestic interest groups. The interest group system which is based on "pluralism and the normal policy style in the UK is one of 'bureaucratic accommodation' and the 'logic of negotiation'" (Ette & Gerdes, 2007, p. 105). Jordan & Richardson (1982) point at several prominent groups and departments of government which make up this system through "bargaining rather than imposition",

[190] The European Convention on Human Rights (ECHR) was incorporated into the British national law with the 1998 Human Rights Act.

suggesting a good number of policy proposals the Home Office puts forward on immigration issues are designed in consultation with such stakeholders (Ette & Gerdes, 2007), despite studies arguing for only marginal effects in this sense (Castles & Kosack, 1985; Freeman, 1979; Schönwälder, 2001).

Whether or not these groups have been 'Europeanised' to a certain extent is closely related to their place in a broader European network, where they could voice their political positions to a larger audience. For that, one can refer to several British NGOs which by their research findings contend that national and international NGOs like Britain's Immigration Law Practitioners' Association, the Refugee Council and the Amnesty International have already been engaged in multi-level activities with the hope to bring various components into the European polity (Gray & Statham, 2005). This strategy has proved fruitful in policy areas like environmental policies; however, there is less optimism for far-reaching effects in the field of immigration (Ette & Gerdes, 2007). Such a sceptical outlook is indeed grounded upon the long-established roots of policy-making in immigration. With that in mind, it would be hard to argue that involvement at an EU-level immigration management has to date generated remarkable changes in the UK's national politics of immigration. With the exception of some measure of incorporation from the ECHR into the British legal structure, the *status quo* on that score has seemingly been maintained for the most part.

British governments have historically taken a positive approach towards a certain level of cooperation for communitarisation of national immigration policies. This support was mostly limited to bilateral and intergovernmental forums between Member States (Ette & Gerdes, 2007, p. 96). At the bilateral level, cooperation on immigration matters has since the 1991 Sangatte Protocol increased in particular with France, in pursuit of a system of cross-border controls.[191] The broader intergovernmental level of cooperation started much earlier with the 1967 Naples Convention, which was the earliest political initiative concerning TCNs' migration in Europe (Geddes, 2000). Added to this is also the Trevi Group[192] where the UK became a participant in 1975. The Council Presidency in the 1980s leading to the establishment of an AdHoc Group on immigration as well as the signing of the Dublin Convention, the London Resolution (concerning applications for asylum) and the drafting of

[191] Under this scheme, the British immigration officers could now carry out pre-boarding controls at Eurostar stations, including ports in France.
[192] The Trevi Group was originally meant to be an initiative on terrorism but expanded later on to include immigration issues.

EURODAC/European Fingerprint Database in the 1990s are other examples worth mentioning in this context (Ette & Gerdes, 2007).

Compared to a certain degree of harmonisation, brought about through such initiatives up to the end of the 1990s, the aftermath of Amsterdam Treaty saw marginal developments in terms of British immigration policies' approximation to their counterparts as part of the supranational framework in Europe. One can in light of these proceedings argue that the mode of Europeanisation prior to Amsterdam was informed primarily by policy learning on the British part. However, with Amsterdam's "substantial provisions concerning the development of a common European immigration policy…over a five-year period [and] new institutional and procedural regulations [transferring] central immigration matters from the third pillar to Title IV in the first pillar", decision-making in immigration became no more dependent on an intergovernmental approach, but instead on "'intensive transgovernmentalism'" (Ette & Gerdes, 2007, p. 97).

While the UK opted out from Amsterdam's Title IV, it maintained an option to revert with a legislation proposal, provided the Council would be informed about it three months in advance. The committee in charge of EU affairs in the House of Lords advised in several occasions that opting in to the Family Reunification Directive (2003/86/EC) and the Long-term Residents Directive (2003/109/EC) for instance would be in the UK's interests, for they would strengthen the rights of the economic migrants here as in the rest of the EU. Accordingly, while with the entry into force of the Directive 2003/109/EC, third-country national workers in the UK (including those with five year-long residence permits) would not be able to benefit from the provisions offered in other Member States, such a restriction would be "neither in their interests nor in the United Kingdom's. Moreover, assimilating the position of long-term third-country nationals' rights to that of migrant citizens of the Union, including by enabling participation in the political life of the country" would not just be "a matter of improving their living and working conditions" but "also a matter of fostering their harmonious integration into society" (House of Lords, European Union Committee, 2005, p. 43).

Transposition of EU legislation concerning immigration and asylum policies into the UK law started essentially under the Tampere Programme. Of legal texts adapted into the national law were most notably Council Directive 2003/9/EC on 'Minimum Standards for the Reception of

Asylum-seekers' (as a synthesis between pre-existing legislation), changes to the Immigration Rules and the follow-up 2005 Asylum Seekers/Reception Conditions Regulations together with the 2005 Asylum Support (Amendment) Regulations, the Qualification Directive (2004/83/EC), which was enshrined by combining the 2006 Qualification Regulations on the 'Refugee or Person in Need of International Protection' and changes to the Immigration Rules (HC 395, as amended) as well as the Procedures Directive (2005/85/EC) and the 2007 Asylum (Procedures) Regulations. The two major directives the EU issued under the ensuing Hague Programme (2005-2010), the joint European Parliament and Council Directive 'on Common standards and procedures in Member States for returning illegally staying third-country nationals', also known as the Return/Removals Directive (2008/115/EC) and the Council Directive adopted in 2009 'on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment', also known as the Blue Card Directive (2009/50/EC) were not adopted by the UK.

To the UK government, as far as the Return/Removals Directive was concerned, such provisions would make the issue of returning even "more difficult and more bureaucratic -by introducing restrictions on detention, obligations to provide legal aid to irregular migrants, and increasing the possibilities for challenging the return decision- over and above the strong protections already in place in EU law" (EP, Press Release, 2008). Indeed, in reference to the EU Justice and Home Affairs (JHA) in general, the UK Government's guiding document stresses that the domestic approach as regulated further by the 2009 Lisbon Treaty's JHA Opt-in Protocol is "of significant political importance. Policy leads of all departments should be alert to any elements of JHA policy in their dossiers (such as migration, civil, criminal judicial and police cooperation, as set out under Title V of the TFEU) in order that the opt-in remains protected" (HM Government, Transposition Guidance, 2011, p. 21). Put differently, in transposing European initiatives, be they directives or regulations, a common tendency the UK governments came to hold is to ensure that provisions of supranational texts are transposable to the extent that these would be cost-effective, i.e. serving to the domestic needs and interests in the long run.

5.3.3 Greece

To the Commission's appraisal reports, the EU legal texts Greece violated as of 2005 and the legal actions taken in response are as follows:

Table 57: Greece's infringements of EU Home Affairs Law

Year	Area of law	Infringement of	Actions taken	Number of infringements
2005	Labour migration	2003/86/EC on family reunification	formal notice	6
	Irregular migration	2002/90/EC on unauthorised entry, transit and residence	formal notice and reasoned opinion	
	Asylum	2001/55/EC on minimum standards for displaced persons' temporary protection; 2003/9/EC on reception of asylum-seekers	referred to ECJ; formal notice and reasoned opinion	
2006	Labour migration	2003/86/EC on family reunification; 2003/109/EC on long-term residence; 2004/82/EC on carriers' communication of passenger data	reasoned opinion; formal notice and reasoned opinion; formal notice	7
	Irregular migration	-	-	
	Asylum	2003/9/EC on reception of asylum-seekers; 2004/83/EC on minimum standards for stateless persons; Reg343/2003 on Member States responsible for asylum applications	referred to ECJ formal notice; formal notice	
2007	Labour migration	2004/82/EC on carriers' communication of passenger data; 2004/114/EC on admission for study or training purposes; 2005/71/EC on admission for scientific research	reasoned opinion; formal notice; formal notice	6
	Irregular migration	-	-	
	Asylum	2003/9/EC on reception of asylum-seekers; Reg343/2003 on Member States responsible for asylum applications; 2004/83/EC on minimum standards for stateless persons	formal notice; reasoned opinion; reasoned opinion	
2008	Labour migration	2004/114/EC on admission for study or training purposes; 2005/71/EC on admission for scientific research	reasoned opinion; reasoned opinion	3
	Irregular migration	-	-	
	Asylum	Reg343/2003 on Member States responsible for asylum applications	referred to ECJ	
2009	Labour migration	2003/109/EC on long-term residence	formal notice	2
	Irregular migration	-	-	
	Asylum	2005/85/EC on minimum standards for granting and withdrawing refugee status	formal notice	
2010	Labour migration	2003/109/EC on long-term residence	complementary formal notice	2
	Irregular migration	-	-	
	Asylum	2005/85/EC on minimum standards for granting and withdrawing refugee status	complementary formal notice	
2011	Labour migration	2009/50/EC on highly qualified workers	formal notice	3
	Irregular migration	2008/114/EC on critical infrastructures and their assessment; 2008/115/EC on common standards and procedures for returning illegal entries/stays	formal notice; formal notice	
	Asylum	-	-	
2012	Labour migration	2009/50/EC on highly qualified workers	reasoned opinion	1
	Irregular migration	-	-	
	Asylum	-	-	
Total				30 for 28 texts in total

For the 28 EU legal texts Greece was over the 2004-2012 period in supranational terms bound by, there were 30 instances of law breach. When viewed in terms of their distribution across the three main immigration areas, incidents falling in labour migration and asylum matters outnumber that of irregular migration. This result could obviously be attributed to the national sensitivities concerning labour market privileges in Greece, specifically in light of the rising

number of asylum-applicants in recent times. Yet, seen in historical terms, one could come across other defining markers of immigration policy-making in Greece.

For one, a traditionally strong executive layer in the political system is commonly the main reason why supranational policy-making has often been treated in marginal terms in Greece (Mavrodi, 2007, p. 170). Unlike on other issues which have often captured "the headlines of the press …or…a central issue in Greek politics", the two mainstream parties, PASOK and ND, have so far tended to act in harmony when it came to migration policies (Triandafyllidou, Maroufof, & Nikolova, 2009, p. 60). Policy-making powers and practices[193] have in this field been characterised largely by ministerial decisions and presidential decrees through which immigration policy remained largely untouched by parliamentary scrutiny (Mavrodi, 2010, p. 10).

In seeking to implement EU norms throughout the 1990s, Greece's compliances did not have a significant value for non-binding policy instruments/principles agreed at the EU Councils (for instance those concerning expansion of rights to immigrants). The 1996 Council Resolution on the status of long-term residents was to this effect not given the green light for almost a decade (until it became an EU Directive and was adopted in 2005 as 2003/109/EC) on the grounds that similar provisions were already in force within the framework of the 1991 Immigration Act. A major factor to bear in mind here is the institutional legacy of the Ministry of Public Order, which in areas concerning security issues saw it almost always a taboo to take supranational steps. The communitarisation attempts were for this reason limited at most to policy import from other Member States, most notably traditional immigration destinations like France and Germany.

Despite the 2001 Immigration Act, which transferred competences in many immigration matters (most importantly on legal immigration) from the Ministry of Public Order to the Ministry of Interior, the latter had a poor institutional background. Nonetheless, the new ministry moved to initiate closer cooperation at the EU-level, by for instance adopting the Council Directives on family unification and long-term residence. A series of internal-level institutionalisation took place in this sense to lead to the foundation of the Immigration Policy Institute (IMEPO), which would be operating as the government's consultancy service on immigration matters.

[193] The 1991 Immigration Act (Law 1975/1991) provided in particular extended powers for the executive.

For Greece, transposition of binding EU norms in the form of directives were not an easy task at the time, as there were no legal grounds in national law to grant a comprehensive collection of rights to foreign nationals (Mavrodi, 2010, p. 16). Full incorporation of the concerning directives into the domestic legal order could realise only in 2007, alongside a recently launched Immigration Act (Law 3386/2005) and relevant domestic legislation (Ministry of Interior, 2005). The executive's lack of experience in EU affairs was counterbalanced in this period through IMEPO, thanks to the alternative procedures it offered in implementing legislation on family reunification and long term-residence, upon cross-examination of policy frameworks in the Netherlands, the UK, France, Spain, Italy and Germany (IMEPO, 2005; 2006). One can in this sense argue that it was only through fragmentation of the governmental structure (in the form of subdivisions like IMEPO) that a more positive response to EU-level policy-making appeared to rise.

Against a background of the PASOK- and ND-led governments throughout the 1990s up to the mid-2000s, which had little friction over immigration policies (despite deviations in their traditional policy-making preferences), the left-wing NGOs and the newly emerging migrant organisations lobbied extensively to bring immigration matters to the fore. Here, the Greek Orthodox Church was quite ineffective compared to for instance the Catholic Church in Italy and Spain (Triandafyllidou, Maroufof, & Nikolova, 2009). Though not so willingly, the political elites started to acknowledge gradually immigrants' presence, for instance by making them more room in the party structures.

Besides these pro-immigration winds, PASOK's initiative for the naturalisation and schooling of TCNs' children, their voting rights in local elections as well as a number of social and employment rights found support in other left-wing parties like the Coalition of the Democratic Left (SYRIZA) and the Communist Party of Greece (KKE). The conservative ND on the other hand did not voice many policy plans of similar nature. While the ND issued a series of draft legislations leading finally to the declaration of the National Migration Policy plan (Naftemporiki, 2008), these were generally informed by concerns about possible loss of votes to particularly the extreme right-wing parties like the Popular Orthodox Rally, LAOS

and the Chrysi Avgi, i.e. the Golden Dawn[194] (Triandafyllidou, Maroufof, & Nikolova, 2009, p. 63).

Compared to the political parties which were usually reluctant to integrate immigrants into Greek politics, trade unions emerged to take more active roles. The main platform for trade unions, the General Confederation of Greek Workers (GSEE) and the Hellenic Forum of Migrants as the chief federation of migrant organisations have since the 1990s underscored on many platforms the bureaucratic and legal hurdles before immigrants' political integration. A most notable action worth mentioning in this context was the participation of the GSEE and the Hellenic Forum of Migrants in a recent EU-funded programme (called EQUAL) for the general purpose of integrating immigrants and refugees into the European labour markets. There was for this purpose no considerable contribution from the employers' unions such as the SEB (Federation of Greek Industry), the Union of Greek Industries or the GSEVEE (General Federation of Professionals, Small Manufacturers and Merchants of Greece) (Triandafyllidou, Maroufof, & Nikolova, 2009, p. 65).

The latest EU enlargement suggested in many ways that cooperation at the supranational level would bring about restrictions on national immigration policies (Mavrodi, 2007, p. 162). The 1985 Schengen Agreement demanded that Greece -as the newest Member State at the time- adopt policies within the context of visa regulations, unlawful immigration and border controls as required for participation in the EU's relevant institutional network. From this perspective, one could argue that communitarisation of immigration policies started in Greece as a consequence of the 'conditionality principle', which manifested itself clearly through the release of the Immigration Act in 1991. The parliamentary meetings at the time witnessed indeed frequent references to compliance with the European treaties to that effect (Greek Parliament Plenary Sessions, 1991).

The EC law's incorporation to the domestic legal order came out however only after the Amsterdam Treaty's entry into force in 1999. The main reasons for instance why the Council Directive 2004/83/EC did not promptly lead to legislative transformation in the Greek asylum policies had to do with either a minimum extent of 'misfit' between European and national asylum frameworks or, in the case of big degrees of 'misfit', the Greek government's

[194] The Golden Dawn's election campaign was mainly based on unemployment and anti-immigration rhetoric which helped gain a large electorate support during the 2012 elections.

purposeful strategy to bypass major action in the initial stages (Papagianni & Naskou-Perraki, 2004, p. 146). One can in this context also name the role of Greek bureaucracy in relation to better standards for asylum-seekers' reception, temporary protection and procedures concerning judicial appeal (Mavrodi, 2007, p. 164). To illustrate, although a presidential decree declared the transposition of the Council Directive 2001/55/EC on temporary protection and burden-sharing into the domestic legal order, there was no official adaptation to be introduced by a ministerial decision for long (Skordas & Sitaropoulos, 2004, p. 38).

Such delays of government action in the Greek case had obviously major implications for TCNs' basic accommodation and social welfare needs, which initially had no legal grounds in the Greek law and required urgent action upon replacement of the 1990 Dublin Convention. More recently, it became quite evident that the Dublin II Convention put an increasing burden on countries like Greece, which are located at Europe's external borders. About three quarters of more than 100,000 irregular migrants that entered the EU in 2009 by way of Greece rose in early 2010 by 80% (Human Rights Watch, 2010). Its commitments to Regulation 343/2003 have recently obliged Greece to accept the return of more than 10,000 asylum-seekers from other EU Member States. The presidential decree to introduce a full-scale emergency reform in this context was postponed as a consequence of the recent economic crisis and the government change in 2012.

There were aside from the principle of conditionality other factors that characterised the basic patterns of Greek immigration policy-making. For instance, despite lack of obligation concerning the EU's non-binding legislation such as on recognition of refugee status, the Presidential Decree 61/1999 declared incorporation of this Community law into the domestic legal order.[195] In a similar vein, the 2001 legal amendments concerning family reunification did not come as a consequence of some external pressure, either. In either way, the then ruling government was watching "a balance between specific, Greek domestic interests and the country's international, mostly EU, obligations" (Mavrodi, 2007, pp. 165-166). What's more, bearing in mind that the 2001 Immigration Act's introduction dated before the transposition of relevant EU norms, it would not be fair to consider the formation of the domestic law to be a direct outcome of the Community legislation. In response to the oppositional pressure to

[195] Article 4 of the Presidential Decree makes direct reference to the earlier (1992) Resolutions of the Council on "manifestly unfounded asylum applications and the concept of safe third host country, stipulating that these Resolutions should be used as interpretative guidelines in practice" (Skordas & Sitaropoulos, 2004, p. 31).

further approximate to EU legislation on family reunification, the Greek government moved to attach its priorities with illegal residence, for the new act was serving well with the EU framework (Ministry of Interior, 2001). The ensuing 2005 Immigration Act drew on the other hand more inspiration from the EU law. The former act's provisions on the improvement of conditions for family reunification and the status of long-term residents were in essence informed by obligations to liberalise the national immigration legislation (Ministry of Interior, 2005).

