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# **Part I**

## **Regulating Migration in Europe**



# 1

## The Europeanization of National Policies and Politics of Immigration: Research, Questions and Concepts

*Andreas Ette and Thomas Faist*

### **Introduction**

In June 2005, the European Council proposed a ‘period of reflection’ responding to the concerns of its citizens about the future of Europe. It was a necessary reaction to the difficulties encountered in ratifying the Treaty that was to establish a Constitution for Europe. Reflecting and stocktaking have also shaped academic scholarship on the European Union (EU)<sup>1</sup> during recent years. What has emerged is an increasing interest in the actual impact of the EU on its member states. Two waves of scholarship on the multi-level governance structures in the EU can be discerned. The first wave of EU studies was geared towards an understanding of the development of common political institutions and policies on the supranational European level. This first stage of European integration theory was dominated by bottom-up thinking and focused mainly on the role played by member states in the evolution of European integration. Only during the 1990s did this focus start to shift. The term ‘Europeanization’ characterizes the second wave of scholarship which reverses this perspective and has looked top-down.<sup>2</sup> The established political structures and policies on the European level are now taken for granted, only now are their effects on domestic structures and policies being analysed. This volume contributes to this new research agenda by providing a comparative analysis of the impact of the EU on the policies and politics of immigration control in its member states as well as on its neighbouring states. In particular, three main research questions structure this volume. First, the contributors ask which dimensions of domestic change – only the

policy or also the politics of immigration – have been Europeanized. The second question looks into the extent of Europeanization in domestic policies and politics. Finally, the third question focuses on the differential impact of the EU on its member states and the different modes of Europeanization which help to make sense of the patterns of Europeanization.

Three main reasons motivated us to undertake this work. The first concerns recent developments on the European level. The European integration of immigration policies is about the most significant ‘task expansion’ of the EU to have taken place during recent years. In the late 1990s, justice and home affairs (JHA) has become ‘the most active field for meetings convened under the Council of Ministers in the late 1990s’ (Lavenex and Wallace 2005: 463). The Commission biannually publishes the Scoreboard which provides ample evidence for the expansion of the level of integration in immigration policy. Furthermore, the shift of immigration policy competencies from the third pillar of the EU to the first in 1997 and the recent introduction of qualified majority voting (QMV) and the co-decision procedure in 2005 significantly widened the scope of integration.<sup>3</sup> These recent developments make the volume a particularly timely study for the purpose of analysing the ways in which this newly supranationalized policy area has already influenced European member states.

The second motive concerns certain central characteristics intrinsic to this policy area. Immigration policy is a particularly interesting field for the study of Europeanization because it concerns the member state’s sovereign discretion over the entry and residence of non-citizens in its territory. The European harmonization of immigration policy literally defines the ‘finality of Europe’, its outer borders and how they are controlled. Scholars of European integration have traditionally considered policies on immigration, internal security and national defence as cases in which integration would be the least likely to occur (see, for example, Lindberg and Scheingold 1970: 263). With the exception of the recent shift towards supranationalization, immigration policies have for the most part and most of the time remained under national control (Scharpf 1999; Schmidt 1999). The volume therefore contributes to our understanding of processes of Europeanization in policy areas where nation states are least likely to cede control.

Finally, the third motivation to publish this volume is the limited empirical foundation about European influences on national immigration policies. The majority of Europeanization studies carried out so far have focused on environmental and social policies (Mastenbroek 2005:

1112). Immigration policies, however, have received comparatively little attention and there is a clear need for more comprehensive and comparative data to assess the nature and the extent of the Europeanization of national immigration policies. This lack of comparative data on Europeanization is a general problem and not unique to the study of the Europeanization of immigration policies. Vink and Graziano (forthcoming) have even called for an 'empirical turn' in Europeanization research. So far, most studies of Europeanization are qualitative case studies or focus on a very limited number of countries. The few quantitative analyses available deal mainly with the differences in transposition rates of EU directives in member states (see, for example, Falkner et al. 2005; Mastenbroek 2003). The volume makes a contribution to this 'empirical turn' in Europeanization research by producing 'theoretically informed comparative case studies that gradually include new policy sectors and countries' (Haverland 2003: 204).

The remainder of this introductory chapter provides an overview of the state of research concerning the Europeanization of the policies and politics of immigration. It outlines the main research questions and presents the conceptual tools used throughout the empirical case studies included in this volume. Finally, it provides an overview of the structure of the volume and the findings of all the case studies, which point to a largely differential experience concerning the impact of the EU on its member and non-member states in this policy area.

## **The European integration of immigration policy**

Compared to other policy areas, the regulation of entry and residence of third-country nationals has received a European dimension only recently. Andrew Geddes (2003) differentiates four periods of the slowly increasing European integration of immigration policies (for the following see also Bendel in this volume). The first period, from 1957 to 1986, was characterized by *minimal immigration policy involvement* in national immigration policies. Immigration policies fell under national control, and initiatives by the European Commission towards closer EU cooperation within the traditional Community method of decision-making were regularly declined. Nevertheless, the period witnessed significant cooperation in this policy area outside the EU's traditional structures. Examples of such cooperation include the Trevi group, which was established by European member states during the 1970s to cooperate on internal security measures, and most importantly the Schengen Agreement from 1985 concerning cooperation on the

mutual abolishment of internal border controls and the development of compensating internal security measures. These intergovernmental forms of cooperation helped to shape cooperation during the second period, from 1986 until 1993. That period was characterized by *informal intergovernmentalism* during which representatives of the administration of the member states engaged in a process of closer cooperation. Examples are the Ad Hoc Working Group on Immigration which was established in 1986, and the group of coordinators who prepared the 'Palma Programme' which dealt with the security implications of the free movement measures of the Single European Act of the EU. The third period, from 1993 until 1999, was shaped by the Maastricht Treaty and its structure of *formal intergovernmental cooperation*. The three-pillar structure of the EU integrated immigration policies under the EU umbrella. It recognized immigration issues as being of common interest. The decision-making structures in the third pillar, however, ensured cooperation remained strictly intergovernmental.

