

**IN BETWEEN THE DOMESTIC AND THE SUPRANATIONAL  
EXPLAINING THE LACK OF HARMONIZATION OF EU LABOR  
IMMIGRATION POLICY**

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## **ABSTRACT**

This thesis addresses the issue of harmonization of EU labor immigration policy. Given the importance of the immigration issues for the EU as a whole there are many attempts coming from EU institutions aiming at harmonization of this policy. However, these efforts have faced many blockages from EU member states and a common labor immigration policy does not exist. Therefore the main question this thesis attempts to answer is why there is no a common economic immigration policy at EU level in spite of the benefits this could bring. The main hypothesis is that member states are the key players in deciding whether a policy will be harmonized at the EU level or whether it will remain under the sovereignty of national executives. This study identifies and discusses important aspects of labor immigration policy at the member states' domestic sphere and at EU level. As the thesis aims to disclose the role of EU member states in the harmonization process of labor immigration policy, a Liberal Intergovernmentalist framework analysis is employed. This thesis concludes that it is EU member states who are the main actors driving the EU integration process. Given the great diversity across states on labor immigration policy and the immense importance labor immigration poses for EU member states, as yet they have not agreed upon a common policy.

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## INTRODUCTION

During the last decade, the question of harmonizing EU states' immigration<sup>1</sup> policies has been on top of the agenda of the European Union. Even though several immigration policies have been successfully communitarized, others remain in the hands of the national governments. One of them is the labor immigration policy<sup>2</sup>. Labor immigration policy has been characterized by extreme changes across countries and across time, switching between liberal and restrictions tendencies depending on changing domestic factors. Policy changes in member states have been prompted by domestic factors such as (un)employment levels, transformations in the different professional requirements, public opinion etc. Labor immigration policy concerning third country nationals has been the object of a struggle of competence between the executives of the member states and EU institutions, with the former ones being so far successful in retaining control.

## THE DEFINITION OF THE PROBLEM

The issue of the harmonization of immigration policy is of a high importance for EU member states but also for EU institutions. The importance of harmonizing labor immigration policy at the EU level is widely recognized, especially if the EU is to achieve its broad goal of free movement of labor within the Union. At the same time, equally recognized is the importance and the sensitivity this issue represents for the sovereignty of the member states. So far any attempt coming from the EU aiming at harmonization of this policy has faced many political blockages from the part of the member states and a common immigration policy does not exist. It is highly appealing therefore, to examine the

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<sup>1</sup> Immigration is defined as movement by people across state borders that lead to permanent settlement. See Andrew Geddes, *The Politics of Migration and Immigration in Europe*. (Sage Publications, 2005): 7

<sup>2</sup> Labor immigration is the voluntary movement by people across state borders. See Geddes, (2005): 8

backstage of this policy development in the EU policy making process and to identify what are the reasons behind the unwillingness of member states to delegate power to the EU.

## **AIM OF STUDY AND RESEARCH QUESTION**

The research question this thesis attempts to answer is *why* there is no a common labor immigration policy at the EU level, despite repeated calls from EU institutions in favor of the supranationalization of the policy area and the obvious benefits that such competence delegation could bring. Answering such a question will help us gain a better and deeper understanding of the factors that influence the EU decision making process and European integration more generally.

The main hypothesis is that member states are the key players in deciding whether a policy will be harmonized at the EU level or whether it will remain under the sovereignty of national executives. This study intends to pursue a three step analysis: 1) national preference formation at the domestic level, 2) interstate bargaining at the EU level and 3) decision to delegate sovereignty to the supranational institutions. The thesis will argue that because member states have different labor immigration policies, the bargaining game at the EU level is based on unanimity and because they don't feel the need to escape to Europe, the harmonization of the policy has not taken place.

Taking into account the magnitude of this topic, this thesis acknowledges three main limitations. Firstly, this study will analyze only the process of harmonization of the labor immigration policy. Secondly, the focus will be only on extra – immigration, which is labor immigration coming from countries outside EU without touching upon intra – economic immigration. Thirdly, as the focal point will be the framework of decision and policy making, the content of the labor immigration policy will not be evaluated.

## **THEORETICAL FRAMEWORK**

There is a wide range of theories that seek to explain EU integration.<sup>3</sup> Each one of them offers a different perspective and provides different tools when trying to analyze this process. However, this thesis will use Liberal Intergovernmentalism. There is indeed good ground to believe that in the field of labor immigration, member states played a crucial role. This will be particularly interesting, given that most theoretical accounts of EU integration now focus on the role of supranational actors and interest groups (governance turn). Yet the hypothesis of this thesis is that states are still the central actors.

Known often as a one author theory, Liberal Intergovernmentalism is best associated with Andrew Moravcsik. The main underlying assumption of LI is that member states are the main drivers in the EU integration process. Member states have interests and it is based on these interests that they decide whether they will pursue a certain policy or not. However, according to Moravcsik, member states are not “black boxes” with predetermined preferences; on the contrary these preferences are created as a result of influences coming from the domestic environment. Also, Liberal Intergovernmentalism argues that it is the member states who decide upon modes of decision making and the role that the EU institutions will play, if at all. Applying this theory to the harmonization process of economic immigration policy will help to understand the reasons why this policy represents a challenge to the integration process.

## **LITERATURE REVIEW AND LITERATURE GAP**

After the 1990s, given the high salience of labor immigration policy researchers started to study specific aspects of this issue. Even though each of the studies is unique in its approach to the issue, for the purpose of this literature review they can be grouped into four main themes: immigration under the field of Justice and Home Affairs, the role of the

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<sup>3</sup> Neofunctionalism, Constructivism, Federalism, Multi-Level Governance etc.

public opinion, Europeanization of immigration policy and institutional impact on immigration policy. Firstly, there are many studies which discuss immigration under the umbrella of Justice and Home Affairs. Jorg Monar<sup>4</sup> is a prominent writer in this field who seeks to explain the dynamics of Justice and Home Affairs mostly after the 1990s and onwards. He seeks to find and explain the driving forces behind the developments of Justice and Home Affairs. He also studies the challenges that the enlargement poses on the coordination of policies under JHA<sup>5</sup>. Secondly, Adam Luedtke<sup>6</sup>, investigates the effects of public opinion towards EU control over immigration policy. He argues that public opinion is an important factor in explaining the reluctance of the Member States to yield power to the EU institutions. On the same topic, Gallya Lahav<sup>7</sup> takes a similar approach analyzing public opinion, arguing that public opinion is well informed about immigration policy developments and it takes an active stand whether it favors or not a certain development. Thirdly, Joana Apap<sup>8</sup>, focuses on Europeanization of immigration policies. Apart from these general approaches, there are also some specific studies that look at more specific aspects of the topic. Moreover, a very important study is the one by Terri Givens and Adam Luedtke<sup>9</sup>, who seek to analyze the attempts of creating a coming immigration policy. They focus on explaining national constraints that the process of harmonization is facing, taking though the immigration policy as a whole. Likewise, Andrew Geddes evaluates the process of Europeanization of immigration policy, however differently from Givens and

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<sup>4</sup> Jorg Monar. "The Dynamics of Justice and Home Affairs: Laboratories, Driving Factors and Costs" *Journal of Common Market Studies* 39, no. 4 (2001)

<sup>5</sup> Jorg Monar. "EU Justice and Home Affairs in the Eastward Enlargement: The Challenge of Diversity and EU Instruments and Strategies." *Center for European Integration Studies*, 2001  
[http://www.zei.de/download/zei\\_dp/dp\\_c91\\_monar.pdf](http://www.zei.de/download/zei_dp/dp_c91_monar.pdf)

<sup>6</sup> Adam Luedtke. "European Integration, Public Opinion and Immigration Policy" *European Union Politics* 6, no.1 (2005)

<sup>7</sup> Gallya Lahav. "Public Opinion Toward Immigration in the European Union: Does it Matter?" *Comparative Political Studies* 37, no. 10, (December 2004)

<sup>8</sup> Joana Apap Ed., *Justice and Home Affairs: Liberty and Security issues after Enlargement*. (Edward Elgar, 2004),



Luedtke<sup>10</sup>, he attempts to answer the question whether a common immigration policy can exist. Geddes provides a comparative analysis on the dual influence of EU – member states on each other. Finally, a different and important perspective can be seen in the study of Penelope Turnbull and Wayne Sandholtz<sup>11</sup> who explain the institutional landscape in the field of immigration and policing. Their main argument is that institutions do play an important role in shaping the attitude of actors (states) towards immigration policy, by providing a set of norms and principles which guide their behavior.

However, despite the undisputable importance of the above mentioned studies, the issue of harmonization of economic immigration policy is considerably under researched. There are no studies as such that look specifically at the harmonization of labor immigration policies. Moreover there no study that analyses this process from a liberal intergovernmental perspective. As it will be argued further in this thesis, liberal intergovernmental lenses offer an excellent framework for understanding the debate in the harmonization process of this policy. Bearing in mind that this is one of the most controversial policies which poses a challenge for the EU and the member states, a thorough analysis is very important to understand the developments that have happened so far and at the same time to be able to successfully predict possible changes in the future.

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<sup>9</sup> Terri Givens and Adam Luedtke, “The Politics of European Union Immigration Policy: Institutions, Salience and Harmonization” *The Policy Studies Journal* 32, no. 1, (2004)

<sup>10</sup> Andrew Geddes. *The Politics of Migration and Immigration in Europe*, (Sage Publications, 2005)

<sup>11</sup> Penelope Turnbull, Wayne Sandholtz, „Policing and Immigration: The Creation of New Policy Spaces“, in Alec Stone Sweet, Neil Fligstein, Wayne Sandholtz, *The Institutionalization of Europe*, (Oxford University Press, 2001)

## RESEARCH METHODOLOGY

In this study a qualitative research methods will be used. Diverse sources of data will be used. Firstly, primary documents in the form of treaties, communications, official documents and speeches of EU officials will be used. They will help to reveal the main developments in this policy area and the official positions of the EU institutions and of the member states. The documents have been acquired mainly through the official web sites of the EU and official websites of the member states. Secondly, a limited number of interviews have been conducted with high officials from the EU Commission and from the Permanent Representations of EU member states in Brussels, which has helped to acquire a deeper insight of the role of the member states towards the harmonization of the economic immigration policy. Thirdly and finally the secondary literature found in books, journals and online articles provided important information on actors, policy problems and chronological developments in the field.

## STRUCTURE OF THE THESIS

This thesis is organized in five main chapters.

*The first chapter* will introduce the necessary background of the major developments until today concerning labor immigration policy. It will focus mainly on Treaty revisions and EU institutions competences. The *second chapter* will present the theoretical framework of the thesis and the hypotheses which are derived from it. The *third chapter* will discuss national preference formation towards labor immigration policy focusing on domestic actors and their role in shaping the national preference towards this policy. The *fourth chapter* will focus on the interstate bargaining concerning labor immigration policy, among EU member states at the EU level. The *fifth chapter* will analyze the reasons behind the decision (or not) to delegate power to the supranational institutions on the issue of labor immigration

policy. The last concluding chapter will summarize the findings and relate them to broader debates on EU policy integration.

