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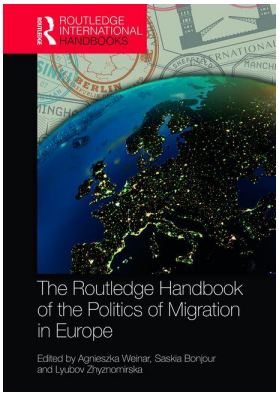

The Routledge Handbook of the Politics of Migration in Europe

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1

MIGRATION GOVERNANCE IN EUROPE

A historical perspective

Adam Luedtke

> Europe will be forged in crises, and will be the sum of the solutions adopted for those crises.
>
> *Jean Monnet*

Introduction

Past waves of European unification, like the slow unification of the American colonies (Egan 2015), occurred during moments of grave crisis. Just as Washington's power grew most during the US Civil War and the Great Depression, the biggest gains in the power of the European Union (EU) came amid the oil shocks of the 1970s and the turbulent end of the Cold War. The dramatic refugee flows of the 1990s were perhaps the biggest upheaval in this latter period. Ethnic cleansing in places like former Yugoslavia sparked a crisis over the westward migration of refugees, which helped to launch the EU's first cooperation on migration. From the early 1990s to today, migration crises have contained imperatives that gradually led EU member states to accept the need for a common EU response to foreigners arriving from outside the EU, particularly given the liberalisation of internal free movement. This chapter focuses on the evolution of EU-level policy towards immigration from *outside the EU*, as well as on the tensions it has exposed among member states and EU institutions. However, we cannot ignore the issue of intra-EU (Schengen) migration by EU citizens, since this situation facilitated the push for common external border controls and policies on admitting non-EU citizens.

This chapter will show how reluctant governments gradually decided to participate in migration policy cooperation in the form of security-focused initiatives offered by Brussels, which allowed for more effective responses to crises at the EU's external frontiers. While the 1990s asylum crisis spawned innumerable predictions of EU doom and gloom, it actually led to the creation of a legal framework for common EU tools, which have arguably helped countries keep out large numbers of migrants. Although human rights advocates criticise the security orientation of EU migration policy, it is counterfactually true that by pooling sovereignty, Europe has averted far greater migrant inflows (and greater political backlashes) that would have otherwise faced individual nations.

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Migration policy has been a tool of crisis management by the EU member states since the end of the Cold War. EU cooperation on immigration policy has advanced greatly since the 1990s, from the weak intergovernmental structures contained in the Maastricht Treaty (1993), to the binding, supranational system of immigration law finally implemented by the Lisbon Treaty (2009). From the initial intergovernmental steps towards harmonisation to the subsequent deepening of the EU's institutional capacity to deal with immigration more collectively, EU cooperation on migration is a response to external pressures on Europe, such as refugees fleeing war, as well as to internal imperatives such as the single market, which mandates free movement inside the EU (requiring common entry rules). Again, this chapter focuses on immigration from outside the EU, and traces historically the evolution of common EU policy towards this type of immigration. Because the analysis is at the supranational level, and looks at the historical evolution of EU immigration policy harmonisation in Brussels, readers must look to other sources for more detail about individual member state preferences (Luedtke 2009), the effect of EU enlargement (Lavenex 2006) and the evolution of free movement law for EU nationals (Guiraudon 2000). This chapter traces the move away from 'intergovernmentalism' (EU member states making policy outside the legal framework of Brussels) towards 'supranationalism', which is defined as placing immigration law in Brussels under the sole agenda-setting powers of the Commission, majority voting in the Council, legislative co-decision by the European Parliament (EP) and judicial review by the European Court of Justice (ECJ).

Compared to other areas of EU policy (e.g. agriculture), common policies on the immigration of non-EU nationals took longer to develop, offered more variability of participation (some national opt-outs) and allowed more national discretion in implementation. Nevertheless, by 2010, full supranational policies were developed on asylum, border policy and several types of legal immigrants: family members, students and researchers, skilled migrants, seasonal migrants and long-term permanent residents. This (slow) progress has proven the conventional wisdom wrong.

