Chapter 2
External Controls: Policing Entries, Enforcing Exits

Irene Landini and Giuseppe Sciortino

2.1 Introduction: Do External Control Policies "Converge"?

The capacity to control geographical mobility across political borders is a key aspect of sovereignty among modern states. Unauthorised movements across borders are consequently seen as a challenge to their very *raison d'être*. Migration has always raised a variety of existential fears: the control of the intra-European labour supply had triggered bellicose concerns already in the period leading up to World War I (Olsson, 1996). The fear of unmanageable "surplus populations" has accompanied the extensive redrawing of Europe's maps and all the unmixing of its empires (Gatrell, 2019). More recently, the (allegedly) inadequate control of European borders has been described as a clear and present danger, a threat to the survival of the European project and even European civilisation itself.

These fears may appear far-fetched, but public opinion reveals a different story. Opinion polls across Western European states have consistently shown the existence of a sizeable, and increasingly easy to mobilise, bloc of voters opposed to further immigration. The deep restructuring of European party systems in the aftermath of the 2015–16 asylum wave provides further evidence for the intrinsic appeal of playing the "immigration card" for a variety of populist challengers.

Because the effectiveness of border controls is seen as an important attribute of sovereignty, the claim that some states are better than others at securing their borders takes on a strongly normative connotation. Global migration control is depicted by some scholars as very uneven, a world in which some states are highly effective in policing their borders, while others are unable to control unauthorised migration (if not even colluding with it). The spectre of a radical difference between Northern and Southern states (with the former "good" at managing migration, and the latter unable to provide effective control) has haunted Western Europe since the very

I. Landini (✉) · G. Sciortino
Department of Sociology and social research, University of Trento, Trento, Italy
e-mail: irene.landini@unitn.it; giuseppe.sciortino@unitn.it

C. Finotelli, I. Ponzo (eds.), *Migration Control Logics and Strategies in Europe*,
IMISCOE Research Series, https://doi.org/10.1007/978-3-031-26002-5_2

beginnings of a distinctly "European" migration policy. Migration control in Western European countries is in fact highly interlinked, and the enduring presence of unwanted migration is often considered the consequence of ineffective action – or even inaction – by the (allegedly) "inexperienced" Southern partners.

In the aftermath of the migration "crisis" of 1989–91, Southern European countries were openly described as both inefficient and lacking the necessary experience in terms of mechanisms of immigration control and humanitarian protection (Baldwin-Edwards, 1999, 2001; Thränhardt, 2003). They were associated with lax migration and border controls, weak or non-existing asylum programs, and a high degree of public ambiguity towards irregular migration. Northern European countries, in contrast, were considered to have reliable and efficient mechanisms of migration control and refugee protection, as well as little tolerance for irregular immigration (*ibid*). The popularity of such a vision not only derived from widespread stereotypes, but was also politically important, giving priority to the interests of Northern European countries. It cast the countries trying to enter into the Schengen Agreement in the role of unruly pupils that needed to be disciplined (Baldwin-Edwards, 1999, 2001).

In 2001, Baldwin-Edwards described the Mediterranean countries as the "weak underbelly of the EU control system" (2001, p. 23). Southern countries were basically transit countries used by the masses of unwanted migrants to gain a foothold in Europe. Passing through these countries, migrants could prepare to move towards the "real" migration destinations in the North (Baldwin-Edwards, 2001). Southern European migration systems, which were gaining momentum precisely in those years, were thus interpreted as "trouble" for Northern European countries, rather than as independent migration systems in their own right (Sciortino, 2005).

The idea of a North-South divide in the effectiveness of migration control has been, however, contested on several grounds. By comparing Italy and Germany (typically considered the two showpieces of "soft" and "hard" lines in immigration control policies), Finotelli (2009) concluded it was a myth. She documented how the existing differences both in refugee reception and irregular migration flows could be better explained as the outcomes of different inclusion and reception mechanisms, rather than by inefficient and lax border controls (Finotelli, 2009). Furthermore, as Finotelli and Sciortino (2009) have argued, the functioning of mechanisms for immigration control must be assessed within the historical development of a given country's migration regimes. From a different angle, it has been shown that Mediterranean control systems have been reasonably effective (Colombo, 2012).

The idea that EU Member States may be distinguished according to their control effectiveness is not limited to the idea of a cleavage between Northern and Southern states. It also provides the background for the ever-popular debate concerning the existence of convergence (or lack thereof) among "core" and "outer" members (Meyers, 2002; Toshkov & de Haan, 2013; Hollifield et al., 2014). In several migration policy fields – labour migration, integration policies and asylum, in particular – many scholars have sought to identify a trend pointing (or failing to point) towards increasingly similar policies and outcomes. Scholars have highlighted how, beyond

country-specific variations, there exists a set of mechanisms – operating across Western European states – that account for increasingly similar policy outcomes (e.g., Meyers, 2002). EU Member States, (indeed, all industrially advanced states) converge on a very similar approach: "Courting the Top, Fending-off the Bottom" (Joppke, 2021, p. 68).

With regard to national asylum policies, and, specifically, overall asylum recognition rates by European states, a study by Toshkov and de Haan (2013) supports the convergence hypothesis. In their view, such increasing similarity is linked to the creation and consolidation of the Common European Asylum System (CEAS).[1] Even as regards hyped and heated integration debates, some scholars have pointed to a slow convergence towards similar patterns of "civic" integration inspired by repressive liberalism (Joppke, 1998).

A main stumbling block for debates on convergence, however, has been the lack of evidence on increased systematic similarities among the EU Member States. The above-mentioned claims, in fact, have been quickly challenged by contrasting studies. Analysing five European countries from 1990 to 2016, Consterdine and Hampshire (2020) find scarce evidence of a general change in the direction of restrictive (or liberal) labour migration policies. Some scholars have identified different degrees of integration policy change at the national level, making the dividing line among national regimes more blurred than it appears at first glance (Finotelli & Michalowski, 2012; Caponio et al., 2016).

In this chapter, we analyse the similarities and differences among EU Member States in two migration policy fields that have not received much analytical attention: visa policy and deportation/return policy. We have chosen to focus on policy fields widely different in terms of history and policy development. Visa policy is likely the oldest and most stringent area of coordination among EU Member States. Deportation/return policy, in contrast, is an area in which, besides ritualised statements, supra-national interventions have been flimsy, if not utterly contradictory. As both visa and deportation/return policies play an important role in the European migration control system, the institutional differences among them are compelling.

