Manual Guide for migration policies

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Migration in Europe
MigrEU Jean Monnet Module

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Section 1. Basic definitions and references

1.1 Migration policies and policy-making

Policies are decisions that might never turn into formal laws. Policies can even consist of disregarding laws. Clear examples can be found in the field of asylum. For instance, till the adoption of the European Agenda on Migration in 2015 and the subsequent development of the hotspot approach, Italy had disregarded the Dublin Regulation on purpose by not identifying and processing asylum claims of people arriving in the country so that they crossed the border and claimed asylum in other Member States. That decision can be regarded as part of the Italian policy on asylum at that time.

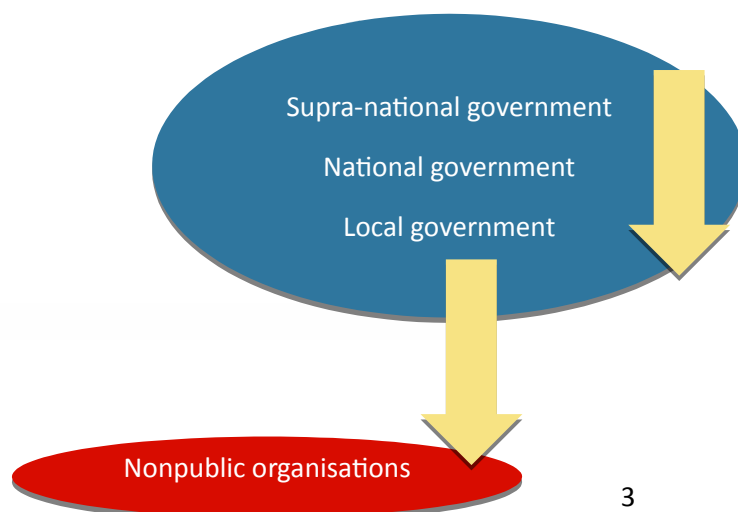A basic distinction of migration policies is that defined by Hammar (1985):

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 and their position in the new society of settlement (eg. intercultural policies, migrant's social rights, etc.)

The process of elaborating policies is called policy-making. Policy-making can be either top-down or bottom-up (Caponio and Jones-Correa 2018; Zincone, Penninx and Borkert 2011).
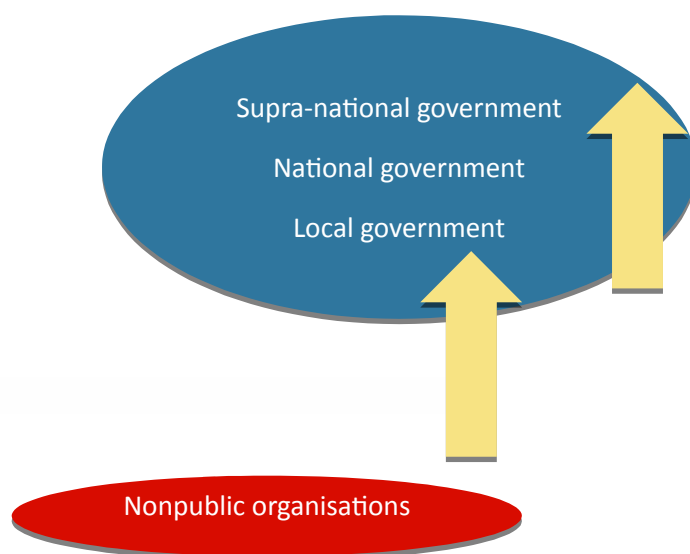
Top-down policy-making develop:
- from higher levels of government to lower ones and/or
- from public to non-public actors.

Supra-national government

National government

Local government

Nonpublic organisations

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Bottom up policy-making are started:

- by lower levels of governments and/or
- by non-public actors.

