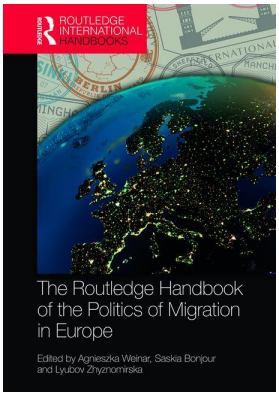

The Routledge Handbook of the Politics of Migration in Europe

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EU institutions

Publication details
https://test.routledgehandbooks.com/doi/10.4324/9781315512853-11
Ariadna Ripoll Servent
Published online on: 09 Jul 2018

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EU INSTITUTIONS

Venue for restrictions or liberal constraints?

Ariadna Ripoll Servent

Introduction

Why should we consider the role of the European Union (EU) institutions in migration governance worthy of attention? Certainly, migration is a type of policy still largely attached to the idea of member states' sovereignty and their ability to control who enters and leaves their territory. Nevertheless, migration policies (or at least parts of them) have been slowly Europeanised and are largely framed by decisions made in supranational settings. In the last decade, the European Parliament (EP), the European Commission (Commission) and the Court of Justice of the European Union (CJEU) have grown into policy-making venues and contributed to approximating domestic policies and cooperation in the area of migration.[1]

Despite recent institutional changes, which have given more power to EU supranational institutions, the evolution of migration politics in the EU has long been characterised by slow integration and intergovernmental policy-making modes. Cooperation originated in intergovernmental networks situated outside the EU structures, which maintained the role of member states and maintained their control over policy-making until the mid-2000s. As a result, the politics of EU migration have been dominated by traditional integration theories, notably intergovernmental explanations looking at why and how (despite the sensitive nature of these policies) member states decided to delegate competences to the EU level. Notably, Guiraudon's 'venue-shopping' thesis (2000) examined the two-level games played by member states, which tried to escape the constraining effects of national institutions by uploading contested issues to the EU level. The intergovernmental character of EU decision-making left member states in control of policy outcomes and sidelined supranational EU institutions from negotiations. This thesis shaped the academic debate on EU migration policies for the upcoming decades. However, the treaty changes introduced in Amsterdam (which took effect only in 2005) and Lisbon (2009) strengthened the formal role of EU supranational institutions, with the consequence that the 'venue-shopping thesis' has largely lost its explanatory power.

As a result, academics have started to look beyond explanations focused on the empowerment of EU institutions and looked rather at its effects. In this context, the 'liberal constraint' thesis posits that, with the shift of power to the supranational level, member states are increasingly placed under new liberal constraints, which prevent them from uploading their restrictive preferences to the EU level and using it as a way to escape domestic controls. This chapter

examines the relevance of the 'liberal constraint' thesis as well as those of its critics, which have used institutionalist and governance approaches to underline some of its conceptual and methodological weaknesses. To this effect, the chapter introduces the main debates on EU migration governance among different strands of integration theories and goes on to examine the assumptions of the 'liberal constraint' thesis more in-depth by assessing the policy preferences of the main EU supranational institutions. Finally, the conclusion discusses some of the main weaknesses in the current academic literature and proposes some avenues for future research.

Integration theories and beyond: from venue-shopping to liberal constraints

Literature on EU migration has been characterised by a strong emphasis on the intergovernmental nature of the policy field. As a result, most studies have concentrated on finding explanations for the process of integration and gradual supranationalisation. One of the earliest theoretical explanations was provided by Guiraudon's 'venue-shopping' thesis. With it, Guiraudon (2000) argued that member states escaped the constraining effects of national institutions by uploading contested issues to the EU level. This was made possible by the formal treaty provisions, which left member states in control of policy outcomes and largely excluded supranational EU institutions. This policy-making mode made it easier for ministries of justice or home affairs to by-pass other executive actors linked to this policy field, such as ministries of employment or social affairs, as well as other domestic actors that might contest their restrictive aims (national courts, opposition parties, interest groups, citizens, etc.). Later on, Lavenex (2006) expanded this argument by noting that, as communitarisation advanced and the EU venue became more constrained (e.g. by giving a bigger say to the Commission), member states shifted policy-making outwards. The external dimension is still dominated by intergovernmental rules and is, therefore, ideal to deal with highly contested policies, such as borders and migration controls.