For the moment, the final period is characterized by increasing *communitarization* and begins in the late 1990s with the Treaty of Amsterdam. The Treaty brought immigration policies into the Community pillar by creating a new Title IV. Furthermore, it incorporated the Schengen Agreement into the *acquis communautaire*. With its sights set on raising the level of integration, the European Council summit in Tampere in 1999 defined a five-year action programme on the central measures of a common European immigration policy. Five years later, in June 2004, the Commission published its final assessment concerning the original Tampere Programme, stating that 'substantial progress has been made in most areas of justice and home affairs'. Because of the intergovernmental decision-making procedures based on unanimity in the Council of Ministers, however, 'it was not always possible to reach agreement at the European level for the adoption of certain sensitive measures relating to policies which remain at the core of national sovereignty' (Commission of the European Communities 2004: 3–4). Major obstacles relating to the decision-making structures and the scope of integration were overcome in December 2004, when the Council decided that beginning 1 January 2005 decision-making on EU immigration policies (with the exception of legal immigration) was to change to QMV and the co-decision procedure with the European Parliament (EP), thus providing for serious supranationalization of this policy area. Finally, the recent attempts by migrants to enter the EU illegally in the two Spanish enclaves of Ceuta and Melilla in autumn 2005 very likely served to open the next 'windows of opportunity' for



continuing integration of this policy area. Those incidents have once again shown the weaknesses of a migration policy with a foremost focus on migration control and too little emphasis on measures addressing the root causes of migration (see Bendel, this volume; Boswell 2003).

Overall, the last 30 years have witnessed important changes in this policy area in the direction of greater European regulation. These changes include the shift of competencies from the national to the European level and shifts in the modes of European policy-making. What began as intergovernmental cooperation among member states has become a form of 'intensive transgovernmentalism' (Lavenex and Wallace 2005). Recent years have seen further moves towards the 'traditional Community method' with powers increasingly transferred from the national to the EU level (Wallace 2005).

Academic scholarship on the European integration of JHA in general and immigration policies in particular has been sparse. In the field of European studies at least the subject has received some attention as can be seen from the regular coverage of this policy field in yearbooks of European integration (see, for example, Weidenfeld and Wessels 2005). Students of immigration policy, however, have engaged with developments at the European level comparatively late in the day. Their focus was for some time directed towards nationally distinct policy responses to immigration (see, for example, Hammar 1985a; Heckmann and Bosswick 1995; but see also Thränhardt and Miles 1995). Research on the development of supranational regimes and structures and their impacts on national immigration policies has therefore seriously lagged behind. In the 1990s, however, this situation started to change. An increasing number of studies show the awakening interest in the European integration of JHA and immigration policies. Existing studies analyse these developments either as part of the more general construction of the Justice and Home Affairs pillar (for example, Den Boer 1998; Monar and Morgan 1994) or as the development of a European immigration policy more specifically (Favell 1998; Geddes 2000; Guiraudon 2003; Koslowski 1998; Tomei 2001).

The explanation for the increase in European cooperation on immigration matters falls back on a wide range of causes and theories. In particular, two characteristic views are regularly found in the literature, which largely reflect the divide between neo-functional and intergovernmental theories on European integration more generally. The first view is rooted in international relations theories of interdependence; it argues that in an increasingly global world, states seek international solutions

to domestic problems (Keohane and Nye 1977). In this line of thinking, EU cooperation on immigration matters is caused by the decreasing ability of states to control immigration because of the self-preserving nature of immigration, the constraining impact of economic imperatives and international legal norms (Faist 2000; Sassen 1999; Soysal 1994). These arguments are closely connected to those of a neo-functionalist tradition, where 'spillover' and 'unintended consequences' from other EU policies provide rationales for common EU policies on immigration. In consequence, the construction of the internal market of the EU with its free movement of goods and persons encouraged compensatory measures to maintain public order across the EU (Lavenex and Wallace 2005: 460).

The second view on the European integration on immigration policy takes a state-centric and intergovernmental perspective. Here, the starting point is the nation state which indeed has the power to manage international migration and control the national territory (Zolberg 1999). Two different arguments can be found from this perspective. The first is closely connected to liberal intergovernmentalism and argues that exogenous pressures stemming from growing international migration and crime cause convergence of national preferences and therefore establish a precondition for cooperation. From this perspective the EU provides the framework for member states to cooperate with the aim of reducing negative externalities and transaction costs (Hix 2005: 359–64; Moravcsik 1993). The second argument has a different starting point. Rather than exogenous factors, it is domestic political constraints that cause nation states to cooperate on the supranational level. Public opinion, extreme right-wing parties, economic actors, ethnic groups and constitutional courts have been singled out as factors that have led to the loss of control over the immigration agenda (Castles and Kosack 1985; Freeman 1995; Joppke 1999; Lahav 2004; Thränhardt 1993). From this point of view, the development of a common EU immigration policy is explained by the opportunity afforded to national bureaucrats to circumvent political constraints on the national level by shifting to the new venue the European level offered (Guiraudon 2000a, 2003; Huysmans 2000).