The role of the judiciary throughout the policy adaptation process deserves also particular mention. According to Articles 2, 5 and 28 of the 1975 Greek Constitution, the domestic legal order had to be in conformity with the provisions of the ratified international treaties (Skouris & Venizelos, 1985). In this sense, the EU Treaties and European Convention of Human Rights as well as the jurisprudence of the European Court of Human Rights (ECtHR) and the European Court of Justice (ECJ) emerged as providers of international norms into the Greek law. That said, there was over a long period (1990-2005) no major impact of the ECtHR and ECJ on the immigration law. From the ECJ's perspective, the rules Amsterdam introduced as part of the Justice and Home Affairs required Greek courts' compliance to a certain extent. However, the latter made in this period no major reference to TCNs' rights to entry, residence and labour, contrary to their for instance Dutch, German or British counterparts (Mavrodi, 2010, p. 24). Similarly, the eight cases for which Greece was a defendant at the ECtHR between 1993 and 2007 ended with a verdict against it, that is to say, Greece was found to have violated the European Convention of Human Rights.

5.3.4 Italy

Based on the Commission's annual assessment reports for the selected period of analysis, Italy's infringements of the EU legal texts and the legal actions taken in response are as follows:

Table 58: Italy's infringements of EU Home Affairs Law

Year	Area of law	Infringement of	Actions taken	Number of infringements
2005	Labour migration	2003/86/EC on family reunification	formal notice	3
	Irregular migration	-	-	
	Asylum	2003/9/EC on reception of asylum-seekers	formal notice and reasoned opinion	
2006	Labour migration	2003/86/EC on family reunification; 2003/109/EC on long-term residence; Regulation (EC) 1030/2002 on uniform residence permits	reasoned opinion; formal notice and reasoned opinion; formal notice	7

	Irregular migration	2004/81/EC on residence in illegal cases; 2004/82/EC on carriers' communication of passenger data	formal notice; formal notice	
	Asylum	2004/83/EC on minimum standards for stateless persons	formal notice	
2007	Labour migration	2003/86/EC on family reunification; 2003/109/EC on long-term residence; 2004/114/EC on admission for study or training; 2005/71/EC on admission for scientific research	referred to ECJ; referred to ECJ; formal notice; formal notice	4
	Irregular migration	-	-	
	Asylum	-	-	
2008	Labour migration	-		1
	Irregular migration	-		
	Asylum	2005/85/EC on minimum standards for granting and withdrawing refugee status	formal notice	
2009	Labour migration	Regulation (EC) 1030/2002 on uniform residence permits	referred to ECJ	1
	Irregular migration	-	-	
	Asylum	-	-	
2010	Labour migration	-	-	0
	Irregular migration	-	-	
	Asylum	-	-	
2011	Labour migration	2003/109/EC on long-term residence; 2009/50/EC on highly qualified workers	formal notice; formal notice and reasoned opinion	5
	Irregular migration	2008/114/EC on critical infrastructures and their assessment; 2008/115/EC on common standards and procedures for returning illegal entries/stays	formal notice; formal notice	
	Asylum	-	-	
2012	Labour migration	2003/109/EC on long-term residence	complementary formal notice	5
	Irregular migration	-	-	
	Asylum	2003/9/EC on minimum standards for reception of asylum-seekers; 2004/83/EC on minimum standards for stateless persons; 2005/85/EC on minimum standards for granting and withdrawing refugee status; Regulation (EC) 343/2003on Member States responsible for asylum applications	formal notice; formal notice; formal notice; formal notice	
Total				26 for 28 texts in total

The 28 EU legal texts Italy was in this period supranationally liable to saw, as it appeared, 26 instances of law breach in total. To the above-given distribution, these infringements seem to have taken place mostly within the context of labour migration and asylum matters. This breakdown might to a certain extent suggest how sensitive labour market management in Italy recently became specifically in the face of rising numbers of asylum-seekers. Based on patterns of immigration in historical terms, one could still identify other dynamics shaping the course of action here.

For all the delays and flaws in moving towards communitarisation of national policies, immigration matters in Italy have generally tended to align with the EU standards. To generalise that for the entire political domain would however not really be well founded.

Initially, in the 1980s, a host of interest groups led by the Catholic Church and trade unions played a vital role for the public perception of immigration (Sciortino, 1999). To them, the core issue was easy to grasp if approached from labour market perspectives, and stressed the need for strict control over its links to irregularities (Magnani, 2012). This was indeed a rather security outlook informed largely by the position of business circles at the time, which would soon inspire the formulation of the Martelli Law.

As of the 1990s, immigration became gradually a major political battleground between the left and right-wing parties. While those on the right denied as a rule the structural demands of the immigration agenda, there appeared gradually a growth of declarations acknowledging both the EU and national dimensions of the matter. To illustrate, the 2007 *Carta dei Valori* (Chart of Values) assigned specific roles onto the mass media for the encouragement of cultural pluralism and fight against xenophobia, as it was aspired in other Member States. Although there was alongside these calls direct implications for the rise of religious and cultural diversity in the country, it was to some the old societal traditions or the fundamental values of Italians that were emphasised in the first place (Peres, Coux & Motard, 2009).

Following the early 1990s, when Italy had to face large-scale immigration waves mainly from Albania and the former Yugoslavian Republic, immigration management started to undergo a process of politicisation change, based for the most part on center-left discourses. Parties like the *Movimento Sociale Italiano* (the Italian Social Movement) and *Partito Repubblicano Italiano* (the Republican Party) were in particular determined to replace the elite discourses by locating immigration at the center of their electoral campaigns. Indeed, with a new understanding of solidarity which sought to mediate between values characteristic of the Catholic tradition and the non-conservative tendencies, these parties played an active role in introducing immigration matters to a broader segment of the society.

A milestone for the change of the elite discourse proved to be the coalition governments in the 1990s. The *Ulivo* coalition of the Christian Democrats, the Italian Socialist Party and a number of small centrist parties led by Romano Prodi made a clear difference to that effect. To ease concerns during reform debates on illegal immigration, for which the extreme leftists in the coalition offered an ‘equality discourse’ seeing immigrants as holders of the same legal rights as nationals, Prodi proposed to be mindful of the complexities involved, hinting specifically at the illegal dimension. Much in the same way, the Minister of Social Affairs

Livia Turco explained to the Italian daily *the Repubblica* that "clandestines, who have never looked the State in the face, and irregulars who contribute to our society and try to put themselves in order" could not be seen alike (as cited in Magnani, 2012, p. 655).

Following this frame of mind in its core, the 1998 Turco–Napolitano Law reduced application of immediate 'forced expulsion' mainly to undocumented immigrants (Einaudi, 2007). While the *Ulivo* coalition was seeking a more effective way to manage labour migration, that is, showing the right way or 'the front door' to enter the country (Zincone, 2006), it was offering reconstruction of Italian identity as a core component of European identity at the same time (Pasquino, 2003). Indeed, compared to the rhetoric used by many centre-right governments in the past, there was under the centre-left rule less emphasis on national interests.

To be sure, the shift in perceptions of national identity and the ensuing legal rearrangements were characterised to a great extent by Italy's efforts to comply with the Schengen agreement. As the then Interior Minister Napolitano put it, there were reservations "that Italy would not be admitted because Italian borders are not trustable, because Italy is a colander and the soft belly of Europe" (as cited in Magnani, 2012, p. 652). Locating the EU context at the center of immigration debate by this means had indeed a direct influence on the traditional understanding of immigration control. The rise of a new discourse conforming to supranational goals across many EU Member States was now ruling Italian immigration politics as well. With this new paradigm, immigration management began to be seen as part of a structural problem which was 'natural' and had to be grasped in light of the unfavorable economic and political conditions in sending countries.

The 2002 Bossi–Fini Act (following the 1998 Turco-Napolitano Law) did not introduce a new legal order until 2009. There were times the governments arranged 'quick' legislative packages in this period. To illustrate, the centre-left government passed in 2007 an emergency decree allowing for deportation of EU citizens and their family members (in response to the rape and murder of an Italian citizen by a non-national at the time). This was in fact quite momentary for the history of the right-left immigration discourses, as the radical left criticised the decree for holding fascist tones, whereas it was for the governing Democratic Party rather a question of rights and a security matter to the Italian citizens (Finotelli & Sciortino, 2009). The securitisation logic pervading over the early 2000s was preserved by the ensuing Berlusconi government in 2009, which as an alliance between the Forza Italia, the Northern

League and the National Alliance passed Law 94/2009 to reinforce fight against irregular migration, as it was linked in the new law to auxiliary issues such as organised crimes and urban security (Merlino, 2009). Such rather conservative tendencies (which replaced the leftist narratives in the 1990s) aimed, as a member of the extreme right National Alliance party put it, "to improve the quality of immigration by promoting initiatives of vocational training and pre-emptive screening in the countries of origin" (as cited in Magnani, 2012, p. 657). Accordingly, Italy could profit from the unremitting flows of immigrants only if they would bring skilled labour and could undergo cultural and/or social assimilation (Magnani, 2012).

It would be fair to argue that that the EU law has been a major source of influence upon Italy's legal documents on immigration. That said, policies in this scope were until the 1998 Turco-Napolitano Law chiefly driven by regularisation attempts, which in principle sought to ease undocumented migration and heavy pressure on borders (Campani, 2007). One should at this point remember that Italy did not take part in the formulation of the Schengen Treaty. To some, this absence reasoned essentially from the lack of a concise immigration framework at the time (Pastore, 2008). To help remove EC-wide concerns for the proper functioning of Schengen, a new act via Law 943/1986 was put into force. With the 1990 Martelli Law, early provisions in the 1986 law were enhanced further in light of the Schengen's conditionality, which eventually made way for Italy's official entry to the border-free zone. Then, a further set of legal arrangements came with the Turco-Napolitano law, which consolidated Schengen as part of the EU law, following the 1997 Amsterdam Treaty.

While these initial moves appear to be parts of a whole making the impression that Italy was harmonising its immigration policies with those of major EU members, there was scepticism given the "discrepancy between the law 'on the books' and the law 'in action'" (Calavita, 2004, p. 369). To illustrate, decision-makers on illegal immigration made initially minor references to migrants' rights (despite Amsterdam's provisions contrariwise), but instead to mass regularisation policies, as the country was then grappling with huge migrant flows in particular from North Africa (Brick, 2011).

The EU Council's Directive 2008/115/EC evokes obligations in this context, especially with respect to the right to seek asylum (under both the European Convention on Human Rights and the Geneva Convention). Accordingly, Italy's recent practices of for instance sending

boats carrying asylum-seekers in the absence of a screening procedure away have been acts of denial of asylum-seeking rights. This issue was raised clearly in a report by the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), which blamed the Italian authorities for having "knowingly pushed back particularly vulnerable persons and perhaps also persons who could attest to their status as refugees" (Council of Europe, 2010). Italy on the other side pointed out the bilateral agreements it signed with North African countries, according to which it preserved the right to stop those from disembarking on the Italian soil and lodging asylum claims.[196] The oft-referred 2008 European Pact on Immigration and Asylum was indeed consenting to the signing of such bilateral agreements with these countries; however, as the criticism went, Italy's main responsibility in such cases was checking into the political and human rights conditions in North Africa than seeking ways to justify the readmission negotiations.

At the time this research was being carried out, a number of EU legal texts were still not entirely transposed in the Italian legal/political order. A most notable amongst them was the Council Directive 2004/114/EC, whose transposition deadline dated back to 2007. According to the Commission reports, basic requirements for TCN students' admission for study purposes and training or voluntary service were in Italy not properly transferred into the domestic law (European Commission, 2011d). Much in a similar vein, Council Directives 2003/109/EC (on long-term residence) and Directive 2003/86/EC (on family reunification) could be transferred to the national order with long delays. Despite its transposition, the implementation of the Directive 2003/109/EC in particular was not accommodated to the EC standards. The problem here stemmed from the fact that the status of legally resident TCNs in Italy was often treated as 'temporary', irrespective of their overall duration of stay. What's more, periods of lawful and continuous residence as part of the framework regarding long-term residence status were not really observed. As a matter of fact, leaving all these aside, one could argue according to the recent Commission reports (2011c) that Italy violated in many occasions even EU citizens' intra-EU mobility rights, by subjecting them to annual immigration quotas or imposing restrictions on their employment in public service.

It is today common to hear Italian officials making references to the Directive 2001/55/EC ('on minimum standards for giving temporary protection in the event of a mass influx of

[196] For example, the 'Treaty of Friendship, Partnership and Cooperation' it signed in 2008 with Libya.

displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof') to call attention that the EU should use more initiatives on 'burden sharing', raise the competences of FRONTEX for more effective border controls and take active roles in creating and managing centers across the Union. Within this same context of crisis management, there was also official reference to the need for an amount of minimum 100 million Euros in the initial stages (European Migration Network, 2012b).

As formerly mentioned, the Italian governments have so far volunteered in many occasions to abide by the EU norms and standards, particularly since the country's bid for accession to the Schengen Area in the 1980s, and transpose relevant supranational texts into the national law. Nevertheless, the unceasing clandestine/irregular influxes specifically from North Africa have for long been posing enormous challenges vis-à-vis implementation of the adopted EU directives and regulations in the national law. To bring the national legal order in conformity with the Council's Returns Directive (Directive 2008/115/EC) and standardise procedures in coping with undocumented migration, the Italian Parliament ratified in 2011 a decree law. A fundamental aim of the new regulation under this Law 89/2011 was to restore an immediate procedure in the event of compulsory expulsion for reasons of threat to public order and security. What's more, with this new provision, the maximum length of administrative detention in the *Centri di Accoglienza* and *Centri di Permanenza Temporanea e Assistenza* (Centres for Identification and Expulsion) was extended from six to eighteen months (Jonjic & Mavrodi, 2012, p. 106).

5.4 Summary

5.4.1 Germany

The early decades following the end of WW II saw in Germany a period of dynamic economy encouraging full employment and therewith a relatively easygoing relationship between the 'newcomers' and the host society. Three main factors informed this alliance. First, the jobs offered to immigrant workers were generally not those the indigenous were interested to take. Second, the initial concerns that the trade unions had in cases where newcomers took better-paid positions -as this would possibly cause the wages to go down- were allayed by the ruling governments, which promised equal terms/conditions between foreign and domestic workers. And third, a great majority of immigrants came under the 'guest-worker' programmes and there was widespread conviction that their stay would be 'temporary'.

To be fair, this harmonious setting coincided with a period of EC integration which found far-reaching approval amongst Germans, of the elite and the ordinary alike. One could on that score argue that Europeanisation of national policies did not meet major political barriers in the initial stages. As of the 1970s, however, with signs of a stagnant economy spreading out largely from the global oil crisis at the time, the initial 'permissive consensus' started to change into a 'constraining dissensus' across the EU lands (Hooghe & Marks, 2006). The impacts of this turn are today still thick on the ground, in particular with regard to public impressions about immigrants/immigration.

A series of Eurobarometer surveys carried out over the last decade checked into public opinions with the aim to find out whether or not immigration was a main concern for the EU citizens. The results in the German case demonstrated:

Table 59: Immigration as the main concern in Germany (in percentages)

Country	Year of analysis		
	2003	2008	2012
Germany	5	6	8
EU 15/27	13	11	8

Based on Standard EBs 59 (2003), 69 (2008) and 78 (2012).

While figures in Germany tended to rank much lower than the EU average, it appeared, there was a steady rise in public impressions regarding immigration as more serious a matter than it formerly was. Indeed, this picture gives grounds for the findings of another survey, where one tested item on matters concerning immigration was EU citizens' opinions on whether or not "Immigrants are a threat to [our] way of life" (Special Eurobarometer 60.1). The results for the German context revealed a considerable 39% who believed in one way or another that immigrants were threatening their ways of life.

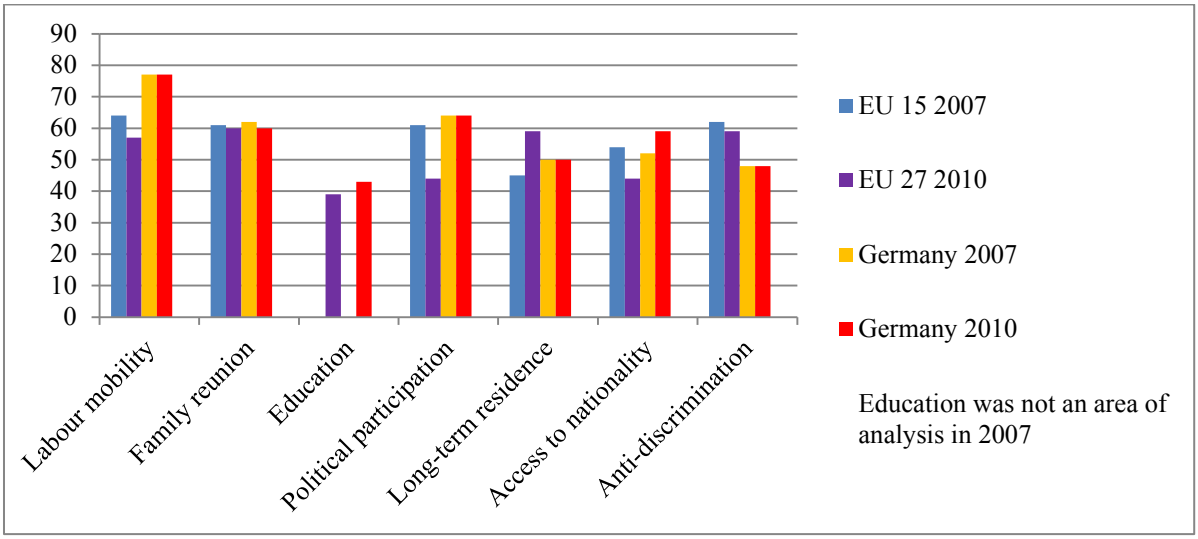
Turning to the supranational context in light of these disillusioned thoughts, one could perhaps find more relevance in why the process of EU Directives' implementation in national legal/political orders of Germany sought delays and/or incorporation into the national law with certain trade-offs. To talk in specific, transposition of 'subsidiary protection' as the main scheme of 2004/83/EC Qualification Directive (on minimum standards for the qualification

and status of third-country nationals or stateless persons as refugees) was for a long time far from being in full force and effect. In effect, its eventual transferral with a rough form (at minimum standards) caused the Federal Administrative Court (*Bundesverwaltungsgericht*) to contend with the European Court of Justice (Amnesty International, 2007). While the Council Directive 2005/85/EC (on minimum standards about refugee status) and the replacement of the 1990 Dublin Convention through the Dublin II via Regulation (EC) 343/2003 did not cause major conflicts between national and supranational frameworks (thanks to similar domestic provisions which were at the time already in force), the Council Directives 2002/90/EC, 2004/81/EC, 2004/82/EC, 2003/9/EC and 2008/115/EC took a relatively lengthy period to get transposed into the domestic law, mainly because of their implications for a radical change of the relevant national order. A most recent case related in this sense to the 2009 Blue Card Directive (2009/50/EC). Despite the EU regulation prescribing that holders of Blue Cards should be paid higher than the average rate in a Member State, the coalition government at the time attempted to defy it by lowering the benchmark to an earlier tariff and raising time limits for acquisition of these cards to a maximum (Deutsche Welle, 2012). Following a long process of parliamentary debates, however, a policy plan was adopted in a law package called *Berufsqualifikationsfeststellungsgesetz*, *BQFG* (the Professional Qualifications Assessment Act).