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Bottom-up decision-making is less intuitive than top-down processes. An example of bottom-up decision-making is that occurred in Italy in the 1990s which led to the first comprehensive Italian Immigration Law (L. 40/1998). In the 1990s, many Italian cities, often funded by the Regions and with the key support of the civil society organisations, undertook innovative interventions such as irregular foreign minors' admission at schools, irregular migrants' access to health care, intercultural education, support for migrants' associations and civic participation, etc. This led to a differentiated and local-based system of migrants' access to civil and social rights. The Law 40/1998 was explicitly aimed at overcoming that fragmentation of integration policies, and it did so by largely recognizing the innovative practices initiated at local level such as the irregular migrants' access to compulsory education or to basic health care (Zincone 2006). This can then be regarded as a case of bottom-up decision-making.

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1.2 Multilevel governance of migration

Governance: policymaking through networks and negotiation among actors, both public and non-public, beyond the formal division of responsibility established by laws and hierarchical modes of government. Governance refers not only to formal decision making processes but also to semi-formal and informal ones and can include non-public actors.

Vertical dimension of governance: it refers to the involvement of different levels of government (e.g. supra- national, national, regional and local).

Horizontal dimension of governance: it refers to the relations between actors located at the same level of government (eg. between local authorities and local NGOs).

In order to consider a specific policy-making arrangement as an instance of multilevel governance, it should fulfill the following conditions (Caponio and Jones-Correa 2018):

a. the emergence of non-hierarchical relations among actors engaged in a certain issue (i.e. governance dimension);

b. the involvement of different levels of government (i.e. the multilevel dimension);

c. the involvement of non-governmental actors (though the relevance of this aspect changes across both scientific accounts and empirical cases)

Multilevel governance of migration can be regarded from different perspective: a normative perspective where the multilevel governance is positively framed *a priori*; an analytical perspective where the multilevel governance could lead to both positive and negative outcomes; the multilevel governance of migration as an empirical phenomenon which has gained relevance in the last decades (Caponio and Jones-Correa 2018).

Multilevel governance of migration as a normative perspective. Multilevel governance is conceptualised as nonhierarchical and cooperative modes of governing where actors belonging to various governmental levels get together on volountary basis in order to solve problems. According to this perspective, this process always leads to policy convergence and consistent approaches towards migration.

Multilevel governance of migration as an analytical perspective. Multilevel governance is conceptualised as policymaking through nonhierarchical negotiation among actors belonging to various governmental levels where the degree of coordination is not taken for granted, conflict might be an option alongside with collaboration, and policy inconsistency and contradictory measures in the field of migration are regarded as possible outcomes.

Multilevel governance of migration as an empirical phenomenon. Besides being a theoretical perspective, the multilevel governance of migration can be regarded as an empirical phenomenon which has gained relevance in the last decades since actors

placed at different levels of government have been increasingly acting together to deal with migration issues, especially related to integration. The nation state has lost its centrality and other actors have emerged as key: international and supra-national institutions (eg. UN Agency for Refugees, International Organization for Migration, European Union, etc.), local authorities and civil society organizations (eg. European Council for Refugees and Exiles, Save the Children, Oxfam, Caritas, etc).

Section 2. European migration policies

The policy issues related to migration show different degrees of Europeanization (Faist and Ette 2007):

1. Free movement regulation of citizens in the EU
2. Refugee and asylum migration
3. Irregular migration
4. Anti-discrimination
5. Secondary migration (for example family reunification)
6. Ethnic migrants who are no subject to European immigration policy
7. Labour migration
8. Integration

Immigration policies, belonging to the so-called "first pillar", are governed by communitarian principles whereas integration policies belong to the "third pillar" and are therefore based on intergovernmental agreements and not ruled by EU binding legislation. Within immigration policies, however, intra-EU migration, asylum and irregular migration are highly communitarized, while there has been less much attention towards legal migration channels (Faist and Ette 2007; Geddes and Scholten 2015; Scholten and Penninx 2016).