### **The Europeanization of national immigration policies**

In contrast to the study of the European integration of immigration policies, our knowledge about the Europeanization of national immigration policies is far more limited. In the study of Europeanization in

general, we already have a good conceptual understanding of what we are studying as well as about the terms and concepts we are using (Börzel 2005a; Eising 2003; Featherstone 2003). Overall, however, Europeanization still has the status of an 'attention directing device' (Olsen 2002: 943–4) and little attention has been focused on the European influence on national politics and policies of immigration. This can be explained by the fact that European competencies in this area are relatively recent and that migration policies are closely linked to national sovereignty and to fairly well-established national models. A second explanation is that the legal base of EU action was deliberately designed to minimize the scope for intervention by EU-level institutions such as the Commission, Parliament and the European Court of Justice (ECJ) into member state affairs.

While there are good reasons why the analyses of the European impact on national immigration policies have lagged, important questions remain. The past 15 years have witnessed important national reforms of immigration policies in all major European immigration countries. For example, Germany fundamentally altered its asylum policy in 1992 and introduced its first encompassing immigration Act in January 2005. The United Kingdom (UK) has produced three major immigration Acts since 1999 and the Immigration, Asylum and Nationality Act 2006 received royal assent on 30 March 2006. Similarly, the Spanish 'Alien Law' has seen three major reforms during recent years, Poland introduced major legislation in 2001 and 2003 and Turkey is discussing a new 'Law of Settlement' to replace the original Act dating back to 1934. Scholars of immigration have come up with different models to explain distinct national policies of immigration and its developments (for recent reviews see Cornelius and Rosenblum 2005; Hollifield 2000). What we know little about, however, is the extent of the international and in particular the European impact on these national immigration policy reforms. What role can the EU play in the increasing multi-level governance of migration? If a European influence on member states of the EU exists, what is the nature of that influence: do national immigration policies develop towards a similar shared model or does the Europeanization of national policies lead to greater divergence? The available literature on the Europeanization of immigration is mainly concerned with policies on refugees and asylum. What about the European impact on policies of other categories of immigrants, for example family reunification, labour migration or irregular immigration? Europeanization studies of other policy areas have provided ample evidence that Europeanization

is highly differentiated between the member states. Do these findings hold true for immigration policies as well, and if so, how can we explain these differential European impacts? Finally, prior discussion on the theories of European integration of immigration policies has shown that national political constraints provided a major rationale for policy-makers to 'escape to Europe'. How does the establishment of a harmonized policy on the European level subsequently affect the domestic politics of immigration?

So far, the available literature provides us with contradictory evidence on these questions. On the one hand some scholars attest that the EU exerts great impact on national immigration policies. Eiko Thielemann (2002: 2), for example, argues that 'European integration must be regarded as a crucial catalyst' for the far-reaching changes in national asylum systems introduced during the early 1990s across Europe. On the other hand some scholars see only weak links between European and domestic policies. Maarten Vink (2002: 13) argues in his study on the Netherlands 'that many proactive efforts to bring about a common European policy, do not necessarily imply the subsequent Europeanisation of domestic politics'. And Andrew Geddes (2003: 196) shows in his comparative analysis that the EU's impact constituted only a marginal explanatory factor to account for national immigration policy reforms during the 1980s and 1990s.

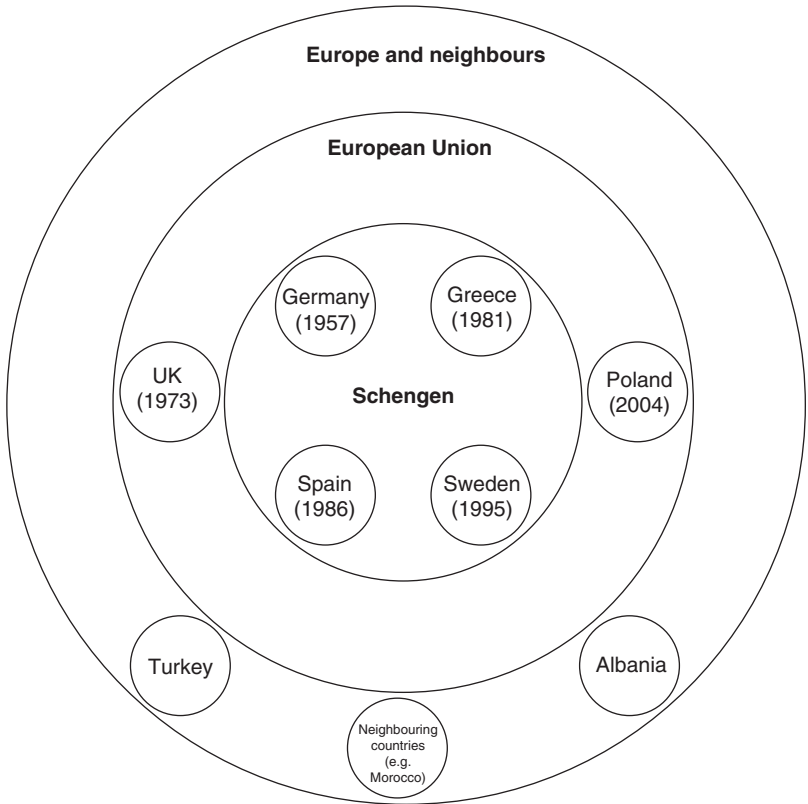
These contradictory findings arise primarily because there is 'little systematic empirical research on how European developments "hit home" at the national level' (Vink 2005a: 4). Nevertheless, in recent years there has been an increasing interest in the study of European influences on domestic immigration policies and the compliance of member states with European norms in this policy area. Most available studies are overly descriptive and provide only few insights about the underlying driving forces of the European impact on its member states. For example, a number of juridical studies offer detailed information concerning the legislative absorption of Europe and the compliance with European policies (see Carlier and De Bruycker 2005; Higgins 2004). Into the same category fall a number of comparative volumes with single-country studies on immigration policies in different European member states. Their main focus, however, is aimed at national developments and not at the role of the EU in the multi-level governance of immigration (see, for example, Angenendt 1999; Brochmann and Hammar 1999). More explicit attention to the role of Europe in driving national changes in the policies and politics of immigration can be found in a number of single-country studies.