As European governments began to identify mutual interests in areas related to immigration – especially areas of national security, such as border controls and illegal immigration – intergovernmental fora were developed to share data and strategy among the relevant branches of national governments. Accordingly, the evolution of supranational harmonisation cannot be understood without analysing intergovernmental initiatives pre-Maastricht. Analysis of this phase will show that even as member states placed immigration policy off limits to Brussels, they created conditions that would make a stronger role for Brussels too appealing to resist.

End of the Cold War and first refugee crisis (1986–1996)

With European integration moving forward in other areas, the member states began to experiment with ad hoc, intergovernmental cooperation on policies towards migrants from outside the EU, spurred on by the end of the Cold War and the arrival of large numbers of asylum-seekers.

It was not until the turbulent economic slowdowns of the mid-1970s that worried politicians began to gain political mileage by earnestly denying the reality of permanent settlement, in line with the new politics of xenophobic exclusionism that went hand-in-hand with economic recession and unemployment. During this period, European political elites began to pander to xenophobic politics – in response to their own declining legitimacy and electoral support – by proclaiming their nations to be 'zero-immigration' vis-a-vis non-EU nationals. However, by pursuing this strategy of denial, governments left themselves unable to formulate coherent strategies to deal with the existence of settled and legally resident immigrant populations, as well as

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the consequences of future immigration flows (Layton-Henry 1990; Cornelius, Martin and Hollifield 1994). It was only the EU that would provide a response (albeit partial) by 2009. The first essential factor paving the way for convergence among the older member states (which by the 1970s had become permanent homes for settled labour immigrants) was the range of common humanitarian obligations faced by all labour-importing countries of northwest Europe, which blocked exclusionary attempts to limit both permanent settlement and the entry of new migrants.

Aside from the basic acceptance of guest-worker settlement, which (along with employer demand) allowed temporary labour populations to gain legal residence and avoid forced repatriation, two important humanitarian forces have fundamentally shaped EU immigration policy. These are: relatively robust adherence to international law on family reunification, which allowed colonial and guest-worker immigrants to bring family members (Joppke 1998); and adherence to the right of political asylum (Freeman 1995) in the face of international conflicts in the EU's neighbourhood.

The most important facet of immigration cooperation in the 1980s came out of a liberalising move on the economic side: the single market and its requirement of free movement, which created an irreversible linkage between immigration and the drive for a unified Europe. In 1986, the Single European Act legally codified and institutionalised Brussels' policy authority over EU member states to new levels. The Act succeeded in removing mobile EU workers from the limits of national immigration regimes and placing them firmly under the EU legal framework as elements of the single market. That move gave birth to perennial confusion as to who the 'migrant' in Europe is. It also pushed for a harmonised policy towards intra-EU movers, which does not fall under national state prerogatives. With internal movement increasingly liberalised in EU law, member states had increased incentives to cooperate on the external admission of non-EU nationals; for example, a migrant entering Italy would now face less control and restrictions in moving to the Netherlands. In this way, internal free movement policy, although it deals with EU citizens, has always had an indirect linkage with driving the harmonisation of policies towards non-EU immigrants.

Given the new spirit of internal liberalisation and accompanying institutional activity, harmonising *restrictions* on non-EU immigrants was prioritised quickly. It stemmed from the security panic over asylum-seekers in the 1990s, as dire predictions of ex-communist refugee swarms grabbed headlines across the continent (Rogers 1992; Soysal 1994; Den Boer 1995; Santel 1995; Weiner 1995; Mitchell and Russell 1996). This amplified response created a paradox for immigration policymaking, since the new security threats made cooperation more difficult, and yet more necessary. Although member states were obsessed with national sovereignty and border controls, it was also clear that the immediate goal of harmonising border controls at the EU level was crucial to the political stability of post-Cold War Europe, and hence crucial to protecting national sovereignty itself. The national interests of the (then 12) EU member states coincided quite readily on security issues, which allowed an increasingly systematic discussion of harmonisation. The intergovernmental frameworks of the time emphasised keeping national sovereignty as intact as possible through protection of borders. One example is the substantial progress made by Trevi Group in the late 1980s in cooperating on cross-national information sharing and law enforcement. Mitchell and Russell (1996) framed the paradox as follows: 'partial loss of legal sovereignty is the price that must be paid for maintaining a measure of state autonomy in the face of mounting migration' (p. 58).