2.2 A Critique of the Implicit Conceptual Framing of Debates on Convergence

This chapter provides an empirical critique of the implicit conceptual frame of increasingly polarised debates on convergence among EU states. This lack of agreement and reasonable dialogue leads to a scenario in which important differences among EU Member States are overlooked. Equally important, the *belief* in the existence of deep differences among Member States plays an important role in European

[1] They also observe that some important national differences in the recognition of applicants from the same country of origin persist.

migration policy making. It supports a very simplified, and unrealistic, interpretation of the social dynamics of unwanted migration, making more likely the chances of conflict and lowering the chances of adopting adequate solutions.

The debilitating weakness of these debates is the (implicit) assumption that the migration control strategies of EU Member States *could*, at least in principle, be fully independent. The development of an 'EU migration policy' is consequently measured out against an (unspoken) ideal in which states renounce such independence to adopt a standardised and uniform "EU" policy. As a category of practice (Bourdieu, 1997), this assumption is clearly significant. National politicians are always ready to claim the existence of "national" control goals thwarted by "European" rigidities. "European" politicians and bureaucrats, similarly, are always happy to point to the "egoism" of states as impeding the rational development of an adequate migration control system.

Categories of practice, however, hardly ever work satisfactorily as category of analysis (Bourdieu, 1997). In fact, there are several reasons for defining the European migration regime *not* as a *set* of Member States with a super-imposed authority, but rather as a highly interdependent and yet politically highly segmented *system* (Bommes, 2012). The interdependence among European powers with regard to migration policy is much older than any EU attempt to "regulate" the phenomenon. It is much older than the Union itself. Already during the Huguenot crisis in the 1680s, European kings and princes had tailored their admission choices through careful anticipation and monitoring of what other powers would do (Orchard, 2014). More recently, the so-called Tamil "crisis" of the early 1980s – when asylum seekers were arriving from Sri Lanka to the German Federal Republic and France (and ultimately to Canada) through East Berlin – represents an especially important lesson for the design of any subsequent migration policy (Sciortino, 2017). No European state has ever been able to control its borders autarchically.

In the end, it is simply impossible to analyse migration control policies and their outcomes for each European state individually. Because they are part of a system, the differences and similarities among them can be understood only by looking at the role each state plays in it. If the numbers at the border between Belgium and the Netherlands are low, this is not because Dutch migration controls are somewhat more "effective". It is simply because many other Member States are willing – enthusiastically or not – to apply similar visa requirements to the citizens of some sending countries, preventing transit migration. If some Mediterranean countries experience strong pressures over their maritime borders, this is not because their border controls are "inefficient". In fact, boats are identified long before their landing. Boats arrive on Mediterranean shores because the entire EU control system is designed to make some Mediterranean corridors the only available option for those entering Europe to claim asylum. Moreover, international legal protection for refugees makes it impossible for Mediterranean states to push them back once they have arrived on national territory. This scenario stems from the fateful decision, at the Tampere meeting, of binding European migration policy to "full and inclusive application of the Geneva Convention thus ensuring that nobody is sent back to persecution, i.e., maintaining the principle of *non-refoulement* the legal protection

guaranteed by the *non-refoulement* principle of international refugee law" (Presidency Conclusions, 1999).

To analyse the development of European migration policy – and the strains it reveals – it is necessary to abandon the rhetoric of "effective" vs. "weak" states, to focus instead on functional and segmentary variations. The importance of such a distinction becomes clear when we acknowledge and confront a field in which European states have achieved a large degree of supranational integration, i.e., in terms of visa policy (Finotelli & Sciortino, 2013; Nicolosi, 2020), with a field in which formal harmonisation and cooperation among European states remain very low (return and removal policies).

In both cases, however, careful analysis reveals a similar picture: the differences between Northern and Southern countries are not particularly strong or clear-cut. Most of these differences may be accounted for by functional variations, by the different roles states play within the European system of migration control. As far as visas are concerned, we find a slow process of inclusion for Southern (and Eastern) countries in a control mechanism long shaped by the overall control objectives of Northern European countries. In contrast, return and removal policies have been – and largely are – intentionally kept outside of European coordination (De Bruycker et al., 2016). Even in this case, however (and even if the data available are rather spotty), there is no systematic evidence of a North-South dichotomy. If there is a similarity to be detected, is the generalised low level of effectiveness in removing unauthorised third-country nationals (TCNs) across all European states.

2.3 A Tale of Policy Convergence: Short-Term Visas as a Generalised System of Migration Control

Many of the tools used today by states for controlling mobility are little more than a century old. Consider the case of the travel visa, which had come to be used as a generalised system of migration control only at the beginning of World War I (Czaika et al., 2018). Its salience in European migration history has shifted considerably along the different periods of European migration history.

In the two decades after World War II, Western European migration policies were confronted by the presence of a "surplus population" comprised of approximately 11 million internally displaced persons (IDPs), refugees and asylum seekers. This was further augmented by a "reflux" of settlers from Eastern Europe, the Balkans and newly decolonised countries (Peach, 1997). Many European citizens (including many national leaders) had direct experience with exile and forced displacement. The pressures of the Cold War made refugees living proof of the superiority of the "free world".

All these elements contributed to the introduction of a highly liberal regime, anchored in explicit provisions in new national constitutions and in the adoption, in July 1951, of the Convention Relating to the Status of Refugees (Gatrell, 2000;

Rinauro, 2009). The Convention provided, although initially only for European refugees after World War II, a clear definition of *refugee*, sharply differentiating them from migrant workers. It further established the principle of *individual* protection and the binding obligation of *non-refoulement*. The main priority for European migration policy at that time was securing visas to allow as many refugees as possible to leave Europe. Categorised as a "surplus population", their extra-European mobility was seen as essential for the stabilisation of the European continent. Very little attention was paid to regulate new arrivals on the continent, as they were considered rare. With the consolidation of the communist bloc, flows from Eastern Europe were severely curtailed, making the fear of new arrivals in Western Europe quite limited.

The situation changed with the European "economic miracle" of the 1950s and 1960s. In a context of extraordinary economic growth, securing an adequate supply of foreign labour in the form of a low-skilled workforce become a pressing concern (Judt, 2006; Bernard, 2019). This "influx" phase – to use Peach's (1997) periodisation – was characterised, primarily, but not exclusively in Northern European countries, by the very selective use of visa requirements – largely absent, or informally ignored in the case of citizens from certain origin countries, rigorously enforced, even beyond diplomatic agreements, against the citizens of others (Schönwälder, 2001).