Examples include studies of the UK (Geddes 2005), the Netherlands (Vink 2005b) and Germany (Tomei 2001) as well as of non-member states like Switzerland (Fischer et al. 2002) and the analyses included in the volume by Lavenex and Uçarer (2002). From a theoretical point of view, Lavenex's analysis of the restrictive European discourse on asylum policy and how it framed national asylum and refugee policies (Lavenex 2001) is particularly significant. Other studies with a theoretical interest include Geddes's (2003) comparative analysis of the Europeanization of immigration policy in selected European countries, which provides initial indications about the extent of the domestic European impact on this policy area. Finally, mention should be made of the analysis by Grabbe (2005), who applied a rational choice approach to account for the European impact on the immigration policies in countries in Central and Eastern Europe, and the work by Thielemann (2002), who differentiated between three mechanisms of Europeanization to understand the changes in asylum policies of European member states during the 1990s.

Although recent years have witnessed a definitive interest in the Europeanization of the policies and politics of immigration, comparative and systematic research is still sparse. Most analyses are concerned with asylum and refugee policies, take little or no account of policies for other categories of migration, and focus mainly on the period prior to the Amsterdam Treaty. Theoretical approaches tend to deal primarily with the particular situation in the countries under consideration. Much attention is directed towards domestic factors that contribute to understanding the impact of the EU on a particular country or group of countries. The different types of interactions between the EU and its member and non-member states, however, have received comparatively little attention in the effort to explain the differential domestic impact of the EU.

### **Concentric circles of Europeanization**

Building upon the shortcomings of the available literature, this volume consists of a comparative analysis of nine empirical case studies – six member and three non-member states of the EU. The case selection is presented in Figure 1.1. Overall, the analysis follows the institutional politics of emerging European immigration policy comprised of 'concentric circles' of European integration and different dates of accession to the EU. The inner core of Schengen member states is represented by Germany, Sweden, Greece and Spain. Although all four countries are



*Figure 1.1* Concentric circles of the emerging European immigration policy and the selection of cases for this volume (time of accession to the EU in parentheses)

members of the EU and Schengen, each entered the EU at a different time. Germany represents one of the founding members of the EU, whereas Greece and Spain joined the EU during its southern enlargement in the 1980s, and finally Sweden, which joined the EU only in 1995. The second circle – EU member states that are not members of Schengen – comprises the UK as a traditional member state, which joined the EU in 1973, and Poland, which joined the EU in May 2004 and represents a country of the European eastern enlargement. Finally, the third circle consists of two non-member states with a long-term EU membership perspective – Turkey and Albania. This circle also includes

a third case study that does not deal with a single country but rather with the European efforts to include neighbouring states in its immigration control efforts. In contrast to the studies on Albania and Turkey, however, this final chapter addresses the question to what extent and how the EU is affecting the immigration policy of countries that have no or only a very vague membership perspective (Lavenex, this volume).

In addition to the institutional politics of European immigration policy and the accession date of the respective countries, the case selection also accounts for three further aspects: first, it includes countries that have received relatively little attention in comparative projects, such as Sweden and Greece. So far, most available studies on Europeanization have tended clearly to favour some larger member states such as Germany, the UK and Italy (Mastenbroek 2005: 1112); some comparative work has been done within a certain group of states, such as the new member states (Schimmelfennig and Sedelmeier 2005). What is lacking are studies comparing traditional EU member states with new and prospective members with respect to the differential extent and modes of Europeanization in these largely different cases. Second, the case selection also takes into account one of the major findings of previous studies on the Europeanization of national immigration policies, namely its great impact on new and future member states. The volume attempts to compare the differential effects of Europe between countries representing different circles of the developing European immigration policy, and with a focus not only on major European member states but on non-member states as well. The analysis includes not only the 'externalities of European integration' (Lavenex and Uçarer 2002) but also traditional member states in order to compare and explain the differential impacts of the EU. Finally, the case selection also takes into account the largely different experiences of immigration in Europe. Here, the UK, Germany and Sweden represent those countries with the longest history of immigration after the Second World War. That history is characterized by large-scale post-colonial migration in the first case and large-scale guest worker migration in the latter two cases. All three countries therefore began early on to develop a comprehensive national immigration policy. In contrast, the experience of immigration in all other countries analysed in this volume is of more recent provenance. Spain and Greece are 'late-comers' to immigration; both share a history of emigration and both turned into immigration countries only during the 1980s. Poland's post-Second World War migration experience was dominated by low

levels of international migration. The main turning point occurred after the end of the cold war when Poland began to serve as an important transit country for migrants from the former USSR heading west. Similarly, Turkey and Albania have been for the most part emigration countries since the Second World War and have begun to receive major inflows of migrants only in recent years. From the perspective of the EU, however, both states are major transit countries for migrants on their way to Europe.

## **Dimensions of Europeanization**

This volume defines Europeanization generally as the impact of the EU on its member states. More specifically, the volume follows the work by Bulmer and Radaelli (2004: 4) who define Europeanization as consisting of

processes of a) construction, b) diffusion and c) institutionalisation 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.

This definition provides a broad framework with which to understand multi-level governance interactions in Europe, and it stresses that Europeanization is clearly a two-way process – bottom-up and top-down – between the member states and the EU. It acknowledges that any comprehensive explanation of member-state responses to the EU requires an analysis of how the two processes interact (see, for example, Beyers and Trondal 2003; Börzel 2005a). For purposes of clarity, however, this volume defines Europeanization as the top-down process of member-state adaptation to the EU in order to distinguish it from European integration understood as the bottom-up process of member states projecting influence. The volume therefore follows the usual 'three-step approach': the process of Europeanization starts first with the development of a governmental system and particular policies at the European level. In the second step these political structures and European policies generate adaptational pressures for domestic policies and policy-making processes. The third stage, or end point, of this process consists of national policies and politics adapting to EU-level developments.