Consequently, the EU's first intergovernmental organisation devoted specifically to immigration, the Ad hoc Immigration Group (AHIG), was established in 1986. The AHIG's mandate represented the ongoing obsession with security issues (Waever 1993; Huysmans 2000) and

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reflected the priority of the time: strengthening EU external borders to keep pace with the reduction of internal borders among the 12 members. The AHIG mandate covered: (1) visa policy, including a common list of countries whose nationals would require visas to enter the EU; (2) improving external border controls and evaluating implementation of internal controls; (3) aiding implementation of free movement in a security-conscious way; and (4) the harmonisation of political asylum policies, focusing on eliminating false or duplicate asylum claims (aka 'asylum-shopping').

Although this emphasis on control led to criticisms of 'Fortress Europe', a new era of cooperation was unfolding institutionally. The Commission was given a place at the table but its role was left ambiguous, merely to 'broker' between member states (Ugur 1995). And with such weak institutional grounding, the eventual establishment of full EU competence over the AHIG did not seem likely. Yet some were optimistic. Philip (1994) saw the creation of the AHIG as launching the harmonisation of EU migration policy and necessarily giving the central institutions (Commission, EP and ECJ) a role in this process, however limited. 'While outwardly denying in the 1980s that there was any need for an EC-wide immigration policy, governments … laying the foundations for just such a policy … continued to inch their way towards an ever-closer union of their immigration policies' (p. 174). History would vindicate this view in 2009 when the Lisbon Treaty instituted full EU competence over migration policy, with sole right of initiative for the Commission, majority voting in the Council, co-decision (veto) power for the EP and full ECJ jurisdiction.

The first concrete step towards harmonising immigration policy was the Dublin Convention on political asylum, which came out of the AHIG in 1990, and was signed by all 12 member states. The Dublin rules, which formed the foundation for today's common EU asylum system, codified common provisions for eliminating asylum 'abuse' by determining which state was responsible for examining an application. By demanding that refugee claims be heard in the first signatory ('safe') country of arrival or transit, this enticed even reluctant members such as the UK into eventually joining most of the EU's common asylum system, based on the Dublin Convention's 'safe third country' rule and a biometric database to eliminate fraud and 'asylum-shopping'.

Member state unwillingness to commit to increased harmonisation, given the practical shortcomings of the current ad hoc groupings, was put to the political test leading up to the 1992 Maastricht Treaty. The pre-Maastricht Intergovernmental Conference (IGC), charged with hearing proposed revisions to the Rome Treaty, provided a new forum in which supranationalists could air concerns over perceived shortcomings in the nature and extent of harmonisation thus far. The only political solution, in the eyes of the supranationalists, was the establishment of full EU competence over immigration. Accordingly, the Benelux countries, with Commission support, proposed amendments to the Rome Treaty that would bring all various intergovernmental groupings into the EU's institutional framework. This proposal was fiercely opposed by the UK, Denmark and Ireland, who expressed clear preference for the status quo.

This intergovernmentalist opposition was incorporated into a compromise treaty by the Luxembourg Presidency at the 1991 IGC, which assuaged Eurosceptic worries by creating a split institutional framework under which immigration and law enforcement were put in a separate intergovernmental 'pillar' of EU law, instead of in the 'first pillar' of 'normal' EU law and institutions. Although this 'pillar' grouping for immigration seemed more coherent, it was still intergovernmental (and therefore not subject to Commission, EP or ECJ control). Importantly though, intra-EU mobility fell under the first pillar, together with the internal market, burying the hopes of some Eurosceptics that this category of migrants could be controlled nationally. In 1992, intra-EU movers were not perceived as a significant threat. The Maastricht Treaty sealed

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the two-tier approach to non-nationals in the EU and to a large extent removed the question of EU citizens from this debate.