## CHAPTER 1- BACKGROUND INFORMATION

While during the 1960s and 1970s the European Community was far ahead in establishing common policies in the economic field, immigration policy was out of reach of the EC institutions. Actually, the mere option of discussing immigration issues in the EC supranational venue was not even considered. The key factor was the absence of a substantial legal basis in the Treaty of Rome concerning immigration policies. Moreover, there was a lack of substantial will on the part of the member states to change this. Immigration policy was solely within the remit of national governments. Today, immigration policies moved to the first pillar of the Treaty and Qualified Majority Voting (QMV) applies to all immigration issues except labor immigration and immigrant integration policy.<sup>12</sup> Labor immigration policy still remains the sole competence of the member states. This chapter will make an overview of the major institutional and treaty changes and of the EU institutions competences.

### 1.1 Treaty Revisions

Four main stages can be identified when important institutional changes have occurred. The first stage, during 1957-1986 can be identified as the time when immigration policy was a national monopoly.<sup>13</sup> Commission proposals<sup>14</sup> were welcomed reluctantly by countries such as the UK, Germany, France, and Denmark, which argued that the Commission was exceeding its competencies. The first institutional effort to achieve coordinated cooperation (even though discussed outside the EU framework), was the

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<sup>12</sup> Andrew Geddes, *Immigration and European Integration: Towards Fortress Europe?* (Manchester University Press, 2000), 116

<sup>13</sup> Ibid, 117

signing of the Schengen agreement in June 1985, which brought down the internal frontiers of five pro-integration countries.<sup>15</sup> The Schengen agreement introduced important elements that later would become the basis for shaping EU cooperation in the field of immigration.

During the second stage, (1986-1993)<sup>16</sup>, the main breakthrough towards the supranationalization of immigration policies is the signing of the Maastricht Treaty (1992) whereby the third pillar under the name of Justice and Home Affairs was created. As a result, the framework of authority and accountability in JHA was built around the principle of Intergovernmentalism and unanimity voting.<sup>17</sup> As the Council of Ministers emerged as the key player, and the Commission, the European Parliament and the European Court of Justice were still marginalized in the process.

Throughout the third stage, 1993-1999, member states continued to keep a tight grasp on the JHA developments and on the empowerment of supranational institutions. The peak was reached with the signing of the Amsterdam Treaty<sup>18</sup>, which committed to develop “an area of freedom, justice and security” and brought immigration issues into the Community pillar<sup>19</sup> under the title IV. Although Amsterdam Treaty communitarized immigration issues, member states agreed to keep the unanimity decision making in the Council until 2004, thus maintaining the intergovernmental character of the policy area for at least a five year period. After the transitional period, again by unanimity, the Council could decide to move to a QMV system. In this way, labor immigration policy was

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<sup>14</sup> EC's first Social Action Programme of 1974 and Commission proposal guidelines for a Community Policy on migration (CEC, 1985)

<sup>15</sup> France, Germany, Belgium, Netherlands and Luxembourg. Since 1997, 13 EU member states (excluding UK and Ireland) are Schengenland.

<sup>16</sup> A major event during this period is also the signing of the Single European Act. It created an area without internal frontiers, which did not influence the issue of economic immigration and member states continued to pursue their own national policies in this field.

<sup>17</sup> Geddes, “Immigration and European Integration: Towards Fortress Europe?” (2005) : 54

<sup>18</sup> The Amsterdam Treaty was signed in 1997 and came into force in 1999

partially communitarized, in the sense that it was placed under the Community pillar but the key actors remained the member states since the unanimity voting rule prevailed.<sup>20</sup>

Finally, during the fourth stage, 1999-2006 the main objective has been communitization. While the treaty of Amsterdam brought immigration policies under the community pillar there was no indication about a common EU immigration policy. This was done in the Tampere Council in 1999 which clearly defined the policy framework in which Member states can create a common immigration policy. The Tampere summit<sup>21</sup> called for a common EU immigration policy and provided political impetus for the highest governmental level. There has been a slow move towards communitarization of immigration issues, however, it has always been tied with reluctance from the member states on empowering supranational institutions.

Two important developments<sup>22</sup> after 1999 are The Hague Programme and the Green Paper. The Hague Programme<sup>23</sup> retains unanimous voting and, that way, national veto opportunities. It also keeps restricted parliamentary rights for legal long-term migration on third-country nationals, the freedom to travel for third-country nationals for up to three months, the abolition of internal border controls between the member states, standard external border controls etc. In 2005 the commission presented the Green Paper<sup>24</sup> on and EU approach to managing labor immigration. The Green Paper aimed at fostering the debate among EU institutions, member states and civil society about the “added value”

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<sup>19</sup> The first pillar where the Qualified Majority Voting applies

<sup>20</sup> Geddes. *The Politics of Migration and Immigration in Europe*. (Sage Publications, 2000): 98

<sup>21</sup> European Council, Presidency Conclusions of the Tampere European Council of 15-16 October 1999, SN 200/99, Brussels, (1999)

<sup>22</sup> Peter Claes. First Secretary Coordination European Cooperation Justice and Home Affairs, Federal Public Service Foreign Affairs in Brussels. Interview by author 9 May 2007

<sup>23</sup> European Commission, The Hague Programme: Strengthening security, freedom and justice in the European Union. Brussels, 13 December, 2004

[http://ec.europa.eu/justice\\_home/doc\\_centre/doc/hague\\_programme\\_en.pdf](http://ec.europa.eu/justice_home/doc_centre/doc/hague_programme_en.pdf)

<sup>24</sup> European Commission, Green Paper on an EU approach to managing economic migration, 811 final, Brussels, 1.11.2005

[http://ec.europa.eu/justice\\_home/doc\\_centre/immigration/work/doc/com\\_2004\\_811\\_en.pdf](http://ec.europa.eu/justice_home/doc_centre/immigration/work/doc/com_2004_811_en.pdf)

of and the most appropriate form for Community rules for admitting third country nationals for employment purposes. A new momentum was hence found to re-launch the debate on and EU labor immigration policy.

The green Book of the Commission of April 2005 was followed by the Commission's Action Plan on legal migration of December 2006. After the publication of the Action Plan, no coordination was organized. According to Peter Claes,<sup>25</sup> member states considered it too early to express a formal position, also because the Commission did not introduce any concrete proposal. The first proposals are only expected during the second half of 2007. According to Claes, on the basis of its 2005 Policy Plan on Legal Migration the European Commission plans to present in September 2007 a proposal for a directive on the conditions of entry and residence of highly skilled workers from third-countries, with the aim of attracting the professionals needed to sustain the EU's competitiveness.<sup>26</sup> Three other proposals aimed at facilitating circular and temporary labor immigration are planned to be put forward and should address respectively seasonal workers and remunerated trainees (autumn 2008), and intra-corporate transferees (2009). On the other hand, the Commission plans to present a proposal in September 2007 regarding the legal status of immigrant workers legally residing in the EU.<sup>27</sup>

## **1.2 Role of EU Institutions**

Unlike in most other issues where the Commission was granted a role in the policy-making process, in the field of immigration the role of the Commission has always been marginal. Before the Amsterdam Treaty the Commission had to share its right of initiative

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<sup>25</sup> Peter Claes, Interview by author,

<sup>26</sup> Ibid.

<sup>27</sup> Sven Mossleer Dr. Desk Officer, Division E05 – EU Justice and Home Affairs, European Law, Federal Foreign Office/ Germany Interview by author 14 May 2007

with the member states, and it gained the sole right of agenda setting only after 2004. The role of the commission in the immigration policy was improved when the Council gave a mandate for the Commission to develop a common immigration and asylum policy in Tampere summit. Commissions' role in the area of immigration and asylum was further enhanced by the creation of a DG dealing with JHA in 1999 allowing it to better organize and structure its activities. This DG is the youngest DG in Commission.<sup>28</sup> However, in spite of the impressive strengthening of the Commission's powers over time there are substantial constraints on formal and informal agenda –setting power of commission. In the field of labor immigration policy member states still are the one in charge. That is the policy preferences of member states that actually matters rather than the position of institutions.

Similarly the European Parliament holds limited powers in the field of labor immigration policy. It has created closer links with the European Commission, which will give to the EP the possibility to influence the decision making procedure. Amsterdam and Nice treaties gave parliament co-decision power in certain issues; nonetheless, labor immigration is not one of them.<sup>29</sup> Considering the limited role it possesses in the issue of economic immigration policy, the EP has called for supranationalization and the application of Qualified Majority Voting.

Geddes<sup>30</sup> argues that the ECJ's right of jurisdiction over title IV issues is also constrained in three ways. Firstly preliminary rulings can only be required against decision

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<sup>28</sup> Emek Ucarer, "From the Sidelines to Center Stage: Sidekick no More? The European Commission in Justice and Home Affairs", *European Integration online Paper* 5, no 5, (2001)  
<http://eioop.or.at/eiop.texte/2001-005.htm>

<sup>29</sup> The issues include: movement of TCN's in possession of visa; illegal immigration and the repatriation of illegally resident persons, administrative cooperation in areas under title IV. Policy on asylum and persons under temporary protection will be moved to co-decision procedure after adoption of Community legal framework on related issues.



when there are no judicial remedies under national law. Secondly, the ECJ has no powers over measures related to the maintaining of law order of national security. This means that “the court has no jurisdiction to review the validity and proportionality of operations conducted by the police or other law enforcement agencies of a member states.”<sup>31</sup> Thirdly ECJ can rule on the interpretation of title IV only on a request of from the Council, the Commission and MS.<sup>32</sup>

To sum up, it can be argued that whilst EU institutions are pushing for full communitarization of all the issues of immigration including labor immigration policy, EU member states have managed to restrict their role and remain the main actors, at least in issues of high importance such as the economic immigration policy. All these issues will be analyzed further in the following chapters. The next chapter will lay the theoretical background and the necessary framework to analyze the empirical findings.