This phase ended with the oil shock of the early 1970s, accompanied in Western Europe by the interruption of all active programs for low-skilled labour recruitment (Bernard, 2019). With the adoption of an increasingly restrictive approach, several countries experimented with the use of visa requirements as a tool to prevent unwanted migration. In the 1980s, visas become a central element in migration control, targeting flows of potential asylum-seekers. Two factors converged to make Western European public opinion increasingly adverse to refugees. The first was the sharp increase in the number of asylum seekers. From 1970 to 1999, the number of asylum applications in Western Europe increased dramatically, from 15,000 to 300,000 a year (Hatton, 2004; Van Mol & de Valk, 2016). The second was the diversification among places of origin, with a growing number of non-European asylum applicants. They were often blamed of not being "real" refugees but rather migrant workers in disguise, trying to compete unfairly with natives in the national labour markets or abusing national welfare systems (Van Mol & de Valk, 2016; Sciortino, 2017).

Given the protection granted by the international refugee regime (especially by the *non-refoulment* clause), the prevention of unwanted flows of asylum-seekers requires barring them from arriving on the territory of a state in which they could claim protection. The introduction of visa requirement was an especially convenient control tool. In the Western European context, Germany was the first country to experiment systematically with visa requirements for the prevention of unwanted migration flows of Bangladeshis, Indians, and Sri Lankans in 1980 and Ethiopians in 1982. A few years later, France and the United Kingdom followed suit. Such decisions produced, in the short term, the required effect – the number of asylum-seekers decreased (UNHCR, 2011).

Very quickly, however, the limits of country-based visa policy became evident. The emblematic case occurred in Germany between 1980 and 1985. When the Federal Republic of Germany (FRG) introduced visa requirements for Bangladeshis, Indians, and Sri Lankans, the DDR began to encourage potential asylum seekers to fly visa-free to East Berlin, from where the potential applicants could easily reach the FRG (since the city was still considered a single administrative unit by West German laws). The FRG was able to contain the arrivals from those areas only when, in exchange for sizeable amount in loans, the DDR agreed to introduce similar restrictive actions. In short, since its very beginning, the effectiveness of visa policy for preventing the arrival of asylum-seekers was strictly contingent upon the willingness of neighbors to participate in the action.

Such actions were at the centre of intergovernmental cooperation in the field of Justice and Home Affairs, starting with the Schengen Agreement in 1985 and the following Convention in 1990. The original signatory states – only Belgium, France, Germany, Luxembourg and the Netherlands – were, unsurprisingly, the largest receivers of asylum-seekers in Europe (Hatton, 2004; Van Mol & de Valk, 2016). The Schengen Agreement, considered nowadays a key milestone in establishing an internal market with the free movement of persons, was an objective consolidated by the Treaty of Maastricht in 1992. These actions have made possible the abolition of internal border controls for all nationals of Europe's Schengen Area, today, all EU nationals. For our purposes, however, the Schengen Agreement represents, above all, the establishment of a system of external border control, common to all states adhering (and desiring to adhere) to the Schengen Area. Members and prospective applicants have been required to introduce visa requirements for the citizens of several non-European states (TCNs) and to accept a collective procedure for selecting those that could enjoy visa-free travel. In addition, states who wished to adhere to the Schengen Agreement were required to introduce sanctions for all the carriers transporting irregular migrants, adopting *ad hoc* asylum policies, strengthening border controls, developing more severe measures against irregular migrants in the national territory, and contributing to a common dataset of all detected irregular migrants (Sciortino, 2017).

This set of measures was a reaction to an important bifurcation existing at the time among Western European states. Because visas were strongly associated with the prevention of asylum-seekers, Northern European states, at the time, the nearly exclusively targets of asylum applications, were imposing many visa requirements. Conversely, Southern European countries, where the number of asylum-seekers was negligible, maintained many visa-free agreements (Finotelli & Sciortino, 2013). Most of the migratory flows to these countries consisted of seasonal migrant workers who played an important role in supporting national economies, especially with agricultural labour, and care work in households and elderly people (Cvajner, 2012; Sciortino, 2017).

From the point of view of the original Northern signatories, the highly discretional inclusion of Southern states in the Schengen system was to be balanced by their willingness to participate in the control strategies of Northern European countries. One of the most feared side effects of the pact was the possibility of potential

asylum seekers flying or landing in Southern countries and subsequently moving more freely across all Schengen states, especially those in the North. The German delegation was particularly explicit about these concerns, asking for an additional annex to the Agreement, in which the abolition of internal border controls was conditioned to the introduction of visa requirements for TCNs and other compensatory measures. These measures were presented as necessary for safeguarding internal security and the strengthening of European cooperation against unauthorised migration and asylum flows (Finotelli & Sciortino, 2013; Paoli, 2018).

The objective of integrating neighbouring countries into the prevention of the arrival of asylum-seekers was complemented by the Dublin Convention (1990, then modified in 2003 and 2013). The Dublin Convention, meant to prevent what was dubbed "asylum-shopping", was designed to make countries with external borders responsible for the management of asylum-seekers who, unable to receive a visa, would try to reach the territory of the EU.

The Schengen Agreement and the Dublin Convention provide clear evidence that the development of the European visa regime may be considered an outward diffusion process governed by the migratory interests and control goals of core Northern European countries. Southern European states – and much later, Eastern states participating in the Eastern Enlargement – have progressively shaped their control policies and practices in accordance with these goals.

This process did not occur without resistance. Indeed, Southern countries have been often reluctant to accept the Northern model, especially because the flows of irregular migrant workers to these countries have played an important role in supporting national economies and welfare (Sciortino, 2017). Nevertheless, being an inter-governmental initiative, insider Northern states were able to exert pressure on Southern candidates, pushing them to introduce stricter visa restrictions as a precondition for participation in the Schengen process (Sciortino & Finotelli, 2013; FitzGerald, 2019). The Southern expansion of the Schengen system started with the participation of Italy in 1990, Portugal and Spain in 1991, and Greece in 1992 (Paoli, 2018). Joining the Schengen "club" required introducing visa requirements for countries that had a long history of unencumbered travel, such as the countries of the Southern rim of the Mediterranean (for instance, the case of Italy for citizens from Tunisia and Turkey) and those with whom they had historical and colonial ties (the case of Spain and many Southern American states).