With the institutional changes brought by the Treaty of Amsterdam and Lisbon, a new strand of literature started to emerge in the field of EU migration policies. It generally argued that the shift of power from member states to the supranational level led to the introduction of new liberal constraints on national politics. Member states were thereby hindered in their efforts to upload their restrictive preferences to the EU level and use it as a way to escape domestic constraints. The 'liberal constraint' thesis explicitly or implicitly assumed that supranational EU institutions adopted a more liberal standpoint on migration than member states' governments, which would then make the adoption of rights-enhancing policy outputs more likely. For instance, when examining the area of asylum policies, Kaunert and Léonard affirmed that the entry into force of Lisbon and the consequent empowerment of the EP 'reinforced the liberal character of the EU asylum venue, which renders the adoption of more restrictive asylum provisions less likely' (2012, p. 1405). Similarly, the Commission and the CJEU were seen as more liberal and supportive of migrants' rights. For instance, Block and Bonjour stated:

> the European Commission and the European Court of Justice (CJEU) now play important roles in ensuring the correct interpretation and application of Community legislation. Also in the field of family migration, important impulses have recently emanated from these institutions, largely going in a liberal direction. Since the supranational EU institutions limit Member States' sovereign room of manoeuvre and have even obliged them to change their policies, we refer to these supranationally-driven dynamics of Europeanisation as constraining.
>
> *(2013, p. 219)*

Therefore, this thesis supports the assumption that supranational EU institutions had both a constraining *and* liberal effect (Acosta and Geddes, 2013; Block and Bonjour, 2013; Bonjour and Vink, 2013; Kaunert and Léonard, 2012; Thielemann and El-Enany, 2010).

This strand of the literature has raised two important questions. First, have EU supranational institutions become more relevant? This question relates directly to EU integration theories (i.e. intergovernmentalism and neofunctionalism) and argues that changes in the formal rules have led to a shift in the balance of power between intergovernmental and supranational actors. While this has been the dominant scholarly view in recent years (Bonjour *et al.*, 2017), it is not undisputed, especially in the context of the recent migration crisis. New intergovernmentalists have remarked on the growing importance of the European Council in the resolution of the crisis and the trend towards further integration without supranationalisation (Maricut, 2016). Therefore, despite some advances in cooperation – such as the introduction of voluntary systems of relocation or the delegation of more powers to EU agencies such as Frontex and the European Asylum Support Office (EASO) –, the Commission and the European Parliament have been ignored in key decision-making moments, such as in the negotiation of the EU–Turkey deal (Trauner, 2016). More generally, longitudinal comparative analyses of EU migration policies have shown that member states continue to (informally) dominate policy-making due to their expertise and direct involvement in the implementation of EU policy outputs (Trauner and Ripoll Servent, 2016).

The second question relates to the other main assumption of the 'liberal constraint' thesis, namely, to what extent are EU supranational institutions liberal? There, academic findings are even less consistent. For instance, Bendel *et al.* (2011) considered that, while member states might not be able to play the EU 'venue' as in the past, a comparison of several sub-policy areas showed no decrease in the level of restrictiveness and control. Similarly, Trauner and Ripoll Servent (2015, 2016) observed very little change in the content of EU migration policies. Since this has been the most disputed question, both theoretically and empirically, the next section examines the role of the three main supranational EU institutions in the area of migration in order to evaluate to what extent we can consider them more liberal than member states.

To what extent are EU supranational institutions liberal?

The European Commission

The Commission has traditionally been seen as a strong protector of both migrant rights and further integration. The high point of its liberal tradition came with the Tampere Programme (European Council, 1999). Since then, it has often had to moderate and revise its proposals, which can be attributed to its attempts to anticipate member states' positions or to the presence of more restrictive-oriented units inside DG Home (cf. Scipioni, 2015). Its position gives it a very particular type of power. On the one hand, as agenda-setter, it can strategically frame solutions to particular policy problems. For instance, Menz (2015) analysed how the Commission framed the seasonal workers directive so that it stressed the issue of rights, rather than numbers. In addition, it linked the proposal to the Lisbon and Europe 2020 Agendas in order to present it as an economic priority, rather than a migration matter. Despite its agenda-setting power, the Commission is not a decision-maker and it cannot veto decisions or force more liberal outcomes. Therefore, the Commission is often divided between a wish to become more politically influential, while still needing to heed the wishes of (increasingly populist) national governments. The Commission is thus limited in its attempts to change policy outputs and often has had to revise its proposals to satisfy the more restriction-oriented member states.