For matters concerning irregular migration in Germany, the use of EU-formulated arrangements came in quite handy for the restoration of national legal/political order. Indeed, this method of 'venue-shopping' or 'escape to Europe' was in the German case quite reasonable in particular when it became obvious that making a domestic reform, for instance in the area of asylum, would be much more demanding than adopting an EU legislation (in view of the matter's ties to the German Constitution). Either way, the German legal order presented in the face of the community law often low levels of 'misfit'. That is to say, despite occasional political controversy, most EC directives and regulations were adopted into the national law without being exposed to radical changes. In the end, the direction of policy adaptation for German immigration often vacillated between 'inertia' and 'absorption'.

Looking into the legal aspects of immigration by way of MIPEX data, one could conclude that conditions applying to TCNs in Germany showed significant signs of improvement. Yet, these could still be interpreted as 'halfway favourable' when compared to many other established immigration lands in the EU:

Figure 8: Conditions for TCNs in Germany



Based on MIPEX II & III.

To illustrate, Germany was classified on the 31-country MIPEX list as an 'average' country in terms of the educational opportunities and family reunion prospects its TCNs enjoyed. Conditions for anti-discrimination and permanent residence appeared here even lower than the EU average. The 2007 EU-*Richtlinienumsetzungsgesetz* rose to be promising in many ways to that end. Yet, the recently adopted integration tests posed considerable setbacks, in particular due to the additional red-tape they involved. Thanks to better consultancy services at the *Länder* level, one can all the same mention signs of improvement.

5.4.2 The UK

The 'guest-worker' schemes in the German case, which led to the initial impression that immigration would not necessarily translate into permanent stay, do not apply much to the British case. An earlier instance of politicisation and a progressive development of institutional frameworks as far as immigration management was concerned took place here in the absence of recruitment programmes. That being the case, to revamp the war-stricken economic state at the time and partly because of the will to restore the blemished imperial image, the Labour-led British governments were in the early post-WW II period generally in favour of immigration, specifically from the country's former colonies. The Conservative-led right-wing foregrounded in response domestic concerns about international labour. Added to that, the ongoing imperialist sentiments had the capacity to promote counter-immigration

feelings further, not least because there was widespread discrimination all around. Indeed, a long trail of these convictions stretches into present times.

Recent Eurobarometer surveys held amongst others to look into immigration as the main concern in the EU Member States revealed in this sense supportive evidence:

Table 60: Immigration as the main concern in the UK (in percentages)

Country	Year of analysis		
	2003	2008	2012
UK	32	35	24
EU 15/27	13	11	8

Based on Standard EBs 59 (2003), 69 (2008) and 78 (2012).

It appreaed, accordingly, tackling unwanted immigration signified for the British respondents a matter of greater urgency than it was for those from other EU nations. These findings testify indeed to the outcomes of another survey which looked into whether or not immigration could be perceived by the EU citizens as a 'threat' to their ways or life (Special Eurobarometer Wave 60.1). A remarkable 54% of the British respondents returned with 'yes', suggesting they believed immigrants were one way or another a source of threat to them.

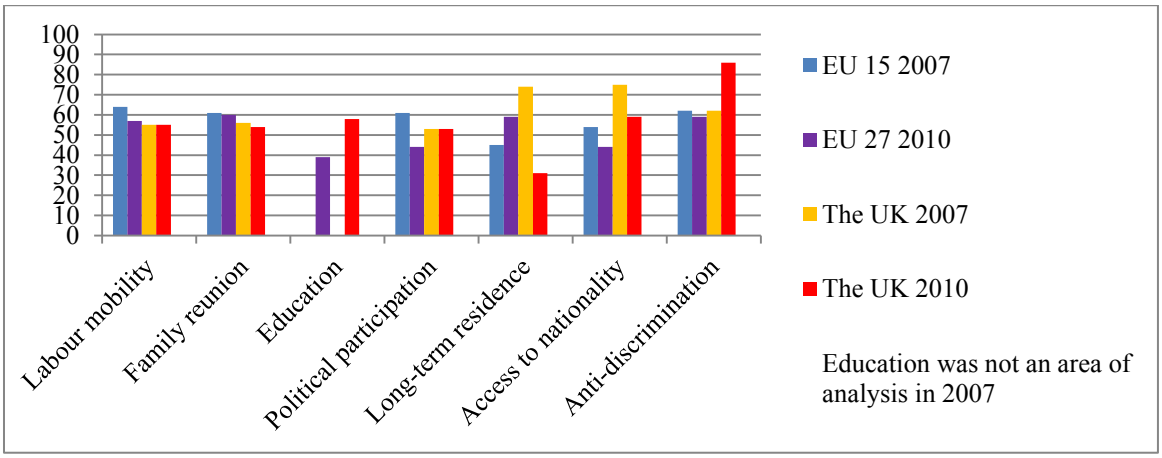
When seen in a European context, the late accession of the UK to the EC in 1973 (following two failed attempts in 1963 and 1967) could be interpreted as a natural consequence of the country's skeptical thoughts concerning the EU integration. And yet, even after its entry into the EC, the supranational policy formulations did not really hint at radical changes for the UK's legal/political order. It is however important to note that minimal adaptations required in the British context hardly covered the legal/labour area, but instead came as an outcome of the largely security-based agenda of the two other areas –irregular immigration and asylum matters- for which the country volunteered to adopt supranational initiatives selectively. Put more precisely, of all the 45 EU initiatives falling in the area of immigration and asylum (these were made up of 13 directives, 17 regulations and 15 decisions), the British 'opt-in' was applicable to 27 texts, marking 60% participation in the policy field (Ette & Gerdes, 2007, p. 98). While such a rate seemed fairly reasonable (given the traditional 'British exceptionalism' towards supranational ends), in fact, a largely selective strategy was ruling this cooperation, insofar as the UK declared to opt-out from entitlements within the area of labour migration.

Seen from this latter perspective, the relatively smooth transposition/implementation of EU the texts concerning asylum-seeking so far was not as impressive as it initially appeared. Indeed, since becoming Europe's biggest recipient of asylum-seekers in the early 2000s, adaptation of the EU legislations into the national order was in the UK relatively effortless, yielding a somewhat uncomplicated transposition of the Council Directives 2001/55/EC (on temporary protection to displaced persons), 2003/9/EC (on minimum standards for the reception of asylum-seekers), 2004/83/EC (on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees), 2005/85/EC (on minimum standards on procedures in Member States for granting and withdrawing refugee status) and Regulations such as 343/2003 (defining asylum criteria) and 439/2010 (establishing a European Asylum Support Office). The other area where the UK cooperated within the framework of supranationalisation of immigration policies was irregular migration, for which it transposed most importantly 2001/51/EC (supplementing the Schengen Agreement), 2002/90/EC (on unauthorised entry, transit and residence), 2011/36/EC (on human-trafficking), 2001/40/EC (on the expulsion of third-country nationals) as well as Regulations (EC) 2007/2004 (establishing FRONTEX) and 2725/2000 (on EURODAC) into its national legal order.

The conditions the UK offered its TCN residents in the selected period of analysis appeared in broad terms 'slightly less favourable' (MIPEX III). Recent concerns about non-EU nationals' costs vs. benefits vis-à-vis labour markets, in particular following the 2004 EU enlargement, were worked out in 2008 to present a points-based system which introduced limitations to TCNs' labour market access. While this move indicated a change of paradigm in that labour policies were now to be qualification-based (not purely seeking 'control'), the highly demanding conditions required from third-country nationals illustrated a largely restrictionist frame of mind.

The strength of British immigration policies in terms of third-country nationals' integration related very much to the state's effective anti-discrimination measures so far. Conditions which were of relevance to political participation, family reunion and labour market in the first place indicated average values; those concerning long-term residence suggested however lower standards compared to the 2007 data:

Figure 9: Conditions for TCNs in the UK



Based on MIPEX II & III.

5.4.3 Greece

Given its entire migration history in the 20th century, Greece proved to be a case in point for an emigration country. The sporadic inflows in the first decades of the post-WW II period were featuring broadly those of 'return' to a predominantly agricultural land where the economy and relevant institutional structures were not mature enough to attract large-scale foreign labour force. The big unemployment rates at the time encouraged sizeable emigration to industrialised lands in Europe, North America and Australia. To speak of immigration here, in its proper sense, one needs to refer to the 1980s when many in the country's immediate neighbourhood came in search of better political/economic prospects.

Judging by a series of Eurobarometer surveys conducted over the last decade, one catches the impression that immigration was here not necessarily viewed as a 'main concern':

Table 61: Immigration as the main concern in Greece (in percentages)

Country	Year of analysis		
	2003	2008	2012
Greece	6	4	7
EU 15/27	13	11	8

Based on Standard EBs 59 (2003), 69 (2008) and 78 (2012).

By comparison to the EU averages these rates were relatively low. Yet, seeing to another survey held in the same period, it is possible to argue that the growing influxes in the country in fact gave rise to progressively negative attitudes towards immigration (Special Eurobarometer Wave 60.1). Of several policy matters used to check into the public opinion

here, the immigration bit included a straightforward question inquiring about whether immigrants were causing a threat to the EU citizens' way of life. In the Greek case, a striking 69% returned with agreement. This meant in plain text that a big majority of nationals in Greece believed immigrants were threatening their lives.

While such reflections might be interpreted as voices against a supranational framework of immigration in Greece today, the country's early EU history was characterised largely by requirements for EU membership and accession to the Schengen Zone. Incorporation of relevant EU texts into the national order indicated a diverse range of policy adaptation in that context. The process of supranationalisation was showing here its different 'faces', including voluntary incorporation, conditionality and formal obligation (Mavrodi, 2007, p. 172). Many supranational texts were either 'absorbed' or 'transformed', amounting in the end to various degrees of change in the existing political/legal order. These outcomes were initially attributed to the country's little experience in immigration/asylum policy-making and the inadequate institutional structure. The legacy of these handicaps, as one may refer to them, is all too evident at present.[197]

Further to the conditionality principle, which demanded by definition the alignment of the Greek immigration management with the European norms/regulations, there were in the early 2000s instances of voluntary cooperation, specifically in relation to asylum matters. Indeed, in view of the rising numbers of asylum applications at the time, cooperation within the EU's broad protective security framework would be to the national interests of Greece. A number of supranational measures were drawn up on that score, such as 2001/55/EC (on minimum standards for temporary protection), 2003/9/EC (on minimum standards for the reception of asylum-seekers) and 2004/83/EC (on minimum standards for international protection). Transposition of these texts into the Greek order did not run smoothly, not least because of the bureaucratic hurdles in the state structure. A further aspect to note at this last point was the role of 'client politics' in Greece, which in fact was rooted in its faulty party system.

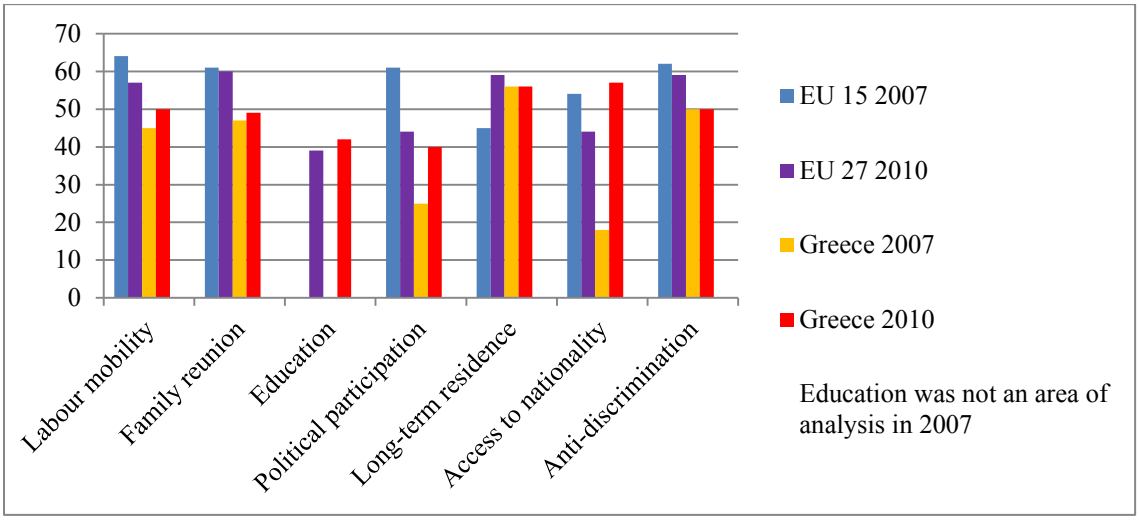
A last major issue to bear in mind within the context of 'downloading' EU norms into the institutional structure of Greece concerned the role of the judiciary system. While the Greek

[197] The EU Commission decided recently to provide Greece with counselling service on training and administration for immigration matters (European Commission, Staff Working Paper, 2010).

courts appeared in general to be safeguarding TCN rights, there were times they did not observe the jurisprudence of the ECJ/ECtHR on that account. To illustrate, communitarisation efforts concerning immigration and asylum matters were during the transposition of EU legislations paralysed occasionally by the Greek courts' deferrals, reminding as a matter of fact the executive's default position (seeking as a rule to 'upload' national preferences to the supranational institutions in the first place).

The general conditions the TCNs enjoy in Greece are to recent data of 'average' value.

Figure 10: Conditions for TCNs in Greece



Based on MIPEX II & III.

There were in recent times signs of improvement across long-term residence, political participation, access to nationality and anti-discrimination, when seen by MIPEX standards. One needs to note here however that it was the 'minimum standards' that counted in most cases, particularly on matters concerning family reunion, permanent residence and anti-discrimination. Nevertheless, amongst a total of 31 countries on MIPEX, Greece was observed to have made the most considerable progress to that effect.[198]

5.4.4 Italy

Similar to Greece, Italy lacked until about a couple of decades ago basic legal provisions with regard to the area of immigration. Incorporation of EU legal arrangements to the Italian order generally vouched for patterns of 'absorption' and 'transformation', depending on the extent

[198] In acquiring these data, the MIPEX III cautioned possible shortcomings to be stemming from the Greek state's inadequate statistical services so far.

of proximity between the national and supranational frameworks. Like in all other Member States, accommodation to supranational texts (on immigration) underwent phases of foot-dragging here. Despite eventual transposition, their full implementation across the national legal/political order was not really the case.

As formerly stated, mass immigration is in Italy a late phenomenon of the 1970s, when the former emigrant population started to return in growing measures, and more importantly in the early 1980s with the industrial growth in the north. It comes in this sense as no surprise the launch of the first comprehensive immigration law in Italy dates back only to 1986. To be fair, a major determinant behind this relatively new phenomenon for the country was the entry restrictions introduced by the established destinations in northern Europe. The tighter the borders became in the latter, in other words, the more popular Italy became as a destination country for migrants.

It is particularly important to note that a significant share of the hitherto flows to Italy were made up of asylum-seekers. The number of entry attempts by way of deadly boat trips grew to alarming rates in recent times. Those managing to reach the nearest destinations, most notably the islands of Lampedusa, Sicily and Sardinia, were usually sent back to their countries of origin. There were certainly cases of transferral to the so-called identification and detention centres. Still, the rate of expulsion has been generally high so far.[199]

In case of criticism following in this thread that Italy's practices of interception and/or forcible return were not compatible with the EU's legal provisions, most importantly the Council Directive 2008/115/EC (on common standards and procedures for returning illegal entries/stays), the Italian officials often claimed that the area of 'operation' was the high seas (Human Rights Watch, 2009).[200] After all, as the argument went, the Council Directive 2001/55/EC was allowing Italy to implement the concerning EU norms only with 'minimum' requirements.

In reading the rationale behind Italy's immigration management until recent times, one could refer to the changing public attitudes towards 'newcomers' in the country. A series of

[199] Those who could make it to the Italian territory were not always welcome by warm feelings. The 2010 riots in Rosarno, a town in Reggio Calabria, was a clear evidence of locals' negative reaction their arrivals.
[200] Or else (if in Italian waters), they would have enjoyed the non-refoulement principle.

Eurobarometer surveys carried out amongst EU citizens in 2003, 2008 and 2012 sought amongst others to identify whether or not respondents would be locating immigration as a main concern their countries were facing at the time. The results gathered from the Italian participants showed:

Table 62: Immigration as the main concern in Italy (in percentages)

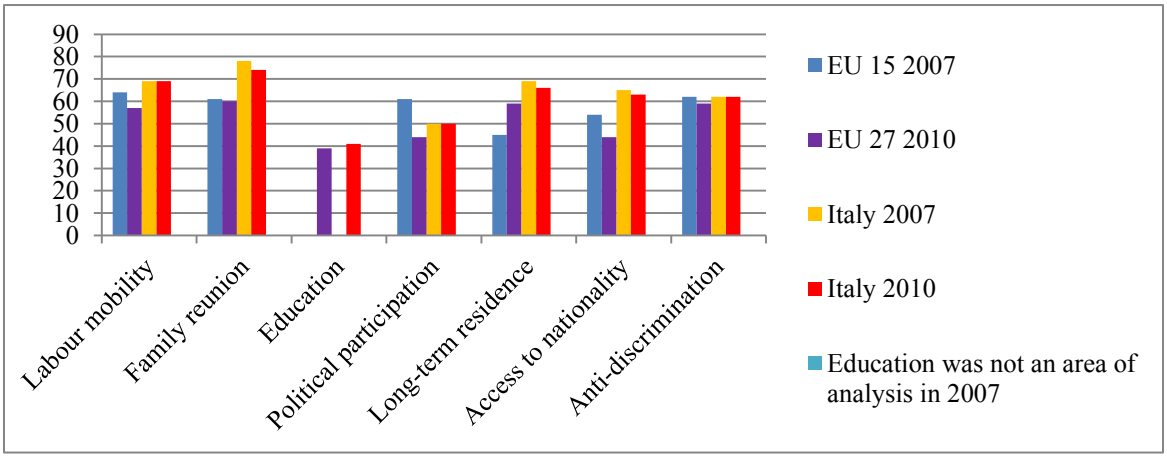
Country	Year of analysis		
	2003	2008	2012
Italy	13	7	2
EU average	13	11	8

Based on Standard EBs 59 (2003), 69 (2008) and 78 (2012).