Below, we propose a focus on the poles of the above ranking, i.e. free intra-EU movements, asylum, on one hand, and integration, on the other hand. Each of these policy areas exemplifies some key features of EU decision-making process and highlights the importance to look at processes beyond the formal procedures: free intra-EU movement is the result of EU policy innovation starting from outside the EU framework; the decisions on asylum made at EU level offer the opportunity to understand how apparent contradictions are in fact the result the specific structure of the European decision-making process; integration is a EU policy area where informal and "soft" policy-making tools are key.

2.1 Free intra-EU movement

Free movement is an example of the importance of policy innovation developed outside the EU procedures and framework (Boswell and Geddes 2011). Indeed, the Schengen Agreement was signed in 1985 outside the Treaty framework between five EC Member

States (Benelux countries, France and Germany) in order to liberalize free movement and compensate it with security measures.

Schengen Convention was signed in 1990 to implement the Schengen Agreement, and abolished checks at internal borders.

The Amsterdam Treaty (1997) incorporated the Schegen provisions into the main body of the EU Treaty. As a consequence, Schengen became a key component of EU migration policies. Still, not all Member States are part of the Schengen area: Great Britain, Ireland, Romania, Bulgaria, Croatia and Cipro are excluded.

2.2 Asylum

Asylum is an example of how apparent contradictions in decisions made at EU level may be the result of the different roles that the various EU bodies are called to play.

Tampere Conclusions of the European Council (1999) committed Member States to a "full and inclusive" application of the Geneva Convention and fixes a ten-year timetable for adopting a Common European Asylum System (CEAS). Indeed, the decisions of the European Council, made up of the heads of state, are generally vague and ambitious. The aim of this vagueness is to keep every Member States on board, committed to a common project.

Yet, this may generate problems when it comes to the implementation of those decisions. The Commission was requested by the European Council to follow up on what had been decided in Tampere by drafting concrete proposals and programmes. However, the Commission's proposal faced the opposition of the Council of the European Union, made up of the national ministries competent on asylum, generally the ministries of interior which are generally oriented to defend their states' interests and sovereignty (Boswell and Geddes 2011).

In fact, the apparent contradiction between the European Council's and the Council of European Union's decisions has been the result of the different roles they play within the EU decision-making process, contributing to the fragile balance between the supra-national and national perspectives.

CEAS (Common European Asylum System)

The CEAS is based on the following components:

1.The so-called Dublin Regulation determines which EU Member States is responsible for processing asylum claims and ensure their wellbeing: the country of first entry is generally responsible for processing asylum claim, with exceptions (mainly family members and unaccompanied minors). Member States can renounce to their right to return asylum seekers to the first country of entry, as Germany did in Autumn 2015 when the Prime Minister Angela Merkel announced that the country would accept Syrian refuges coming from other European countries. The Dublin systems aims to prevent:

- asylum shopping (i.e. the choice of destination countries with the most generous asylums)

- multiple applications (i.e. applications by a single person in more than one Member State)

- refugees in orbit (i.e. the situation in which all potential reception countries declare that they are not responsible for dealing with an asylum claim).

2. A set of specific European Directives (adopted at the beginning of the 2000s and recast in 2013):

- ✓ The Procedures Directives (2005/85/EC and 2013/32/EU) concern recognition and asylum appeal procedures. They also grants beneficiaries of subsidiary protection the same procedural rights as refugees.

- ✓ The Qualification Directives (Council Directive 2004/83 and 2011/95/EU) define the status of refugees and beneficiaries of subsidiary protection.

- ✓ The Reception Directives (Council Directive 2003/9 and 2013/33/EU) lay down minimum standards for the reception of asylum seekers.

- ✓ The Return Directive (2008/115/EC) harmonises the standard and procedure of return.

- ✓ The Directive on Temporary Protection (2001/55/EC), enables to refugees to be granted a temporary residence status without having to go through an asylum procedure in the "event of mass influx of displaced persons". It applies in particular when there is a risk that the standard asylum system is struggling to cope with demand stemming from a mass influx that risks having a negative impact on the processing of claims. However, the provisions within this Directive, have not been triggered so far.