In addition, the Commission is not a unitary institution. Scipioni (2015) emphasised how internal (bureaucratic) dynamics may explain the variation in Commission positions across policy fields. For instance, while the Commission tends to adopt more right-enhancing stances on asylum issues, it portrays more restrictive preferences with regard to visa and border policies. What is certain is that the Commission has heightened its political profile in the last legislatures, especially since 2014, when the EP managed to reinforce the link between European elections and the choice of Commission President. As a result, the Commission Vice-Presidents have become more important political players, adding an additional policy-shaping layer with strong veto powers. Indeed, instead of strengthening proposals created from the bottom-up, vice-presidents often follow their own political agenda and ambition, so that policies are increasingly shaped 'from above'. The recent crisis has shown more political entrepreneurship from President Juncker and Vice-President Timmermans than from Avramopoulous, the Home Affairs Commissioner in charge of migration policies. Certainly, that might come as a response to the feeling of urgency and exceptionality raised by the crisis, but it also shows new power dynamics and a stronger role of hierarchies in the current Commission.

The European Parliament

One of the major expectations of communitarisation was raised by empowerment of the EP, which became a co-legislator alongside the Council after 2005. Since the EP had often adopted more rights-based positions than member states (Hix and Noury, 2007), many considered this institutional change a window of opportunity to raise standards and liberalise migration policies. However, the decisions taken by the EP in the last decade have generally failed to fulfil these expectations (Ripoll Servent, 2015). Certainly, one cannot say that it has actively contributed to rendering outputs more restrictive, but neither has it tried to change the rationales and directions of key policy instruments (Trauner and Ripoll Servent, 2015). If we look, for instance, at the area of asylum, the EP's position has evolved since the shift to co-decision. During the reform of the Common European Asylum System (CEAS, concluded in 2013), the EP managed to raise the standards and slightly reduce the flexibility of member states, but it was unable (or unwilling) to re-open major debates, such as rules for sharing responsibility or reception conditions. On the contrary, in some cases, the EP contributed to legitimising and entrenching contested principles like the detention of asylum-seekers. These unexpected shifts resulted from various factors: member states were reticent to change their domestic practices or raise their expenditures on asylum-seekers and refugees; at the same time, the EP wanted to show it could behave in a more consensual manner now that it acted as a co-legislator – a factor that was used strategically by the centre-right political forces in Parliament to forge an alliance with the Council (Ripoll Servent, 2015, chap. 8; Ripoll Servent and Trauner, 2014).

Indeed, one of the main reasons behind the change in the Parliament's position has been the new political balance that has emerged in the last two legislatures. Before 2009, the left-wing and liberal forces could command a majority in the EP; however, since the introduction of the co-decision procedure in 2005, which gave the EP a veto power in migration policies, the EP has not enjoyed a clear political majority. This means that winning coalitions are formed on a case-by-case basis. This dynamic has become particularly challenging for those parties situated at the centre of the political spectrum – namely, the liberals and, increasingly, the social-democrats, who often need to sacrifice their positions (i.e. more liberal migration policies) in order to find a sufficient majority. Therefore, the European People's Party (Christian-democrats) has become the leading force in the EP's committee dealing with migration matters (civil liberties – LIBE – committee), since it can force the other parties to come closer to its more restrictive positions.

This has meant that the committee has shifted from a left-wing and liberal majority towards a more conservative and security-oriented one. Since the EP plenary tends to follow the recommendations of the committees, this shift has led to a generalised change in the voting behaviour of the Parliament as a whole. Since 2005, coalitions in the EP have been led by Christian-democrats, which are closer to national governments and the Commission President. Therefore, policy-making in the area of migration has become more consensual and security-oriented (Ripoll Servent, 2015). The rise in the number of Eurosceptic and radical Members of the European Parliament (MEPs) in the 2014 elections has made it even more difficult to form winning coalitions and has increased the pressure on 'mainstream' political groups to accept compromises and policy solutions that maintain the status quo, which makes a shift towards more liberal policies increasingly difficult.