These lower rates, as compared to those reported in many other EU countries, could imply that issues concerning immigration were not in need of urgent treatment for Italians. Another survey carried out in a similar context revealed, however, a fairly different outcome. To the Eurobarometer survey checking into the EU citizens' attitudes towards immigrants as "a threat to [our] way of life", 38% of the Italian respondents agreed to the question (Special Eurobarometer 60.1). This meant a considerable number of Italians were at the time thinking that immigrants in their country were somehow threatening their ways of life.

Despite a wide range of limitations, such as working quotas, the economic recession hitting the job markets in the country to a worrying level and the 'push-back' policies to North Africa in recent times, the conditions third-country nationals enjoyed in Italy were by MIPEX standards of the best in Europe.

Figure 11: Conditions for TCNs in Italy



Based on MIPEX II & III.

It seemed standards for family reunion and long-term residence were here particulary high, though measures concerning the latter issue deteriorated lately, owing much to the new security law which made integration conditions ‘slightly less favourable’. While it turned to be way above the EU average, the situation concerning third-country nationals’ labour market conditions in Italy did not show signs of improvement. What’s more, there were during the selected period of analysis neither active voting rights nor citizenship reforms in sight. Although the anti-discrimination regulations got slightly better lately, they were still in need of refinement, when for instance compared to those in other major immigration destinations across Europe.

Conclusion

Based on the findings in Chapter 5, the study rounds off its investigation here to the degree that the selected cases are representative of the entire research area. Three steps will be followed for that purpose. First, to provide definitive answers to the research questions, the findings as to the changing patterns of immigration policies in Germany, the UK, Greece and Italy are encapsulated to give an overall account of the extent of their Europeanisation and similarities/differences in this context. These results are reviewed later in light of the research hypotheses to reconsider, specifically, the latter's explanatory capacity for the former. And finally, an overall summary is provided in the third step to speak a last word on what the gathered research outcomes might signify for future studies in this area.

Assessment

Studying the selected cases in line with the bottom-up research model involves, as formerly explained, an analysis at all levels, assuming that the so-called supranational rules, regulations, practices and ideological factors rise originally at the national level, then evolve into Community standards to finally have collective impacts back upon the national level, traversing the EU's wider scope of diffusion. Such premises entail necessarily a historical investigation of the key events/turning points for the management of immigration policies.

The principles of the top-down perspective, as one of the two mainstream methods used in Europeanisation research, are taken in this study to be in the stock of its rival bottom-up model already. Accordingly, the latter holds the capacity to offer two main directions as to influence upon domestic policy changes. The first and fundamental one comprises the 'uploading' potential of Member States as far as the making of supranational policies is concerned. To this end, for the production of an overarching policy-making structure, Member States can simulate (or interact with) one another, or even other countries outside the EU. The second direction of influence is in contrast one of 'downloading' to the degree that policy-making is rooted first and foremost in supranational origins.

The prefatory 'uploading' leg of the inquiry has been fulfilled by exploration of the selected cases' histories of immigration, their institutional frameworks together with key policy indicators in recent times as provided by the Migration Integration Policy Index. To bring this

task to an end, the target Member States' legal performances were studied in relation to the Community law, regarding these as the key markers for the 'downloading' nature of policy diffusion in the entire process of Europeanisation.

Research question one: Europeanisation of immigration policies

The 'uploading' investigation of institutional frameworks starting from case-specific factors at the national level, including the selected Member States' immigration histories, political/legislative structures and principal actors in immigration management delivered that the relatively recent advent of influxes and precarious political systems in Greece and Italy held back robust institutional frameworks in this category. Although policy adaptations guided by supranational objectives ran across measures of deliberation in all four cases, the extent of mistrust in Germany proved lower than in others, not only because of the former's comprehensive institutional arrangement but also due to the far-reaching political consensus on the 'EU project' in the country. Regardless of its similarly strong institutional layout, the UK stands out here as a chronic case of 'Euroscepticism'. Indeed, the entire history of supranationalism abounds with British reservations, irrespective of their relevance to immigration. That being the case, the far-reaching immigration experiences, legal tools and measures it developed for management on that score as well as a mature democracy and political culture it characteristically had to its name gave way for a strong institutional framework, similar to that in the German case, and yet, unlike those in Greece and Italy:

Table 63: Overview of historical, legal, political and institutional characteristics

Cases	Basic features	Earliest comprehensive law packages	Main political features	Strength of institutional frameworks
Germany	relatively longer experiences in the immigration field; a largely receiving country of labour immigrants (as of the end of WW II)	relatively old: 1965 and 1991 Alien Acts	deep-rooted party-system; consensus on supranational goals	strong
UK	longest experiences in the immigration field due to a long colonial background; a largely receiving country of labour immigrants (as of the early 20th century	old: 1914 and 1948 Nationality Acts	deep-rooted party-system; scepticism about supranational goals	strong
Greece	limited/recent experiences in the immigration field; a largely sending country of labour emigrants (until the 1980s)	relatively new: Act 1975/1991; Act 2910/2001	unstable party-system, 'client politics'; scepticism about supranational goals	weak
Italy	limited/recent experiences in the immigration field; a largely sending country of labour emigrants (until the 1970s)	relatively new: Law 943/1986; Law 39/1990 and Law 40/1998	unstable party-system, electoral success of xenophobic parties; scepticism about supranational goals	weak

Following an 'uploading' reading of the selected cases' institutional frameworks, in terms of their impact upon the extent of Europeanisation in immigration matters at present, the 'downloading' analysis was carried out in light of the selected cases' performances vis-à-vis the EU law. A probe into the annual reports the Commission has been drawing up since the

Amsterdam Treaty revealed a list of instances where Germany, the UK, Greece and Italy breached the EU law's immigration framework and became subject to legal action. Accordingly, with its 30 infringement acts for the 28 EU legal texts it was supranationally liable to from 2004 to 2012 (the selected period of analysis), Greece outweighed all other selected cases. Italy came here second with its 26 violations, ahead of Germany and the UK with 20 and 5 instances of EU law breach, respectively. While this picture does not offer a symmetrical distribution across the three areas of immigration, issues concerning labour immigration came in all cases to the fore, given the policy areas where the EU law was violated at most, as was seen in the German, Greek and Italian cases, or taking into account national sensitivities, as demonstrated typically by the UK, which thanks to its 'labour-exempt' supranational engagement was bound by a total 22 EU legal texts instead of the 28 directives and regulations Germany, Greece and Italy were each accountable for.

Table 64: Overview of EU law infringements and legal actions

Selected cases	Violations of EU law and actions taken according to years of analysis								Number of infringements
	2005	2006	2007	2008	2009	2010	2011	2012	
Germany	2002/90/EC 2003/9/EC formal notice and reasoned opinion 2003/86/EC formal notice	2003/86/EC reasoned opinion 2003/109/EC formal notice and reasoned opinion 2004/81/EC, 2004/82/EC, 2004/83/EC, formal notice 2002/90/EC, 2003/9/EC referred to ECJ	2004/81/EC, 2004/83/EC reasoned opinion	-	-	-	2008/115/EC, 2009/50/EC formal notice and reasoned opinion	2003/86/EC formal notice	20
UK	2003/9/EC formal notice	2004/83/EC formal notice	2004/83/EC reasoned opinion	2004/83/EC referred to ECJ	-	-	2008/114/EC formal notice	-	5
Greece	2001/55/EC referred to ECJ 2002/90/EC, 2003/9/EC formal notice and reasoned opinion 2003/86/EC formal notice	2003/9/EC referred to ECJ 2003/109/EC, 2004/82/EC, 2004/83/EC, Reg343/2003 formal notice 2003/86/EC, 2003/109/EC reasoned opinion	2004/82/EC, 2004/83/EC, Reg343/2003 reasoned opinion 2003/9/EC, 2004/114/EC, 2005/71/EC formal notice	Reg343/2003 referred to ECJ 2004/114/EC, 2005/71/EC reasoned opinion	2003/109/EC, 2005/85/EC formal notice	2003/109/EC, 2005/85/EC comp.formal notice	2008/114/EC, 2008/115/EC, 2009/50/EC formal notice	2009/50/EC reasoned opinion	30
Italy	2003/9/EC formal notice and reasoned opinion 2003/86/EC formal notice	2003/109/EC formal notice and reasoned opinion 2003/86/EC reasoned opinion Reg1030/2002, 2004/81/EC, 2004/82/EC, 2004/83/EC formal notice	2003/86/EC, 2003/109/EC referred to ECJ 2004/114/EC, 2005/71/EC formal notice	2005/85/EC formal notice	Reg1030/2002 referred to ECJ	-	2003/109/EC, 2008/114/EC, 2008/115/EC, 2009/50/EC formal notice 2009/50/EC reasoned opinion	2003/109/EC comp. formal notice 2003/9/EC, 2004/83/EC, 2005/85/EC, Reg 343/2003 formal notice	26

In light of these two main sets of data covering country-specific attributes in relation to institutional frameworks and the selected cases' infringements of the Community law

concerning immigration issues, one could conclude that the extent of Europeanisation in Germany and the UK amounted during the selected period of analysis to 'absorption' at most, given their low-to-moderate needs for policy-change vis-à-vis supranational norms. To the same frame of analysis, the depth/breadth of the need for domestic policy change on this matter denoted in Greece and Italy further beyond the 'absorption' state. In view of multiple occasions demanding radical institutional rearrangements in both countries -owing very much to their weak frameworks at the time the requisite EU legal texts had to be transposed into the national legal/political orders- it is possible to argue that the extent of Europeanisation as to immigration policies in Greece and Italy was much higher than in Germany and the UK.

Table 65: Extent of Europeanisation in the selected cases' immigration policies

Cases	Need for policy change	Extent of Europeanisation
Germany	low-to-moderate	inertia-absorption
UK	low-to-moderate	intertia-absorption
Greece	high	absorption-transformation
Italy	high	absorption-transformation

Research question two: similarities/differences between immigration policies

The aforementioned outcomes, as derived from the selected cases' institutional frameworks and records of infringement in relation to the EU law, suggest that incorporation of EU's immigration norms/standards/regulations into the national legal/political order has taken place similarly, with varying adaptational measures and lengths of delay depending on the regulatory capacity of the concerning Member State. To be fair, the course of conduct was here largely moulded by the Council, as it consented to Member States' incorporation and implementation of the EU procedures only with 'minimum standards', for an otherwise application aiming at uniformity across the entire Union could risk the administrative capabilities in some Member States, whose institutions were not yet sophisticated to that effect. Regardless of the Council's precautionary measures, there was already solid evidence for a protectionist logic in particular with respect to labour immigration, the regulation of which was violated by the selected Member States more frequently than in relation to other policy-making areas. While this pattern could not be confirmed in the British case straightforwardly, for it enjoyed an opt-out status as far as supranational liabilities to labour immigration law were concerned, the very decision to stay out of cooperation in this policy

field as a rule was in fact an evidence for the UK's apprehension when it came to transferring competences to supranational institutions in the immigration context.

Over and above such similarities, there appeared remarkable differences between the selected cases, given their management and/or policy-making of immigration matters so far. A most salient divide concerned here the Community law's incorporation, which for the German and British norms generally suggested lower degrees of incompatibility than it was the case for those in Greece and Italy. This split grew for the most part as a consequence of varying levels of 'misfit' between the national and supranational levels as far as the selected cases' legal and political institutional networks were concerned. The EU legal texts' hitherto transposition and implementation across national orders provided in this sense grounds for a 'south vs. north' split, as illustrated by Greece and Italy in the south on one hand versus Germany and the UK in the north on the other. With their comparatively longer experiences in the immigration field, the legal adaptations whereby EC directives and regulations were adopted into the national law without having to undergo 'transformational' changes were in the German and British cases more recurrent than in Greece and Italy. Since the latter two belonged until recent times rather to the 'sending' countries and neither of them was fully prepared for large-scale migration flows as of the 1980s, the introduction of comprehensive approaches to the handling of immigration policy framework came here only recently.

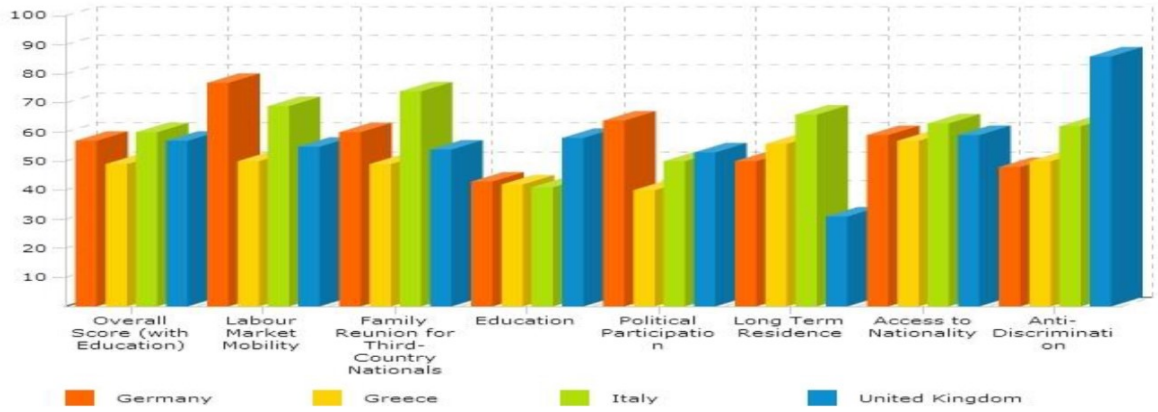
While such developments appeared at first sight to be indicative of idiosyncrasies specific to Greece and Italy, the lax control systems in these lands vis-à-vis the provisions of the Schengen Treaty made alarming implications for the EU's control policies. Such undertones were in fact verifiable in light of recent tendencies suggesting both Greece and Italy had for some time been serving as the main ports of undocumented and/or transit migration towards Northern Europe. Regardless of whether it was justifiable in proper terms or not, a somewhat weak exposure to immigration matters at the official level together with a lack of thorough legal framework to absorb such pressure indeed came to be the chief handicaps concerning the Greek and Italian cases.

Although hostile feelings towards immigration stood out a mile in all selected Member States, the extent of animosity in Italy soared to record levels when xenophobic parties like *Lega Nord* achieved electoral success to become part of the coalition governments in the 2000s. To be fair, this last point could be regarded as a further sign of the south-north dichotomy, in that

the political system in Italy and Greece differed broadly from those in Germany and the UK. Next to many alliances, coalitions and transformations of party structures on the Italian scene, which came following a number of corruption scandals lately, the Greek case was illustrative of a 'cartel-party' model working in tandem with a system of 'client politics' for most of the modern-day Greek political history. In all honesty, the legacy of this period which became increasingly complex with the junta regime and its constitution during the 1970s is still in place. Indeed, many take to blame this recent past for the unresolved political landscape in today's Greece. As it were, particularly in terms of Greece-EU relations, the reform attempts to revive the incapacitated institutional structures and initiate a certain level of Europeanisation (of immigration policies) were hijacked in many occasions because of such flaws in the political system.

On similarities/differences across national immigration policies, other than the two sources of data concerning country-specific institutional frameworks and infringements of the EU law, the study consulted the MIPEX to investigate the conditions the third-country nationals had lately been enjoying in the selected cases. A browse through the policy indicators examining seven areas in this respect -conditions applying to labour market needs, family reunion, educational standards, political participation, long-term residence, access to nationality and anti-discrimination measures- came to an end with the following comparative overview:

Figure 12: Conditions for TCNs in the selected cases



EU average rates for investigated areas: labour market conditions-57; family reunion-60; education-39; political participation-44; long term residence-59; access to nationality- 44; anti-discrimination-59.
Scale 0-100: lowest score 0 - highest score 100
Based on MIPEX III.

Accordingly, to the extent that labour market policies across the Union were concerned, Germany –followed closely by Italy- offered the most favourable conditions for non-EU nationals. While far from being ideal to world standards, another area where TCNs appeared

to enjoy relatively better conditions in Germany was political participation, for which the UK offered the second best. For family reunion, long-term residence and access to nationality, Italy provided its TCNs with the friendliest environment, ahead of Germany, Greece and the UK, in the order of fulfilment on these matters. While education was a barren area for TCNs in all EU lands, by comparison to the situation in old immigration lands such as Canada and Australia, the UK rose to be the only case that remained above the average here. Another area the UK scored relatively by agreeable standards was anti-discrimination, which was where it led Italy as the second case way ahead, according to MIPEX.

Relevance of research hypotheses

The first research hypothesis of the study was premised on the mutual relationship between the extent of Europeanisation for Member States' immigration policies and the development of institutional frameworks in this area. Given the selected cases' migration backgrounds, it is indeed possible to argue that the course of immigration policy-making correlates significantly with the strength of institutional capacity in this area. A detailed look into the historical patterns -be they of political/legislative structures, actors involved in immigration management/law-making or policies concerning citizenship/naturalisation- suggested that the relatively more established/settled immigration management in the German and British cases promoted a cohesive link between their legal and political frameworks and the EU norms/standards. For Greece and Italy, on the other hand, the state of administrative mechanisms regarding immigration management was up to the 1980s rather underdeveloped. The policy-making framework in these lands came to be largely security-based, with special emphasis laid on tightening the extremely porous borders in the first place. Yet, such efforts were usually free from systematic action plans, as for instance prescribed in the EU directives and regulations like 2008/114/EC on critical infrastructures and their assessment. In the end, a compatible national immigration policy framework with the EU norms/standards required for both Greek and Italian institutional structures to undergo paradigmatic changes in the face of the Community law, which eventually led to 'transformation' of the relevant regulations in the national domain. In Germany and the UK, on the other side, the legal/political orders concerning immigration in the selected period of analysis proved to be more full-fledged, suggesting that policy-adaptation vis-à-vis the EU norms/standards measured here to 'absorption' at the most.