Following on from this definition, the contributors to this volume are mainly interested in three substantive research questions. First, we ask what is Europeanized. Second, we are concerned with the extent of Europeanization. And finally, we want to improve our understanding of why and how Europeanization occurs in these areas of policies and politics. Concerning the first question, the volume addresses two main 'dimensions of domestic change' (Börzel and Risse 2003: 59): the Europeanization of national *policies* of immigration and the Europeanization of national *politics* of immigration. In the case of policies of immigration the volume focuses on four politically defined categories of migration: (1) labour migration, (2) refugee and asylum migration, (3) secondary migration (for example, family reunification) and (4) irregular migration. Consequently, other areas of immigration policies are generally excluded – these include the free movement regulations of citizens of EU member states in the EU, as well as ethnic migrants, who are not subject to European immigration policy. Finally, policies of integration, such as anti-discrimination legislation and citizenship policies,<sup>4</sup> are also excluded from this volume. This concentration on immigration control policies (Hammar 1985b) takes into account the need to disaggregate migration policies to successfully explain the dynamics of policy-making (Freeman 2003).

There are three main reasons for the focus on the second dimension – the Europeanization of national politics of immigration. The first is that the bulk of studies focusing on European influences in the domestic sphere have dealt only with the domestic implementation of EU policies (Vink and Graziano forthcoming: 3). Despite some informative and important works (see for example the volume by Goetz and Hix 2001), the institutional structures and processes of national political systems have received less attention. In a related vein, Haverland (2003: 216f.) argues that 'it is likely that by changing national policies and sectoral regulatory structures the European Union also affects domestic institutional structures of representation and cleavages more generally. Policy-oriented case studies of the new generation should consider these broader effects.' The second reason is that there are difficulties assessing the domestic adjustments in policy-making processes in response to the EU. Available studies often conclude with rather fuzzy results because of the vast differences between individual policy sectors. Schmidt (forthcoming) argues that studies on the Europeanization of politics need to take into account the 'micro pattern' of policy-making concerning individual policies. The volume follows this advice and contributes to this research

approach. Finally, the third factor has already been noted. National political constraints have been singled out as a major driving force for European integration in this policy area. It is thus of great interest to analyse whether the national politics of immigration have changed subsequently. As shall be seen, in this volume the politics of immigration has a rather broad meaning. It ranges from basic characteristics of national policy-making processes to changes in the political or public discourse on immigration and the changing beliefs of policy-makers on immigration.

### **The extent of Europeanization**

The second research question raised in the case studies concerns the actual extent of Europeanization. Here, the two dimensions differentiated above are taken up again. The contributors examine the extent of Europeanization with respect to the national policies and politics of immigration. To assess the degree of the Europeanization the contributors to this volume apply the typology by Radaelli (2003) who differentiates between four types of change: inertia, absorption, transformation and retrenchment:

1. *Inertia* describes a situation of lack of change. This may happen when a member state assesses that EU policies are too dissimilar to domestic practice. On the other hand, inertia can also describe cases where EU policies are similar to national policies and do not cause national changes to be transposed. Inertia may take the forms of delays in the transposition of directives, resistance to EU-induced change, or notes by national governments on the transposition of certain European directives stating minimal changes as for example in the case of lowest-denominator directives. In the analyses included in this volume, inertia has been observed, for example, in the UK where, notwithstanding the timely transposition of certain directives, the actual changes to Britain's own immigration policy have been minimal. Other examples include Germany, where recent years are best characterized as a period of inertia with a whole range of European immigration policies not yet implemented.
2. *Absorption* describes a type of change in which the domestic policies or politics adapt to European requirements. The domestic structures of politics and policy provide a mixture of resiliency and flexibility: they can absorb certain non-fundamental changes, without real modification of the essential structures or changes in

policy or politics. In all the analyses included in this volume, absorption is the most common type of change. It aptly characterizes the experience with European immigration policy of member states like Sweden. Although some EU policies like the Schengen Agreement caused more substantial change, most European directives have been easily absorbed into the existing Swedish approach to immigration control. Another example is Greece where early European policies on asylum were easily absorbed into the original Greek approach during the 1990s. The process flowed smoothly and without significant domestic political conflict because the restrictive European asylum measures have been supported by the national government and have the additional advantage of being seen as 'modern'.

3. *Transformation* is similar to what Hall (1993) labels 'third order' or paradigmatic change. It occurs when the fundamental logic of the domestic policy or political behaviour changes. It is obvious that only a few cases exist where the European impact on a particular member state would cause such far-reaching developments. In a policy area that was long dominated by unanimity voting in the European Council and which despite the recent moves towards QMV in certain areas is still dominated by cooperation based on intergovernmental thinking, member states will be attentive that European decisions will not overturn already established national 'ways of doing things'. Nevertheless, even in the case of immigration policy examples of transformative change exist. A first example – although outside of the scope of this volume – is the anti-discrimination directive of the EU. Here, a particular constellation of circumstances – European opposition to the extreme right-wing successes of the FPÖ in Austria and the engagement of an array of concerned interest groups – allowed the EU to pass this directive which in many European countries fundamentally changes the logic of policies on the integration of immigrants (Geddes and Guiraudon 2004). In the case of the politics and policies of immigration control, transformative domestic changes can be found as well. The best example among the cases included in this volume is Poland, where the fundamental logic of its new immigration policy has followed the role model of European neighbours and the requirements by the EU. But not only has Polish policy experienced transformative changes, but the politics and here in particular the elite discourse and the beliefs of Polish politicians have also come to closely resemble the European discourse.