The Commission continued to work on its own proposals for full competence over non-EU immigration, despite apparent member state unwillingness to give up on intergovernmentalism. Part of this new attempt at cooperation was the Commission's decision to limit calls for harmonisation to the areas of control and restrictions, a familiar strategy for appeasing member state objections. In its communications, the Commission urged the ratification of the Dublin Convention, along with other measures of asylum policy harmonisation, in order to meet the widely shared goals of streamlining asylum claims and eliminating asylum abuse. It was primarily because of this renewed push by the Commission towards further harmonisation (albeit of a fundamentally restrictionist variety), that a process of further momentum was launched. The most important step in this process was the AHIG's submission of an 'Action Plan' to the 1991 European Summit in Maastricht. This Action Plan took into account the Commission's wishes by stressing the need for harmonisation across all areas of immigration policy. However, the concrete institutional impact of the Maastricht Treaty was minimal, given its limited reorganisation of immigration-related policy frameworks. The 'Luxembourg compromise' proposal finally accepted for incorporation into the Union structure featured two separate pillars for intergovernmental cooperation: one for foreign and security policy (the 'second pillar'), and another for justice and home affairs, including immigration (the 'third pillar').

What should be made of these formal and apparently substantive moves towards a limited degree of EU competence over immigration policy? At the time, optimism was rampant, in part because a new IGC would be convened in 1996, to continue working on the harmonisation objectives laid out in the treaty. This IGC completed its work with the 1997 Amsterdam Treaty, a significant step towards harmonisation, albeit more than four years after the Maastricht process was set in motion.

Securitised harmonisation, opt-outs and first steps to supranationalism (1997–2003)

As Brussels successfully managed crises around enlargement, cooperation on immigration policy, internal free movement and increased restriction of migration flows, all but a few member states decided to take a step towards supranationalism, trusting Brussels with the authority to begin making binding EU law on immigration from outside the EU in the 1997 Amsterdam Treaty.

In the absence of a supranational push for migrant integration, human rights or liberalisation, the post-1992 migration agenda continued to focus upon the perceived crises around security, restrictions and the fight against illegal immigration. The fact that little harmonisation was accomplished even in these areas, however, meant that in the four years between 1993 and 1997, the pillar structure of Maastricht proved unworkable. Despite the Commission's continuing efforts to promote increased coordination and harmonisation of immigration control issues, the list of failures under the pillar structure is impressive. The most important shortcomings were: (1) the failure to ratify the External Frontiers Convention (EFC), which was held up mainly by a dispute between Spain and the UK over Gibraltar; (2) humanitarian-minded member states blocking the ratification of the Dublin Convention – wherein asylum-seekers are processed and settled in the first 'safe' country of transit – over criticism from the non-governmental organisation (NGO) sector that Dublin would mean endorsing the asylum standards of member states with weaker domestic protections and/or weaker adherence to international norms; and (3) visa policy, wherein member states could not reach agreement upon either a common 'visa list' of third countries or the format for a universal EU visa. The Commission,

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exercising its competence over visa policy, prepared a list of 126 countries in need of a common visa. However, the inclusion of several Commonwealth countries predictably did not meet with the UK's approval, since this meant that citizens of former colonies could no longer receive preferential treatment from UK immigration law. Thus, once again, a final agreement was blocked by the objections of one member state. And the proposed format of the common visa suffered a similar fate when '"Eurosceptics" in the British Parliament persuaded Prime Minister Major … to delay agreement. Tory "rebels" likened the mutual recognition of visas to relaxing internal border controls – another move … toward the "slippery slope" of … federal Europe' (Papademetriou 1996, p. 94).