3.EURODAC which gathers and stores asylum seekers' fingerprints in order to make it easier for EU States to determine responsibility for examining an asylum application.

4.EASO (European Asylum Support Office) is an agency of the European Union whose mission is to support the implementation of the Common European Asylum System (CEAS) by providing practical and technical support to Member States and the European Commission, and by coordinating and strengthening cooperation among Member States on the many aspects of asylum.

2.3 Migrant integration

It was only in 2003 that the European Commission came up with a more comprehensive view on integration policies with its Communication on Immigration, Integration and Employment where integration is defined as "a two-way process based on reciprocity of rights and obligations of Third-Country Nationals and where host societies that foresee the immigrant's full participation", and an holistic policy approach targeting all dimensions of integration (economic, social and political rights, cultural and religious diversity, citizenship and participation) prevails. Common Basic Principles for Immigrant Integration Policy followed in 2004. Given that the EU cannot adopt biding legislation in the field of migrant integration, the European Commission has managed to promote the EU's idea of integration by employing a set of "soft" tools such as (Scholten, Entzinger, Penninx, and Verbeek 2015):

- Specific Funds which promote the EU's policy priorities in the field of integration: INTI programme (Integration of Third- Country Nationals) (2004-2006); European Integration Fund (EIF) & European Refugee Fund (ERF) (2007-2013); Asylum, Migration and Integration Fund (AMIF) (2014-).
- Collection of information and monitoring of national integration policies.
- Identification and exchange of "good practices" which meet the EU's idea of integration.
- Direct cooperation with local authorities and mobilisation of civil society actors.

Common Basic Principles for Immigrant Integration Policy

The Common Basic Principles for Immigrant Integration Policy in the EU were adopted by the Justice and Home Affairs Council in November 2004 and form the foundations of EU initiatives in the field of integration.

• CBP 1 'Integration is a dynamic, two-way process of mutual accommodation by all immigrants and residents of Member States'

• CBP 2 'Integration implies respect for the basic values of the European Union'

• CBP 3 'Employment is a key part of the integration process and is central to the participation of immigrants, to the contributions immigrants make to the host society, and to making such contributions visible'

• CBP 4 'Basic knowledge of the host society's language, history, and institutions is indispensable to integration; enabling immigrants to acquire this basic knowledge is essential to successful integration'

• CBP 5 'Efforts in education are critical to preparing immigrants, and particularly their descendants, to be more successful and more active participants in society'

• CBP 6 'Access for immigrants to institutions, as well as to public and private goods and services, on a basis equal to national citizens and in a non-discriminatory way is a critical foundation for better integration'

• CBP 7 'Frequent interaction between immigrants and Member State citizens is a fundamental mechanism for integration. Shared forums, intercultural dialogue, education about immigrants and immigrant cultures, and stimulating living conditions in urban environments enhance the interactions between immigrants and Member State citizens'

• CBP 8 'The practice of diverse cultures and religions is guaranteed under the Charter of Fundamental Rights and must be safeguarded, unless practices conflict with other inviolable European rights or with national law'

• CBP 9 'The participation of immigrants in the democratic process and in the formulation of integration policies and measures, especially at the local level, supports their integration'

• CBP 10 'Mainstreaming integration policies and measures in all relevant policy portfolios and levels of government and public services is an important consideration in public policy formation and implementation.'

• CBP 11 'Developing clear goals, indicators and evaluation mechanisms are necessary to adjust policy, evaluate progress on integration and to make the exchange of information more effective.'

Section 3. Bibliographic references

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Section 4. Main sources of information

4.1 European Union

EUROPEAN COMMISSION – MIGRATION AND ASYLUM

The European Commission is responsible for drawing up proposals for new European legislation to be approved by the European Parliament and the Council, and implements their decisions. It is organised into departments known as Directorates-General (DGs). The DG Migration and Home Affiars is that responsible for the policy area of migration and asylum. The European Commission's policy priorities, strategies and initiatives are key to understand the EU decision-making on migration and asylum.