4. Finally, *retrenchment* implies that national policies and politics become less 'European' than they were. In the case of the Europeanization of the politics and policies of immigration only a few cases of retrenchment exist, but even a couple of case studies provide ample evidence for the importance of national interests in immigration policy. In countries where the preferences of the national government are in contradiction to the development of European immigration policy, retrenchment is a possible outcome. The most obvious case in point here is the introduction and continuation of the Spanish quota policy on irregular migration.

Beyond this typology, the extent of change caused by the EU can be defined further by a clear focus on policy outputs instead of policy outcomes. The focus is therefore on legislative changes on the national level. Less attention is focused on the subnational levels, on the implementation of these policies and on the results of policies. Finally, the case studies included in this volume focus more on already established policies on the European level and their domestic impacts. Measures that have been discussed at the European level but where no political agreement could be reached receive less attention. This brings the volume closer in line with Europeanization research in other policy areas as well as with studies on the compliance of nation states with European norms.

### **Modes of Europeanization**

The third major research question which structures this volume and each individual chapter concerns the 'how' question and the differences between the European impact on the different dimensions – policies and politics – as well as the different countries under consideration. The literature on the Europeanization of domestic policies and political processes indicates a 'differential' impact of European requirements on domestic policies (see, for example, Héritier et al. 2001). Theoretical concepts that attempt to account for these varying patterns of Europeanization focus mainly on the 'goodness of fit' between the European-level policies and politics and the domestic level and on a number of mainly domestic intervening variables (for an overview see Mastebroek 2005; Risse 2001). One of the main findings of this volume is that – at least for the policies of immigration – the mode of Europeanization is the crucial explanatory variable, rather the 'goodness of fit'. The volume draws upon the work by

Scharpf (1999, 2000) and Wallace (2005) to differentiate between two fundamental modes of Europeanization to account for the differential impact of the EU on the policies of its member and non-member states. Both modes – prescriptive and discursive Europeanization – are ‘types of interaction’ (Scharpf 2000), ‘steering modes’ (Knill and Lenschow 2005) or ‘governance techniques’ (Fletcher 2003) which characterize ideal-typical patterns of governance in the multi-level European immigration policy.<sup>5</sup>

Overall, both modes differ along the degree of coercive pressure the EU can exert on a particular state to change its policies. The first mode – prescriptive Europeanization – is concerned with national reregulation in cases where the EU provides institutional models for domestic compliance. Prescriptive Europeanization is a form of coercive governance, defined as legally binding European legislation which leaves little or no discretion to the national implementer. Member states are required to make sure that these supranational policies are put into practice. In this mode the EU exerts high coercive pressure on a member state. In contrast, the second mode – discursive Europeanization – operates largely without pressure. There is no legally binding prescription of institutional models for domestic compliance; rather, these models offer non-binding suggestions for national policy-makers to guide the search for regulatory solutions to certain policy problems. Here, the EU serves mainly as an arena for the exchange of political ideas and promotes information exchange in transnational networks. This pattern of governance is often used to prepare the ground for policies that subsequently define institutional models for domestic compliance. The best known example in this respect is the open method of coordination.

## **Main results**

Following this broadly defined research framework set out in the preceding sections the comparative country chapters in this volume all follow roughly the same structure. After providing some general information about each country’s experience with immigration and its relations towards the EU, the chapters offer analyses of the impact of European immigration policy on, first, the national policies of immigration and, second, the national politics of immigration. The third part of the analysis considers the main driving forces and explanatory factors for the particular pattern of Europeanization.

The remainder of this introductory chapter provides a broad overview of the main results of the volume, with special attention to

two main conclusions. The first finding concerns the differential outcomes of the European impact on the national immigration policies in different member states. Whereas in traditional member states discursive modes of Europeanization lead to greater national policy changes, the extent of change decreases with the trend towards more prescriptive modes of interaction between the EU and its member states. In newer member states, in contrast, this pattern is reversed. Here, the extent of Europeanization is higher in cases characterized by prescriptive modes of interaction compared to discursive modes which result in only moderate policy change. The second conclusion concerns the comparison of Europeanization of the two dimensions analysed throughout the volume – policy and politics. Overall, the different case studies show that the European impact is far greater on the national policies than on the national politics of immigration. Furthermore, the volume reveals that Europeanization in the two dimensions follows largely different logics. Whereas the extent of Europeanization of the policies of immigration are best explained by the mode of Europeanization, the extent of the Europeanization of the politics of immigration is better explained by the compatibility between national and European structures of policy-making.

As to the extent of Europeanization of the domestic immigration policies, the volume shows great differences between the countries analysed. This differential extent of Europeanization is best understood as a continuum ranging from inertia or minor changes in domestic policies at one end of the spectrum to transformative and comprehensive changes at the other. All of the six member states of the EU studied can be situated on this continuum, with the UK at one end, with minor changes, and Poland at the other, with great alterations of its policy. In between are countries such as Germany and Sweden, which are closer to the British pole, as well as Greece and Spain, which are closer to the experience of Poland. Furthermore, the case studies overall show the reciprocal relationship between the mode and the extent of Europeanization, with discursive modes of interaction leading to greater national policy change in the case of traditional member states and prescriptive modes resulting in a greater extent of Europeanization in the case of new member states.