In 1992, the Treaty of Maastricht reaffirmed the key role of intragovernmental cooperation among European states on migration policy, locating it within the third pillar (Justice and Home Affairs) of the Treaty on European Union (TEU). In 1995, when seven member countries established effective border-free travel among them, Regulation No. 2317/1995 of the European Council introduced a first common list of 101 countries whose nationals were required to obtain a visa to enter the EU. The Amsterdam Treaty, in 1995, provided, in one of its protocols, for the transfer of the Schengen *acquis* into the legal and institutional framework of the EU (Peers, 2000). In simple terms, the process of visa harmonisation was further strengthened by

taking on a supranational shape. Namely, states and perspective members are now formally bound to implement Schengen rules as part of the pre-existing body of EU law that any applicant is obliged to accept.

A further fundamental step took place in 2009, with the adoption of the Visa Code by the Regulation of the European Council No. 810/2009. The Code systematised the visa application procedure, by setting out the detailed procedures and conditions for issuing short-stay visas for visits to the Schengen Area and airport transit visas. In February 2020, the New Visa Code entered into force. *Inter alia*, the new code defines visa requirements as a potential bargaining chip in gaining collaboration from origin and transit countries for the readmission of third-country nationals illegally present on the territory of the EU (i.e., the "paradigm of conditionality", cf. Nicolosi, 2020, p. 471). In short, if the origin and transit countries do not collaborate in in re-admitting their citizens illegally present on the territory of the EU, third countries could be "punished" with restrictive measures, *in primis* concerning the issuing of visas (Nicolosi, 2020).

2.3.1 Patterns of Short-Term Visas Issued by European States

The trends in granting short-term visas (STVs) by the various Schengen states does not provide any evidence concerning the existence of a North-South divide in control practices. If such a divide existed, we should expect the older Schengen members to have a strict line on granting STVs, providing fewer STVs and turning down more applications, and the Southern countries would be expected to adopt a more relaxed line, refusing fewer applications and granting more STVs. None of these assumptions has been confirmed (Finotelli & Sciortino, 2013).

First, the majority of STVs granted by EU countries are released by a mix of older and newer members, notably France (39,124,476), Germany (30,776,452), Italy (23,736,365), Spain (19,963,026) and Poland (13,419,190). Visa practices reflect a variety of geopolitical, economic (tourism and trade), and historical considerations, rather than different attitudes towards migration controls (see Table 2.1).

Furthermore, the available data show the existence of significant differences among Schengen states in terms of the percentage of applications for STVs that are turned down (see Table 2.2). Nevertheless, the differences are not between North and South, but rather East and West. High rates of rejection define the visa practices of Western European states, both Northern and Southern. As Finotelli and Sciortino have shown for France and Belgium, the high rate of rejection must be understood in the context of these countries' special role in Africa, a continent for which rejection rates are systematically higher (Finotelli & Sciortino, 2013). More recently, both Malta and Portugal have significantly increased their visa rejection rates, likely in the context of the post-2015 migration "crisis".

Table 2.1 Short-term visas granted by Schengen Member States by round of Schengen membership

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	Total
Oldest members														
BE	172.886	158.973	175.961	201.525	190.579	190.329	179.522	197.495	179.357	184.792	173.598	190.222	35.810	**2.968.928**
FR	1.700.334	1.395.704	1.775.889	1.938.555	2.104.760	2.301.547	2.613.995	2.997.410	2.839.401	3.161.274	3.345.400	3.291.128	552.393	**39.124.476**
DE	1.749.063	1.469.401	1.602.513	1.588.595	1.729.119	1.851.577	1.901.612	1.872.322	1.853.655	1.857.770	1.838.775	1.916.408	343.511	**30.776.452**
LU	–	5.362	–	8.810	10.373	11.138	11.321	10.169	9.617	9.618	10.467	11.251	2.333	**95.097**
NL	325.763	305.243	355.528	390.460	405.774	422.809	449.520	474.191	498.163	550.910	583.137	630.181	137.655	**6.942.900**
PT	110.668	105.471	114.930	893.455	138.680	147.679	164.103	168.183	176.985	223.243	221.009	235.897	39.608	**3.147.388**
ES	783.081	730.832	990.806	1.337.990	1.634.163	1.896.320	1.756.032	1.470.892	1.424.761	1.456.906	1.502.696	1.668.171	263.073	**19.963.026**
Early joiners (first implementation 1996–2002)														
AT	343.081	284.686	267.983	270.540	294.761	300.955	258.247	247.800	257.401	284.904	280.847	306.458	41.934	**3.804.237**
DK	78.687	76.350	77.384	84.265	90.582	95.124	99.852	115.469	133.702	141.353	149.744	148.145	27.013	**1.612.382**
FI	791.688	782.962	1.007.954	1.244.680	1.373.845	1.552.470	1.191.110	771.997	539.127	814.047	751.358	875.356	132.475	**14.318.540**
EL	643.145	587.454	599.292	755.775	989.853	1.508.788	1.345.405	842.276	949.399	981.091	805.115	827.291	96.002	**12.995.009**
IT	1.179.113	1.032.616	1.270.109	1.445.745	1.641.931	1.926.780	2.062.501	1.898.065	1.676.207	1.703.693	1.703.912	1.892.648	259.040	**23.736.365**
SE	205.735	170.983	179.644	192.490	179.857	166.747	158.092	166.131	193.258	211.219	207.643	227.717	25.461	**3.104.566**

Recent joiners (first implementation in 2007)														
CZ	537.877	439.419	519.226	557.455	585.634	629.459	506.597	406.598	469.453	594.225	630.071	699.088	167.245	**8.701.124**
EE	98.290	93.276	116.270	142.030	171.981	196.101	168.138	127.543	121.073	136.324	125.465	143.582	24.963	**2.001.297**
HU	295.684	257.806	241.963	278.020	315.489	349.074	302.355	282.305	284.586	249.393	210.827	217.108	39.914	**5.337.978**
LV	129.203	116.374	133.851	156.303	174.921	202.982	204.777	162.099	163.372	164.175	157.628	163.229	29.593	**2.593.259**
LT	210.046	204.102	262.586	340.690	411.959	464.928	458.279	419.470	414.974	406.872	346.476	354.166	65.172	**5.955.507**
MT	30.628	28.764	38.398	31.110	49.271	71.236	40.705	28.748	21.208	27.785	24.931	27.701	4.654	**453.598**
PL	483.524	562.793	676.122	893.455	1.075114	1.095.167	1.104.437	944.821	1.062.896	789.343	508.386	437.420	98.511	**13.419.190**
SK	78.907	61.118	56.675	69.680	74.532	123.963	103.379	74.419	60.834	40.552	25.230	23.504	4.115	**1.122.823**
SI	94.854	97.166	50.686	38.125	40.358	33.784	24.925	21.940	21.153	23.491	20.171	21.685	3.796	**926.567**