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<sup>30</sup> Geddes. *The Politics of Migration and Immigration in Europe*. (2005): 138

<sup>31</sup> Ibid., 139

<sup>32</sup> Ibid, 140

## CHAPTER 2 - THEORETICAL FRAMEWORK

Since the beginning of European Integration in the early 1950's, a number of <sup>33</sup> theories have attempted to explain this process. Theories provide us with concepts and frameworks, which help to explain and understand events that occurred or are taking place, but also help us to predict possible future ones. Ben Rosamond states that the EU is far too complex to be captured by a single theoretical framework. Indeed, each of the theories offers a different perspective on the why's, who's and what's of the EU integration. Concerning the topic of EU integration though, there are two main theories that best grasp the tendencies of the process, namely Neofunctionalism and Liberal Intergovernmentalism.<sup>34</sup> These two theories hold opposing views on issues of integration and provide different tools to explain why and how does EU integration take place. However, there are strong reasons (which will be explained as follows) to believe that concerning harmonization of labor immigration policy Liberal Intergovernmentalism is the best theoretical framework. As follows, main assumptions of Neofunctionalism will be presented, concerning the role of relevant actors mainly member states and supranational institutions, which in turn will be dismissed on the grounds of not providing the necessary means to explain the harmonization of labor immigration policy. The rest of the chapter will focus on introducing and analyzing Liberal Intergovernmentalism and it will argue why Liberal Intergovernmentalism is the most appropriate theoretical tool to analyze harmonization of labor immigration policy. Finally, Liberal Intergovernmentalism will

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<sup>33</sup> Philippe C. Schmitter. "Neo-Functionalism" eds Antje Wiener and Thomas Diez *Theories of European Integration* (Oxford University Press, 2005), 46 - lists: International regime analysis, The regulatory approach, Liberal Intergovernmentalism, The policy network approach, the Fusion-Thesis, Multi-lateral governance, Institutionalism, Rationalism, Constructivism, Reflectivism, Postmodernism and Two-Level game.

<sup>34</sup> Since other EU theories do not focus specifically on the dynamics behind the integration process only Neofunctionalism and Liberal Intergovernmentalism will be considered.

provide the necessary framework which will serve as the background for the three following chapters of this thesis.

## **2.1 Neo-Functionalism**

Neo-functionalism<sup>35</sup> has been considered as one of the most important theories in explaining European Union integration. It started as an approach attempting to theorize the strategies of the foundation of EU; however it developed into a genuine theory covering a wide range of aspects regarding regional integration. Presenting Neo-functionalism will be narrowed into outlining its main assumptions and the role of the member states, interest groups and supranational institutions.

According to Neo-Functionalism the engine of integration is best described by the concept of spill-over<sup>36</sup>, whereby the integration of one sector will be complete only by taking further actions which in turn will necessitate additional action and so forth. This concept holds the logic of expansion meaning that integration in one field will lead to integration of other fields, but also the logic of deepening as once policy areas are interconnected a deeper integration becomes necessary.<sup>37</sup> The hypothesis of spillover suggests that “integration is a linear, progressive phenomenon; that once started; dynamics would be set in place to continue the momentum.”<sup>38</sup>

Neo-functionalism argues that it is the threats coming from the global environment and/or past decisions that push national actors to agree upon a common solution. In searching for a common answer, national actors agree upon creating a set of institutions, which in turn create their own self-maintaining norms. Neo-functionalism acknowledges

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<sup>35</sup> Neo-functionalism is build upon the basic assumptions of functionalism, which was further elaborated. For a full account on Neo-functionalism see (Haas, E.B (1976), Schmitter (2005), Lindberg (1963))

<sup>36</sup> First introduced by Haas in 1958

<sup>37</sup> Ben Rosamond. *Theories of European Integration*. (London: Macmillan, 2000), 61-63

the role of EU member states during the original agreement; however it argues that they cannot influence the direction and the degree of integration. On the contrary, it is non state actors, such as the interest groups or social movements and what Philippe Schmitter calls the “secretariat of the regional organization”<sup>39</sup> that provide the spur for further integration. Rosamond argues that interest groups will become aware of the benefits of integration and as a result they will lobby their governments pushing for further integration. Yet, Haas came to understand that in order for spill over to take place, a high authority – autonomous from the member states had to be created, which would give a push to the integration in the right direction.<sup>40</sup> He considers EU supranational institutions, especially EU Commission as the main non-state actor to foster EU integration. Neo-functionalists believe that the Commission is in a unique position to manipulate international and national forces to promote further integration.<sup>41</sup> Therefore, it can be argued that Neofunctionalism analyzed EU integration at the supranational level, focusing mostly on the role of EU institutions.

Nonetheless, bearing in mind the topic of this thesis, the integration of EU labor immigration policy, it can be argued that while individual ideas from the above theory can certainly explain various aspects of it, Neofunctionalism lacks the framework to explain the dynamics behind the integration of this policy. Immigration policy is considered by EU member states as one of the sensitive areas of state sovereignty and cooperation in this field is a considerably new phenomenon. Since the early stages of this cooperation, in 1960s and 1970s member states have been the main actors in deciding every step of integration. As Virginie Guiraudon<sup>42</sup> puts it, state actors strategically use EU level organizations to pursue national policy goals in the field of immigration. Furthermore, the pattern of EU

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<sup>38</sup> Ibid, 63

<sup>39</sup> Schmitter, “Neo-Functionalism” (2005): 46

<sup>40</sup> Rosamond, *Theories of European Integration*, (2000): 59

<sup>41</sup> Rosamond, *Theories of European Integration*, (2000): 67

cooperation is largely intergovernmental and unanimity applies in the decision making procedure in the Council of Ministers. So, the argument that EU institutions have been able to maximize their competences and initiate the supranationalization of a policy area can not be applied for the immigration policy. Therefore, this thesis hypothesizes that the making and shaping of labor immigration policy is still down to member state preferences and interests. Also, it predicts that instead of Neofunctionalism, it is Liberal Intergovernmentalism which best explains the harmonization (or lack) of labor immigration policy. The main assumptions and predictions of Liberal Intergovernmentalism will thus be presented in the rest of this chapter.

## **2.2 Liberal Intergovernmentalism**

### **2.2.1 Liberal Intergovernmentalism- Origins**

Liberal Intergovernmentalism, which is almost always identified with Andrew Moravcsik bases itself on the Realist and Intergovernmentalist assumptions. Realists argue that states are the key actors in the international arena and in the policy making process. Their actions are driven by relative gains and even though their perception on the relative gains can vary, it will always be greater than zero.<sup>43</sup> On the other hand, institutions possess a minimal influence over the state behavior and they cannot become a party when states cooperate with each other.<sup>44</sup> Neo-realism is a revised follow-up version of realism. The main difference between the two is that the former argues that the quest for power is the main objective and the latter argues that the main driving force is the pursuit for security

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<sup>42</sup> Virginie Guiraudon, "Seeking New Venues: Europeanization of Migration-Related Policies, Debate on Immigration Policy", *Swiss Political Science Review* 7, no. 3 (2004)

and welfare.<sup>45</sup> Intergovernmentalism departs from these assumptions, and argues that states are the central actors within the EU and makes little room for the role of the EU institutions.<sup>46</sup> According to Intergovernmentalism, the scope of European Integration is the end result of the bargaining procedure between nation – states. This view is strongly supported by Moravcsik who states that:

From the signing of the Treaty of Rome to the making of Maastricht the EC has developed though a series of celebrated intergovernmental bargains, each of which set the agenda for an intervening period of consolidation. The most fundamental task facing a theoretical account of European integration is to explain these bargains.<sup>47</sup>

However, Liberal Intergovernmentalism has developed to be a far more complex theory than simply an application of Intergovernmentalism. Indeed, the scope of this theory does not stop in explaining the bargaining process among states. Liberal Intergovernmentalism is a combination of two broad theories: Liberal theory of International Relations and theory of Intergovernmental Institutionalism. Moravcsik argues that he builds his theory upon intergovernmental institutionalism by refining its theory of interstate bargaining and institutional compliance and by adding a theory of national preference formation, which is based on the liberal theories of international interdependence.<sup>48</sup> The main distinction between Liberal Intergovernmentalism and (Neo) Realism/Intergovernmentalism is that Liberal Intergovernmentalism does not treat the state as a black box, with predetermined preferences; on the contrary Liberal

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<sup>43</sup> Steve Smith. “International Theory and European Integration” in *International Relations theory and the Politics of European Integration: Power, Security and Community* eds. Morten Kelstrup and Michael C. Williams.( Routledge, London and New York, 2000): 40

<sup>44</sup> Ibid.,40

<sup>45</sup> EU E-learning units “Neo-Realism: EU as an International Actor”  
www.epsnet.org/EPISTEME/Unit2/neorealism.htm retrieved 5.5.2007

<sup>46</sup> Initially proposed by Stanley Hoffmann, but also developed by Kenneth Waltz, John Mearsheimer etc

<sup>47</sup> Andrew Moravcsik, “Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach”, *Journal of Common Market Studies* 31, no. 4 (1993)

<sup>48</sup> Ibid., 473

Intergovernmentalism opens it up to the study of state preference formation.<sup>49</sup> This will be discussed in length when analyzing the application of Liberal Intergovernmentalism to EU Integration. Meanwhile, in the following section, the general assumptions of Liberal Intergovernmentalism will be presented.

### 2.2.2 Liberal Intergovernmentalism – Main Assumptions

Moravcsik has specifically framed his theory as a critique to Neo-functionalism, which stresses the pressures of the supranational institutions and their role in the European Integration. He has sought to portray the EU as a “series of celebrated intergovernmental bargaining”.<sup>50</sup> His main assumption is that the driving forces of EU integration lie in the interests of the member states and in the power they bring to Brussels.<sup>51</sup>

When developing LI, Moravcsik introduced a three step analysis of integration namely, national preference formation, interstate bargaining and institutional choice. These steps of analysis have been summarized in Table 1. The first step explains national preference formation and the key question asked by Moravcsik is whether economic or geopolitical interests are behind policy decisions states undertake. He argues that economic interests are far more important than geopolitical ones.

Yet economic interests remained primary. Pressures from economic interest groups generally imposed tighter constraints on policy than did security concerns and the ideological visions of politicians and public opinion. When one factor had to give way, it tended to be geopolitics.<sup>52</sup>

<sup>49</sup> Fin Laursen “Theories of European Integration” Background paper for lecture on “European Integration: What and Why?” at the Graduate Institute of European Studies, Tamkang University, Taipei, Taiwan, March 2002

<sup>50</sup> Smith. “International Theory and European Integration”, (2000):46

<sup>51</sup> Ibid. 46

<sup>52</sup> Moravcsik. *The Choice for Europe: Social Purpose & State Power from Messina to Maastricht*, (1998):7

The second step analyzes interstate bargaining, focusing on efficiency and distributional outcomes. The issue at stake is that due to the divergent interests, during negotiations there are outcomes that favor one or another country more than the others. The key question here is whether asymmetrical interdependence<sup>53</sup> or supranational entrepreneurship has more explanatory power concerning the outcomes. Moravcsik concludes that it is the relative power of the nation states and the asymmetrical interdependence among policy preferences that influences the interstate bargaining outcomes.

The third step seeks to explain the issue of delegating or pooling decision making in international institutions. In some areas of policy making extensive powers have been delegated to the supranational theories. In a great majority of policy sectors, the Qualified Majority Voting now applies. Yet, in a few sensitive areas, decisions are still governed by the unanimity rule. Thus in this step the main puzzle is, why do states chose to delegate or pool sovereignty in certain policy areas and not in others.