The Court of Justice of the European Union

Finally, national and European courts have become the main liberal constraints. Many of the policy changes that we observed in the area of migration respond to limitations to restrictive policies introduced by case law. A point of reference has always been the jurisprudence of the European Court of Human Rights (ECtHR), which, despite not being an EU institution, has largely framed the debate and influenced the EU courts. When it comes to the role of the CJEU and national courts, the body of jurisprudence remains limited, due to the absence of judicial oversight over EU migration policies until 2005 (see Hamlin and Mellinger's contribution to this volume on the role of the CJEU and its relation with the ECtHR).

There are three considerations that we should keep in mind when examining the role of the courts. First, courts are reactive institutions; they cannot initiate cases. Since it usually takes some time until individual cases reach European courts, it is not surprising that we have not yet seen many cases related to EU migration law. The scarcity of rulings can also be due to practices of member states, which have actively tried to pre-empt rulings and the development of constraining jurisprudence. For instance, member states tried to stop the emergence of a body of European case law linked to the validity of 'integration abroad' measures in family reunification (*Bibi Mohammad Imran* v. *Minister van Buitenlandse Zaken*, Case C-155/11 PPU, [2011]); to this effect, they opted for a practice of 'selective lenience', which meant that they would stop using restrictive practices as soon as there was a risk that migrants would start court proceedings against them (Acosta and Geddes, 2013; Block and Bonjour, 2013). Despite these delaying tactics, the Court produced its first ruling on this matter in 2015, accepting the principle of 'integration abroad' but underlining that it should be aimed at facilitating integration, rather than selecting migrants (*Minister van Buitenlandse Zaken* v. *K*, [2015]).

Second, Wasserfallen (2010) noted that the influence of the CJEU has often been overstated, especially when it comes to assessing the effective implementation of its jurisprudence. He considered that the Court is at its most influential when its opinions were taken up by other actors like the Commission or the EP and embedded in new policy reforms. Indeed, we have seen such instances in the recast of the CEAS, where case law from the ECtHR served to underpin and strengthen many attempts to liberalise difficult provisions, such as the right to 'suspensive effect' in the Procedures Directive (Ripoll Servent and Trauner, 2014, p. 1148; see also Kaunert and Léonard, 2012, pp. 1406–1407). However, we have also seen numerous instances where the jurisprudence of the Courts has been ignored or interpreted in further legislative reforms in such a way as to by-pass its effects. Acosta and Geddes (2013, p. 186) noted that the jurisprudence that started with *El Dridi* and aimed to limit the cases in which irregularly staying migrants could be detained when awaiting their expulsion had been immediately implemented by the

Italian government – in a way that did not actually change the old practices. Thus, member states are still able to find definitions that fit their purposes and often ignore or by-pass the jurisprudence of the courts.

The last point pertains to the limits in the CJEU's ability and willingness to effect deeper 'liberalising' changes. A first limitation comes from the nature of the courts, which are called to interpret specific points in law. Therefore, although they may introduce specific constraints in the application of migration policies, they are generally unable (or unwilling) to address the larger questions behind such queries. For instance, a recent case on 'voluntary returns' has shifted the burden of proof to member states, which now need to demonstrate that someone is at risk of absconding before they can deny them the right to leave voluntarily. At the same time, it does not address the larger question of whether it is legitimate to expulse third-country nationals from the territory of member states (Peers, 2015). Second, we have seen in some occasions how, even if the Court is willing to expand the rights of migrants, it has difficulties in doing so. For example, while family reunification rights are well established for those that exercise freedom of movement, they have been more difficult to secure for 'sedentary' citizens and third-country nationals (Staver, 2013). Finally, even if migration policies now enter into the remit of EU law, we should not assume that the CJEU will always be willing to support the rights of migrants. This is, again, an assumption that has to be put to the test.

Conclusion and research agenda

Although everybody seems to agree that the venue-shopping thesis has lost explanatory power in the current institutional framework, there are still major disagreements on what this means for the role and impact of EU institutions. The 'liberal constraints' thesis has tended to consider them a positive influence that limits member states' capacity to introduce more restrictive measures (Bonjour and Vink, 2013; Thielemann and El-Enany, 2010; Thielemann and Zaun, 2017). Others have pointed to the limited influence that EU institutions continue to exert in the policy-making process and how difficult it has proved to shift the restrictive core of EU migration policies (Trauner and Ripoll Servent, 2016). These differences can be explained by three weaknesses in this research area: concepts, agency and governance (see also Bonjour *et al.*, 2017).