As for the second research hypothesis, associating the extent of Europeanisation with the nature of public attitudes towards immigration in host societies, one could draw a number of inferences in light of findings from the first two sources of research data, namely historical analysis of national institutional frameworks and assessment of policies in terms of the seven key areas of immigration, as explored by the MIPEX. First, regardless of the breadth of immigration experiences and relevant management in this field, the average attitude, disposition or frame of mind towards immigration was far from being positive. A cursory look into the selected cases' immigration histories suggested that migration flows in the form of 'guest-worker schemes' or asylum-seeking did not remain temporary as initially appeared. As many of such arrivals developed gradually into permanent stays in these countries, the conviction that immigrants would serve to cover shortages at labour markets for a limited period became in the public eye largely far-fetched. Perhaps more importantly, the fact that most immigrants brought along their cultures and lifestyles into these lands signified cultural diversity as an embedded feature of migration experience. A common reference often used in the German-speaking world to remember the immigration context of the 1960s is as a matter of fact still valid today: it is after all 'people' that come, not 'workers' *per se*.[201]

In fact, one could refer in this vein to a number of recent opinion polls which investigated public attitudes towards immigration in the EU lands. Accordingly, the rate of respondents (amongst EU citizens) who saw immigration as the main concern in their countries corresponded to:

Table 66: Immigration as the main concern in all selected cases (in percentages)

Cases	Years of analysis		
	2003	2008	2012
Germany	5	6	8
UK	32	35	24
Greece	6	4	7
Italy	13	7	2
EU 15/27	13	11	8

Based on Standard EBs 59 (2003), 69 (2008) and 78 (2012).

Factors which guided changing thoughts in this context ran presumably parallel to the financial/economic crises over the last decade. As the economic disparities between Member States became more obvious –those like Germany and the Netherlands sustained their

[201] The quote belongs to the late Swiss author Max Frisch, who originally said "Wir riefen Arbeitskräfte, und es kamen Menschen", when referring in particular to the Italian workers in Switzerland at the time (Hefty, 2011).

stability, whereas others like Greece, Spain and Italy showed signs of faltering- many Europeans manifested their disenchantment with the EU, finding faults amongst others in immigrants. Of many questions asked as part of such surveys inquiring for instance if respondents would agree to "People from other ethnic groups enrich the cultural life of (our country)", "The presence of people from other ethnic groups is a cause of insecurity", "The presence of people from other ethnic groups increases unemployment in (our country)", "We need immigrants to work in certain sectors of our economy", "The arrival of immigrants in Europe can be effective in solving the problem of Europe's ageing population", "Immigrants can play an important role in developing greater understanding and tolerance with the rest of the world", "Immigrants contribute more in taxes than they benefit from health and welfare services" or "Legal immigrants contribute more in taxes than they benefit from health and welfare services", a most straightforward query was "Immigrants are a threat to [our] way of life".[202]

The chief opinion poll featuring this very last question was the 2003 Special Eurobarometer, with 'citizenship and sense of belonging' as its main focus. The percentages of respondents in the selected cases who believed that immigrants were one way or another threatening their ways of life read as follows:

Table 67: EU citizens who believe immigrants are a threat to their ways of life (in percentages)

Responses (options)	Countries				
	Germany	UK	Greece	Italy	EU 15
Totally agree	12	28	35	11	16
Tend to agree	27	26	34	27	26
Tend to disagree	34	24	21	30	30
Totally disagree	15	13	7	24	18
Don't know	12	9	3	8	10

Based on Special Eurobarometer Wave 60.1 (2003).

Greece ranked here at the top with 69% of its citizens holding negative opinions about immigrants -and this being the highest rate amongst all 15 Member States at the time the survey was carried out- followed by the UK, where more than half of the respondents (54%)

[202] In reading through these polls, one needs to bear in mind that the responses may have reflected a diverse range of political debates at the time surveys were conducted. Given that each country has its own multicultural setting, and that capturing various perceptions of life is here not an easy task for researchers, chances are interpretations of the survey questions may have included a large collection, which in the end had the potential to lead to bias in their categorisation. Regardless of this key factor to bear in mind, most importantly that cultural differences may lead to various understandings of a social phenomenon in everyday life, there are at present distinct anti- immigration patterns in all selected cases.

tended to have similar dissenting thoughts concerning 'newcomers'. The figures in Germany (39) and Italy (38) did not seem to exceed that of the EU average (42%). Yet, one can hardly deny that these were indeed fairly high scores, specifically for Germany, which did not experience a severe economic downturn in the last decades, by comparison with other selected cases.

While most of the jobs the 'newcomers' were coming to take, as part of the recruitment programmes, were not aspired by the natives, there were serious concerns that the new developments at the labour markets would put a downward pressure on wages, as voiced by the trade unions at the time (Hansen, 2003). Following a period of such worries which were later on dispelled at the state level through promises for equal conditions, policy-making in many of these countries imposed progressively an order of tighter control over the size of non-EU residents. Given data from the Migration Integration Policy Index, one could address strict management policies, which actually were in force for a long time to affect TCNs' family reunion, political participation, long-term residence and access to nationality in the destination countries. The launch and implementation of many citizenship/naturalisation laws were indeed informed widely by public opinions, to the extent that these responded in most cases to the multicultural configuration of the society. Perceiving this latter as a key stimulus, the political parties in power, as well as those in opposition, promoted equality and diversity programmes in close relationship with the size of immigrant population.

It follows from this latter argument that the economic perspective may not suffice to come to grips with the mainspring of European immigration. A labour market-driven approach would in fact suit well to account for the bulk of flows to Germany and the UK, and to a certain extent Italy. Yet, the same reasoning does not really apply to the Greek immigration. Here, low population density and the lack of heavy industry, despite the sustained economic development from the 1950s to 1973, suggested that the primary reason why Greece became a major point of attraction in recent times was first and foremost its geographical convenience for being a transit land to the main immigration destinations in northern Europe.

Bearing in mind that many other factors might have played decisive roles in the pace, extent and direction of immigration in all selected Member States, it would perhaps be more fitting to expand the rationale behind Europeanisation of national immigration policies. As already hinted, the MIPEX policy indicators on immigrants' integration to the labour markets

suggested that the growing size of minority groups in Member States was by the majority-groups treated with mistrust not only for economic reasons (as both groups competed for the same scarce conditions and/or welfare state resources) but also for political and cultural orientations, as the traditions the former practised did not seem to be in compliance with those of the latter. To the same sources of data, in other words, it might have well been the case that those with other cultural/ethnic backgrounds were taken to be 'free riders', in view of their potential to for instance establish 'parallel societies', deriving benefit from the citizenship and democratic culture of the country they lived in. And such perceptions of threat, which in time became embedded in the selected cases' cultural arrangements, lead to the conclusion that the larger the cultural diversity gets in a host society, the more the pressure will be on the economic, cultural, and political room immigrants could enjoy here.

Last word

As the entry points became increasingly tighter in Northern/Western European countries such as Germany and the UK, migrant flows to the south gained momentum, in particular when the formerly sending countries like Greece and Italy started to receive decent shares from the TCN supply in Europe. Due to lack of adequate experiences, legal frameworks and public administration systems, however, the latter countries were often to serve as "the weak underbelly of the EU" (Finotelli & Sciortino, 2009, p. 120), which is why they are today considered to be little more than entry ports and transit routes to the former more established immigration countries in the north/west.

With a wide range of socio-economic and political factors in the background, the political climate across the entire European Union is at present anything but favourable to encourage arrival/residence of further foreign nationals. The EU Member States tend to lay more emphasis on restrictive goals rather than what Brussels prescribes as integrative solutions in broad/supranational terms. When seen in hindsight, such patterns of skepticism or 'foot-dragging' are traceable to the early days of EU integration (Bendel, 2007 -as cited in Ette & Faist, 2007).

From the 1957 Treaty of Rome to the 1986 Single European Act (SEA), Community norms were treated amongst Member States with a high degree of reluctance. As immigration management was at the time exclusively state-oriented, the attempts the Commission sought to expand cooperation at the Community level were challenged by the Council's

intergovernmental dispositions. The Schengen Treaty in 1985 came in this sense as a moment to mellow the Council's rigid outlook to supranational goals in particular as far as free movement of people was concerned. A most proximate effect in this context was the commencement of a new period, specifically with the ensuing Single European Act (SEA), whose security implications urged further cooperation/collaboration on immigration policies. Yet, the establishment of an Ad Hoc Working Group in accordance with the SEA's security provisions on free movement soon disclosed amongst Member States similar signs of cold shoulder towards supranationalism, through what could be defined as 'informal intergovernmentalism' (Ette & Faist, 2007). The 1993 Maastricht Treaty marked in this sense a new frame shifting cooperation to 'formal intergovernmentalism', when it became obvious that coordination of immigration would be a key asset to the EU's future supranational decision-making. The follow-up Amsterdam Treaty's entry into force in 1999 introduced an unprecedented era insofar as it kindled a reform process encouraging expansion of supranational competences in the area of immigration policy-making. Nevertheless, the multi-annual (five-year) programmes of Tampere and the Hague -which were launched to monitor the functioning of EU-wide immigration policies post Amsterdam- demonstrated that commitments to EU norms were at the national level not so high.

The 2009 Lisbon Treaty emerged to be more progressive than its antecedents, yet a standardised implementation of immigration policies was (at the time this thesis was being written) still out of sight. A big promise made at the outset concerned the Community's legislative measures relating to immigration matters, which following Lisbon would become tied to a new procedure.[203] Aligning the Parliament's decision-making power with that of the Council (subject to a qualified majority vote) and expanding for instance entitlement of persons to subsidiary protection (which went further beyond the former requisite of minimum standards), Lisbon appeared to open indeed a new phase in the history of European immigration. Nonetheless, considering its intention to adopt "certain sensitive measures relating to policies which remain at the core of national sovereignty" (Commission of the European Union, 2004, pp. 3-4), one would still have serious doubts about the intended supranational commitments here. The chief reference for such reservations is data from current trends in international migration, suggesting that a generous share of the global immigration trends is today received by the EU Member States, where the increase of inflow

[203] Viewing it as the key legislative process for the Community's decision-making system, Article 294 of the TFEU defined the co-decision procedure after a parity principle, according to which the European Parliament and the Council were to adopt legislation jointly.

rates is more than twofold (International Organisation for Migration, 2003). A direct consequence of this evident pressure is the rise of extremely conservative thoughts and nationalistic impulses in these lands, which in immigration terms would amount to further resistance towards supranational policy-making.

Antagonistic feelings towards immigrants are obviously mixed, ranging from economic and political concerns to social and cultural considerations including prejudice and/or overdose of nationalistic sentiments. The root indicator stems here usually from the average national on the street observing that non-nationals have cultural traits and lifestyles which somehow appear to challenge his/hers. And the main question here is whether or not the whole would be greater than the sum of its parts, or put more precisely, whether or not what starts as an individual observation/thought/reaction on the street could swell into big political campaigns, movements, or even parties at some point in the future. As it recently came out in the cases of the AfD (*Alternativ für Deutschland*-Alternative for Germany), the UKIP (UK Independence Party), the Lega Nord of Italy and the Greek Golden Dawn, the winners are usually the far-right political parties.[204] This suggests in plain English that the more ungrounded the politicians' promises are, as if to downplay immigration like a power switch one can turn on and off at his/her own will, the more likely it will be that they end up drawing water to somebody else's mill, in this case those who are racist by their nature.[205] And should anti-immigration sentiments be treated in the way many zealots, partisans and tabloids practise, immigrants are bound to face discrimination, regardless of where they are.

The post 9/11 security/terrorism discourse as well as global economic/financial crises in the 2000s rose to remind in this context the risks and pitfalls before an overarching immigration policy framework for the entire EU. Much in the same context, an additionally important factor putting Europeanisation of Member States' immigration policies to a test for some time is the political transformation in North Africa and the Middle East. Indeed, recent political developments in the immediate neighbourhood of Europe are particularly tectonic for the southern EU lands, which are economically and politically in close proximity with this turbulent region, so much so that some of them even sought to revert to pre-Schengen

[204] While the question of how far to the right the UKIP and AfD lie was still debatable in the UK and Germany, the slogans they came to use before making significant gains in national elections were based on Euroscepticism and aiming at those who do not prefer to live in a centralised European state.

[205] In venting their anger at the immigration policies of the country, those attracted to recent far-right populist movements such as the PEGIDA (*Patriotische Europäer gegen die Islamisierung des Abendlandes*-Patriotic Europeans against the Islamisation of the Occident) in Germany appeared to draw on racist discourses.

conditions. Despite the 2003 Dublin II Regulation which ordered that the EU country where asylum-seekers enter first should be responsible for processing their asylum claims, Italian governments, for instance, lately declared their reluctance to do so, pointing out that Italy was already overwhelmed by tens of thousands seeking asylum (Hawitt, 2011). And when some 8,000 of these applicants were issued six-month residence permits in a fairly short period (which would allow them to head probably to France because a big majority of them were Francophones), Italy's political problem became suddenly one of France's. The French bureaucracy moved quickly to fortify the porous borders with Italy through checkpoints, on the basis of what Schengen describes as a 'grave threat to public order or internal security'. In the end, a joint letter was issued by the two countries petitioning the suspension of Schengen at the face of big refugee influxes.[206]

For such reasons or others, fears of new 'exodi' knocking at the gates of Europe provide at present a big reservoir of pretexts for anti-immigrant lobbies and populist parties. Recently, some European 'Tea Party' movements such as the Dutch Freedom Party and the French National Front polled around a remarkable 20 percent in elections after spending many years as the ultra-nationalists on the fringe. The principal factors to consider in this context are the influences of demographic variables and social security systems in Western Europe. Recent statistics indicate a faster increase in the number of non-nationals than of citizens in many immigration lands, which to a significant extent is caused by the latter's aging population and poor fertility levels (European Commission, 2008a). Further, it is common to hear within the context of the welfare state-model practised in many old EU members that 'newcomers' are a burden on the host system because they "only receive and do not contribute" (Lucassen, 2005, p. 15). In view of a political climate whereby many far-right political parties play the conservative card, hinting at climbing unemployment rates and provoking loud voices against 'multiculturalism' (European Commission, 2011a), it comes no surprise that every second EU citizen regards immigration at present as less of an opportunity than a threat (German Marshall Fund of the United States, 2008).

While it goes without saying that collaboration/cooperation on migration matters is for Member States a *sine qua non* –as long as they all aspire to an economically and politically

[206] Amidst tensions over these migrant influxes, Denmark similarly expressed its intention to revert to the old geographical borders with Sweden and Germany, in view of about 40,000 asylum-seekers who fled from Tunisia and Libya over to the nearby Lampedusa in the first five months of 2011, to be moving later possibly towards northern Europe (Macqueen, 2011).

more interdependent Union- a ‘one size fits all solution’ is for them still out of reach. Many in these countries hold to the traditional understanding that shifting decision-making in the area of immigration policy to the EU-level would be “an ‘invasion’ of one of the most sacred areas of national jurisdiction” (Bertozzi, 2007, p. 7). That Europeanisation of immigration has so far almost always been subject to intergovernmental manoeuvres, which are characterised largely by public concerns or ‘feelings’ of threat or challenge, is in this sense more understandable than shocking.

It remains against this background to be seen how long-lasting political commitments like the EU’s new and reinforced ‘ordinary legislative procedure’ -based principally on the ‘co-decision’ between the Parliament and the Council- will persist in situations where the old immigration countries have traditionally been challenging the Commission’s proposals. Given that a paradigmatic policy change has to date been far from a reality on that account, chances are a sheer communitarisation/Europeanisation of national immigration policies will not be likely in the near future, for this would amount to a decisive power shift from the Council over to the Commission.

In the end, it is meaningful to assume that future research into Europeanisation of Member States’ national immigration policies will continue to keep an eye on perceptions of citizenship and multiculturalism in these countries. And yet, still and all, the major weight will most likely be -as it has always been- on the state of equilibrium concerning the twofold dialectical structure of policy-making here: ‘supranationalism versus intergovernmentalism’ or ‘rights versus control’.

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Appendices

1. Glossary[207]

Acculturation: The process in which norms, values or behavioural patterns of one culture are progressively adopted by the ethnic group(s) of another. The extent of adaptation is determined by the degree of interaction between the two sides depending generally on social and economic interests.

Alien/non-national/foreigner: A person who is officially not recognised as the national of a particular state.

Assimilation: A further process ahead of acculturation in which an ethnic or social group adapts to another. This adaptation is a switch of belonging through absorption of the majority group's cultural values in particular its traditions and language.

Asylum: A form of territorial protection given by a state based on the principle of non-refoulement and a set of refugee rights such as access to employment, social welfare and health care. It is granted to a person who is unable or unwilling to seek protection in his/her country of citizenship and/or residence for reasons of race, religion, nationality, membership of a particular social group or political opinion. If used in the context of 'diplomatic asylum', however, it takes the form of seeking refuge whereby a state grants protection to an individual providing relief from the authority of the country of origin which presses for his/her persecution or custody. There exists in international law no obligation for diplomatic asylum. It is typically asked at places such as aircrafts, warships, diplomatic missions and private residences belonging to the heads of mission.

Circular migration: Temporary or long-term movement of people between countries which promises benefits to all involved, if it happens on a voluntary basis as part of the labour needs of countries of origin and destination.

Clandestine migration/irregular migration/undocumented migration: The type of migration that eludes the official recording of a state in reference to the legal restrictions about border-crossing as well as the legal principles regulating access to its labour market.