<b>Stages of negotiation</b>	<b>of</b>	<b>National Preference Formation</b>	<b>Interstate Bargaining</b>	<b>Institutional Bargaining</b>
<b>Alternative independent variables underlying each stage</b>	<b>each</b>	What is the source of underlying national preferences?	Given national preferences what explains the efficiency and distributional outcomes of interstate bargaining?	Given substantive agreement, what explains the transfer of sovereignty to international Institutions?

<sup>53</sup> Asymmetrical Interdependence is best defined as "... the power of each government proportional to the relative value that it places on an agreement compared to the outcome of its best alternative policy – its preference intensity. This term is firstly coined by Robert Keohane and Joseph Nye.



	Economic Interests or Geopolitical Interests?	Asymmetrical Interdependence or Supranational entrepreneurship?	Federalist ideology or Centralized technocratic management or More credible commitment?
<b>Observed outcomes at each stage</b>	Underlying national preferences	Agreements on substance	Choice to delegate or pool decision- making in international institutions

Table. 1<sup>54</sup> EU Cooperation: A Liberal Intergovernmentalist Framework

Moravcsik seeks the answer by comparing and contrasting three possible explanations: federalist ideology (the independent role of ideas in shaping institutional preferences), centralized technocratic management (the idea that international institutions are more efficient than decentralized governments) and credible commitment (efforts of the governments to constrain and to control each other).<sup>55</sup> He concludes that the delegating or pooling of sovereignty to international organizations is best explained by the third factor, credible commitments. Hence, pooling and delegation does not happen when ideologies converge nor when the governments agree that they need common institutions, but when states want compliance by other states. After having presented the broad picture of Liberal Intergovernmentalism it is important to evaluate how this theory applies to EU integration.

<sup>54</sup> Moravcsik. *The Choice for Europe: Social Purpose & State Power from Messina to Maastricht* (1998):24

<sup>55</sup> Ibid. 8

## 2.3 Applying Liberal Intergovernmentalism to European Union Integration

Moravcsik states that Liberal Intergovernmentalist theoretical framework is a general one, which can be applied to any kind of regional integration; however, EU case is an excellent avenue for testing this theory. The theoretical analysis of EU integration will be divided in three parts, corresponding to the division introduced above; national preference formation, interstate bargaining, institutional choice. In the end, the main hypothesis of this thesis will be introduced.

### 2.3.1- National Preference<sup>56</sup> Formation.

When analyzing preference formation, Moravcsik states that economic reasons play a greater role than geopolitical ones. Thus the latter will not be considered in the analysis. The economic approach makes predictions across five dimensions: systemic variation across countries, timing, policy consistency/negotiating demands, domestic actors/cleavages and negotiating demands/ salient concerns in domestic policy.<sup>57</sup> Based on the first dimension Liberal Intergovernmentalism predicts that national positions of EU member states will vary by issue and economic incentives. Concerning harmonization, member states will tend to agree upon policies that will allow them to protect their autonomous preferences. On the second dimension, timing, Moravcsik predicts that shifts in national positions are more likely to happen after major changes in economic situations

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<sup>56</sup> By preference Moravcsik means not simply a particular set of policy goals but a set of underlying national objectives independent of any particular international integration to expand exports to enhance security vis-à-vis a particular threat, or to realize some ideational goals, Moravcsik, *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht*, (1998): 20

<sup>57</sup> Ibid., 50

or in domestic policies.<sup>58</sup> Concerning the third dimension, on policy consistency and negotiating demands, Liberal Intergovernmentalism foresees that governments of the member states will pursue an EU regional policy which is consistent with their own policies. On the fourth dimension, domestic actors and cleavages, the assumption is that “the economic interest groups and economic officials along with ruling parties and chief executives will take the lead in formulating a policy.”<sup>59</sup> Finally, the fifth dimension, negotiating demands and salient concerns, predicts that state officials will engage in discourses attempting to formulate a policy, which will allow for achieving their domestic economic objectives.

### 2.3.2 Interstate Bargaining: Explaining Efficiency and Distribution

Liberal Intergovernmentalism attempts to explain the bargaining process based on the intergovernmental principle. The intergovernmental bargaining theory<sup>60</sup> focuses on the bargaining power of the actors involved and on the nature and intensity of state preferences. The main assumption is that asymmetrical interdependence determines the role and the influence of states in the bargaining process, but also its willingness to agree or not on specific policies. This approach is based on three assumptions, which will be analyzed in turn.

Firstly, negotiations take place “within a non coercive system ...in which governments can and will reject agreements that would leave them worse off than unilateral

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<sup>58</sup> Moravcsik. *The Choice for Europe: Social Purpose & State Power from Messina to Maastricht* (1998)

<sup>59</sup> Ibid, 50

<sup>60</sup> Ibid, 60

policies.”<sup>61</sup> In a non-coercive environment such as the EU, a government can agree, opt-out, disagree, or form coalitions with other governments. It can agree upon a policy which will make its position worse off, only when considering that the future outcome will be better than the outcome resulting from unilateral agreements. Moreover, a government can even agree to become a party when considering the possibility that failing to agree will leave everyone worse off; this can account for the mere fact that agreements do take place.

Secondly, the theory assumes that the costs for gathering information on other countries on a particular issue are low compared to the benefits that member states gain from cooperation. Moravcsik assumes that national governments have the necessary information about the potential agreements, the preferences of other governments and institutional options.<sup>62</sup> This gives a chance to governments of the member states to initiate and mediate possible agreements on issues of their interest. In a non-coercive, the governments can undertake proposals, whereby disclosing their preferences and making compromises (or not) in order to reach an agreement.

Thirdly, the distribution of benefits reflects the bargaining power and the power relations between the governments. As put by Moravcsik, “the power of each government is inversely proportional to the relative value that it places on an agreement compared to the outcome of its best alternative policy – its preference intensity”<sup>63</sup>. As a consequence, the governments with a very strong desire to reach an agreement will make compromises if and when necessary. On the other hand, governments with high satisfactory unilateral or coalitional agreements are less predisposed to make concessions.

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<sup>61</sup> Ibid, 60

<sup>62</sup> Moravcsik. *The Choice for Europe: Social Purpose & State Power from Messina to Maastricht* (1999):61

<sup>63</sup> Ibid, 62

### 2.3.3 Institutional choice: Pooling<sup>64</sup> and Delegation<sup>65</sup> of Sovereignty

The question of why governments delegate power to institutions is particularly relevant to the EU, considering the rich institutional settings it has developed. There are four main institutional bodies under the umbrella of EU: the Council of Ministers (an intergovernmental body), the Commission (the secretariat with agenda setting powers), the Parliament (the directly elected assembly) and the Court of Justice (a constitutional court). EU institutions have exceeded their own powers and more and more policy areas are supranationalized.

According to Moravcsik, the framework which best explains the phenomena of pooling and delegating is to be found in the hypothesis that EU member states want to make sure that other governments will respect the agreements, meaning that they want to lock each other into credible commitments.<sup>66</sup> He argues that the support for delegating and pooling varies across countries and across issues. However, there are certain situations that create the right conditions for the pooling and delegation of sovereignty to happen. Governments of EU member states that have “extreme preferences” with the threat of being outvoted tend to be more willing to create common supranational institutions. Moreover, governments decide to delegate (or pool) when they are seeking credible commitment under conditions of uncertainty, “particularly when they seek to establish linkages and compromises upon issues where non-compliance is tempting.”<sup>67</sup>

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<sup>64</sup> Sovereignty is pooled when governments agree to decide by voting other than unanimity. The Parliament enjoys some sort of pooling sovereignty when the political parties can influence the legislative process. See Moravcsik *The Choice for Europe: Social Purpose & State Power from Messina to Maastricht*, (1998): 67

<sup>65</sup> Sovereignty is delegated when supranational actors are allowed to take autonomous decisions. The Commission enjoys such autonomy in some matters, See Moravcsik (1998): 67

<sup>66</sup> Moravcsik. *The Choice for Europe: Social Purpose & State Power from Messina to Maastricht* (1998):73

<sup>67</sup> Andrew Moravcsik. “Liberal Intergovernmentalism and integration: A rejoinder” *Journal of Common Market Studies* 33, no. 4 (1995): 612

The extended powers of European institutions are often presented as an argument against Liberal Intergovernmentalism. However, Moravcsik attaches a significant importance to the EC/EU institutions arguing that these institutions strengthen rather than weaken the stance of the member states. He argues that these institutions can be beneficial in different ways. More specifically, EU institutions legitimize the actions of the heads of EU member states and so provide a safe environment for them to escape national pressures.<sup>68</sup> However, the decision to delegate brings with it a known risk of being outvoted in specific issues.<sup>69</sup> Despite the recognition of the benefits deriving from setting up institutions, according to Liberal Intergovernmentalism, they have limited powers and play a marginal role in the decision making process of the EU. The veto and the appointment power held by the member states upon the Commission means that the Commission should tailor its policy proposals keeping in mind the preferences of the member states or it risks seeing these proposals vetoed. Thus, it is the intergovernmental demand for policy ideas, and not the supranational supply of them, which is the real force of EU integration.

To conclude, the tripartite framework that was analyzed above represents the three main stages the decision making process in the EU goes through. National governments formulate their preferences, which is followed by a collective bargaining process and it concludes with a collective decision on pooling or delegating sovereignty at the supranational level. From this analysis, three main hypothesis can be derived, one from each step. The following chapters will test these hypotheses regarding the issue of harmonization of economic immigration policy. The three hypotheses are as follows:

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<sup>68</sup> Moravcsik, *The Choice for Europe: Social Purpose & State Power from Messina to Maastricht*, (1998): 75

<sup>69</sup> i.e when Qualified Majority Voting applies

Hypothesis 1: It is the domestic politics at the national level that influence national preference towards a common labor immigration policy. Because domestic politics differ across EU states, the positions of the states will be different.

Hypothesis 2: As long as unanimity voting applies in the Council of Ministers a common labor immigration policy will be reached only if all EU member states agree upon it.

Hypothesis 3: Delegating authority to the supranational institutions strengthens rather than weakens the national government.

## Chapter 3 - National Preference Formation

*Hypothesis 1:* It is the domestic politics at the national level that influence national preference concerning common labor immigration policy. Because domestic politics differ across EU states, the positions of the states will be different

The previous chapter provided the theoretical framework needed to analyze the empirical findings. Three main chapters will test the three hypotheses derived from the thorough examination of Liberal Intergovernmentalism. This first chapter will focus on the first hypothesis. It will analyze member states' domestic politics and it will argue that it is the economic conditions and domestic politics which explain national preferences in the field of labor immigration policy. Based on Liberal Intergovernmentalism, out of the five dimensions discussed by Moravcsik, for the purpose of this thesis, this thesis considers two of them to be the main issues that should be considered when analyzing national preference formation: divergences across countries and the political salience of the issue. Liberal Intergovernmentalism suggests that different economic incentives will lead to different national positions concerning a specific issue. Also, according to Liberal Intergovernmentalism, when the political salience of an issue is high, member states will engage in policy creation seeking to protect their interests.