The first point underlines the need for better concepts and measurements. Indeed, here we face the same challenge that most research dealing with policy change and stability encounters, namely the need for precise definitions that help us operationalise or measure our main concepts. Many of the disagreements we have come across derive from a different understanding of change, the sources of change, and how to measure it. While, for some, any type of change that supports rights-based approaches is evidence for more liberal policy outcomes, others consider it necessary to have a higher hurdle to label changes as liberal. In practice, some have focused on before/after situations and examined whether a new legal instrument or a court ruling established by EU institutions has helped to introduce elements that support migrants' rights. For instance, Thielemann and El-Enany (2010, p. 219) considered the introduction of subsidiary protection in the 2008 Commission proposal (COM(2008) 815 final) for a recast asylum directive on receptions conditions as having liberalising effects. However, this interpretation misses the fact that the introduction of subsidiary protection was confirming a practice already existing in member states. In this example, should we consider that the extension of reception conditions to recipients of subsidiary protection is a liberal constraint originating from supranational EU institutions or simply a feedback loop from member states' practices? That is why others preferred to adopt methods that allowed them to define more accurately what it means to see

(liberal) change and whether this change originates from EU supranational institutions. Here, we face three connected methodological challenges: First, how do we measure change? Ripoll Servent and Trauner (2014) proposed to look into policy analysis tools to help us reflect on whether changes affect core principles governing that policy area or only secondary matters. Second, what do we compare it to? It is important to identify the status quo or *ex ante* situation in order to specify whether we should compare e.g. a new EU policy to existing domestic practices, to previous EU policies or to some normative (theoretical) standards. Also, we need to consider whether we can isolate changes (e.g. better reception conditions) or whether we need to look at these provisions in a global manner (e.g do reception conditions even matter if other aspects of EU asylum law make it extremely difficult to claim asylum?). Finally, how do we operationalise our basic concepts, i.e. 'restrictive' and 'liberal'? The definition of 'liberal' and 'restrictive' remains an important gap in the literature and a challenge that needs to be tackled in the future if we want more productive debates (Bonjour *et al.*, 2017). Although these may sound like small, technical issues, methodological matters have a direct impact on our standards of comparison, that is, evaluating what changes, how much it changes and why it changes.

The second gap refers to the balance between structure and agency when discussing policy-making and the relative power of EU institutions. In general, the debates about the relative restrictiveness or liberality of institutional actors have been based on assumptions lacking any empirical backing. This is problematic on two accounts. First, as Kaunert and Léonard (2012, pp. 1399–1400) pointed out, both the 'venue-shopping' and 'liberal constraint' theses assume that member states have more restrictive preferences than the Commission and the EP and that these preferences have remained constant over time. We have only a small number of studies that look into this question. For instance, Bonjour and Vink (2013) did confirm this assumption in the case of the Netherlands, where preferences shifted but only to become more restrictive. Roos (2013), in contrast, made the observation that member states did strive for more liberal or expansive EU policies when the latter concerned migrants – notably high-skilled migrants – seen as contributing positively to their national economies and welfare states. Therefore, we need to unpack this assumption and provide more comparative and longitudinal analyses on member states' preferences in order to see whether domestic factors such as elections, labour market situation or public opinion might play a role in their level of restrictiveness. The second problematic point linked to this assumption is that we have tended to treat EU institutions as black boxes – speaking about 'the' European Commission or 'the' EP. This has helped to reduce complexity, but it also obscures important internal dynamics that may explain why certain policies (do not) change. Therefore, we need to pay more attention to the actors behind these processes and focus on identifying the mechanisms (or strategies) they use to produce or hinder change (Ripoll Servent and Busby, 2013; Saurugger, 2013). This means being more accurate about where ideas come from, who champions or defies these ideas, who pushes them onto the agenda, and how and why some actors are more successful than others in doing so. We need to continue unpacking the main policy-making institutions, looking inside the EP, Commission, Council and European Council and considering their internal conflicts and how they affect the processes of policy-making and policy change.