[207] The sources consulted for this compilation include the glossary of the European Commission, Justice and Home Affairs; International Labour Organisation's *International Migration Statistics*, 1997, Annex: Labour Migration Statistics Questionnaire's Terms and Concepts and the United Nation's (UN) 1998 Recommendations on Statistics of International Migration, Revision 1, Glossary. Latest entry to all web links: 24 November 2012.

Deportation/expulsion: A state's act of expelling an alien from its territory to eliminate the detriments or illegality his/her presence causes.

Displaced person: Based on Council Directive 2011/55/EC, the EU Commission defines displaced persons as non-EU nationals or stateless persons who have had to leave or been evacuated from their country or region of origin (in response to an appeal by international organisations) to which they are unable to return in safe and durable conditions because of the situation prevailing in that country. The case of displaced persons is generally covered in Article 1A of the Geneva Convention as well as a number of other international or national instruments giving international protection to persons who have fled areas of armed conflict or endemic violence and are at serious risk of, or who have been the victims of, violations of human rights.

Documented migration/regular migration: The type of migration in which a person moves to a country with the intention to remain there, observing its compulsory regulations on entry and stay.

Economic migration: The type of migration that occurs when a person takes up residence in a new country other than that of origin to improve his/her quality of life. While the term may apply to the act of leaving the country of origin over a previously declared agricultural season, for employment through seasonal working, or the act of moving into the destination country with no valid entry permit and/or by means of asylum procedures lacking bona fide causes, it is often used to address its dissimilar connotations from those of 'refuge'.

Emigration: The act of moving from the country of origin with the purpose to settle in another country. According to the basic norms of international law, only in rare circumstances is a state entitled to impose restrictions on exit in this context, suggesting all persons may as a rule of thumb enjoy freedom to leave their countries of birth.

Expulsion: To the European Commission, expulsion means sending away a non-EU national on account of his/her perceived threat to public order or national security in a Member State. Decision of expulsion is generally taken in the following cases: conviction of a non-EU national by the issuing EU State for an offence involving deprivation of liberty of at least one year; the existence of serious grounds for believing that a non-EU national has committed serious criminal offences or the existence of solid evidence of his/her intention to commit such offences within the territory of an EU State and a non-EU national subject to an expulsion decision based on failure to comply with national rules on the entry or residence of aliens.

Family reunification/family reunion: Based on the Council Directive 2003/86/EC, the Commission defines this term as the entry into and residence of a non-EU national's family members to reside lawfully in an EU State (the so-called 'sponsor' state) on the grounds of preserving the family unit.

Highly qualified migrant: To the EU Commission, this term refers to a person who moved to a country for employment purposes on the basis of his/her managerial, executive or similar professional qualifications.

Host country/receiving country: While the term refers usually to the country of destination, it may also be the country of origin in cases of return or repatriation. This amounts for the EU case to a Member State in which a non-EU national takes up legal residence.

Humanitarian principles: These include ethical standards grounded upon international human rights/law aiming to protect the integrity of all humanitarian actors. The first reference to humanitarian principles was made in the 1965 'Fundamental Principles of the Red Cross and Red Crescent'.

Illegal migration: While the term may be used interchangeably with irregular migration, it also connotes to trafficking of migrants.

Immigration: Based on the 1998 UN Recommendations (on Statistics of International Migration, Revision 1), the EU defines immigration as the action by which a person establishes his/her usual residence in the territory of an EU State for a period that is, or is expected to be, of at least 12 months, having previously been resident in another EU State or a non-EU country.

Integration: The term is used to describe the entire process whereby migrants' acceptance to a host society –both as individuals or groups- depends principally on whether or not they fulfill the specific conditions stipulated by the host country they live in.

International migration: A person's crossing the borders of his/her country of residence or origin with the goal to settle down in another country on a temporary or permanent basis.

Irregular migration: Immigration of a person to a new place of residence using irregular or illegal means, i.e. without valid documents.

Jus sanguinis: A Latin-derived term which is used to indicate that a child's nationality does not rest on the place of his/her birth but on the nationality of his/her parents.

Jus soli: A Latin-derived term which is used to indicate that a child's nationality rests on the place of his/her birth but not on the nationality of his/her parents.

Labour migration: This type of migration to the European Commission describes the movement of a person from one state to another, or within his/her own country of residence,

for the purpose of employment. While it is in national laws usually treated to address labour at domestic markets, some states expand its usage across national borders to provide opportunities for their nationals also abroad.

Long-term migration/permanent settlement: Movement of a person from his/her country of residence or origin to another for minimum one year. For the EU, this issue is covered under Directive 2003/109/EC.

Migration: The process of a person's short or long-term movement within or across the borders of a state, regardless of the form and driving forces lying behind it. It is in the EU context used as a broader term of immigration/emigration to describe the action by which a person ceases to have his/her usual residence in an EU State for minimum twelve months.

Migrant: A broader-term of immigrant/emigrant, referring to a person who leaves one country (or a location in a country) to settle in another often in search of better life conditions.

Naturalisation: The entire process in which a state eventually grants nationality to a non-national following his/her formal application. Despite lack of explicit rules thereof, the authority of states to naturalize aliens (non-nationals) is recognised by international law.

Net migration: The difference between emigration from and immigration to a given area in one year. It is important to note here that many countries often lack precision to that effect, which suggests net immigration figures are often estimated values.

Non-refoulement: A principle of expulsion or return in international law (codified in Article 33 of the 1951 Refugee Convention) which restrains states from expelling a person to a country where (s)he will possibly face torture or persecution except that "there are reasonable grounds for regarding as a danger to the security of the country in which [s]he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country" (Article 33(2) of the Refugee Convention).

Receiving country: The term is often used to refer to the country of destination or a third-country (excluding the cases of return and repatriation in which it could also be the country of origin) which has principally accepted to receive a certain number of refugees and migrants by a presidential, ministerial or parliamentary decision.

Refoulement: A state's declining or expelling a person usually by way of deportation, extradition or rejection at its borders into the territorial borders of another state where (s)he is likely to face torture or persecution.

Refugee: A person who "owing to well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinions, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself

of the protection of that country" (Article 1 A(2) of the 1951 Geneva Convention which was modified by the 1967 Protocol concerning the Status of Refugees).

Regular migration: Migration that occurs by way of lawful channels.

Regularisation: The process whereby a non-national is granted legal status in a country following a certain period of his/her irregular residence in there. A most common means to this end is the granting of a form of amnesty.

Remittance: The financial transfer made by a migrant to his/her beneficiaries in his/her country of origin.

Repatriation: The right given to a refugee or a prisoner of war personally by a number of international law instruments such as the 1907 Fourth Hague Convention regulating the Laws and Customs of War on Land or the 1949 Geneva Convention (and 1977 Protocols) to return to the country of origin under specific conditions. It is binding both on the detaining country and the country of origin which are obliged to release all eligible persons regardless they are civilians, soldiers, diplomatic envoys or international officials and are bound to admit to their return, respectively.

Safe country of origin: A country from which an asylum-seeker originates is considered safe if it does not typically serve as a source to this end in historical terms. Receiving countries may use the concept of safe country of origin as a basis for rejecting summarily (without examination of the merits) particular groups or categories of asylum applicants. According to Directive 2005/85/EC, a 'safe country of origin' is a country where it can be shown that there is generally and consistently no persecution as defined in Directive 2004/83/EC, no torture or inhuman or degrading treatment or punishment and no threat by reason of indiscriminate violence in situations of international or internal armed conflict. The key reference here is the extent of protection against persecution or mistreatment by the relevant laws and regulations of the country and the way they are applied; observance of the rights and freedoms laid down in the European Convention on Human Rights and/or the International Covenant for Civil and Political Rights and/or the Convention against Torture, in particular the rights from which derogation cannot be made under Article 15(2) of the said European Convention; the non-refoulement principle according to the Geneva Convention and provision for a system of effective remedies against violations of these rights and freedoms.

Seasonal worker: A worker with a migration background who works on seasonal terms applicable solely to part of the year (Article 2(2)(b) of the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families).

Secondary migration: Any further migration of a person from/within a country other than his/her first leave from the country of domicile.

Sending country: The country from which migration originates.

Short-term migrant: A person who leaves his/her country of residence or origin to another for a period between minimum three and maximum twelve months excluding long term trips of business, medical treatment, holiday, recreation or visits to family members or friends.

Skilled migrant: A worker with a migration background who during admission to a host country is subject to fewer restrictions on employment, family reunification and length of stay thanks to his/her training/job skills.

Stateless person: A person who is not considered as the national of a state under the operation of its law.

Third-country: Any country other than the country of origin. In the EU context, the term is almost always synonymous with a non-EU country which is where a person without the nationality of an EU state comes from.

Trafficking/human trafficking: An intermediary act of diverse forms which persons exploit others usually economically (described as *ab initio*) while helping them move to countries other than those of residence or origin. Article 3(a) of the 2000 UN Protocol Supplementing the UN Convention Against Organised Crime to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children limits it to *"*The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation".

Transit country/transit state: Any country through which a person passes during his/her journey to the country of destination. Article 6(c) of the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families limits it to the country travelled on one's way to where the place of employment is or from this place to the state of residence or origin.

Undocumented migration: Type of migration which takes place when workers or members of workers' families enter, stay or work in a state although they are not authorised to do so.

Voluntary return: Assisted or independent return to the country of origin, transit or third-country based on the free will of the returnee.

2. MIPEX Policy Indicators (2010)

Labour Markets		**Scores according to options**		
Access		**100**	**50**	**0**
1	Immediate access to employment What categories of third country national residents have equal access to employment as nationals? a. Long-term residents b. Residents on temporary work permits (excluding seasonal) c. Residents on family reunion permits (same as sponsor)	All of them	Not c or certain categories of b	Only a
2	Access to private sector: Are TCN residents able to accept any private-sector employment under equal conditions as EU nationals?	Yes; there are no additional restrictions than those based on type of permit mentioned in 1	Other limiting conditions that apply to all TCN residents, e.g. linguistic testing	Certain sectors and activities solely for nationals/EU nationals
3	Access to public sector (activities serving the needs of the public. Not restricted to certain types of employment or private or public law): Are TCN residents able to accept any public-sector employment (excluding exercise of public authority) under equal conditions as EU nationals?	Yes; only restriction is exercise of public authority and safeguard general state interest	Other restrictions	Only for nationals/EU nationals
4	Immediate access to self-employment What categories of third country national residents have equal access to self-employment as nationals? a. Long-term residents b. Residents on temporary work permits (excluding seasonal) c. Residents on family reunion permits (same as sponsor)	All of them	Not c or certain categories of b	Only a
5	Access to self-employment Are TCN residents able to take up self-employed activity under equal conditions as EU nationals?	Yes; there are no additional restrictions than those based on type of permit mentioned in 4	Other limiting conditions (such as linguistic testing)	Certain sectors and activities solely for nationals/EU nationals
Access to general support		**100**	**50**	**0**
6	Access to public employment services Do TCN residents have access to placement and public employment services, under equal conditions as EU nationals?	Equal treatment with nationals	Certain restrictions	No equal treatment
7	Equality of access to education and vocational training, including study grants What categories of TCN residents have equal access? a. Long-term residents	All of them	Not c or certain categories of b	Only a

	b. Residents on temporary work permits (excluding seasonal) c. Residents on family reunion permits (same as sponsor)			
8	Recognition of academic and professional qualifications acquired outside the EU	Same procedures as for EU/EEA nationals	Different procedure as for EU/EEA nationals	No recognition of titles or possible down-grading of qualifications
Targeted Support		**100**	**50**	**0**
9	State facilitation of recognition of skills and qualifications obtained outside the EU: a) existence of state agencies/information centres that promote the recognition of skills and qualifications b) national guidelines on fair procedures, timelines and fees for assessments by professional, governmental, and non-governmental organisations c) provision of information on conversion courses/profession-based language courses and on procedures for assessment of skills and qualifications (regardless of whether assessments are conducted by governmental or non-governmental organisations)	b and (a or c)	a or c	None
10	Measures to further the integration of third-country nationals into the labour market a. National policy targets to reduce unemployment of third country nationals b. National policy targets to promote vocational training for third country nationals; c. National policy targets to improve employability through language acquisition Programmes	All elements	Any of these elements (or other) but not all	No elements
11	Measures to further the integration of third-country nationals into the labour market a. National policy targets to address labour market situation of migrant youth b. National policy targets to address labour market situation of migrant women	Both	One of these	Neither of these
12	Support to access public employment services a) Right to resource person, mentor, coach linked to public employment service is part of integration policy for Newcomers b) Training required of public employment service staff on specific needs of migrants	Both	One	None; only through voluntary initiatives or projects
Workers`rights		**100**	**50**	**0**
13	Membership of and participation in trade union associations and work-related negotiation bodies	Equal access with nationals	Restricted access to elected positions	Other restrictions apply
14	Equal access to social security Do TCNs have equal access to social security in the following areas? (unemployment benefits, old age pension, invalidity benefits, maternity leave, family benefits, social assistance)	Equal treatment with nationals in all areas	No equal treatment in at least one area	No equal treatment in more than one area
15	Equal working conditions Do TCNs have guaranteed equal working conditions? (safe and healthy working conditions, treatment in case of job termination or dismissal, payment/wages, taxation)	Equal treatment with nationals in all areas	No equal treatment in at least one area	No equal treatment in more than one area
16	Active policy of information on rights of migrant workers by national level (or regional in federal states)	Policy of information by	Ad hoc information campaigns	No active policy of

		state targeted at migrant workers and/or employers on individual basis	towards migrant workers and/or employers (or only individual campaigns in certain regions)	information
Family reunion				
Eligibility		**100**	**50**	**0**
17a	Eligibility for ordinary legal residents	≤ 1 year of legal residence and/or holding a residence permit for ≤ 1 year	> 1 year of legal residence and/or holding a permit for > 1 year	≥ 2 years of legal residence and/or holding a permit for ≥ 2 years
17b	Documents taken into account to be eligible for family reunion	Any residence permit	Certain residence permits excluded	Permanent residence permit
18a	Eligibility for partners other than spouses: a. Stable long-term relationship b. Registered partnership	Both	Only one or only for some types of partners (ex. homosexuals)	Neither; only spouses
18b	Age limits for sponsors and spouses	≤ Age of majority in country (18 years)	> 18 ≤ 21 years with exemptions	> 21 years OR > 18 years without exemptions
19	Eligibility for minor children (<18 years) a. Minor children b. Adopted children c. Children for whom custody is shared	All three	Only a and b	A and b but with limitations
20	Eligibility for dependent relatives in the ascending line	Allowed	Certain conditions (other than dependency) apply	Not allowed
21	Eligibility for dependent adult children	Allowed	Certain conditions (other than dependency) apply	Not allowed
Conditions for acquisition of status		**100**	**50**	**0**
22a	Form of pre-departure language measure for family member abroad (if no measure, leave blank)	No requirement OR voluntary course/information	Requirement to take a language course	Requirement includes language test/assessment
22b	Level of language requirement (if no measure, leave blank) (not weighted) Note: Can be test, interview, completion of course or other forms of assessments.	A1 or less set as standard	A2 set as standard	B1 or higher set as standard OR no standards, based on administrative discretion

22c	Form of pre-departure integration measure for family member abroad, ex. not language, but social/cultural (if no measure, leave blank)	None OR voluntary information/course	Requirement to take an integration course	Requirement to pass an integration test/assessment
22d	Pre-departure requirement exemptions (if no measure, leave blank) a. Takes into account individual abilities ex. educational qualifications b. Exemptions for vulnerable groups ex. age, illiteracy, mental/physical disability	Both of these	One of these	Neither of these
22e	Conductor of pre-departure requirement (if no measure, leave blank) a. Language or education specialists b. Independent of government (ex. not directly subcontracted by or part of a government department)	a and b, ex. language or education institutes	a but not b, ex. citizenship/ integration unit in government	Neither a nor b, ex. police, foreigners' service, general consultant
22f	Cost of pre-departure requirement (if no measure, leave blank)	No or nominal costs	Normal costs	Higher costs
22g	Support to pass pre-departure requirement (if no measure, leave blank) a. Assessment based on publicly available list of questions or study guide b. Assessment based on publicly available course	a and b	a or b	Neither a nor b
22h	Cost of support (if no measure or support, leave blank)	No or nominal costs	Normal costs	Higher costs
23a	Form of language requirement for sponsor and/or family member after arrival on territory (if no measure, leave blank) Note: Can be test, interview, completion of course, or other forms of assessments.	No requirement OR voluntary course/information	Requirement to take a language course	Requirement includes language test/assessment
23b	Level of language requirement, (if no measure, leave blank) (not weighted) Note: Can be test, interview, completion of course, or other forms of assessments.	A1 or less set as standard	A2 set as standard	B1 or higher set as standard OR no standards, based on administrative discretion
23c	Form of integration requirement for sponsor and/or family member after arrival on territory ex. not language, but social/cultural	No requirement OR voluntary course/information	Requirement to take an integration course	Requirement includes integration test/assessment
23d	Language/integration requirement exemptions (if no measure, leave blank) a. Takes into account individual abilities ex. educational qualifications b. Exemptions for vulnerable groups ex. age, illiteracy, mental/physical disability	Both of these	One of these	Neither of these
23e	Conductor of language/integration requirement (if no measure, leave blank) a. Language or education specialists b. Independent of government (ex. not directly subcontracted by or part of a government department)	a and b, ex. language or education institutes	a but not b, ex. integration unit in government	Neither a nor b, ex. police, foreigners' service, general consultant
23f	Cost of language/integration requirement (if no measure, leave blank)	No or nominal costs	Normal costs	Higher costs
23g	Support to language/integration requirement (if no measure, leave blank)	a and b	a or b	Neither a nor b

	a. Assessment based on publicly available list of questions or study guide b. Assessment based on publicly available course			
23h	Cost of support (if no measure or support, leave blank)	No or nominal costs	Normal costs ex. if provided by state, same as regular administrative fees; if provided by private sector, same as market price in countries	Higher costs
24	Accommodation requirement	None	Appropriate accommodation meeting the general health and safety standards	Further requirements
25	Economic resources requirement	None or at/below level of social assistance and no income is excluded	Higher than social assistance but source is not linked with employment	Linked to employment/no social assistance
26	Maximum length of application procedure	≤ 6 months defined by law	> 6 months but the maximum is defined by law	No regulation on maximum length
27	Costs of application and/or issue of status	None	Same as regular administrative fees and duties in the country	Higher costs
Security of status		**100**	**50**	**0**
28	Duration of validity of permit	Equal to sponsor's residence permit and renewable	Not equal to sponsor's residence permit but ≥ 1 year renewable permit	< 1 year renewable permit or new application necessary
29	Grounds for rejecting, withdrawing or refusing to renew status: a. Actual and serious threat to public policy or national security, b. Proven fraud in the acquisition of permit (inexistent relationship or misleading information). c. Break-up of family relationship (before three years) d. Original conditions are no longer satisfied (ex. unemployment or economic resources)	No other than a-b	Grounds include c	All grounds and others than those included on the list, such as d and others
30	Before refusal or withdrawal, due account is taken of (regulated by law) : a. Solidity of sponsor's family relationship b. Duration of sponsor's residence in MS c. Existing links with country of origin d. Physical or emotional violence	All elements	Elements include any of these (or other) but not all	No elements
31	Legal guarantees and redress in case of refusal or withdrawal a. reasoned decision b. right to appeal c. representation before an independent administrative authority and/or a court	All rights	At least a and b	One or both of a and b are not guaranteed