Policy priorities

Website: http://ec.europa.eu/priorities/migration_en

Main available materials on policies:

- European Commission's policy priorities and areas of intervention, and the related official documents.

- European Union's press releases on migration and asylum.

Strategies

Website: https://ec.europa.eu/info/strategy/migration-and-asylum_en

Main available materials on policies:

Description of the European Union's main strategies and tools on migration, integration and asylum

EUROPEAN PARLIAMENT - COMMISSION CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS

The Committee on Civil Liberties, Justice and Home Affairs (LIBE) is a standing committee of the European Parliament that is responsible for protecting civil liberties and human rights, including those of migrants and minorities. This is the Committee which deals with asylum, migration, and border management, and its functioning is relevant to understand the European Union's policy-making of migration.

Website: http://www.europarl.europa.eu/committees/en/libe/home.html

Main available materials on policies:

- Draft agendas and minutes of the LIBE Committee meetings, which are held at least once a month. In these meetings the Committee debates, exchanges views and takes

votes on draft legislative documents and amendments, and holds discussions with experts.

- Documents produced by the LIBE Committee (Reports, Recommendations, Opinions, Amendments, Working Documents)

KNOWLEDGE CENTRE ON MIGRATION AND DEMOGRAPHY (KCMD)

The European Commission's Knowledge Centre on Migration and Demography (KCMD) aims to provide independent scientific evidence for strengthening the European Commission's response to the opportunities and challenges related to migration and demography. The KCMD provides data that could be useful for assessing migration and asylum policies.

Website: https://ec.europa.eu/jrc/en/migration-and-demography

Main available materials on policies:

- "Atlas of Migration" provides information about the profile of migrants, the reasons that people migrate, the number of people who applied for asylum in the EU and the outcome of their applications, the amount of development and humanitarian assistance the EU has granted to non-EU countries, the level of integration across EU Member States
- "International Migration Drivers" examines the structural characteristics of countries of origin and destination of migrants, migration flows to the EU, variations in asylum applications and the individual decisions of people who prepare to migrate.
- "Migration Profiles" illustrates the characteristics of key countries of origin and transit and providing a reference picture of various aspects related to migration and development.

EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS (FRA)

The European Union Agency for Fundamental Rights (FRA) is a EU agency aimed at promoting fundamental rights, collecting pertinent and timely data and information, and sharing evidence-based insights. FRA deals with different kind of fundamental rights and discrimination, including those related to asylum, migration and ethnic minorities.

Website: https://fra.europa.eu/it

Main available materials on policies:

- "Quarterly bulletin on Migration" addresses fundamental rights concerns and focuses on the fundamental rights situation of people arriving in Member States and EU candidate countries particularly affected by migration movements.

- "Periodic data collection on the migration situation in the EU" deals with the fundamental rights situation of people arriving in Member States particularly affected by large migration movements.

- "Fundamental Rights Report" summarises and analyses major developments in the fundamental rights field, noting both progress made and persisting obstacles, and provides a compact but informative overview of the main fundamental rights challenges confronting the EU and its Member States.

- "European Union Minorities and Discrimination Survey" collects information from over 25,500 respondents with different ethnic minority and immigrant backgrounds across all 28 EU Member States.

- Ad hoc reports on the situation of fundamental rights and discrimination related to asylum, migration and ethnic minorities in member States and on the consequences of certain EU policies on those rights.

EUROPEAN ASYLUM SUPPORT OFFICE (EASO)

EASO is an agency of the European Union that, alongside practical and technical activities, provides evidence-based input for EU policymaking and legislation in all areas having a direct or indirect impact on asylum.