Table 2.2 Percentage of short-term visas not issued by round of Schengen membership, 2004–2020

	2004 (%)	2005 (%)	2006 (%)	2007 (%)	2008 (%)	2009 (%)	2010 (%)	2011 (%)	2012 (%)	2013 (%)	2014 (%)	2015 (%)	2016 (%)	2017 (%)	2018 (%)	2019 (%)	2020 (%)
BE	20,3	19,0	18,7	16,5	16,9	17,4	18,6	17,2	16,0	15,0	16,9		15,3	16,0	16,8	18,8	23,6
FR	16,0	14,5	14,3	12,9	10,5	12,3	9,7	9,0	9,3	9,6	9,6	9,9	11,1	13,6	15,7	16,0	18,5
DE	9,7	10,7	10,0	9,6	7,9	9,1	7,4	6,2	18,6	7,9	5,7	5,6	6,1	7,6	9,1	9,8	14,1
LU	4,1	5,8	13,5	6,8	4,1	2,4	3,3	2,5		1,0	2,1	1,0	2,5	3,7	3,7	3,9	5,2
NL	–	8,5	11,7	11,8	9,7	7,4	6,4	7,4	6,8	6,0	6,1	7,5	8,7	10,1	13,0	13,1	16,8
PT	7,2	8,1	8,0	4,4	3,8	6,9	7,2	11,3	6,6	6,9	10,1	12,2	13,0	14,9	16,6	20,3	30,0
ES	9,3	13,3	12,4	13,3	11,1	10,0	5,9	7,2	5,2	5,2	6,1	7,6	8,1	8,3	9,3	10,0	17,4
AT	–	4,4	–	–	–	5,2	4,4	4,6	3,4	3,0	2,7	3,3	3,0	4,7	6,2	5,2	5,6
DK	10,0	8,1	6,4	5,3	6,1	5,4	8,2	4,3	4,3	4,6	4,6	5,1	5,7	6,3	7,0	8,7	11,8
FI	3,4	3,1	2,6	2,0	1,7	1,6	1,3	1,2	1,3	1,0	1,0	1,2	1,5	1,1	1,7	1,9	3,7
EL	6,7	–	7,1	6,0	4,6	4,7	3,1	1,6	1,2	1,1	2,0	3,2	2,8	3,9	4,9	4,5	8,4
IT	14,8	4,8	3,7	3,8	4,3	5,0	4,3	4,7	3,8	3,5	3,7	5,5	7,0	7,7	7,4	7,7	11,5
SE	11,5	9,7	9,2	8,6	7,9	7,6	7,7	7,7	9,1	8,8	10,3	10,0	9,8	9,9	11,7	12,3	23,0
CZ	–	–	3,4	3,7	5,0	4,2	3,4	3,7	2,9	2,8	2,2	3,1	3,9	4,5	3,7	5,3	5,5
EE	–	–	2,2	2,5	3,2	1,8	2,2	2,5	1,9	1,8	1,0	1,7	1,4	1,2	1,6	1,4	1,5
HU	–	–	21,7	4,1	3,7	3,6	21,7	4,1	2,2	2,2	2,4	2,8	3,5	5,3	7,8	7,8	9,1
LV	–	–	5,4	3,5	2,7	4,3	5,4	3,5	0,8	0,9	0,7	1,1	1,4	1,5	2,1	2,4	2,7
LT	–	–	1,7	1,8	1,3	1,1	1,7	1,8	0,9	0,9	0,9	1,4	1,1	1,2	1,3	1,3	2,1
MA	–	–	6,6	9,3	8,0	8,1	6,6	9,3	8,4	10,0	14,8	25,2	21,1	25,2	20,4	19,6	27,8
PL	–	–	3,3	3,3	2,8	1,9	3,3	3,3	1,5	1,7	1,7	2,6	2,9	3,9	3,2	3,7	4,8
SK	–	–	3,7	3,8	3,5	1,6	3,7	3,8	2,3	1,1	1,6	2,9	2,2	2,1	4,2	6,1	4,0
SI	–	–	–	–	4,7	4,2	3,5	4,1	–	4,6	5,8	6,8	6,7	8,5	10,0	10,1	14,8

Sources: Percentage of A, B, C visas not issued from the total of A, B, C visas asked for. Own elaboration of data from the European Commission, General Secretariat. Figures include A, B, and C Schengen visas, including multiple entry visas. (b)

2.4 Return and Removal Policies: Failed Convergence and the Inconsistency of the North-South Divide Argument

The "return" (voluntary or forced) of unauthorised foreign residents to their country of residence (or transit) is an important tool for preventing the settlement of an unwanted flow of asylum seekers and migrants (Coutin, 2015; Lindberg & Khosravi, 2021). Sovereign powers have always used political power to modify the composition of populations, often resorting to deportation and expulsion (Lindberg & Khosravi, 2021). Across the developed world, a striking fact is that, despite ostensibly great institutional and infrastructural efforts to remove irregular migrants and "failed" asylum-seekers, the actual returns are rather limited (Lindberg & Khosravi, 2021).

The term "removal" is used at the EU level to refer to what is commonly defined (in national policies) as "deportation" (De Genova, 2002). The expression "forced return" is also understood as synonymous with "removal", especially in the EU political and legal context. Regardless of the term used to define it, removal is a specific form of return policies and practices. At the EU level, the 2018 Return Directive (henceforth, RD or the Directive) defines return as " […] the process of a third-country national going back – whether in voluntary compliance with an obligation to return or enforced – to his or her country of origin, or a country of transit in accordance with Community or bilateral readmission agreements or other arrangements, or another third country, to which the third-country national concerned voluntarily decides to return and in which he or she will be accepted". Namely, the Directive distinguishes between voluntary departure and removal.[2] According to the same articles, EU Member States shall take all necessary measures to enforce the return decision when no period for voluntary departure has been granted or when the obligation to return has not been complied with within the period granted for voluntary departure.