Rights associated with status		**100**	**50**	**0**
32	Right to autonomous residence permit for partners and children reaching age of majority	After ≤ 3 years	After > 3 ≤ 5 years	After > 5 years or upon certain conditions (e.g. normal procedure for permanent residence)
33	Right to autonomous residence permit in case of widowhood, divorce, separation, death, or physical or emotional violence	Yes automatically	Yes but only on limited grounds or under certain conditions (ex. fixed period of prior residence or marriage)	None
34	Right to autonomous residence permit for other family members having joined the sponsor	After ≤ 3 years	After > 3 years or upon certain conditions (e.g. normal procedure for permanent residence)	None
35	Access to education and training for adult family members	In the same way as the sponsor	Other conditions apply	None
36	Access to employment and self-employment	In the same way as the sponsor	Other conditions apply	None
37	Access to social security and social assistance, healthcare and housing	In the same way as the sponsor	Other conditions apply	None
Education				
Access		**100**	**50**	**0**
38	Access and support to access pre-primary education: a. All categories of migrants have same access in law as nationals, regardless of their residence status (includes undocumented); b. State-supported targeted measures (e.g. financial support, campaigns and other means) to increase participation of migrant pupils (can also be to increase parental engagement). Note: Use definition of pre-primary in your country .	Both of these	One of these	Neither; restrictions in law on access for some categories of migrants AND migrants only benefit from general support for all students (and targeted non-governmental initiatives where provided)
39	Access to compulsory-age education: Access is a legal right for all compulsory-age children in the country, regardless of their residence status (includes undocumented). Note: Use definition of compulsory-age in your country	Explicit obligation in law for all categories of migrants to have same access as nationals	Implicit obligation for all children (no impediment to equal access in law. e.g. no link between compulsory education and residence, or no category of migrant	Restrictions in law on access for some categories of migrants

			excluded)	
40	The assessment in compulsory education of migrants' prior learning and language qualifications and learning obtained abroad: a. Assessment with standardised quality criteria and tools; b. Requirement to use trained staff.	Both of these	One of these	Case-by-case assessment by school staff without standardised criteria or training
41	Support to access secondary education: a. Targeted measures to increase migrant pupils' successful participation in secondary education; b. Targeted measures to increase migrant pupils' access to academic routes that lead to higher education. Note: This includes extra tuition, monitoring, and learning opportunities and assessments. Depending on the school system, this may also include movement between school routes and structures (e.g. academic and technical).	Both of these	One of these	Neither
42	Access and support to access and participate in vocational training: Training through apprenticeships or other work-based learning, with state support and/or screening and quality control measures. a. All categories of migrants have same legal access as nationals, regardless of their residence status (includes undocumented); b. Measures to specifically increase migrant pupil participation in such schemes, e.g. incentives; c. Measures to increase employers' supply of such schemes to migrant pupils, e.g. campaigns, support and guidance.	Two or more of these, including a	At least one of these	None of these Restrictions in law on access for some categories of migrants AND migrants only benefit from general support. If there is targeted support for migrants, it is only through non-governmental initiatives.
43	Access and support to access and participate in higher education: a. All categories of migrants have same access in law as nationals, regardless of their residence status (includes undocumented); b. Targeted measures to increase acceptance and successful participation of migrant pupils, e.g. admission targets, additional targeted language support, mentoring, campaigns, measures to address drop-outs. Note: This indicator does not include international students migrating specifically for higher education	Both of these	One of these	Neither. Restrictions in law on access for some categories of migrants AND migrants only benefit from general support. If there is targeted support for migrants, it is only through non-governmental initiatives
44	Access to advice and guidance on system and choices at all levels of compulsory and non-compulsory education (pre-primary to higher): a. Written information on educational system in migrant languages of origin; b. Provision of resource persons/centres for orientation of migrant pupils; c. Provision of interpretation services for families of migrant pupils for general educational advice and guidance at all levels.	All three of these	One or two of these	Migrants only benefit from general support. If there is targeted support for migrants, it is only through non-governmental initiatives.
Targeting needs		**100**	**50**	**0**

45	Requirement for provision in schools of intensive induction programmes for newcomer pupils and their families about the country and its education system: a. Existence of induction programme; b. Inclusion of parents. Note: This does not refer to language induction courses.	Both of these	Only a	No requirement
46a	Provision of continuous and on-going education support in language(s) of instruction for migrant pupils: a. In compulsory education (both primary and secondary); b. In pre-primary education. Note: Migrant pupils may be placed in the mainstream classroom or a separate classroom for a transitional phase. This question relates to language support in either case.	Both of these	One of these	No provision. Only through private or community initiatives.
46b	If you answered Option 3 to 46a, skip this question: Provision includes: a. Communicative literacy (general fluency in reading, writing, and communicating in the language); b. Academic literacy (fluency in studying, researching, and communicating in the language in the school academic setting).	Both of these	Only one of these	Level/goals not specified or defined
46c	If you answered Option 3 to 46a, skip this question: Provision includes quality measures: a. Requirement for courses to use established second-language learning standards; b. Requirement for teachers to be specialised and certified in these standards; c. Curriculum standards are monitored by a state body.	Two or more of these	At least one of these	None of these elements
47	Policy on pupil monitoring targets migrants.	System disaggregates migrants into various sub-groups, ex. gender, country of origin	System monitors migrants as a single aggregated group	None. Migrants are only included in general categories for monitoring that apply to all students.
48	Targeted policies to address educational situation of migrant groups: a. Systematic provision of guidance (e.g. teaching assistance, homework support); b. Systematic provision of financial resources.	Both of these	One of these	None. Migrants only benefit from general support. If there is targeted support for migrants, it is only through voluntary initiatives.
49	Teacher training and professional development programmes include courses that address migrant pupils' learning needs, teachers' expectations of migrant pupils, and specific teaching strategies to address this: a. Pre-service training required in order to qualify as a teacher; b. In-service professional development training.	Both of these	One of these	None
New opportunities		**100**	**50**	**0**
50a	Provision of option (in or outside school) to learn immigrant languages.	State regulations / recommendations	Bilateral agreements or schemes financed by another country	No provision; only through private or community initiatives

50b	If you answered Option 3 to 50a, skip this question: Option on immigrant languages is delivered: a. In the regular school day (may involve missing other subjects); b. As an adaptation of foreign-language courses in school, which may be open to all students (equal status as other languages); c. Outside school, with some state funding.	Two or more of these	One of these	No delivery in school or funding by state
51a	Provision of option (in or outside school) to learn about migrant pupils' cultures and their / their parents' country of origin.	State regulations / recommendations	Bilateral agreements or schemes financed by another country.	No provision. Only through private or community initiatives.
51b	If you answered Option 3 to 51a, skip this question: Option on cultures of origin is delivered: a. In the regular school day (may involve missing other subjects); b. Integrated into the school curriculum, which may be open to all students; c. Outside school, with some state funding.	Two or more of these	One of these	No delivery in school or funding by state
52a	Monitoring segregation between educational institutions: a. Requirement to monitor segregation of migrant pupils into different educational institutions at all levels; b. This requirement includes special needs education.	Both of these	One of these	None. Migrants are only included in general categories that apply to all students.
52b	Measures to promote societal integration: a. Measures to encourage schools with few migrant pupils to attract more migrant pupils and schools with many to attract more non-migrant pupils; b. Measures to link schools with few migrant pupils and many migrant pupils (curricular or extra-curricular).	Both of these	One of these	None. Only general measures .
53	Measures to support migrant parents and communities in the education of their children: a. Requirement for community-level support for parental involvement in their children's learning (e.g. community outreach workers); b. Requirement for school-level support to link migrant students and their schools (e.g. school liaison workers); c. Measures to encourage migrant parents to be involved in school governance.	Two or more of these	One of these	None. Migrant parents and communities are only included in general categories that apply to all.
Intercultural education for all		**100**	**50**	**0**
54	The official aims of intercultural education include the appreciation of cultural diversity, and is delivered: a. As a stand-alone curriculum subject; b. Integrated throughout the curriculum.	Both of these	One of these	Intercultural education not included in curriculum, or intercultural education does not include appreciation of cultural diversity.
55	State support for public information initiatives to promote the appreciation of cultural diversity throughout society.	Initiatives part of mandate of state-subsidised body	Initiatives part of state budget line for ad hoc funding.	Neither

56	The school curricula and teaching materials can be modified to reflect changes in the diversity of the school population: a. State guidance on curricular change to reflect both national and local population variations; b. Inspection, evaluation and monitoring of implementation of (a).	Both of these	Only a	None
57	Daily life at school can be adapted based on cultural or religious needs in order to avoid exclusion of pupils. Such adaptations might include one or a few of the following: Changes to the existing school timetable and religious holidays; educational activities; dress codes and clothing; school menus.	State regulations or guidelines concerning local adaptation	Law allows for local or school-level discretion	No specific adaptation foreseen in law
58	Measures (i.e. campaigns, incentives, support) to support bringing migrants into the teacher workforce: a. To encourage more migrants to study and qualify as teachers; b. To encourage more migrants to enter the teacher workforce.	Both of these	One of these	None
59	Teacher training and professional development programmes include intercultural education and the appreciation of cultural diversity for all teachers: a. Pre-service training required in order to qualify as a teacher; b. In-service professional development training.	Both of these	One of these	Training on intercultural education not provided, or intercultural education does not include appreciation of cultural diversity.
Political participation				
Electoral rights		**100**	**50**	**0**
60	Right to vote in national elections	Equal rights as nationals after certain period of residence	Reciprocity or other special conditions for certain nationalities	No right
61	Right to vote in regional elections (blank if not applicable)	Equal rights as nationals or requirement of less than or equal to five years of residence	Requirement of more than five years of residence, reciprocity, other special conditions or special registration procedure or only in certain regions	No right
62	Right to vote in local elections	Equal rights as EU-nationals or requirement of less than or equal to five years of residence	Requirement of more than five years of residence, reciprocity, other special conditions or special registration procedure, or only in certain municipalities	No right
63	Right to stand for elections at local level	Unrestricted (as for EU-nationals)	Restricted to certain posts, reciprocity or special requirements	No right / other restrictions apply
Political liberties		**100**	**50**	**0**
64	Right to association	No restrictions on creation of associations	A minimal number of national citizens should be on board,	No right

		by foreigners, no restrictions regarding the composition of the board of such associations	other restrictions apply (i.e. with regard to creation of political organisations or parties)	
65	Membership of and participation in political parties	Equal access with nationals (no restrictions imposed by government)	Restricted access to internal elected positions	Other restrictions apply
66	Right to create media (newspaper, radio, television, etc.)	No restrictions on creation of media by foreigners apply (or similar restrictions as for non-immigrant media)	Other restrictions than those for non-immigrant media apply	No right
Consultative bodies		**100**	**50**	**0**
67a	Consultation of foreign residents on national level	Structural consultation	Ad hoc consultation	No consultation
67b	Composition of consultative body of foreign residents on national level	members elected by foreign residents or members appointed by associations of foreign residents without special state intervention	members elected by foreign residents or members appointed by associations of foreign residents but with special state intervention	members of consultation body are selected and appointed by the state only
67c	Leadership of consultative body (repeat for each consultative body)	Chaired by participant (foreign resident or association)	Co-chaired by participant and national authority	Chaired by national authority
67d	Institutionalisation (as either right or duty of body in law) Beyond consultation on policies affecting foreign residents, the Body has: a. Right of initiative to make its own reports or recommendations, even when not consulted. b. Right to a response from the national authority to the its advice or recommendations.	Both guaranteed in law/statutes	One guaranteed in law/statutes	None guaranteed in law/statutes
67e	Representativeness Existence of selection criteria to ensure representativeness. Participants or organisations must include: a. Both genders b. All nationalities/ethnic groups	Both required in law/statutes	One required in law	No criteria in law/statutes
68a	Consultation of foreign residents on regional level (blank if not applicable)	Structural consultation	Ad hoc consultation or structural consultation only	No consultation

			present in some regional entities	
68b	Composition of consultative body of foreign residents on regional level (blank if not applicable)	Members elected by foreign residents or members appointed by associations of foreign residents without special state intervention	Members elected by foreign residents or members appointed by associations of foreign residents but with special state intervention	Members of consultation body are selected and appointed by the state only
68c	Leadership of consultative body (repeat for each consultative body)	Chaired by participant (foreign resident or association)	Co-chaired by participant and national authority	Chaired by national authority
68d	Institutionalisation (as either right or duty of body in law) Beyond consultation on policies affecting foreign residents, the Body has: a. Right of initiative to make its own reports or recommendations, even when not consulted. b. Right to a response from the national authority to the its advice or recommendations.	Both guaranteed in law/statutes	One guaranteed in law/statutes	None guaranteed in law/statutes
68e	Representativeness Existence of selection criteria to ensure representativeness. Participants or organisations must include: a. Both genders b. All nationalities/ethnic groups	Both required in law/statutes	One required in law	No criteria in law/statutes
69a	Consultation of foreign residents on local level in capital city	Structural consultation	Ad hoc consultation	No consultation
69b	Composition of consultative body of foreign residents on local level in capital city	Members elected by foreign residents or members appointed by associations of foreign residents without special state intervention	Members elected by foreign residents or members appointed by associations of foreign residents but with special state intervention	Members of consultation body are selected and appointed by the state only
69c	Leadership of consultative body (repeat for each consultative body)	Chaired by participant (foreign resident or association)	Co-chaired by participant and national authority	Chaired by national authority
69d	Institutionalisation (as either right or duty of body in law) Beyond consultation on policies affecting foreign residents, the body has: a. Right of initiative to make its own reports or recommendations, even when not consulted. b. Right to a response from the national authority to the its advice or recommendations.	Both guaranteed in law/statutes	One guaranteed in law/statutes	None guaranteed in law/statutes
69e	Representativeness	Both required in	One required in law	No criteria in law/statutes

	Existence of selection criteria to ensure representativeness. Participants or organisations must include: a. Both genders b. All nationalities/ethnic groups	law/statutes		
70a	Consultation of foreign residents on local level in city (other than capital) with highest proportion of foreign residents	Structural consultation	Ad hoc consultation	No consultation
70b	Composition of consultative body of foreign residents on local level in city (other than capital) with highest proportion of foreign residents	Members elected by foreign residents or members appointed by associations of foreign residents without special state intervention	Members elected by foreign residents or members appointed by associations of foreign residents but with special state intervention	Members of consultation body are selected and appointed by the state only
70c	Leadership of consultative body (repeat for each consultative body)	Chaired by participant (foreign resident or association)	Co-chaired by participant and national authority	Chaired by national authority
70d	Institutionalisation (as either right or duty of body in law) Beyond consultation on policies affecting foreign residents, the Body has: a. Right of initiative to make its own reports or recommendations, even when not consulted. b. Right to a response from the national authority to the its advice or recommendations.	Both guaranteed in law/statutes	One guaranteed in law/statutes	None guaranteed in law/statutes
70e	Representativeness Existence of selection criteria to ensure representativeness. Participants or organisations must include: a. Both genders b. All nationalities/ethnic groups	Both required in law/statutes	One required in law	No criteria in law/statutes
Implementation policies		**100**	**50**	**0**
71	Active policy of information by national level (or regional in federal states)	Policy of information by state targeted at foreign residents (or targeted at all) on individual basis	Information campaigns (on a non-individual basis) towards foreign residents(or only individual campaigns in certain regions)	No active policy of information (or no political rights at any level to be informed about)
72	Public funding or support of immigrant organisations on national level	Funding or support (in kind) for immigrant organisations involved in consultation and advice at national level without further conditions than being a partner in talks (or	Funding or support (in kind) dependent on criteria set by the state (beyond being a partner in consultation and different than for non-immigrant groups)	No support or funding

		similar conditions as for non-immigrant organisations)		
73	Public funding or support of immigrant organisations on regional level	Funding or support (in kind) for immigrant organisations involved in consultation and advice at regional level without further conditions than being a partner in talks (or similar conditions as for non-immigrant organisations)	Funding or support (in kind) dependent on criteria set by the state (beyond being a partner in consultation and different than for non-immigrant groups) or not in all regions	No support or funding
74	Public funding or support of immigrant organisations on local level in capital city	Funding or support (in kind) for immigrant organisations involved in consultation and advice at local level without further conditions than being a partner in talks (or similar conditions as for non-immigrant organisations)	Funding or support (in kind) dependent on criteria set by the state (beyond being a partner in consultation and different than for non-immigrant groups)	No support or funding
75	Public funding or support of immigrant organisations at local level in city (other than capital) with highest proportion of foreign residents	Funding or support (in kind) for immigrant organisations involved in consultation and advice at local level without further conditions than being a partner in talks (or similar conditions as for non-immigrant organisations)	Funding or support (in kind) dependent on criteria set by the state (beyond being a partner in consultation and different than for non-immigrant groups)	No support or funding
Long-term residence				
Eligibility		**100**	**50**	**0**
76a	Required time of habitual residence	< 5 years	5 years	> 5 years