The third challenge relates to governance, namely, the need to think more dynamically about policy-making in a multi-level and multi-venue system. First, many of the divergences in our empirical analyses stem from a tendency to compartmentalise the policy cycle and the different levels of governance. Many discussions have focused on policy outputs at the EU level, thereby forgetting how crucial the implementation stage might prove for policy outcomes. For example, we have cases where policy outputs have failed to have any practical effect, as is the

case of the Temporary Protection Directive. Although this instrument might have proved helpful in managing the migration crisis of 2015–2016, the hurdles to activate it were so high that member states never managed to use it. Similarly, the implementation of EU law might assume a life of its own and lead to unexpected consequences. For instance, although member states have used EU family migration laws to introduce changes in their national practices that might have been otherwise difficult to implement, they have been increasingly constrained by the activity of national and European courts, which have set limits to their efforts to cut down family reunification and copy each other's restrictive practices (Bonjour and Vink, 2013; Kostakopoulou and Ripoll Servent, 2016). We need, therefore, to take a more dynamic view of multi-level governance and how it can create multiple points of influence and feedback loops throughout the policy process. Second, proponents of the 'liberal constraint' thesis have rightly pointed out the need to break down the venues of migration policies (e.g. look at policy-making dynamics in asylum as a separate venue from border policies), while keeping in sight potential 'co-dependencies' (i.e. how border policies might pre-empt the liberal aspects of asylum policies) (Kaunert and Léonard, 2012). However, this might prove very difficult to implement if different types of migration policies are treated as separate areas of research. We need, thus, to keep in mind that this area is just that: an interconnected whole. As difficult as it would be trying to understand EU politics without domestic politics, it would also be inadequate to think of studying asylum as a field isolated from borders, irregular migration and even organised crime. The recent migration crisis has shown the importance of studying migration policies and the role that EU institutions play in their management in a comprehensive way. The crisis cannot be understood without looking at the failure of EU institutions to break away from the Dublin system and, for instance, introduce legal channels of migration instead. The attempt to solve problems by externalising them to third-countries like Turkey is a clear consequence of these long-term failures. We are facing now, more than ever, a new empirical and academic challenge and to address it, we need to learn lessons from the past and try to fill the remaining empirical, theoretical and methodological gaps.

Note

1 This chapter builds on a previous publication co-authored with Saskia Bonjour and Eiko Thielemann. For those interested on how this debate can contribute to a new research agenda on EU migration politics, please see Bonjour *et al.* (2017).

References

Acosta, D. and Geddes, A., 2013. The Development, Application and Implications of an EU Rule of Law in the Area of Migration Policy. *Journal of Common Market Studies*, 51(2), pp. 179–193.

Bendel, P., Ette, A. and Parkes, R. eds, 2011. *The Europeanization of Control: Venues and Outcomes of EU Justice and Home Affairs Cooperation*. Münster: LIT Verlag.

Bibi Mohammad Imran v. *Minister van Buitenlandse Zaken, Case C-155/11 PPU* [2011] Available at: http://curia.europa.eu/juris/document/document.jsf?text=&docid=126589&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=222605 [Accessed 3 July 2015].

Block, L. and Bonjour, S., 2013. Fortress Europe or Europe of Rights? The Europeanisation of Family Migration Policies in France, Germany and the Netherlands. *European Journal of Migration and Law*, 15(2), pp. 203–224.

Bonjour, S., Ripoll Servent, A. and Thielemann, E., 2017. Beyond Venue Shopping and Liberal Constraint: A New Research Agenda for EU Migration Policies and Politics. *Journal of European Public Policy*, 25 (13), pp. 409–421. DOI: 10.1080/13501763.2016.1268640.

Bonjour, S. and Vink, M., 2013. When Europeanization Backfires: The Normalization of European Migration Politics. *Acta Politica*, 48(4), pp. 389–407.

European Council, 1999. *Tampere European Council – Presidency Conclusions*. Available at: www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/00200-r1.en9.htm [Accessed 7 August 2011].

Guiraudon, V., 2000. European Integration and Migration Policy: Vertical Policy-Making as Venue Shopping. *Journal of Common Market Studies*, 38(2), pp. 251–271.