Return policy is one of the most controversial components of the Common European Asylum System (De Bruycker et al., 2016; Carrera, 2016). The European Council has repeatedly stressed, with particular intensity after the 2015 refugee "crisis", the need for increased supranational harmonisation (EuroMed Rights, 2021). However, despite several attempts to increase policy harmonisation and/or intergovernmental operational cooperation among Member States over time, these have remained low. Removal is still largely a preserve of each state (Giuffré, 2015; Carrera, 2016; De Bruycker et al., 2016; Lindberg & Khosravi, 2021).

The very first attempt to move toward greater harmonisation of state return and removal policies and practices at a supranational level occurred in 1995, with the

[2] Voluntary departure refers to the compliance with the obligation to return within the time-limit fixed for that purpose in the return decision (Article 3(8) of the RD). Removal (or enforced/forced return) is the enforcement of the obligation to return, namely the physical transportation of unauthorised residents out of the Member State (art. 3(5) and 8).

Treaty of Amsterdam (TOA). The Treaty conferred express power to the European Community (EC, today the EU) to address the issue of "illegal immigration and illegal residence, including repatriation of illegal residents" (Article 63(3) (b) of the EC Treaty). Since the very beginning, any attempt to use such power has turned out to be an "enduring *punctum dolens*" (Giuffré, 2015, p. 284). In May 1999, the Justice and Home Affairs Council attempted to manage the controversy between the Commission and the Member States, by accepting the provision that the EU and its Member States share the responsibility of closing readmission agreements with third countries (Giuffré, 2015; Carrera, 2016).

Further efforts towards this policy harmonisation were undertaken at the Justice and Home Affairs Council on 28–29 November 2002 with the adoption of the Return Action Programme. The Programme seeks to enhance operational cooperation among the readmission practices of the Member States, for example, introducing the systematic exchange of information among Member States and common training programs for return officials. The goal of greater policy harmonisation has been rather left in the background (Cassarino, 2010; Giuffré, 2015; EuroMed Rights, 2021). The most substantial effort to implement the Return Action Program is the 2008 Return Directive. It clearly distinguishes voluntary from forced return, and it succeeds in developing common minimum standards and guidelines on return. These include: the principle of voluntary departure (i.e., a general rule that a "period for voluntary departure" should normally be granted to irregular TCNs); a minimum set of basic rights for irregularly staying migrants pending their removal, including access to basic health care and education for children, etc., and a limit on the use of coercive measures in connection with the removal, based on the principle of proportionality. Nevertheless, most of the other purposes of the Return Action Programme, which should have led to greater operational coordination among Member State practices, have remained unaddressed (Coleman, 2009; Cassarino, 2010; Giuffré, 2015).

In response to the growth of refugee inflows to Europe following the 2015 refugee "crisis", the European Commission has put forward several new measures in the field of return, such as a Recast of the Return Directive (EuroMed Rights, 2021). This brings a series of changes to the 2008 Directive, amongst which the most important is a new connection between return and asylum policies. Namely, under proposed Article 8(6), states shall issue a return decision (voluntary departure or removal) immediately after adopting a decision ending a legal stay, including a decision refusing refugee or subsidiary protection status. Additional novelties are the introduction of some limits to the applicability of voluntary departure (draft Article 9(1)) and of a short time period (5 days maximum) for refused asylum seekers to lodge an appeal against a return decision (the RD does not regulate the time-limit for appealing return decisions).[3]

[3] Blamed for breaching of Article 13 of the European Court of Human Rights (ECHR or ECtHR) since a five-day period is usually too short for preparing an appeal, so it would render the remedy inaccessible in practice.

The topic of return is also addressed by the New Pact on Migration and Asylum ("the Pact"), released in September 2020, together with five accompanying legislative proposals (Jakulevičienė, 2020; Moraru, 2020; Vedsted-Hansen, 2020; EuroMed Rights, 2021). One of its goals is increasing the returns of irregularly staying TCNs from the EU, by means of four main instruments. The first is the appointment of a Return Coordinator within the Commission DG HOME, supported by a Deputy Executive Director for Return within Frontex and a network of high-level representatives (Moraru, 2020). These new positions should contribute to enhancing coordination, cooperation and consistency among domestic return practices as well as providing for clear monitoring tasks – e.g., accessible appeals mechanisms, special protection for vulnerable groups and independent monitoring mechanisms during the return procedures (*ibid*).

The second instrument is the connection between asylum and return procedures, following on from the 2018 Recast Return Directive. According to articles 53 and 54 of the Asylum Procedure Regulation,[4] asylum application rejection should be issued within the same administrative act with a return decision, in both border and ordinary return procedures. In addition to that, articles 40(i) and 41a(5) of the Asylum Procedure Regulation link the detention of asylum seekers to pre-removal detention during border procedures (Moraru, 2020).

The third set of instruments envisaged is novel screening procedure and a mandatory return border procedure, to prevent unauthorised entry into the EU and accelerate returns (Jakulevičienė, 2020; Vedsted-Hansen, 2020). These are applied to both asylum seekers – requesting international protection at border crossing points without fulfilling entry conditions – and irregularly entering third-country nationals – i.e., apprehended in connection with unauthorised crossing of external borders, disembarked following Search and Rescue (SAR) operations (*ibid*).

Finally, the Pact introduces a novel instrument, the "return sponsorship", as a form of solidarity cooperation among the Member States (Moraru, 2020; Milazzo, 2021). Under this new scheme, a Member State commits to support returns from another one (Art. 45(1) (b) of the Regulation on Asylum and Migration Management).[5] The scheme also implies logistical, financial, and counselling help (Art. 55) provided by the supporting Member State (*ibid*).

Both the 2018 Recast Directive and the 2020 Pact have received much criticism by, as they raise several concerns regarding: human rights violations, violation of the right to asylum and principle of *non-refoulement* and the measurement of "effectiveness" of returns (Moraru, 2020; EuroMed Rights, 2021). At the time of writing, the negotiations concerning the approval of the Recast Directive are still ongoing. The Council reached a partial agreement, but the European Parliament is working within its Committee on Civil Liberties, Justice and Home Affairs Committee on negotiating its position (*ibid*).

[4] one of the five main legislative proposals accompanying the Pact.

[5] Another accompanying legislative proposal.