In the last decade, the need for coordination in the economic immigration policy has been highly recognized by the governments of the member states. Yet, the cooperation in this policy area is not as developed as the need would suggest. In trying to stimulate a



more dynamic change and bring the issue on top of the agenda for the member states, the Commission proposed the “Open Method of Cooperation.”<sup>70</sup> The purpose of this proposal was to encourage countries to advance their levels of national policy coordination under common, yet not binding, EU governance. As Sven Mossler states, only through close coordination between member states can an effective policy approach be created.<sup>71</sup> However, member states showed little signs of enthusiasm. Even though governments of EU member states do acknowledge the need for a European labor immigration policy, they refuse to relinquish their sovereignty in this field.

In general terms, Stefania Pasquetti argues that unless there is a clear common EU value (in this policy area), Member States prefer to retain full competence in regulating access to their labor markets, for several reasons such as different labor markets needs, different demographic trends, different unemployment rates, political choices, etc.<sup>72</sup> Pasquetti argues that while immigration can be a useful mean in dealing with population ageing in some countries, in some others it can unjustifiably boost the labor supply. Moreover, while one member state may have a shortage of IT professionals, others might be in need of agricultural workers. Also, member states differ in their political structures and their citizens have different attitudes towards immigrants, some being more liberal and some not. In addition, whilst in some countries the issue of labor immigration is on top of the political agenda, directly or indirectly influencing the public opinion, in other states labor immigration is bypassed by other issues in public debates. Thus, when opening the “black box” of the state for analysis, it is the structure of labor markets and the political

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<sup>70</sup> Commission of the European Communities (2001b) ‘Communication on an open method of co-ordination for the Community immigration policy’, COM (2001) 387 final, 11 July.

<sup>71</sup> Sven Mossler Dr. Desk Officer, Division E05 – EU Justice and Home Affairs, European Law, Federal Foreign Office/ Germany Interview by author 14 May 2007

<sup>72</sup> Stefania Pasquetti. Unit JLS B2: Immigration and Asylum, DG Justice Freedom and Security, European Commission. Interview by author 16 May 2007

salience of the issue that play a crucial role in the position EU member states have towards harmonization of economic immigration policy. These issues will be considered in turn.

### **3.1 Divergences Across Member States**

When analyzing the domestic sphere of EU member states concerning labor immigration policy, it is possible to distinguish several groups of countries sharing certain similarities. States will be set into four categories; the big member states will be considered individually, the Northern European states the Southern European states and the 12 new member states as the result of two enlargements, in 2004 and 2007. Member states' domestic politics will be analyzed on the basis of two main factors; 1) whether they pursue a liberal or restrictive labor immigration policy (which is based on their need/or not for labor immigrants) and 2) when the need for foreign labor is acknowledged, what kind of skills they can accommodate in their markets.

#### **3.1.1 EU Member State's Labor Immigration Policies**

One of the countries closely identified with high immigration is Germany. It did not have a system for the regulation of immigration until 1998 and only in 2001, the Interior Minister Otto Schilly proposed a bill that would give Germany its first regulated immigration policy.<sup>73</sup> Schilly declared that Germany is an immigration country and German markets need immigration in order to compete with the global economy. Until today, Germany has been pursuing a very liberal approach towards labor immigration.

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<sup>73</sup> Andrew Geddes. *The Politics of Migration and Immigration in Europe*, Sage Publications, (2005): 78

United Kingdom's immigration policies have fluctuated from open to closed doors and from an unplanned policy to a selective one.<sup>74</sup> In the last 10 years (mainly after Prime Minister Tony Blair's coming to power) policy developments concerning labor immigration can be described as a commitment to manage labor immigration in order to meet UK's economic needs.<sup>75</sup> Therefore limiting and restricting labor immigration is not a prerequisite for UK immigration policy. UK acknowledges the need for foreign labor, which is what also Prime Minister Tony Blair states: "the movement of people and labor into and out of the UK is, and always has been, absolutely essential to our economy."<sup>76</sup> However, it also promotes strict controls on who enters the UK's soil.

On the other hand, France, as of 1975 has acquired a restrictive policy after the oil crisis in 1975<sup>77</sup>. Immigration since then has been limited to the family unification. Every request for entry for work purposes in France's territory is weighted against the employment situation within the profession and the region in the quest.<sup>78</sup> Because there are predetermined quotas about the number of immigrations that should enter annually, the Labor Ministry may authorize residence if there is labor shortage and vice versa. Since the year 2000, every National Action Plan for Employment that France has presented to EU, have not made specific references to labor immigration.<sup>79</sup> Therefore, France does not have a specific policy concerning foreign labor. Similarly to France, Belgium has abandoned labor immigration policy and applies some specific, but limited forms of legal migration

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<sup>74</sup> Ibid, 32

<sup>75</sup> Ibid, 42

<sup>76</sup> PM speech to the Confederation of British Industry on migration, 27 April 2004 <http://www.number-10.gov.uk/output/Page5708.asp>

<sup>77</sup> Ibid, 78

<sup>78</sup> Cyric Kretzschmar "Immigration as a labour market strategy: France" Immigration Policy Group 2006 <http://www.migpolgroup.com/multiattachments/2551/DocumentName/FranceImmigrationLabourMarketStrategyKretzschmar.pdf>

<sup>79</sup> Ibid, 12

such as asylum or family reunification.<sup>80</sup> The same applies to Netherlands. The Dutch government stopped the open doors policy for the foreign labor in 1973.<sup>81</sup> It can be said that both countries control the influx of working immigrants considering their domestic labor shortages.

Concerning the Northern European countries, the argument goes that in general these countries apply a strict labor immigration policy. In Sweden, labor immigration reached its peak in 1969-1970. However, after an economic recession in 1972, the government reversed its attitude towards labor immigrants. At the moment, even though Sweden acknowledges the need for labor immigration, its policy remains considerably strict and debates on how to deal with this issue remain superficial.<sup>82</sup> Likewise, in Denmark, labor immigration is not welcomed and it is considered as a huge burden on Danish welfare. Denmark's Minister of Employment Frederiksen stated that the only way that immigrants would be allowed to enter the country would be only if they had a job waiting for them.<sup>83</sup>

A different picture can be observed in Southern European countries (Italy, Greece, Portugal and Spain). What is characteristic for these countries is that economic developments led to better living standards, which in turn have created a situation where the native population refuses to do certain jobs. For example, in Southern Italy, despite high unemployment rates, the indigenous population is not willing to do the so called low jobs.<sup>84</sup> Hence, foreign workers have been welcomed to fill in the unwanted vacancies. The

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<sup>80</sup> Peter Claes. First Secretary Coordination European Cooperation Justice and Home Affairs, Federal Public Service Foreign Affairs in Brussels. Interview by author 9 May 2007

<sup>81</sup> Geddes. *The Politics of Migration and Immigration in Europe*, (2005):189

<sup>82</sup> Charles Westin. "Sweden: Restrictive Immigration Policy and Multiculturalism" Centre for Research in International Migration and Ethnic Relations Stockholm University (2006)  
<http://www.migrationinformation.org/USfocus/display.cfm?ID=406>

<sup>83</sup> Randall Parker, "Denmark Cuts Back on Immigration" 2006  
[http://www.parapundit.com/archives/cat\\_immigration\\_policy.html](http://www.parapundit.com/archives/cat_immigration_policy.html)

<sup>84</sup> Geddes. *The Politics of Migration and Immigration in Europe*, Sage Publications (2005): 191

same situation can be observed in Greece, Spain and Portugal.<sup>85</sup> What mostly counts for the great influx of foreign immigrants is their geographical position. Southern European countries share borders with countries which are economically underdeveloped, such as Albania and Northern Africa, whose populations are in search for jobs in the EU. Being faced with labor shortages for certain sectors of the economy and with foreign labor force which is willing to fill in the jobs, Southern European countries have pursued liberal labor immigration policies.

Finally, the countries of Central and Eastern Europe, known as the new-comers, also belong to the liberal immigration policy grouping. However, the situation in these countries is different. Having been countries in transition for a long time, they have mostly been emigration countries and have not felt the pressure of incoming labor immigration. As Geddes puts it, when states are weak (compared to the old EU member states) they are not seen as reliable labor markets for the outsiders.<sup>86</sup> It is only after EU accession that these countries have felt the need to regulate labor immigration. Even though the labor markets of these countries are still not highly attractive, they serve as gateways to the other EU member states. Two illustrative examples come from Poland and Czech Republic. Despite legislative adaptation to the EU's standards, Poland does not have a clear immigration policy that includes the integration of foreign workers. Efforts to formulate a labor immigration policy are not welcomed by the political elite.<sup>87</sup> In general immigration remains a low policy priority primarily because of the current absence of immigration pressures on Poland.<sup>88</sup> Similarly, only in 2001 did Czech Republic consider a proper labor immigration policy. In 2001 a "Pilot Project" (which was revised again in 2005), was introduced aiming

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<sup>85</sup> Ibid, 190

<sup>86</sup> Ibid, 192

<sup>87</sup> Justyna Dimerska, "Poland's Immigration Policy: In statu nascendi" *Migration and Minorities 2* (2005) <http://www.developmentandtransition.net/index.cfm?module=ActiveWeb&page=WebPage&DocumentID=580>

to select skilled foreign workers and annual quotas were established.<sup>89</sup> What is very interesting to note is that this project has compiled a list of countries, whose immigrants are more welcomed than the other ones. Most of these countries are similar in their population, educational system and above all their language has the same roots (Slavic).<sup>90</sup> However, so far, these countries have not experienced a high pressure from economic immigrants; therefore, they have not felt the emergency to create real immigration policies.

To sum up, member states differ widely in their need for immigration. Even though most of the countries (except for the new member states acknowledge the need for foreign labor, the northern countries and UK are pursuing a more strict policy compared to the Southern European ones and Germany. However, this difference can be seen not only in the strict vs. liberal policies, but also in the policies concerning the selection of immigrants. This point will be developed as follows.