Because of the high expectations created by the Maastricht process, the subsequent failure to achieve even a minimal degree of substantive harmonisation meant renewed hope for supranationalism. All advocates of closer cooperation and harmonisation, whether arguing from pro-immigrant or restrictionist positions, came to realise that the complex institutional arrangements created by Maastricht were inadequate to the task of coherent policy harmonisation. These critiques of the pillar structure finally hit their mark at the Amsterdam Summit in 1997, when supranationalists spoke out. Although the UK (wishing to preserve the national veto in the pillar system) adamantly opposed the extension of majority voting in the Council to areas of immigration policy, this extension was a necessary requirement for further progress, especially in light of the imminent EU enlargement. Thus, the EP proposed: (1) a call for majority voting in the Council; (2) the establishment of full parliamentary review (co-decision, including veto power) for the EP, which had only been given weak powers of 'consultation' under Maastricht; and (3) the establishment of judicial review for the ECJ, which had not been granted jurisdiction over immigration-related cases under the pillar structure. At the time, these changes were seen as bringing new legitimacy into the policymaking process: the elected officials of the EP would be directly accountable to Europe's citizens for debates and voting on immigration, while Europe's NGOs would be able to lobby the EP to ensure that their perspectives were taken into account. The granting of judicial review to the ECJ was seen as providing legitimacy to the EU's policy framework by providing a neutral arbitrator to resolve disputes among member states and third parties, and a legal forum where grievances could be heard, including asylum applicants making human rights claims. This would rectify the humanitarian situation as it stood under the pillar structure, where there was no legal recourse for these cases. However, one problem for the supporters of EU competence in advancing these normative critiques against defenders of intergovernmentalism was the legitimacy-based arguments that human rights advocates have often made against Brussels. For them, national systems are often seen as friendlier and more responsive than EU-level legal remedies. Eurocrats are seen by many NGOs as elitist, operating in legal grey areas and serving the interests of national law enforcement officials. These arguments, along with Eurosceptic sovereignty-based objections, consolidated support for continuing the pillar structure. Accusations of aloofness, elitism and lack of accountability coming from both humanitarian and nationalist quarters did much to blunt arguments for full EU competence on immigration policy, delaying its arrival to 2009's Lisbon Treaty.

In June 1997, the Intergovernmental Conference was held in Amsterdam, wherein representatives of the member states and EU institutions made new harmonisation proposals to pave the way for enlargement and a 'Maastricht II' Treaty. During this conference, the Council reached full agreement on a new draft treaty, to be signed in October 1997, under which the EU's supranationalists gained a key victory: it was agreed that immigration issues would eventually be transferred from the third to the first pillar. With this step, over UK objections, supranationalist member states secured a commitment to eventual EU competence over immigration, including: (1) the right of sole initiative for the Commission to propose new laws; (2) majority

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voting in the Council: (3) the right of parliamentary oversight (co-decision) for the EP; and (4) ECJ jurisdiction over immigration cases.

Furthermore, after a protracted struggle over asylum harmonisation and adequate guarantees for human rights protections at the European level, the Dublin Convention on asylum was finally ratified. This meant the EU could finally implement common standards and procedures on political asylum hearings and granting asylum status. The transfer of immigration and asylum issues to the first pillar under the new treaty promised that individual human rights would eventually be bolstered through an ECJ review of cases. It was this particular guarantee that allowed more human rights-oriented member states, such as the Netherlands, to finally withdraw their concerns.

Concurrently, after seven years of failure to resolve disputes over the EFC policy on common external borders, it was decided to incorporate the (then) institutionally separate Schengen free movement zone into the EU itself. This decision was cleared by granting opt-outs to Ireland, Denmark and the UK, consistent sceptics, who had previously blocked attempts to implement a Schengen-like situation in the EU. At the time, many debated the wisdom of this 'two-speed' or 'variable' Europe, which had not yet been tried in other policy areas such as currency (Neunreither and Wiener 2000). Since Schengen dealt with internal free movement of EU nationals, opt-outs granted to the UK, Denmark and Ireland allowed them to selectively participate in laws on immigrants from outside the EU.