2.4.1 EU Return Policies: A North/South Divide?

Given the highly fragmented approaches to returns in the EU (De Bruycker et al., 2016), it is difficult to see a process of diffusion or policy convergence in the area of return policy. It is likewise difficult to ascertain the possible existence of a North-South divide. A main problem is the lack of reliable and sufficiently detailed comparative data. Although Eurostat has recently been publishing some data on returns, they are very uneven, making estimates difficult. Nevertheless, through analysing these data, we can draw some useful conclusions.

Relying on the scant available data, we do *not* observe any systematic evidence of a North-South divide. Starting from the number of TCNs ordered to leave, we can see in Table 2.3 that the situation has been relatively stable between 2011 and 2019. More specifically, until 2015, it followed an alternating pattern of increases and decreases, yet without any remarkable changes. In 2015, with the refugee "crisis", many European states announced the intention to strengthen cooperation with third countries on the identification and readmission of returnees in order to increase their increase return rates (EuroMed Rights, 2021). Notwithstanding, the general trend is still far from impressive. The total orders to leave increased only slightly between 2014 and 2016 (from 472,555 to 486,150).

A similar scenario emerges when comparing 2011 with 2019 – the two temporal extremes of the period under observation. The number of TCNs ordered to leave is higher in 2019 but only to a limited extent (5%). Unsurprisingly, in 2020, the number of removals decreased sharply. In short, the available data do not support the North-South divide hypothesis. The countries who issued the highest numbers of orders to leave in such a period were from both Northern and Southern Europe: France (916,310), Germany (455,225), Spain (445,275), Belgium (333,275) and Italy (280,760).

Similar considerations apply to the volumes of removals carried out by each EU state.[6] The overall number of removals for the EU 28 area does not reveal any impressive increase in the aftermath of the refugee "crisis", growing only by 9% between 2014 and 2019 (from 69,712 to 76,259). In 2020, because of the COVID-19 pandemic, removal operations plummeted remarkably, decreasing by 45% compared to the previous year. However, the number of removals carried out in the EU 28 area had diminished already in 2019, by 10% (see Table 2.3). Again, the data on actual removals do not support a North-South cleavage. Among the top five countries in the number of enforced returns implemented between 2014 and 2020 (looking at the totals in Table 2.3), we see a mix of Northern and Southern countries: Germany (115,737), France (75,010), the United Kingdom (69,862), Spain (65,215), and Italy (31,230).

An overall measure of effectiveness would certainly be the ratio between the total number of TCNs expelled and the orders to leave issued. The availability of data allows only for measuring it very roughly: many orders to leave are issued

[6] In this case, data constraints again limit our analysis to the period between 2014 and 2020.

Table 2.3 TCNs expelled and orders to leave issued, 2011–2020

		2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	Totals each country (2008–2020)
BE	TCNs ordered to leave	13.550	15.085	15.075	15.540	16.275	19.320	18.285	19.145	17.585	11.495	
	Enforced returns	36.885	50.890	47.465	35.245	31.045	33.020	32.235	24.160	22.010	20.320	**333.275**
BG	TCNs ordered to leave	1.355	2.050	5.260	12.870	20.810	14.120	2.600	1.305	1.245	1.225	**62.840**
	Enforced returns					555	345	485	330	450	245	**3.075**
CZ	TCNs ordered to leave	2.520	2.375	2.405	2.460	4.510	3.760	6.090	3.445	8.955	7.955	**44.475**
	Enforced returns	265	265	225	305	205	1.265	265	265	225	305	**205**
DK	TCNs ordered to leave	2.170	3.295	3.110	2.905	3.925	3.050	3.185	4.155	3.920	2.235	**31.950**
	Enforced returns				1.315	2.480	1.305	1.470	1.655	1.970	1.105	**11.300**
DE	TCNs ordered to leave	17.550	20.000	25.380	34.255	54.080	70.005	97.165	52.930	47.530	36.330	**455.225**
	Enforced returns	5.011,46	4.613,55	5.455,93	6.116,81	17.295,26	19.728,50	16.872,06	14.406,37	13.678,04	7.851,60	**115.737,23**

(continued)

Table 2.3 (continued)

		2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	Totals each country (2008–2020)
EE	TCNs ordered to leave	480	580	600	475	590	505	645	875	1.190	1.235	**7.175**
	Enforced returns				305	85	95	135	140	220	100	**1.080**
IE	TCNs ordered to leave	1.805	2.065	2.145	970	875	1.355	1.105	1.385	2.535	795	**15.035**
	Enforced returns					250	425	140	160	300	135	
EL	TCNs ordered to leave	88.820	84.705	43.150	73.670	104.575	33.790	45.765	58.325	78.880	38.540	**650.220**
	Enforced returns								7.760		3.520	**11.280**
ES	TCNs ordered to leave	73.220	60.880	32.915	42.150	33.495	27.845	27.340	59.255	37.890	50.285	**445.275**
	Enforced returns				12.295	10.960	9.280	9.470	11.730	11.480		**65.215**
FR	TCNs ordered to leave	83.440	77.600	84.890	86.955	79.950		81.000	84.675	105.560	123.845	**108.395**
	Enforced returns				12,415	12,325		9220	9730	10,820	12,985	**7515**

		2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	Totals each country (2008–2020)
HR	TCNs ordered to leave	4.355	3.120	3.910		4.730	4.400	6.350	15.510	23.135	65.510	**4.355**
	Enforced returns		1.415	690		950	1.085	1.320	1.565	880	7.905	
IT	TCNs ordered to leave	29.505	29.345	23.945	25.300	27.305		32.365	36.240	27.070	26.900	**22.785**
	Enforced returns				4.330	3.655		4.505	4.935	5.180	6.035	**2.590**
CY	TCNs ordered to leave	3.205	3.110	4.130	3.525	2.250		1.575	1.850	1.595	1.300	**3.030**
	Enforced returns											
LV	TCNs ordered to leave	1.060	2.070	2.080	1.555	1.190	1.060	1.450	1.350	1.540	1.615	**1.015**
	Enforced returns				100	340	315	175	100	80	40	**1150**
LT	TCNs ordered to leave	1.765	1.910	1.770	2.245	1.870	1.740	2.080	2.475	2.320	1.905	**20.080**
	Enforced returns											

(continued)

Table 2.3 (continued)