### 3.1.2 High Skill or Low Skill Labor?

EU member states have different needs concerning the immigrants' professional background. Each member state defines what a profitable economic immigrant is in a completely different manner, on the basis of national labor shortages. For instance, Italy, Greece, Spain, Portugal are in need of low – skilled immigrants such as housekeepers, construction workers and nursing care for the elderly.<sup>91</sup> On the other hand, countries like the UK, or Germany present shortages of high skilled immigrants in certain fields such as

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<sup>88</sup> Ibid.,

<sup>89</sup> Milos Calda. "Demographic Slumps vs Immigration Policy: The Case of the Czech Republic" *Institute of International Studies*. Working Paper 127 (2005)

<sup>90</sup> Ibid.,

<sup>91</sup> Sergio Carreras. "Legal Migration Law and Policy Trends in a Selection of EU Member States" *Challenge: Liberty and Security*, 2006

Information Technology (IT), medical occupation etc.<sup>92</sup> Thus, an immigrant which can be considered an asset for one country can be a burden for another one. Interesting is the case of France. The idea of favoring certain immigrants over others depending on their qualifications is currently under debate within the government but opinions are divided. The human capital method is little known in France and is certainly not applied on a national scale.<sup>93</sup>

Therefore, a selective approach predominates in a majority of EU member states. Since 2004, Netherlands has introduced a different selection procedure prioritizing high-skilled immigrants.<sup>94</sup> The same procedure is practiced by Austria, Belgium, France, and Germany.<sup>95</sup> Yet, not all of the EU states apply such policies. In the case of Poland and Spain, while highly skilled workers are prioritized, there are no specific rules facilitating this goal.<sup>96</sup> What adds to the complexity of the issue is the fact that there is a lack of clarity on what the member states really mean when referring to highly skilled immigrants. According to Geddes<sup>97</sup> the status of “highly skilled worker” is not dependent on the level of knowledge or professional competences for the immigrant worker, but by the actual profit that he will bring to the economy of the country he will work.

To sum up, the analysis of the domestic characteristics of the member states, argued that due to different labor markets and economic needs, EU member states pursue different policies. They differ on the extent to which they allow liberal economic migration and on the kind of labor they accommodate in their labor markets. The second part will focus on the analysis will focus on the role of public opinion and the salience of the issue.

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<sup>92</sup> Ibid.,

<sup>93</sup> Kretzschmar “Immigration as a labor market strategy: France”

<sup>94</sup> Carreras. “Legal Migration Law and Policy Trends in a Selection of EU Member States” *Challenge: Liberty and Security*, 2006

<sup>95</sup> Ibid.,

<sup>96</sup> Ibid.

<sup>97</sup> Geddes. *The Politics of Migration and Immigration in Europe*, Sage Publications, (2005): 186

### 3.2 Political Salience and Public Opinion

The political salience of an issue is very important when analyzing policy change (or lack of change). Political salience of immigration policy issues is defined as “the level of attention paid to, awareness of, the immigration issue, which can be operationalized as references in newspapers or the ranking given the importance of the issue in public opinion surveys”<sup>98</sup> Givens and Luedtke argue that political salience can politicize an issue and it can mobilize large number of citizens to react in favor or against new developments in it.<sup>99</sup> Most policy changes happen (or not) during times when the particular issue is receiving much attention in the domestic arena and when the involvement of the public increases significantly. So, when it comes to third country workers, even if they are legally residing in EU “the low -conflict mode of politics is replaced by a high – conflict political mode that pits various parts of the state and society against one another.”<sup>100</sup> The argument goes that when salience is high, national executives will protect national sovereignty by blocking supranational harmonization. The main reason is that political salience is very closely connected with public opinion and public opinion in turn is very important if a national government is to be successful and stay in power.

The linkage between public opinion and European integration is well documented in the literature.<sup>101</sup> Even though it is believed that the harmonization of immigration policies is an elite driven process, facts show that not only the EU public opinion is well informed but also that it takes a stance. In France, the negative image of immigrants is higher than in

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<sup>98</sup> Terri Givens and Adam Luedtke, “The Politics of European Union Immigration Policy: Institutions, Salience and Harmonization” *The Policy Studies Journal* 32, no. 1, (2004) pp 150

<sup>99</sup> Ibid, 149

<sup>100</sup> Ibid, 150

<sup>101</sup> See, Carey (2002), Christin and Trechsel (2002), Marks and Hooghe (2003), Lahav (2004)



most other EU countries.<sup>102</sup> They see them as being poorly qualified often delinquents and most importantly a threat to French employment. They are identified with causes of unemployment; scarcity of social benefits, religious fundamentalism and high criminality.<sup>103</sup> Therefore it is not unusual that French public opinion would want to see a strict European policy on immigration.

France is not an isolated case when it comes to negative feelings amongst the public opinion concerning immigration. A survey in Britain found out that for the British public opinion, immigration is a more important issue than the economy, education or even Europe.<sup>104</sup> Also, 76 per cent of British people said there were too many immigrants in their country.<sup>105</sup> Compared with other EU countries, the British are the most likely to believe their country's policy towards immigration is too liberal and that it is too easy for immigrants to enter the country legally (79%). They also believe that their country should pursue a stricter policy towards economic immigrants, and 40% of the population believed that only immigrants with special skills should be admitted.<sup>106</sup> Furthermore, polls conducted in the UK, France, Germany, Italy and Spain found out that more than 50 % of the people believed their governments did not keep immigration under control.<sup>107</sup> In general, respondents from across the EU ranked the importance of immigration higher than terrorism, pensions, taxation, education, housing the foreign affairs etc.<sup>108</sup>

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<sup>102</sup> Kretzschmar "Immigration as a labor market strategy: France"

<sup>103</sup> Ibid,

<sup>104</sup> BBC (2001) "Immigration Concerns Multiply", retrieved 2 May 2007  
<http://news.bbc.co.uk/1/hi/uk/1400573>

<sup>105</sup> Eurobarometer 60 (2004) *Public Opinion in the European Union*, Autumn 2003. Brussels, Belgium: European Opinion Research Group EEIG (producer); Ann Arbor, MI: Inter-University Consortium for Political and Social Research.

<sup>106</sup> Jimmy Burns and George Parker "Britons oppose open door to EU member states Immigration" The Financial Times, 2006

<sup>107</sup> Eurobarometer 60 (2004) *Public Opinion in the European Union*, Autumn 2003.

<sup>108</sup> Ibid,

A very important event which certainly influenced and maybe manipulated the public opinion is the two rounds of enlargement, in 2004 and 2007. The discourse of the “Polish Plummer”<sup>109</sup> invaded the headlines of every newspaper, TV/Radio news and political debate. Hysteria rather than facts about millions of immigrants coming from the East certainly appear to have fueled public opinion. Consequently, public sentiment has turned hostile towards the whole issue of immigration policy. Thus, enlargement had added to existing fears towards the influx of immigrants in EU states. In this context public opinion became even more reluctant to immigration in a broader sense.

### **3.3 Preliminary Conclusion**

The first hypothesis derived from Liberal Intergovernmentalism states that domestic politics influence national preferences towards a policy, in the case of this thesis the labor immigration policy. The analysis of the member states concluded that indeed member states have different needs concerning labor immigration. Northern European states pursue a most strict labor immigration policy compared to the Southern European States. Big member states such as Germany, France and UK do acknowledge their need for foreign labor, however they argue for a strict control over who is to enter their borders. The new member states have not yet felt the pressure of labor immigration, as a result they don't have proper labor immigration policies. Moreover, member states differ in the kind of labor they need, with some states like the Southern European ones needing low skill labor and the big member states and the Northern European ones competing for high – skilled workers.

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<sup>109</sup> Polish Plummer is identified with the fear coming from EU member states (15), believing that after the EU accession of 10 Eastern European countries, a great number of immigrants would go to search for a job

Moreover, according to LI, when the political salience of an issue is high, member states will engage in policy making seeking to protect their interests. Countries like UK where there is high salience regarding the issues of labor immigration policy and where the public opinion is against harmonization favor a strict harmonization policy.

Having tested and proved the first hypothesis in the following chapter the second hypothesis will be tested. The fourth chapter will focus on the decision making procedure in the Council of Ministers.

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in the old member states.

## CHAPTER 4 – EU LEVEL BARGAINING

*Hypothesis 2:* As long as unanimity voting applies in the Council of Ministers a common labor immigration policy will be reached only if all EU member states agree upon it.

Member states do acknowledge the importance of labor immigration in their countries; however there is much disagreement on how to cope with it. The main problem remains the fact that if a common response has to be developed all the member states have to agree. Yet, the analysis of national preference formation (chapter 3) showed that due to the great economic and political peculiarities in the domestic realm, member states pursue different strategies when dealing with labor immigration. This means that even when an agreement can be reached it will have to accommodate the interests of every EU member state.

Moravcsik's argues that treaty amending negotiations can be seen as bargaining games upon the terms of mutually beneficial cooperation".<sup>110</sup> During these negotiations, member states identify and discuss potential agreements where in the end one is selected.

During the negotiations of Maastricht, it was the preference for intergovernmental structure of Denmark, the UK, Greece and Ireland, which left the issue of supranationalization of immigration policies (in general) and of the labor immigration was out of question.<sup>111</sup> Thus, the intergovernmental pillar was the only option upon which all the governments could agree upon. The main advantage of the intergovernmental pillar was that it limited considerably the role of European institutions. And while for countries like the UK, the ministerial cooperation was acceptable, yielding power to any of the EU

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<sup>110</sup> Andrew Moravcsik, *The Choice for Europe: Social Purpose and State Power From Messina to Maastricht*. (Cornell University Press 1998): 51

institutions was not even a question of debate. A similar outcome can be observed during the negotiations of the Amsterdam Treaty. Germany, a country which is quite vulnerable because of its big share of EU immigrants, was pushing for delegating more competences to the EU institutions.<sup>112</sup> However, the UK and Ireland and Denmark countries with a strong control over their borders were again strongly opposing any supranationalization. France, even though its preferences in the immigration policy lie somewhere in between Germany and the UK, did support the idea of empowering EU institutions.<sup>113</sup>

Up to now EU member states' attitude towards the question of harmonization of labor immigration policy has been especially hesitant. During the Tampere Council, it was agreed on a five year transitional period, after that, the Council could decide whether to move from unanimity to qualified majority voting. Yet, three years after the transitional period has expired, the decision-making procedure in this field remains hostage to unanimity. Moreover, the national veto survived the Council meeting of the JHA in December 22, 2006<sup>114</sup> where only the necessity for improving the decision making was discussed (as article 67.2 TEC suggests), without reaching any concrete agreement.

Based on Liberal Intergovernmentalism, in a non-coercive environment as the Council of Ministers is, member states have a strong incentive to reveal their preferences in the form of bargaining demands and compromise proposals.<sup>115</sup> Bargaining has been defined as "cooperative decision making mode."<sup>116</sup> It means that the participating actors can

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<sup>111</sup> Andrew Geddes. *The politics of migration and Immigration in Europe*, (Sage Publications, 2005):145

<sup>112</sup> Andrew Moravcsik, and Kalypso Nicolaidies "Explaining the Treaty of Amsterdam: Interests, Influence, Institutions" *Journal of common Market* vol. 37 no 1 (1999)

<sup>113</sup> Ibid.