Compared with the other countries analysed in this volume, the UK is the case that displays the least EU influence on the original British approach to immigration control. The analysis of the British case shows overall minor national policy changes caused by the EU since the end of the 1990s (see Andreas Ette and Jürgen Gerdes in this

volume). But the British case is not only the one with the least extent of Europeanization, it also provides evidence for the importance of the pattern of governance in accounting for the outcome of the European impact. During the 1990s and for some years prior, the interaction between the UK and the EU on immigration and asylum matters was based on discursive modes of interaction. This changed with the Amsterdam Treaty and the increasing supranationalization of this policy area. The British case provides a first indication of the importance of the modes of Europeanization to account for the European impact on national immigration policies. Overall, Britain's immigration and asylum policy experienced greater impact and harmonization with European policy approaches during the 1990s than after the Amsterdam Treaty. Examples from the early 1990s include the changes to British asylum policy that came about as a result of, for example, European initiatives that led to the Dublin Convention and the London Resolutions. In contrast, the years after 1999 have seen minimal national policy changes resulting from EU initiatives. The sole exception is policies on human trafficking and smuggling, for which the UK adopted the European policy framework – no original British policy had been developed in advance. In the case of all other European policies, the European requirements have introduced only minor changes, or the British governments decided to opt out of particular European measures.

The relationship between the extent and mode of Europeanization is even more obvious in the German case (see Stefan Alscher and Kathrin Prümm, this volume). Germany was generally seen as the 'model student' of European integration, actively participating in the process of European integration in general and showing particular interest in a common European immigration policy. In line with this image, European activities during the 1990s profoundly altered Germany's immigration policy. In particular, the fundamental change of Germany's asylum policy associated with the change in its basic law can be directly attributed to European involvement. The Amsterdam Treaty, however, marks a turning point for Germany's involvement in the common European immigration policy as Germany changed 'from a vanguard to a laggard' (Hellmann et al. 2005). In contrast to the earlier period, European developments after 1999 have not, overall, significantly affected Germany's immigration policy. And a recent draft bill announced by the German government in January 2006 to transpose several European directives is not expected to introduce serious policy changes either.

At the other end of the spectrum is Poland, a new member state which joined the EU in the course of the eastern enlargement only in 2004. Generally, those countries that joined the club only recently have experienced the most comprehensive Europeanization of their domestic immigration policy. Agata Gorny, Anna Kicingier and Agnieszka Weiner (this volume) provide a detailed analysis of the European impact before and after 1997 and the associated modes of Europeanization in both time periods. Again, the mode of Europeanization seems an important predictor for the extent of policy change caused by the EU. Unlike the situation in the traditional member states, however, the impact of the EU is greatest in the case of prescriptive Europeanization. Nevertheless, the need to establish an immigration policy in due course after the collapse of the Eastern Bloc allowed the EU to impact on Poland's immigration policy already before more coercive measures had been in place. In consequence, the EU's impact on Poland's immigration policy has been considerable already from the early 1990s but has been especially powerful after 1997, when negotiations on EU accession were launched. During the early 1990s, the European impact was felt in particular in the establishment of an asylum system as Poland joined the Geneva Convention on refugees and the European Convention for the Protection of Human Rights and Fundamental Freedoms. Those developments were finally given expression in the 1997 Alien Act and introduced a range of measures that had been discussed on the European level at that time including, for example, temporary residence permits, carrier sanctions and the safe third country concept. The European impact actually intensified after 1997 and the amendments of the Alien Act in 2001 and 2003 transposed many European proposals into Polish immigration policy. 'Governance by conditionality', a particular form of prescriptive Europeanization, has characterized the interaction between the EU and Poland during the accession negotiations. In the course of these negotiations, and with strong aspirations to join the EU, Poland has willingly accepted the requirements on immigration policy.

Finally, the Greek case shows similarities with the Polish situation. Georgia Mavrodi's chapter in this volume shows how different modes of Europeanization have influenced immigration policy in Greece. In the Greek case the greater importance of prescriptive compared to discursive modes of Europeanization is obvious in the conditionality mechanisms in the run-up to Greece's joining the Schengen Agreement, as well as in the expected impact of recent European directives on immigration policy on Greek domestic policy. To become a



party to the Schengen system Greece had to implement specific legal provisions concerning border controls, visa policy and the fight against clandestine immigration. The Europeanization of Greece's immigration policy was in this sense a precondition to joining common European institutions and is therefore – and in parallel to the Polish experience – best understood as a form of conditionality. The importance of prescriptive modes of governance for the Europeanization of Greece's immigration policy is also obvious in the transposition of the directives passed on the European level after the Amsterdam Treaty came into force. Although the directives on asylum have not yet been implemented it is expected that they will introduce fundamental changes to the recent policy approach. Overall, the obligation to adapt to EU immigration legislation is therefore expected to lead to increased Europeanization of Greek immigration and asylum legislation. Notwithstanding the importance of prescriptive modes of governance for the great impact of the EU on Greece's immigration policy, discursive forms also play a role. This is of no surprise in a country 'where European political and social developments have often been considered as synonymous with modernization' (Mavrodi, this volume). Nevertheless, the changes introduced by prescriptive modes of interaction had greater impact on the development of immigration policy in the Greek case.

The assessment of the extent of Europeanization of immigration policies in countries such as Turkey (Ahmet İcduygu in this volume) and Albania (Imke Kruse in this volume) shows differences as well. The situation in both countries can be likened to that in Poland between 1997 and 2004 – highly coercive and prescriptive modes of Europeanization governed by conditionality. Both Turkey and Albania have a keen interest in joining the EU, and they are likely to accept European demands when it comes to changing their immigration policy. Finally, in countries that have no or only a very vague EU membership prospect (such as Morocco or Ukraine) the mode of Europeanization changes again. In those countries the 'EU lacks the carrot of accession in order to yield cooperation' (Lavenex in this volume). In consequence, different types of interaction come into play. Lavenex identifies three: positive conditionality linked with intergovernmental negotiations (for example, in the case of readmission agreements), policy transfer through transgovernmental networking and the mobilization of overarching international organizations such as the International Organization for Migration and the UNHCR. Overall, the impact of the EU on third countries such as Ukraine or Morocco, as

well as to a lesser extent on Turkey and Albania, is weaker than, say, in the Polish case. In those cases, the EU can exert less pressure to comply with European policies. Furthermore, the incentives to comply are reduced because the rewards of compliance are smaller and more precarious than, for example, in the Polish case where EU accession was a more likely prospect. In consequence, Europeanization is far less encompassing and focuses only on those aspects of a country's immigration policy that serves European interests of immigration control.