Website: https://www.easo.europa.eu/

Main available materials on policies:

- "Country of Origin Information" (COI) refers to information on countries from which asylum seekers originate.

- "Information and Documentation System" (IDS) aims to provide a central source of information on the implementation of the Common European Asylum System (CEAS) in each Member State and Associate Country covering the following topics: Access to Procedures, Dublin Procedure, First Instance Determination, Second Instance Determination, Reception, Detention, Forms of Protection, Return and, as most recent addition, Resettlement and Humanitarian Admission Schemes. Information on key aspects of the CEAS can be accessed at country as well as at EU level where comparison of practices is available with report tables and thematic overviews.

- Annual Report aims to highlight EASO's main findings on the situation of asylum in the EU+ (including information on Norway, Switzerland, Liechtenstein and Iceland), describing and analysing flows of applicants for international protection, major developments in legislation, jurisprudence, and policies at EU+ and national level and reporting on the practical functioning of the Common European Asylum System

(CEAS). As part of the Report, EASO also indicates its activities undertaken in respective thematic areas.

FRONTEX – EUROPEAN BORDER AND COAST GUARD AGENCY

Frontex is an agency of the European Union that promotes, coordinates and develops European border management.

Website: https://frontex.europa.eu/

Main available materials on policies:

- Main operations coordinated by Frontex
- Publication on EU border management

EUROPEAN MIGRATION NETWORK (EMN)

The European Migration Network is an EU network of migration and asylum experts who work together to provide objective, comparable policy-relevant information. The European Commission (Directorate-General for Migration and Home Affairs) coordinates the European Migration Network. The EMN gathers objective, policy-relevant, comparable and up-to-date information and knowledge on emerging issues relating to asylum and migration in Europe, and produces reports, studies and policy briefs with analysis of policy and legislative development and implementation.

Website: https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network_en

Main available materials on policies:

- *"Annual Reports on Migration and Asylum"* outline the most significant political and legislative developments and debates in Member States and Norway and the European Union in the year, and provide a unique overview of immigration and asylum-related developments.
- *"Country Factsheets"* provide a succinct summary of the main developments in the year in all Member States and Norway.
- *"Ad-Hoc Queries"* are aimed at collecting comparable information from Member States and Norway on a wide range of asylum- and migration-related issues, e.g. legal migration, irregular migration, borders, return, visas etc. The EMN produces compilations of the responses to ad-hoc queries, which rapidly assess the perspective of responding Member States and Norway in relation to a specific topic.

- *"Bulletin"* are quarterly newsletters which provide an update on recent EU and national developments on migration and asylum as well as providing an overview of key statistics, EMN publications, events and developments.
- *"Asylum and Migration Glossary"*
- Ad hoc studies on relevant topics

EUROPEAN WEB SITE ON INTEGRATION

The European Web Site on Integration is an initiative of the European Commission. It provides up-to-date information and good practices on migrant integration in each EU Member States collected by Country Coordinators.

Website: https://ec.europa.eu/migrant-integration/home

Main available materials on policies:

- European Union's policy framework, actions and platforms on migrant integration
- Country's facts illustrating the main features of governance of migrant integration in each Member State
- A collection of good practices of migrant integration promoted in Members States
- E-Library collecting documents and analyses on migrant integration from all Member States

Section 4.2. IMISCOE

IMISCOE (International Migration, Integration and Social Cohesion in Europe) is Europe's largest interdisciplinary research network in the field of migration, integration and diversity studies. It was born in 2004 as a Network of Excellence funded by the European Commission and has then become a fee-based network of research institutes and single scholars. IMISCOE consists of research institutes from almost all European countries and from various disciplines, including sociology, political science, economics, law, demography, public administration, social geography and history. The institutes' web sites provide scientific analyses (a large part of which in English language) useful to understand and assess migration policies within and outside the European Union.

Website: https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network_en

Research institutes belonging to the IMISCOE Network:

AMIS (Centre for Advanced Migration Studies), University of Copenhagen, Denmark.