<sup>114</sup> Klaus Heeger ""Is there a European Solution for Immigration" *EUWatch*.

<http://www.teameurope.info/modules.php?name=News&file=article&sid=130>

<sup>115</sup> Moravcsik, *The Choice for Europe: Social Purpose and State Power From Messina to Maastricht*: (1998): 51

<sup>116</sup> Heeger ""Is there a European Solution for Immigration" *EUWatch*.

<http://www.teameurope.info/modules.php?name=News&file=article&sid=130>

improve their situation in comparison to prior negotiations. Moreover, no actor would become part of a negotiation if there are no gains expected<sup>117</sup> and this is especially true in agreements where unanimity voting applies. Moravcsik argues that the negotiated outcomes is likely to reflect two specific factors: 1) the value of a unilateral or coalitional alternative which underlies credible threats to veto, 2) the opportunities for issue linkages and side payments. Each of these factors will be considered in turn.

#### **4.1 Unilateral and Coalitional Alternatives**

It is assumed that when rational governments seek to agree upon a policy, they all prefer the policy to mirror their best alternatives. However, if governments do not agree on the proposed policy they can step out of an agreement. A threat to exit an agreement is considered to be the most powerful tool in a bargaining process.<sup>118</sup> Yet, for the threat to be credible states must have other unilateral or coalitional alternatives. Moravcsik argues that governments with poor unilateral alternatives find that their bargaining power is considerably weak, so they have to make concessions. By contrast, governments with strong unilateral alternatives find it easier to impose their will on the agreement, or just disagree and pursue a different policy.<sup>119</sup> This process becomes even more powerful when more than one government is involved. The existence of a possibility to form a coalition strengthens the bargaining powers of these member states.<sup>120</sup> In the EU context this threat of coalitions can lead to the so called “multi-speed” Europe.<sup>121</sup>

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<sup>117</sup> Ibid,

<sup>118</sup> Moravcsik, *The Choice for Europe: Social Purpose and State Power From Messina to Maastricht*. 64

<sup>119</sup> Ibid, 64

<sup>120</sup> Ibid, 64

<sup>121</sup> “Multi-speed” Europe is the term used to describe the idea of a method of differentiated integration whereby common objectives are pursued by a group of Member States both able and willing to advance, it being implied that the others will follow later. See [http://europa.eu/scadplus/glossary/multispeed\\_europe\\_en.htm](http://europa.eu/scadplus/glossary/multispeed_europe_en.htm)

During the Amsterdam Treaty UK, Ireland and Denmark negotiated an opt-out from the policy of lifting of internal frontiers.<sup>122</sup> This can be partly explained by the fact that at least in the case of the UK and Ireland the geographical factors and the strength of the national government to deal with issues such as immigration. Considering their isolated geographical position it is easier for them to control their borders.<sup>123</sup> Moreover UK and Ireland are known for their strict policies, stricter than many of the other EU member states. As far as these countries are not satisfied with the proposals discussed in the bargaining processes, they will prefer to pursue their own policies.

Pursuing unilateral policies is one of the options. According to Liberal Intergovernmentalism the other option is to create coalitions with countries whose interests converge. This is the case of the G-6 meeting of the ministers of the interior of the six largest Member States of the EU (Germany, France, Italy, Poland, Spain and UK) in March 2006 under German chairmanship.<sup>124</sup> In this meeting matters of immigration, including legal immigration were widely discussed. German Interior Minister Wolfgang Schäuble and his French counterpart Nicolas Sarkozy presented a joint plan for a 'new European migration policy', calling for measures to tackle amongst others, legal immigration schemes.<sup>125</sup>

Even though the G-6 was an informal meeting and no decisions could be taken, this meeting was not equally welcomed by the other member states, who wanted to retain their indisputable role and have their say in immigration matters. The sheer fact that a small group of powerful states discussed issues that do have an impact on the other 21 member states did not please them. This is obvious from the reaction of some of the member states

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<sup>122</sup> The UK, Ireland and Denmark have opt-outs from EU immigration, asylum and civil law, set out in a Protocol to the Treaty of Amsterdam, which took effect 1 May 1999.

<sup>123</sup> Geddes. *The politics of migration and Immigration in Europe*, (2005): 43

<sup>124</sup> Heeger "Is there a European Solution for Immigration" *EUWatch*.  
<http://www.teameurope.info/modules.php?name=News&file=article&sid=130>

towards the G-6 meeting. Claes argues that Belgium marked its skepticism with regard to the initiative of the G-6 when it proposed a paper on the management of migration.<sup>126</sup> Member States want to retain the unanimity and they do not welcome any initiative which is made within closed doors. The main reason for this is that once a multi – speed Europe takes place in any policy area the possibilities to influence the developments in this policy are limited for the countries that remain outside. This is problematic, especially for small and not so strong member states who do not have better unilateral or coalitional policies.

#### ***4.2 Issue Linkages and Side Payments***

The above analysis was based on the assumption that bargaining happens on isolated issues. Yet the EU environment is far more complicated than this. EU member states find themselves in a net of interconnectedness due to a major number of previous agreements. Moravcsik argues that EU linkage happens “when governments have varying preference intensities across different issues, with marginal gains in some issues areas more important to some than to others.”<sup>127</sup> In this case it may be then advantageous for the parties to give concessions. It is true that the harmonization of the labor immigration policy would add to completion of the four freedoms (goods, people, services and capital) of the EU. However as yet, member states have not come to an agreement.

Moreover, based on the logic of issue linkages and side payments, Moravcsik argues that issue linkages are more advantageous when countries have highly asymmetrical interests. Yet, in the field of labor immigration policy the potential for highly asymmetrical interests is limited. Even though some of the countries need a greater number of foreign

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<sup>125</sup> Ibid

<sup>126</sup> Interview with Peter Claes, First Secretary coordination Europeans Cooperation Justice and Home Affairs, Directorate – General European Cooperation and Federal Public Service Foreign affairs, Brussels. 11.05.2007



workers than another one and even though countries differ in their need for professional skills, there are no highly asymmetrical interests within the EU concerning EU labor immigration policy. The member states are aware of the influence of the labor immigration policy, both its positive and negative impacts. At a large scale they all agree, that whilst labor immigration can help to boost their economies and regenerate their labor force, they also agree that this kind of immigration should be controlled otherwise it can fire back.

### **4.3 Preliminary Conclusion**

When analyzing the second step in Liberal Intergovernmentalism, namely interstate bargaining, the derived hypothesis was that a common policy would come into being only if all member states agree upon it. From the above analysis it is clear that member states have different opinions concerning the creation of a common labor immigration policy. Their preferences are already formed at the national level and in the Council they bargain with other member states in order to achieve these gains. If member states can not agree upon the proposals put on the table they seek other alternatives which would allow them to have better deals. Also member state have remained reluctant to give more to the supranational institutions, which is why decision making is based on unanimity and the Commission, the European Parliament and the European Court of Justice hold only a marginalized position. This issue will be further analyzed in the following chapter.

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<sup>127</sup> Moravcsik, *The Choice for Europe: Social Purpose and State Power from Messina to Amsterdam*. 65

## CHAPTER 5 – DELEGATING SOVEREIGNTY TO SUPRANATIONAL INSTITUTIONS

*Hypothesis 3:* Delegating authority to the supranational institutions strengthens rather than weakens the national government.

Having already analyzed the stage of national preference formation and interstate bargaining, this chapter will focus on the third and final analytical stage in the Liberal Intergovernmentalist approach: institutional choices. The main question this chapter seeks to answer is whether EU member states create EU level policies or legislation because they want to lock each other into credible commitments<sup>1</sup> or is it because they find in the EU other venues to pursue their policy objectives which are not welcomed at the domestic level. Based on Moravcsik's argument "governments of the member states that have "extreme preferences" with the threat of being outvoted tend to be more willing to create common supranational institutions. They decide to delegate (or pool) when they are seeking credible commitment under conditions of uncertainty, "particularly when they seek to establish linkages and compromises upon issues where non-compliance is tempting."<sup>128</sup>

Considering the strong supranational institutional net the EU represents in the labor immigration policy, it is very important to analyze the relationship between EU institutions and the member states. This chapter will argue that the cooperation at the EU level regarding labor immigration policy strengthens the state and the national executive instead of weakening it. The empowering of the national government happens in two main ways; firstly by locking each other into credible commitments and secondly by finding safe setting

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<sup>128</sup> Andrew Moravcsik, *The Choice for Europe: Social Purpose & State Power from Messina to Maastricht*, (Cornell University Press 1998):75

to pursue policies which face restrictions at the domestic level. These issues will be analyzed as follows.

### ***5.1 Locking Each Other Into Credible Commitments***

According to Moravcsik, the most important way of delegating sovereignty is when member states give to supranational institutions the possibility to take autonomous decisions. One of the most important forms of member states' withering of sovereignty takes place when the Commission is given the sole right of initiating.<sup>129</sup> It has been shown that in the field of labor immigration policy, member states have been quite unwilling of giving this right to the Commission. Even though the Amsterdam Treaty brought the issue of labor immigration policy in the first pillar, member states remained the sole initiators. Only during the Tampere agreement, in 1999, did the member states decide a five year transitional period, after which the Commission would have, the exclusive right of initiative. Until then the Commission was sharing this right with the member states. The question arises: why did member states decide to eventually make this move? A simple stated answer based on a Liberal Intergovernmentalist approach would be that this move was in the interests of the member states. They want to lock each other into credible commitments and they also agree to be locked in these agreements as well.

When analyzing labor immigration policies across member states, it was concluded that member states have different interests and as a result they ought to pursue different policies in order to achieve their goals. However, the issue cannot be seen in a black and white scale. At the bottom line it can be argued that all member states do envisage a similar vision and do share similar concerns. They all foresee a strong and economically competitive Europe in this age of globalization where threats coming from all over the

world are present everywhere. Also they all share the concern of an aging European population and the need for labor immigration to fill in the gaps left empty from the native population. Not knowing what impact the future developments will have for certain states, member states prefer to *ante prima* agree upon a broad institutional framework which will create the conditions for future agreements.

Moreover, considering the arguably high level of integration in the economic and social sphere, for instance, any policy measure in the field of economic immigration in any member states can have consequences for the other member states as well. This phenomenon has been well captured by Neo-functionalist scholars under the term of ‘spill-over’. This is an important factor which can partially explain the delegating of certain powers to the European Commission. According to Giandomenico Majone, Commission initiatives serve as “relational contracts” among member states which do not specify detailed plans but pre-commit governments and institutions to a common set of principles and norms.<sup>130</sup> Afterwards, even though bargaining takes place among national governments, this is done under institutional circumstances which ensure a certain level of agreement.

