



Multilevel Governance of Migration and Asylum

Jean Monnet module

Irene Ponzio
ponzo@fierri.it

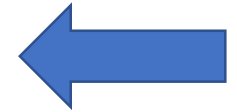


Topics

- European integration and Europeanization in the field of migration and asylum
- Main steps of European integration on migration and asylum
- How EU works on migration and asylum
- The MLG of labour migration in Italy: the quota system
- The development of the Common European Asylum System (CEAS)



Immigration policies: policies relating to admission, entrance and expulsion of people who used to live outside the national territory



Immigrant policies/Integration policies: policies related to immigrants who have already entered the country and their position in the new society of settlement

(Hammar 1985)



What is the multilevel governance?

Governance: not just formal decision-making process but also semiformal and informal processes which include non-public actors

Multilevel: relations between the various levels of government at which decisions are made (central state, regions/federal states, provinces and municipalities)



What is the European Union?

The European Union is not a federal state

It is an **international organisation based on treaties** agreed in public international law between member states which can be turned into laws that bind participating states



European integration and Europeanisation

‘**European integration**’ is the development of patterns of European cooperation and integration (bottom-up)

‘**Europeanization**’ is the impact that European integration has on member states (top-down)

Interactive process: MS try to *upload* their preferences in order to minimize the cost of subsequent *downloading* (Börzel 2002)

Eg. Strong influence exerted by the traditional European countries of immigration (i.e. Germany, France and Great Britain) on EU migratory policy (Geddes 2000 and 2003).



European integration on migration matters

Why do Member States cooperate on migration matters?

- 1) to circumvent political constraints at national level
- 2) to respond to problem pressure (es. terrorism)
- 3) as a result of leading 'ideas' (eg. area of freedom security and justice)

(Guiradon 2000 and 2002, Monar 2001)



Europeanization of migration and asylum policies

Outputs

- 1) Legal norms (eg. Anti-discrimination Directives, Visa Regulations)
- 2) Financial resources (eg. Asylum, Migration and Integration Fund))
- 3) Ideas and beliefs (eg. Green and White Papers)

Outputs (products) \neq Outcomes (results)

Two modes of Europeanization (Ette&Faist 2007)

- a) prescriptive, i.e. through legally binding legislation
- b) discursive, i.e. through non binding suggestions (eg. exchange of ideas)



How do the EU institutions work in the field of migration and asylum?

Council (of Ministries) of the European Union - major role: JHA Council	intergovernmental body	it passes the legislation
European Council	intergovernmental body	it sets the agenda
European Parliament - major role: Civil Liberties Committee	supranational body	it passes the legislation
European Commission - major role DG Home and Migration	supranational body	it draws up proposals for new European legislation it implements the legislation together with MS
Court of Justice of the European Union	supranational body	it settles legal disputes



Views and preferences of the main EU institutional actors on migration and asylum

- 1) European Commission aspires to a greater EU integration
- 2) Justice and Home Affairs Council has a reputation for being somewhat conservative and restrictive in its approach, for defending national approaches
- 3) The Parliament has often exhibited a pro-integration, but xenophobic parties are gaining ground
- 4) Bureaucracies are often rather conservative, preferring not to deviate from established procedures.
- 5) Member states often use UE as scapegoat for national government inability's to meet public expectations; alternatively depict EU as the solution to problems and the source of problems

(Geddes&Bosswel 2011)



Migration and asylum policies: Main steps of European integration

- 1) 1957-1986: cooperation outside the EU's structures (es. Schengen Agreement)
- 2) 1986-1993: informal inter-governalism towards closer cooperation
- 3) 1993-1999: formal inter-governmental cooperation, with the Maastricht Treaty (1992→1993) immigration policies entered the **third pillar** (migration and asylum became an area of common interest, decisions made by the Council by unanimity)
- 4) from the late 1990s onwards: immigration policies entered the **first pillar** with the Treaty of Amsterdam (1997→1999), in 2005 decision making on immigration policies change to qualified majority voting (Nice Treaty 2001) in the Council and co-decision procedure with the European Parliament, and a full role of the Court of Justice (Lisbon Treaty 2009).

(Geddes)



Innovation outside the Treaty framework: Schengen Agreement

I. Schengen Agreement was an agreement signed in 1985 outside the Treaty framework between five EC member states (Benelux countries, France and Germany) to liberalize free movement between themselves with compensating security measures.

II. In 1990 Schengen Convention was signed to implement the Schengen Agreement.

III. Schengen Convention came into effect in 1995

IV. The Amsterdam Treaty (1997) incorporated the Schengen provisions into the main body of the EU Treaty.

(Geddes&Boswell 2011)



The degree of Europeanization of specific issues

1. Free movement regulation of citizens of EU member states
2. Irregular migration
3. Refugee and asylum migration
4. Secondary migration
5. Labour migration



(Faist&Ette 2007)



THE MLG OF LABOUR MIGRATION IN ITALY

The quota system



The formal decision-making process

The admission of non-EU foreign workers is based on the Quota-system

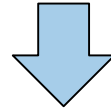
Quota are set up through a Prime Minister Decree and in accordance to:

- the principles and general criteria stated in the Document of Migration Policy Planning, adopted every three years after a process of in-depth **consultation** with the relevant stakeholders and authorities at central and local levels
- the **assessment of labour shortage** estimated through ISTAT data, Excelsior surveys on service and manufacture sectors, consultation with territorial branches of the Ministry of Labour, local authorities and workers' and employers' organisations
- **absorption capacity of local territories** estimated by Italian Regions



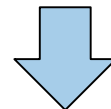
The actual process

a) Estimations are largely unreliable and consultation is usually skipped



Quotas are mainly set by the central government according to political concerns and acceptability for public opinion

b) Foreign workers are only admitted upon a specific request by a resident employer residing in Italy: the general principle behind the recruitment process is the nominal hiring from abroad



Annual quotas are therefore often used not really to let foreign workers enter the country in order to fulfil a specific need but rather to regularize foreign workers who are already living and working in the country



Why the system has not been reformed despite malfunctioning?

- New proposals for an in-depth reform of the current labour migration policies has become increasingly costly in electoral and political terms
- In Italy, the labour demand is particularly fragmented and dispersed among a great number of SMEs, particularly micro-enterprises, or households needing domestic and care services
- NGOs (mostly catholic) and trade unions have been much more influential in orienting and exerting pressures on policymakers, but they do not lobby on labour migration policies.

(Salis 2012)



ASYLUM



The past

The birth of EU asylum policy

Approaches to asylum that emerged in the early 1990s – at both national and EU level – were based on some core features:

- impulse towards harmonization of asylum system
- the focus on the so-called ‘external dimension’ of cooperation (safe third countries and readmission agreements)
- the perception that many asylum-seekers were abusing generous European systems

There was a high degree of mutual influence in the formulation of National and EU approaches to asylum in the 1990s.

The political elites in Germany in the early 1990s, and the UK later in the 1990s, both saw EU asylum policy as a possible venue for securing agreement for some sort of burden sharing arrangement.



The present CEAS (Common European Asylum System)

Dublin Regulation (claim must be made in the first-entry country)

Qualification Directive defines the status of refugees and beneficiaries of subsidiary protection

Reception Directive lays down minimum standards for the reception of asylum seekers

Asylum Procedures Directive specifies minimum standards for processing claims made by asylum seekers (length of and access to asylum procedures)

Temporary Protection Directive enables refugees to be granted a temporary residence status without having to go through an asylum procedure

Return Directive harmonises the standards and procedures for return

Tampere Conclusions of the European Council (1999)