The second conclusion of this volume is that the European impact is far greater on the national policies than on the national politics of immigration, as indicated by the evidence provided by the analyses in the chapters that follow. The explanation for this conclusion falls back on two different factors which are both able to account for this difference. The first factor focuses on general characteristics of immigration policies with regard to the importance of different actors in the policy-making and decision-making processes and general findings of the impact of the EU on national politics. Despite recent arguments about the importance of interest groups and the judiciary in immigration policy-making (see, for example, Freeman 2006; Guiraudon 2000b), immigration politics as well as other policy areas in JHA are usually regarded as elite-dominated and characterized as a policy sector with strong executive dominance and only minor access by the legislatures, political parties and interest groups (Hammar 1985a; Statham and Geddes 2006). During recent years, this pattern of executive dominance has even increased. The tightness of the migration–security–nexus, the continuing securitization of immigration and the mingling of external and internal security issues with immigration have strengthened the grasp of the executive in this policy area (Faist 2005). Given these general findings on the impact of the EU on national politics, fundamental shifts in this dimension are unlikely. Those studies mainly conclude that the European impact on national politics results in a strengthening of the executive as opposed to the legislatures (see for example Andersen and Burns 1996; Börzel and Sprungk forthcoming). Therefore, there is a good fit between general patterns of the politics of immigration on the one hand and the European impact on national politics on the other. In consequence, a maintaining or even strengthening of this pattern can be expected, while any fundamental changes are unlikely.

The second explanation for the comparatively weak impact of the EU on national politics is based on nationally specific institutional arrangements which are clearly visible in the politics but not so

obvious in the policies dimension. National institutional frameworks for politics are much harder to Europeanize than more contingent regulatory approaches in the policy dimension (see for example Maurer et al. 2003). The results of the individual country chapters in this volume all indicate that the extent of Europeanization in the politics compared to the policy dimension is small, and that there has been generally little impact on the national politics of immigration. A first example is Sweden (Mikael Spång this volume) with its traditionally strong, policy-shaping parliament. Here, the Europeanization of policy-making processes has clearly strengthened the executive, with parliamentary committees facing great difficulties in influencing the government on European issues. Similar problems are reported for the process of transposition. The implementation of EU directives in Swedish law is generally prepared by expert commissions and working groups in the ministries rather than in parliament, which contributes to a further weakening of this institution. Another example supporting the same trend is provided by Margit Fauser's analysis (this volume) of the Spanish situation. In a country with a strong executive the European impact actually reinforces classical features of the Spanish political system. When the 'EU pushes and the government pulls for a more restrictive policy' the parliamentary opposition as well as interest groups have great difficulties getting their voices heard.

Despite these findings which show the reinforcement of traditional national patterns of policy-making, the contributions in this volume report a number of cases where the EU provides for new configurations in the national politics of immigration. A first example is the UK which is traditionally seen as a country where a strong executive and weak judicial control has enabled a very tough immigration control regime. Overall, the analysis shows that the politics of immigration in the UK have not been altered by Britain's participation in the developing European immigration policy. Nevertheless, the British adoption of the European Convention on Human Rights (ECHR) could in the long term significantly alter these established ways of doing things. Indeed, the analysis provides initial evidence towards such a development. The most remarkable results, however, can again be seen in the new member states such as Poland, as well as in potential future members of the EU such as Turkey or Albania. In the Polish case, the institutional framework of immigration policy-making has not changed in substance for more than 15 years. Even in Poland we find a clear executive dominance over immigration policy-making. Neither the parliament nor interest groups have real access to the policy-making process.

Europeanization has changed this institutional framework only slightly, in a proposal to establish a central government organ dealing with migration policy. Instead, the beliefs and elite discourse of politicians in Poland have been Europeanized to a large extent. The perception of uncontrolled immigration as a threat and the 'fortress Europe' approach have been effectively transferred to the Polish ground notwithstanding the small numbers of immigrants in Poland.

We began this introductory chapter with the observation that the recent crisis of the EU provides a chance to pause and assess the progress of European integration. All the contributions in this volume have collected detailed information about the European impact on policies and politics of immigration up to the end of the first five-year period of the Tampere Action Plan. Together, they provide striking evidence for the importance of the EU for understanding national political reactions to immigration and the changing multi-level governance of migration in Europe. The empirical and theoretical insights of this volume open the box towards an even fuller understanding of the interactions between the EU and its member states.

## Notes

- 1 For the sake of simplicity, this volume refers to the EU, even if the term 'European Community' would be more accurate, for example for events before the entry into force of the Treaty on European Union in 1993.
- 2 The term 'EU-ization' compared to 'Europeanization' would be more accurate to describe the impact of the EU on its member and non-member states. However, we go along with the widely used term 'Europeanization' also because of linguistic simplicity.
- 3 For the differentiation between level and scope see, for example, Börzel (2005b).
- 4 On citizenship policies, see Faist (2006).
- 5 The modes of Europeanization discussed here are in clear contrast to the discussion on the 'mechanisms of Europeanization'. Whereas mechanisms generally refer to the domestic processes that link the European level and national change, the modes of Europeanization describe the patterns of governance which link the EU with a particular member state (see Knill and Lehmkuhl 1999).

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