BIRMM (Brussels Interdisciplinary Research centre on Migration and Minorities), Vrije Universiteit Brussel, Belgium

CEDEM (Centre d'Études de l'Ethnicité et des Migrations), University of Liège, Belgium

CEMIS (Centre for Migration and Intercultural Studies), University of Antwerp, Belgium

CGM (Centre on Global Migration), University of Gothenburg, Sweden

CMR (Centre of Migration Research), Warsaw University, Poland

COMPAS Centre on Migration, Policy and Society, University of Oxford, UK

DEMIG (Department for Migration and Globalisation), Danube University Krems, Krems, Austria,

DEUSTO (Research Unit on Migration, Management of Diversity and Social Cohesion), University of Deusto, Bilbao, Spain

ERCOMER (European Centre on Migration and Ethnic Relations), University of Utrecht, The Netherlands

ESOMI (International Migration Sociology Team), University of A Coruña, Spain

EUI (European University Institute), Florence, Italy, see MPC (Migration Policy Centre)

EUR (Erasmus University of Rotterdam), the Netherlands

FAFO (Institute for Labour and Social Research), Oslo, Norway

FIERI (The Forum Internazionale ed Europeo di Ricerche sull'Immigrazione), Turin, Italy

FLSHASE (Faculty of Language and Literature, Humanities, Arts and Education, University of Luxembourg), Luxembourg

GEOMIGRACE (Geographic Migration Center), Charles University, Czech Republic

GRITIM (Interdisciplinary research group in immigration), Universitat Pompeu Fabra, Spain

ICMPD (International Center for Migration Policy Development),Vienna, Austria

IEM (Instituto Universitario de Estudios sobre Migraciones de la Universidad Pontificia Comillas de Madrid), Spain

IGOT-UL (Institute de Geografia e Ordenamento deTerritório), University of Lisboa, Portugal

IMES (Institute for Migration & Ethnic Studies), University of Amsterdam. The Netherlands

IMIS (Institute for Migration Research and Intercultural Studies), University of Osnabrück, Germany

INED (Institut National d'Études Démographiques), Paris, France

InZENTIM (Interdisciplinary Centre for Integration and Migration Research), University of Duisburg-Essen, Germany

ISR (Institute for Urban and Regional Research), Austrian Academy of Sciences,Vienna, Austria

ISF (Institute for Social Research Oslo), Norway

ISMU (Fondazione Ismu - Initiative e Studi sulla Multietnicità), Milan, Italy

LIMS (Leiden Interdisciplinary Migration Seminar), University of Leiden, The Netherlands

MACIMIDE (Maastricht Centre for Citizenship, Migration and Development), Maastricht University, The Netherlands

MDX (Middlesex University), London, UK

MIF (Migration Institute of Finland), Turku, Finland

MIM (Malmö Institute for Studies of Migration, Diversity and Welfare), Malmö University, Sweden

MiReKoc (Koç University), Istanbul,Turkey

MPI-MMG (Max Planck Institute for the Study of Religious and Ethnic Diversity), Göttingen, Germany

NIDI (Netherlands Interdisciplinary Demographic Institute), The Hague, The Netherlands

NOVA (Norwegian Social Research), Oslo, Norway

NTNU (NTNU Social Research Centre for Diversity and Inclusion), Trondheim, Norway

OU (Open University London), London, UK

PLUS-MMG (Paris Lodron University of Salzburg), Salzburg, Austria

PRIO (Peace Research Institute Oslo), Oslo Norway

REMESO (Institute for Research on Migration, Ethnicity and Society), Linköping University, Sweden

SCMR (Sussex Center for Migration Research), University of Sussex, Falmer, Brighton, United Kingdom

SFM (Swiss Forum for Migration and Population Studies), the University of Neuchâtel, Switzerland

UNISHEF (University of Sheffield), Sheffield, UK

UNIVE (Ca'Foscari University), Venezia, Italy