To summarise, three factors contributed to a great leap forward for supranationalism at the turn of the millennium. First, the Amsterdam Treaty incorporated the Schengen agreement (on free travel) into the EU's institutional structure. Thus, external borders became common borders, obviously lending new salience to immigration cooperation. Second, the modest cooperation already achieved on asylum (e.g. agreements over common standards on political asylum, to prevent asylum-shopping), was seen by national governments as a success, in that it allowed them to crack down on immigration at the EU level, where they were relatively free of pressure from pro-immigrant NGOs and courts (Guiraudon 2000; Lahav and Guiraudon 2000; Givens and Luedtke 2004). The ongoing crises of illegal immigration and the rising numbers of political asylum-seekers gave these issues even more pressing salience. And finally, most member states and EU officials agreed that the 'pillar' structure was relatively inefficient, given the plethora of intergovernmental groups that lacked the power to forge binding commitments (Geddes 2000).

Again, it was these factors that pushed all but the most reluctant member states (the UK, Ireland and Denmark) to rethink their opposition to EU control. Thus, the Amsterdam Treaty achieved a partial supranationalisation of immigration policy authority (Moravcsik and Nicolaïdis 1999). It was agreed that five years from the Treaty's implementation in 1999, the Commission would gain sole right of initiative, the EP would gain power of co-decision, the unanimity requirement (national veto) in the Council would disappear, and decisions would be taken by majority vote. It was also agreed to give the ECJ jurisdiction over immigration, though with a special exception: only high courts could refer cases to the ECJ. Since the most sceptical member states (the UK, Denmark, Ireland) were not participants in the Schengen agreement, they were allowed to opt out of this new decision-making structure, which permitted them to drop their objections (Geddes 2000).

Moving towards full supranationalism with crisis on the horizon (2004–2010)

Despite crises around economic and financial turmoil, the failure of the Constitutional Treaty, worries over 'enlargement fatigue', and a rising populist right, the 2009 Lisbon Treaty made

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immigration policy a fully supranationalised realm of law, with full jurisdiction for EU institutions.

As the five-year transition period neared its end in 2004, it was overshadowed by the now-forgotten 'Convention on the Future of Europe' and the resulting draft 'constitution'. Secure in the knowledge that EU control had allowed them to be 'tough' on immigration by passing restrictive measures (most notably various steps to reduce the number of asylum-seekers, which even the UK embraced), member states surprisingly agreed in the 'constitution' to further expand EU control beyond the bounds of the Amsterdam Treaty. Not only would the Commission get sole right of initiative, the EP would get co-decision, and member states would lose the national veto in the Council (as agreed at Amsterdam, after five years). The ECJ was also given full jurisdiction over immigration (any national court could request an ECJ ruling). The only full (opting-in) participant to openly express strong scepticism was Germany, which succeeded in inserting a compromise clause that member states retain control over quantitative levels of national immigrant admissions. This clause tempered the worries of countries that were opposed to EU control. The draft constitution infamously failed to pass, however, just as the five-year transition was ending (Lavenex 2006). Member state governments thus agreed in 2004 on the 'Hague Programme', a blueprint for future harmonisation, which laid the groundwork for immigration provisions to be included in the next round of Treaty revision. The Hague Programme was seen by many as a setback for supranationalism, in that it prevented the ECJ from having full jurisdiction over immigration (again, only national high courts could refer cases), and, more importantly, moved all areas of immigration policymaking to co-decision and majority voting except for one key area: *legal* migration. In other words, other areas of immigration policy (most notably asylum and illegal immigration) would have become normal EU policy areas (supranationalised), but control over legal migration would have remained intergovernmental (unanimity voting in the Council, no EP co-decision).

However, seemingly against all odds, the 2009 Lisbon Treaty – the last major reform of EU institutions – achieved a supranational immigration policy, with unqualified EU competence for immigration, including the ability of any national court to request an ECJ preliminary ruling on an immigration case. The UK secured opt-outs, as usual, but this did not prevent it from selectively opting in to many of the immigration and asylum control institutions as they were subsequently expanded, strengthened and given firmer legal standing; these policies allow the UK to 'offshore' and 'outsource' border controls to the EU, ensuring more difficulty for would-be asylum-seekers to reach London (Gibney 2004). However, in subsequent years the implementation of the Lisbon Treaty would coincide with grave challenges to the vision of a supranational EU immigration policy.