Hix, S. and Noury, A., 2007. Politics, Not Economic Interests: Determinants of Migration Policies in the European Union. *International Migration Review*, 41(1), pp. 182–205.

Kaunert, C. and Léonard, S., 2012. The Development of the EU Asylum Policy: Venue-shopping in Perspective. *Journal of European Public Policy*, 19(9), pp. 1396–1413.

Kostakopoulou, D. and Ripoll Servent, A., 2016. The Rule of Life: Family Reunification in EU Mobility and Migration Laws. In: M. Fletcher, E. Herlin-Karnell and C. Matera, eds, *The European Union as an Area of Freedom, Security and Justice*. Abingdon, Oxon; New York, NY: Routledge, pp. 246–262.

Lavenex, S., 2006. Shifting Up and Out: The Foreign Policy of European Immigration Control. *West European Politics*, 29(2), pp. 329–350.

Maricut, A., 2016. With and Without Supranationalisation: The Post-Lisbon Roles of the European Council and the Council in Justice and Home Affairs Governance. *Journal of European Integration*, 38(5), pp. 541–555.

Menz, G., 2015. Framing the Matter Differently: The Political Dynamics of European Union Labour Migration Policymaking. *Cambridge Review of International Affairs*, 28(4), pp. 554–570.

Minister van Buitenlandse Zaken v. *K* [2015].

Peers, S., 2015. Jump before You're Pushed: The CJEU Rules on the Voluntary Departure of Irregular Migrants. *EU Law Analysis*. Available at: http://eulawanalysis.blogspot.de/2015/06/jump-before-youre-pushed-cjeu-rules-on.html?utm_source=feedburner&utm_medium=email&utm_campaign=Feed:+EuLawAnalysis+(EU+Law+Analysis) [Accessed 3 July 2015].

Ripoll Servent, A., 2015. *Institutional and Policy Change in the European Parliament: Deciding on Freedom, Security and Justice*. Basingstoke: Palgrave Macmillan.

Ripoll Servent, A. and Busby, A., 2013. Introduction: Agency and Influence inside the EU Institutions. *European Integration online Papers (EIoP)*, 17(Special Issue 1), pp. 1–22.

Ripoll Servent, A. and Trauner, F., 2014. Do Supranational EU Institutions Make a Difference? EU Asylum Law before and after 'Communitarization'. *Journal of European Public Policy*, 21(8), pp. 1142–1162.

Roos, C., 2013. How to Overcome Deadlock in EU Immigration Politics. *International Migration*, 51(6), pp. 67–79.

Saurugger, S., 2013. Constructivism and Public Policy Approaches in the EU: From Ideas to Power Games. *Journal of European Public Policy*, 20(6), pp. 888–906.

Scipioni, M., 2015. *Delegation to the European Commission in EU Migration Policy: Expertise, Credibility, and Efficiency*. [Ph.D.] Birkbeck, University of London. Available at: http://bbktheses.da.ulcc.ac.uk/161/ [Accessed 21 June 2016].

Staver, A., 2013. Free Movement and the Fragmentation of Family Reunification Rights. *European Journal of Migration and Law*, 15(1), pp. 69–89.

Thielemann, E. and El-Enany, N., 2010. Refugee Protection as a Collective Action Problem: Is the EU Shirking its Responsibilities? *European Security*, 19(2), pp. 209–229.

Thielemann, E. and Zaun, N., 2017. Escaping Populism – Safeguarding Minority Rights: Non-Majoritarian Dynamics in European Policy-Making. Journal of Common Market Studies. DOI: 10.1111/jcms.12689.

Trauner, F., 2016. Asylum Policy: the EU's 'Crises' and the Looming Policy Regime Failure. *Journal of European Integration*, 38(3), pp. 311–325.

Trauner, F. and Ripoll Servent, A., 2015. *Policy Change in the Area of Freedom, Security and Justice: How EU Institutions Matter*. London: Routledge.

Trauner, F. and Ripoll Servent, A., 2016. The Communitarization of the Area of Freedom, Security and Justice: Why Institutional Change does not Translate into Policy Change. *Journal of Common Market Studies*, 54(6), pp. 1417–1432.

Wasserfallen, F., 2010. The Judiciary as Legislator? How the European Court of Justice Shapes Policy-making in the European Union. *Journal of European Public Policy*, 17(8), pp. 1128–1146.