However this argument can explain only part of the developments. Whilst member states decided to grant to the Commission the sole right of initiative they agreed to keep the unanimity as the norm during decision making in the labor immigration policy. Although most of sub policies under the immigration and asylum policies are under QMV<sup>131</sup>, labor immigration policy is amongst the few<sup>132</sup> where the unanimity rule still applies. Moravcsik argues that the level of delegation reflects a cost- benefit analysis.<sup>133</sup> Therefore, preserving

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<sup>129</sup> Moravcsik. *The Choice for Europe: Social Purpose and state Power from Messina to Maastricht*, 70

<sup>130</sup> Giandomenico Majone, *Regulating Europe*, (Routledge, 1996)

<sup>131</sup> I.e. Visa Policy

<sup>132</sup> Immigrant Integration Policy is one of them

<sup>133</sup> Moravcsik. *The Choice for Europe: Social Purpose and state Power from Messina to Maastricht*. 75

unanimity, can be seen as the outcome of members states' desire to reduce political risks by maintaining their veto. The most credible way to explain this outcome is to argue that labor immigration policy is extremely important for member states and they do not want to take any possible risks. The veto power each member state possesses will make sure that each member state's voice is taken into consideration. Considering the high salience of the issue member states seem to have been satisfied with the step of giving initiative power to the institutions. This already reassures them that all the member states will have to comply with certain rules and norms and will not do anything that might hurt the other states. In this case the Commission, with its role as an initiator will act only as a guide. Surprisingly, not all the member states perceive the issue in such a way. Some countries are more willing to delegate more power to the supranational institutions than others. The reasons for this will be analyzed in turn.

## **5.2 “Escaping to Europe”**

As it was introduced earlier in this chapter, delegating power to supranational institutions does not weaken a national government; instead, in certain conditions it strengthens it. The first part analyzed how ‘partial delegation’ (Commission initiative combined with unanimity rule) was a rational way for Member States to lock themselves into credible commitments to the extent ‘needed’. In this second part, the idea of “escaping to Europe” will be discussed. This idea is based on the assumption that EU institutions provide new venues for the member states to pursue politics which find domestic resistance. Member states have different experiences as not all the domestic realms are the same concerning the economic immigration policy.

According to Monar a potential benefit for a national government attempting to bring to the EU level a national policy, (in this case labor immigration policy), is to be able

to escape domestic groups hostile to certain policy reforms.<sup>134</sup> He argues that “once an issue has been successfully brought up to the European agenda, governments can try to hide behind the weighty screen of collective EU action (or not)”<sup>135</sup> To better understand this it is important to know that once a policy is accommodated in the EU level; it is binding upon the member states. Geddes also points that once a policy is supranationalized, it becomes hierarchical and it overrides national laws.<sup>136</sup> This means that political actors, in this case national governments find new political opportunities to pursue their objectives which might go against the will of many domestic actors.

Givens and Luedtke<sup>137</sup> conclude that the harmonization which has occurred in the immigration policy in general (it can be derived that the same applies to labor immigration as well) was designed to enhance national sovereignty and allow national governments to surpass institutional constraints at the national level. Thus they argue that the capacity of the institutions which protect immigrant rights determines whether a state will be in favor or against harmonization of immigration policy at the EU level. It is not a surprise that member states face different domestic constraints concerning the issue of harmonizing policies at the EU level, if there are such institutions at all. Because of the impossibility to accommodate all the member states in this section, the analysis will be focused on UK, Germany and France.

British governments in turn have opposed the supranationalization of economic immigration policy. Geddes argues that the UK faces only limited judicial and political domestic constraints. Actually a convergence of interests between the executives and the

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<sup>134</sup> Jorg Monar, “The dynamics of Justice and Home Affairs: Laboratories, Driving Factors and Costs” *Journal of Common Market Studies* 39, no 4 (2001) 747

<sup>135</sup> *Ibid*, 748

<sup>136</sup> Geddes. *The Politics of Migration and Immigration in Europe*. (2005):129

<sup>137</sup> Terri Givens and Adam Luedtke, “The Politics of European Union Immigration Policy: Institutions, Salience and Harmonization” *The Policy Studies Journal* 32, no. 1 2004, pp 151

domestic institutions for pursuing a restrictive immigration policy can be observed.<sup>138</sup> Therefore, the UK does not need to escape to Europe. It can pursue its economic immigration policies, without facing any restriction at home. Moreover, there is the belief that UK's immigration policy is better organized than the one's its counterparts apply and this might undermine the effectiveness of British labor immigration policy.<sup>139</sup> UK's relations with the EU regarding labor immigration policy (immigration policies in general) has been characterized as the most troubled one and it will remain so as long as Britain continues to insist on its policy models of protecting its external frontiers.<sup>140</sup> Nonetheless, the bottom line is that a country like UK, with no strong institutions to protect immigrant rights has not faced the need to escape to Europe to legitimize its strict economic immigration policies. Consequently it shows the tendency to block harmonization proposals and it prefers to apply its sovereignty in this issue.

On the other hand, Germany which actually finds itself in a different situation due the huge immigrant flux it has received compared to the other EU member states, presents a different approach. Differently from Britain, institutions that protect immigrant rights in Germany are quite strong.<sup>141</sup> Germany is one of the founding countries and its policies have always been pro-integration oriented. In the case of harmonizing labor immigration policy, Germany favors further integration of this policy at the EU level. It favors the use of Qualified Majority Voting which means that the Commission would have strong powers in the policy making. This means that for this is an escape to Europe where the national ministers overcome domestic legal and political constraints in the pursuit of restrictive economic immigration policy. By doing this, Germany can more easily pursue its

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<sup>138</sup> Geddes, *The Politics of Migration and Immigration in Europe*.(2005) :48

<sup>139</sup> Ibid, 125

<sup>140</sup> Ibid, 125

<sup>141</sup> Ibid, 130

controlled immigration policies hiding under the umbrella of EU action and escaping pressures coming from domestic groups.

France demonstrates some similarities with Germany. It has generally speaking had a pro-integration stance in a significant number of sectors. Regarding labor immigration policy, it is supporting QMV in the Council. As for the institutions that protect immigrants, it can be said that these institutions are more powerful than in the UK but less so than in Germany. Nonetheless, the fact that they exist and they are active means that France is obliged to seek other venues in order to pursue its policy objectives, particularly regarding labor immigration policy.

However, it is interesting to note, that both Germany and France, even though are advocating for QMV they both argue that national quotas (on the number of foreign workers entering their states) should remain under the remit of the national governments. From here, it can be argued that indeed member states delegate to EU as much as they need in order to pursue their goals. They do, however they retain any other power which is necessary for their sovereignty.

### ***5.3 Preliminary Conclusion***

It is a fact now that member states share certain powers with the EU institutions but this does not mean that their ability to control the decision-making process is vanishing. Especially in the case of economic immigration policy, this is far from being the truth. Cooperation at the EU level in the field of labor immigration is a reassertion of control capacity of the state and it strengthens rather than weakens it. Pursuing policies at the EU level strengthens the government in two ways; firstly, by locking other governments into credible commitments and secondly by pursuing policies which are not welcomed at home.



Member states tend to lock each other into credible commitments when they all agree upon common future objectives, however at a specific moment they cannot agree upon specific policy arrangements. This assures them that every future development in any member state will happen within a set of norms and rules which they all are aware of.

Finally, EU institutions give to national governments the possibility to pursue their goals and policy objectives, especially when they face political constraints at home. The analysis of three member states, France and Germany showed that when a member state faces domestic constraints is more willing to delegate a limited power to the EU institutions as this will enable the executive to pursue its policies. However, in cases when the government does not face such constraints, as in the case of UK, it is less willing to delegate powers to the EU institutions, because it is sure it can pursue its politics independently.

## CONCLUSION

The aim of this thesis was to examine EU labor immigration policy and to understand the reasons behind the lack of harmonization of this policy at the EU level.

The main hypothesis of the thesis was that member states are the key players in deciding whether a policy will be harmonized at the EU level or whether it will remain under the sovereignty of national executives. In order to test this hypothesis, this study pursued a three step analysis, based on the theoretical framework laid down by Liberal Intergovernmental scholars: 1) national preference formation at the domestic level, 2) interstate bargaining at the EU level and 3) decision to delegate sovereignty to the supranational institutions. After the three partite analysis it was concluded that the decision to harmonize labor immigration policy is influenced and shaped during three stages. Firstly, member states define their interests towards labor immigration policy; secondly, they bargain with each other seeking a deal that would leave them better off than the status quo and thirdly based on the previous two stages they all decide whether to delegate power to the supranational institutions or not.

Regarding national preference formation, Liberal Intergovernmentalism argues that it is the economic conditions and domestic politics which influence national policies in the field of labor immigration policy. Indeed, due to different economic conditions, such as for instance the existence of labor shortages and different demands concerning professional qualifications, EU member states have different preferences concerning labor immigration policy. Moreover domestic policies are influenced by the level of politicization of immigration issues. In states where the topic of labor immigration policy is highly salient and the public opinion has a firm stand towards it, it was shown that national governments

do accommodate the preferences of the public opinion when formulating their national policies.

Concerning interstate bargaining at the EU level Liberal Intergovernmentalism argues that within a non coercive system such as the EU, governments will agree upon policies that will make them better off, however they can and will reject agreements that would leave them worse off than unilateral policies. The case of labor immigration policy showed that indeed when member states could not agree upon a certain proposal, they would seek other alternatives, either unilaterally or through coalitions.

The final step of harmonization comes with the decision of whether to delegate power to supranational institutions. This is often associated with the widely-spread assumption competence delegation it would create a loss of control of the member states over the decision making process. However, Liberal Intergovernmentalism argues the contrary. Delegating power to EU institutions strengthens member states' positions by locking all states into credible commitments and by creating a venue where member states can escape domestic constraints. The fact that labor immigration policy is now in the first pillar shows the willingness of the member states to lock each other into commitments, thus making sure that no member state will undertake a policy which could create disadvantages for the other states. This point was supported by evidence that member states which do not face domestic constraints tended to pursue more autonomous policies, while states that faced domestic constraints were willing to escape to Europe.

The aim of this thesis was to analyze *why* there is no a common labor immigration policy at the EU level, despite repeated calls from EU institutions in favor of the supranationalization of the policy area and the obvious benefits that such competence delegation could bring. . The main conclusion is that member states are the main actors who decide whether labor immigration policy is to be harmonized or not. From this thesis

a broader conclusion can be derived. European Union is a political unit which its member states created in order to help them pursue their own national policies. It is true that in this age of interconnectedness, being united and acting together gives better results than being isolated. Yet, state sovereignty remains the cornerstone upon which the international arena is built and one of the main goals of any state is to preserve this sovereignty. The case presented here shows, that at least in areas that are sensitive to member states' sovereignty. Even every step towards integration which takes place has the consent of the national governments of the member states. Member states agree on European Integration when they know that this will strengthen their position in relation to other EU members and international society. While not undermining the enormous role of the EU institutions, it is the member states that are in the driving seat in the journey of European Integration.

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