76b	Documents taken into account to be eligible for long-term residence	Any residence permit	Seasonal workers, au pairs and posted workers excluded	Additional temporary residence permits excluded
77	Is time of residence as a pupil/student counted?	Yes, all	Yes, with some conditions (limited number of years or type of study)	No
78	Periods of absence allowed before granting of status	Longer periods	Up to 10 non-consecutive months and/or 6 consecutive months	Shorter periods
Conditions for acquisition of status		**100**	**50**	**0**
79a	Form of language requirement (if no measure, leave blank)	No requirement OR voluntary course/information	Requirement to take a language course	Requirement includes language test/assessment
79b	Level of language requirement (if no measure, leave blank) (not weighted) Note: Can be test, interview, completion of course, or other forms of assessments.	A1 or less set as standard	A2 set as standard	B1 or higher set as standard OR no standards, based on administrative discretion.
79c	Form of integration requirement ex. not language, but social/cultural	No requirement OR voluntary course/information	Requirement to take an integration course	Requirement includes integration test/assessment
79d	Language/integration requirement exemptions (if no measure, leave blank) a. Takes into account individual abilities ex. educational qualifications b. Exemptions for vulnerable groups ex. age, illiteracy, mental/physical disability	Both of these	One of these	Neither of these
79e	Conductor of language/integration requirement (if no measure, leave blank) a. Language or education specialists b. Independent of government (ex. not directly subcontracted by or part of a government department)	a and b, ex. language or education institutes	a but not b, ex. integration unit in government	Neither a nor b, ex. police, foreigners' service, general consultant
79f	Cost of language/integration requirement (if no measure, leave blank)	No or nominal costs	Normal costs ex. if provided by state, same as regular administrative fees; if provided by private sector, same as market price in countries	Higher costs
79g	Support to pass language/integration requirement (if no measure, leave blank) a. Assessment based on publicly available list of questions or study guide b. Assessment based on publicly available course	a and b	a or b	Neither a nor b
79h	Cost of support (if no measure or support, leave blank)	No or nominal costs	Normal costs ex. if provided	Higher costs

			by state, same as regular administrative fees; if provided by private sector, same as market price in countries	
80	Economic resources requirement	None or at/below level of social assistance and no income is excluded	Higher than social assistance but source is not linked with employment	Linked to employment/no social assistance
81	Maximum length of application procedure	≤ 6 months defined by law	> 6 months but the maximum is defined by law	No regulation on maximum length
82	Costs of application and/or issue of status	No or nominal costs	Normal costs ex. same as regular administrative fees in the country	Higher costs
Security of status		**100**	**50**	**0**
83	Duration of validity of permit	≥ 5	< 5 ≥ 3	< 3
84	Renewable permit	Automatically	Upon application	Provided original requirements are still met
85	Periods of absence allowed for renewal, after granting of status (continuous or cumulative)	≥ 3 years	< 3 > 1	≤ 1
86	Grounds for rejecting, withdrawing, or refusing to renew status: a. proven fraud in the acquisition of permit b. actual and serious threat to public policy or national security, c. sentence for serious crimes, d. Original conditions are no longer satisfied (ex. unemployment or economic resources)	No other than a and/or b	Includes c or d	Includes c and d and/or additional grounds
87	Protection against expulsion. Due account taken of: a. personal behaviour b. age of resident, c. duration of residence, d. consequences for both the resident and his or her family, e. existing links to the Member State concerned f. (non-)existing links to the resident's country of origin (including problems of re-entry for political or citizenship reasons), and g. alternative measures (downgrading to limited residence permit etc.)	All elements	At least b, c, d and e	One or more of b, c, d or e are not taken into account
88	Expulsion precluded: a. after 20 years of residence as a long-term residence permit holder, b. in case of minors, and c. residents born in the Member State concerned or admitted before they were 10 once they have reached the age of 18	In all three cases	At least one case	None

89	Legal guarantees and redress in case of refusal, non-renewal, or withdrawal: a. reasoned decision b. right to appeal c. representation before an independent administrative authority and/or a court	All rights	At least a and b	One or both of a and b are not guaranteed
Rights associated with status		**Option 1**	**Option 2**	**Option 3**
90	Residence right after retirement	Maintained	Maintained with less entitlements	Not maintained
91	Access to employment (with the only exception of activities involving the exercise of public authority), self- employment and other economic activities, and working conditions	Equal access with nationals and equal working conditions	Priority to nationals/ EEA citizens	Other limiting conditions apply
92	Access to social security, social assistance, health care and housing	Equal access with nationals	Priority to nationals/ EEA citizens	Other limiting conditions apply
93	Recognition of academic and professional qualifications	Same procedures as for EEA nationals	Different procedure to EEA nationals	No recognition of titles
Access to nationality				
Eligibility		**100**	**50**	**0**
94	First generation Note: "Residence" is defined as the whole period of lawful and habitual stay since entry. For instance, if the requirement is 5 years with a permanent residence, which itself can only be obtained after 5 years' residence, please select "After ≥ 10 years"	After ≤ 5 years of total residence	After > 5 < 10 years of total residence	After ≥ 10 years of total residence
95	Periods of absence allowed previous to acquisition of nationality	Longer periods	Up to 10 non-consecutive months and/or 6 consecutive months	Shorter periods (includes uninterrupted residence or where absence not regulated by law and left to administrative discretion)
96a	Spouses of nationals Note: "Residence" is defined as the whole period of lawful and habitual stay since entry. If there is a required period of marriage that is less than the residence/waiting period, please answer according to the most favourable option. For instance, if spouses may apply after 3 years of marriage OR 4 years of residence, please select Option 3.	After ≤ 3 years of residence and/ or marriage	After > 3 ≤ 5 years of residence and/or marriage	After > 5 years of residence and/ or marriage
96b	Residence requirement for partners/co-habitees of nationals	Same as for spouse of national	Longer than for spouses, but shorter than for ordinary TCNs	Same as for ordinary TCNs

97	Second generation Note: Second generation are born in the country to non-national parents	Automatically at birth (may be conditional upon parents' status)	Upon simple application or declaration after birth	Naturalisation procedure (facilitated or not)
98	Third generation Note: Third generation are born in the country to non-national parents, at least one of whom was born in the country.	Automatically at birth (may be conditional upon parents' status)	Upon simple application or declaration after birth	Naturalisation procedure (facilitated or not)
Conditions for acquisition		**100**	**50**	**0**
99a	Language requirement Note: Can be test, interview, completion of course, or other forms of assessments.	No assessment OR A1 or less set as standard	A2 set as standard	B1 or higher set as standard OR no standards, based on administrative discretion.
99b	Language requirement exemptions (Blank if no assessment) a. Takes into account individual abilities ex. educational qualifications b. Exemptions for vulnerable groups ex. age, illiteracy, mental/physical disability	Both of these	One of these	Neither of these
99c	Conductor of language requirement (if no measure, leave blank) a. Language-learning specialists b. Independent of government (ex. not part of a government department)	a and b, ex. language institutes	a but not b, ex. language unit in government	Neither a nor b, ex. police, foreigners' service, general consultant
99d	Cost of language requirement (Blank if no assessment)	No or nominal costs	Normal costs ex. if provided by state, same as regular administrative fees; if provided by private sector, same as market price	Higher costs
99e	Support to pass language requirement (if no measure, leave blank) a. Assessment based on publicly available list of questions or study guide b. Assessment based on publicly available course	a and b	a or b	Neither a nor b
99f	Cost of language support (Blank if no language assessment or support)	No or nominal costs	Normal costs ex. if provided by state, same as regular administrative fees; if provided by private sector, same as market price	Higher costs
100 a	Citizenship/integration requirement Note: Can be test, interview, or other forms of assessments.	No requirement OR voluntary course/information	Requirement to take an integration course	Requirement includes integration test/assessment

100 b	Citizenship/integration requirement exemptions (Blank if no assessment) a. Takes into account individual abilities ex. educational qualifications b. Exemptions for vulnerable groups ex. age, illiteracy, mental/physical disability	Both of these	One of these	Neither of these
100 c	Conductor of citizenship/integration requirement (if no measure, leave blank) a. Education specialists b. Independent of government (ex. not part of a government department)	a and b, ex. educational institutes	a but not b, ex. citizenship/ integration unit in government	Neither a nor b, ex. police, foreigners' service, general consultant
	Cost of citizenship/integration requirement (Blank if no assessment)	No or nominal costs	Normal costs ex. if provided by state, same as regular administrative fees; if provided by private sector, same as market price	Higher costs
100 e	Support to pass citizenship/integration requirement (if no assessment, leave blank) a. Assessment based on publicly available list of questions or study guide b. Assessment based on publicly available course	a and b	a or b	Neither a nor b
100f	Cost of citizenship/integration requirement (Blank if no assessment)	No or nominal costs	Normal costs ex. if provided by state, same as regular administrative fees; if provided by private sector, same as market price	Higher costs
101	Economic resources requirement	None	Minimum income (ex. acknowledged level of poverty threshold)	Additional requirements (ex. employment, stable and sufficient resources, higher levels of income)
102	Criminal record requirement Note: Ground for rejection or application of a qualifying period (not rejection, but longer residence period)	Crimes with sentences of imprisonment for ≥ 5 years OR Use of qualifying period instead of refusal	Crimes with sentences of imprisonment for < 5 years	For other offences (ex. misdemeanours, minor offenses, pending criminal procedure)
103	Good character' clause (different from criminal record requirement)	None	A basic good character required (commonly used, i.e. also for nationals)	Higher good character requirement (i.e. than for nationals) or vague definition
104	Maximum length of application procedure	≤ 6 months	> 6 months but the maximum is defined by law	No regulation on maximum length
105	Costs of application and/or issue of nationality title	No or nominal costs	Normal costs ex. same as regular administrative fees	Higher costs

Security of status		**100**	**50**	**0**
106	Additional grounds for refusing status: a. Proven fraud (ex. provision of false information) in the acquisition of citizenship b. Actual and serious threat to public policy or national security.	No other than a	No other than a-b	Other than a-b
107	Discretionary powers in refusal	Explicit entitlement for applicants that meet the conditions and grounds in law	Discretion only on limited elements	Discretionary procedure
108	Before refusal, due account is taken of (regulated by law): a. personal behaviour of resident b. age of resident, c. duration of residence and holding of nationality, d. consequences for both the resident and his or her family, e. existing links to the Member State concerned f. (non-)existing links to the resident's country of origin (including problems of re-entry for political or citizenship reasons), and g. alternative measures (downgrading to residence permit etc.)	All elements	At least b, c, d, e and f	One or more of b, c, d, e or f are not taken into account
109	Legal guarantees and redress in case of refusal: a. reasoned decision b. right to appeal c. representation before an independent administrative authority and/or a court	All guarantees	At least a and b	One or both of a and b are not guaranteed
110	Grounds for withdrawing status: a. Proven fraud (ex. provision of false information) in the acquisition of citizenship b. Actual and serious threat to public policy or national security.	No other than a	No other than a-b	Other than a-b
111	Time limits for withdrawal (including other means of ceasing nationality by authority's decision)	≤ 5 years after acquisition	> 5 years after acquisition	No time limits in law
112	Withdrawal (including other means of ceasing nationality by authority's decision) that would lead to statelessness	Explicitly prohibited in law	Discretionary, Taken into account in decision	Not addressed in law
Dual nationality		**100**	**50**	**0**
113	Requirement to renounce / lose foreign nationality upon naturalisation for first generation	None. Dual nationality is allowed	Requirement exists, but with exceptions (when country of origin does not allow renunciation of citizenship or sets unreasonably high fees for renunciation)	Requirement exists
114	Dual nationality for second and/or third generation.	Allowed at birth	Subject to conditions such as	Dual nationality is not

			for those born in wedlock or those with dual nationality if acquired by jus soli	allowed
Anti-discrimination				
Definitions and concepts		**100**	**50**	**0**
115	Definition of discrimination includes direct and indirect discrimination, harassment and instruction to discriminate on grounds of: a) race and ethnicity b) religion and belief c) nationality	All three grounds	Two grounds	Ground a, none, or only based on international standards or constitution, subject to judicial interpretation
116	Definition of discrimination includes discrimination by association and on basis of assumed characteristics covering: a) race and ethnicity b) religion and belief c) nationality	All three grounds	Two grounds	Ground a, none, or only based on international standards or constitution, subject to judicial interpretation
117	Anti-discrimination law applies to natural and legal persons: a) In the private sector b) Including private sector carrying out public sector activities	a and b	a or b	None
118	Anti-discrimination law applies to the public sector, including: a) Public bodies b) Police force	a and b	a or b	None
119	The law prohibits: a) Public incitement to violence, hatred or discrimination on basis of race/ethnicity; religion/belief/nationality b) Racially/religiously motivated public insults, threats or defamation c) Instigating, aiding, abetting or attempting to commit such offences d) Racial profiling	All	a, b and c	Two of these or less
120	Restriction of freedom of association, assembly and speech is permitted when impeding equal treatment in respect of: a) race and ethnicity b) religion and belief c) nationality	All three grounds	Two grounds	Ground a, none or subject to judicial interpretation
121	Are there any specific rules covering multiple discrimination?	Yes, and victim has the choice of the main ground to invoke in courts	Yes but the victim has no choice on the main ground to invoke in courts	No
Fields of application		**100**	**50**	**0**

122	Anti-discrimination law covers employment and vocational training: a) race and ethnicity b) religion and belief c) nationality	All three grounds	Two grounds	Ground a, none, or only based on international standards or constitution, subject to judicial interpretation
123	Anti-discrimination law covers education (primary and secondary level): a) race and ethnicity b) religion and belief c) nationality	All three grounds	Two grounds	Ground a, none, or only based on international standards or constitution, subject to judicial interpretation
124	Anti-discrimination law covers social protection, including social security: a) race and ethnicity b) religion and belief c) nationality	All three grounds	Two grounds	Ground a, none, or only based on international standards or constitution, subject to judicial interpretation
125	Anti-discrimination law covers social advantages: a) race and ethnicity b) religion and belief c) nationality	All three grounds	Two grounds	Ground a, none, or only based on international standards or constitution, subject to judicial Interpretation
126	Anti-discrimination law covers access to and supply of goods and services available to the public, including housing: a) race and ethnicity b) religion and belief c) nationality	All three grounds	Two grounds	Ground a, none, or only based on international standards or constitution, subject to judicial interpretation
127	Anti-discrimination law covers access to supply of goods and services available to the public, including health: a) race and ethnicity b) religion and belief c) nationality	All three grounds	Two grounds	Ground a, none, or only based on international standards or constitution, subject to judicial interpretation
Enforcement mechanisms		**100**	**50**	**0**
128	Access for victims, irrespective of grounds of discrimination, to: a) judicial civil procedures b) criminal procedures c) administrative procedures	All three	Two of these	Only one of these
129	Alternative dispute resolution procedures a) decisions are binding b) appeal of rulings possible Note: Alternative dispute resolution covers procedures like mediation. It does not include the normal judicial system or	a and b	a or b	None

	quasi-judicial bodies			
130	Access for victims includes: a) race and ethnicity b) religion and belief c) nationality	All grounds	Two grounds	Ground a
131	Average length of both judicial civil and administrative procedures does not exceed:	≤ 6 months	≤ 1 year	> 1 year
132	a) shift in burden of proof in judicial civil procedures b) shift in burden of proof in administrative procedures	a and b	only a	none
133	Does national legislation allow courts to accept the following evidence: a) situation testing b) statistical data	a and b	a or b	Neither of these
134	Protection against victimisation in: a) employment b) vocational training c) education d) services e) goods	In all areas	a and b	a or none
135	a) state provides financial assistance or free court-appointed lawyer to pursue complaint before courts where victims do not have the necessary means b) where necessary an interpreter is provided free of charge	a and b	a or b	None
136	Legal entities with a legitimate interest in defending the principle of equality: a) may engage in proceedings on behalf of victims b) may engage in proceedings in support of victims c) can bring cases even if no specific victim is referred to (in which case the consent of a victim is not required)	All possibilities	Only a or b	Only b
137	Legal actions include: a) individual action b) class action (court claim where one or more named claimants pursue a case for themselves and the defined class against one or more defendants) c) Actio popularis (Action to obtain remedy by a person or a group in the name of the collective interest)	All three	Only two of these	One or none
138	Sanctions include: a) financial compensation to victims for material damages b) financial compensation to victims for moral damages/ damages for injuries to feelings c) restitution of rights lost due to discrimination/ damages in lieu d) imposing positive measures on discrimination e) imposing negative measures to stop offending f) imposing negative measures to prevent repeat offending	At least 5	At least c, e and h	At least 2

	g) specific sanctions authorising publication of the offence (in a non-judicial publication, i.e. not in court documents h) specific sanctions for legal persons			
139	Discriminatory motivation on the grounds of race/religion/nationality treated as aggravating circumstance	Yes for 3 grounds	Only race or religion	Race only or subject to judicial interpretation
Equality policies		**100**	**50**	**0**
140	Specialised Equality Agency has been established with a mandate to combat discrimination on the grounds of: a) race and ethnicity b) religion and belief c) nationality	All three grounds	Two grounds	Ground a
141	Specialised Agency has the powers to assist victims by way of a) independent legal advice to victims on their case b) independent investigation of the facts of the case	All	Only one	None
142	If the specialised Agency acts as a quasi-judicial body: a) its decisions are binding b) an appeal of these decisions is possible	All	Only one of these	Neither of these
143	Specialised agency has the legal standing to engage in: a) judicial proceedings on behalf of a complainant b) administrative proceedings on behalf of the complainant	a and b	a	b or none
144	Specialised agency has the power to: a) instigate proceedings in own name b) lead own investigation and enforce findings	a and b	b	None
145	Law provides that the State itself (rather than the specialised agency): a) disseminates information b) ensures social dialogue around issues of discrimination c) provides for structured dialogue with civil society	All three	At least one of these	None
146	On the national level there are: a) Mechanism for current and future mainstream legislation to ensure compliance with anti-discrimination and equality law b) Unit in government/ministries directly working on anti-discrimination/equality on these grounds	Both of these	Only one of these	Neither of these
147	Law provides for: a) obligation for public bodies to promote equality in carrying out their functions b) obligation for public bodies to ensure that parties to whom they award benefits like loans or grants respect non-discrimination	Both of these	Only one of these	Neither of these
148	Law provides for: a) introduction of positive action measures b) assessment of these measures (ex. research, statistics)	Both of these	Only a	None of these

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