The Arab Spring and its aftermath: the ultimate test? (2011–2017)

For a time, it seemed that the supranational vision of Monnet and Schuman had won the day – Europe showed slow, tectonic progress, federalising a controversial policy during a time of multiple crises: economic downturn, terrorism, and tensions among a growing EU. Despite increasing Euroscepticism and xenophobia, control incentives offered by EU membership made Brussels a useful border guard. However, controversies over the Arab Spring, the Brexit vote, the reintroduction of internal border controls on the continent, the rise of the far right, Eurozone debt and violations of EU norms by countries like Hungary threatened the future viability of a harmonised EU immigration policy.

By 2015, due to the Arab Spring and the ensuing violence in Syria and elsewhere, the number of asylum applications to EU countries had grown to crisis proportions. Starting in

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2012, the number of asylum applications steadily increased, 'with 431 thousand applications in 2013, 627 thousand in 2014 and around 1.3 million in both 2015 and 2016 … approximately double the number recorded within the EU-15 during the previous relative peak of 1992' (Eurostat 2017). In the face of this crisis, the EU was beset with arguments over burden-sharing (with newer and geographically more exposed members demanding help from wealthier, older member states such as Germany in the north) and the imposition of temporary internal border controls in 2015 by countries such as Germany, Austria, Denmark and Sweden (which are only allowed for six months under Schengen rules). Meanwhile, the world witnessed horrific images of asylum-seeker deaths at sea and on the EU's southern shores, and hostility towards refugees along its eastern borders.

In response to these pressures, we have seen a tug-of-war between EU responses based on human rights and rule of law, on the one hand, and EU and national responses based on restrictiveness and increased control over both European and national borders, on the other. Under this pressure, the European Asylum System and the norms of solidarity on burden-sharing and internal free movement seemed to arrive at a breaking point (Hansen and Randeria 2016; Kallius *et al.* 2016; Klaus 2015; Hatton 2017). For instance, the European Commission, alleging non-compliance with EU rules over the treatment of asylum-seekers, initiated infringement procedures against Poland, Hungary and the Czech Republic. Also, in 2017 Italy announced it would no longer serve as the primary point of entry for rescued migrants if other member states did not show more solidarity for the massive increases in numbers of arrivals at Italian ports (Bamberg *et al.* 2017). As Italy sought to relieve pressure by any means necessary, this saw the end of the longstanding intergovernmental arrangements regulating smuggling corridors in Libya and elsewhere (Paoletti 2011). Finally, the EU's 2016 deal with Turkey – offering financial support as an inducement for refugees to stay in Turkey – has kept numbers down, alleviating some of this problem. However, questions remain about burden-sharing and human rights standards (Collett 2016; Kirişci 2016; Rygiel *et al.* 2016; Baban *et al.* 2017). In combination with Brexit, these developments cast doubt on the viability of the EU's migration and asylum policy, particularly given the tensions over increased fears of terrorism and the resulting increase in far-right voting (Lucassen and Lubbers 2012; Camus and Lebourg 2017), as well as the increasing securitisation of migration policy (Lazaridis 2016; d'Appolonia 2017).

Harmonisation has allowed governments to more effectively respond to voter sentiment by coordinating exclusive measures of immigration control, such as offshoring to third countries, biometric databases, border patrols and rules on asylum reception to eliminate 'asylum-shopping'. Such exclusive EU measures have helped wealthier states keep more foreigners away than would have otherwise been possible, but this raises questions of burden-sharing with member states on the EU's Southern and Eastern periphery, as well as with third countries lacking in human rights oversight.

One of the main research questions of this volume is the issue of European exceptionalism. European migration policy harmonisation is indeed exceptional, as it represents the first time in history that a group of democracies has pooled sovereignty to regulate the flow of persons. This puts European nations in a *sovereignty paradox* of unclear political costs and benefits, ceding *de jure* national sovereignty to a supranational entity in order to fulfil voting publics' de facto protectionist wishes, collectively regulating, policing and controlling the inflow of (often unwelcome) outsiders.

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