		2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	Totals each country (2008–2020)
LU	TCNs ordered to leave		1.945	1.015	775	700	655	915	850	1.070	1.050	**8.975**
	Enforced returns					175	110	140	80	130	60	
HU	TCNs ordered to leave	6.935	7.450	5.940	5.885	11.750	10.765	8.730	8.650	3.235	4.505	**73.845**
	Enforced returns				3.745	5.765	610	2.020	1.280	1.715	3.405	**18.540**
MT	TCNs ordered to leave	1.730	2.255	2.435	990	575	415	470	515	620	590	**10.595**
	Enforced returns				100	180	95	170	225	205	120	
ND	TCNs ordered to leave	29.500	27.265	32.435	33.735	19.015	25.310	20.750	17.935	25.435	21.100	**252.480**
	Enforced returns											
AT	TCNs ordered to leave	8.520	8.160	10.085	2.480	9.910	11.850	8.850	10.690	13.960	9.165	**93.670**
	Enforced returns							1.670	4.925	2.585	1.305	**10.485**

		2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	Totals each country (2008–2020)
PL	TCNs ordered to leave	7.750	7.995	9.215	10.160	13.635	20.010	24.825	29.375	29.305	10.970	**163.240**
	Enforced returns					850	790	905	1.145	1.020	955	**5.665**
PT	TCNs ordered to leave	8.570	8.565	5.450	3.845	5.080	6.200	5.760	4.590	5.980	3.200	**57.240**
	Enforced returns	370			370	370	385	315	295	370		
RO	TCNs ordered to leave	3.095	3.015	2.245	2.030	1.930	2.070	1.975	2.080	3.325	2.415	**24.180**
	Enforced returns				290	350	180	440	415			
SL	TCNs ordered to leave	4.410	2.055	1.040	1.025	1.025	1.375	1.220	1.290	2.060	1.610	**17.110**
	Enforced returns				115	110	175	100	180	135	80	
SK	TCNs ordered to leave	580	490	545	925	1.575	1.735	2.375	2.500	1.905	865	**13.495**
	Enforced returns				275	560	315	355	450	285	195	

(continued)

Table 2.3 (continued)

		2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	Totals each country (2008–2020)
FI	TCNs ordered to leave	4.685	4.300	4.330	3.360	4.905	17.975	7.255	5.435	7.395	5.425	**65.065**
	Enforced returns											
SE	TCNs ordered to leave	17.600	19.905	14.695	14.280	18.150	17.585	20.525	22.310	21.260	16.350	**182.660**
	Enforced returns				1.945	2.545	2.490	2.945	885		970	**11.780**
UK	TCNs ordered to leave	54.150	49.365	57.415	65.365	70.020	59.895	54.910	21.490	22.275		**648.170**
	Enforced returns				13.541	12.921	11.903	11.741	9.236	7.193	3.327	**69.862**
Totals (EU 28) for each year	TCNs ordered to leave	491.305	483.640	430.450	472.555	528.645	486.150	505.300	478.155	513.470	389.345	
	Enforced returns				69.712	80.060	73.042	76.979	84.650	76.259	41.570	

Sources: Eurostat data [migr_eiord__custom], [migr_eirt]. Data about the UK and Germany were not available in the Eurostat dataset
For data about the UK: Immigration Statistics Yearbooks (UK government's public website). For data about Germany: German Ministry of Interior and Federal Police Reports
For Germany, only data about the *Abschiebung* (deportations) have been considered
All other missing data were not available in Eurostat

years before the actual return. We have considered the time interval between 2014 and 2020, since we have data for both the total number of TCNs expelled and the orders to leave issued (see Table 2.4). Our estimates are consequently indicative. Some of the results, however, are worth discussing.

First, none of the countries considered is particularly effective in carrying out the enforced return operations. Even Germany, which stands out for the absolute number of persons forcibly returned, actually manages to remove less than a quarter of the TCNs ordered to leave. Second, we do not find any evidence of a North-South dichotomy. The most "effective" states are Germany and the United Kingdom (both remove 24% of the TCNs ordered to leave), Spain (23%), Italy (16%) and France (11%). The existing differences among them, moreover, seem to reflect the composition of undocumented populations – some nationalities being much more difficult to return than others – rather than the effectiveness of control procedures and infrastructures. Across Europe, the same factors – the implementation challenges of many readmission agreements, the low levels of collaboration among sending and transit countries, states' administrative and budgetary constraints, and the enduring strength of embedded liberalism – operate in favour of low structural effectiveness.

A final consideration is needed. We are aware that, within this broader trend of low effectiveness, substantial differences exist, at both the national level and the EU 28 area, in the percentages of third-country nationals effectively returned depending on nationalities. A relevant report issued by the European Parliament in 2020 and the results of a research carried out by the European Migration Network in the same year clearly show that, between 2009 and 2019, the top 5 nationalities considered as "easier" to be returned are (alternately yet constantly) Morocco, Ukraine, Albania, Afghanistan and Algeria (Crego & Clarós, 2020; Vogel, 2020). This trend suggests a more collaborative approach to return procedures on the part of these five countries, as well as the reality of the situations in some other countries preventing the enforcement of return decisions issued against their citizens (e.g., Syria). In spite of that, as we have shown along this section, even when considering the most successful cases like the ones mentioned above, the overall return rates and ratio TCNs expelled/orders to leave issued remain overall remarkably low.

Table 2.4 Ratio between the total number of TCNs forcibly returned and the orders to leave issued, for the top 5 countries in the number of enforced returns, in the period 2014–2020

Country (in order of effectiveness)	Totals returned/OTL 2014–2010	Ratio 2014–2020
Germany	95.948,65/392.295	24%
UK	69.862/293.955	24%
Spain	65.215/278.260	23%
Italy	31.230/197.965	16%
France	75.010/670.380	11%

Source: Own elaboration from above data

2.5 Conclusions

In this chapter, we have provided an empirical critique of the implicit conceptual frame of debates on convergence and divergence among EU states regarding migration policies. The key assumption underlying such debates is that EU Member States are essentially *independent* units, with their own admission and control challenges. This widespread belief undoubtedly plays an important role in European migration policy making. It is, in fact, a main "category of practice" (Bourdieu, 1997). The problem is that, very often, such a category of practice is turned into a category of analysis, becoming a stumbling block to the interpretation of reality.

We suggest, on the contrary, that migration control policies in Western European states have always been highly interdependent. From the Huguenot crisis of the 1680s to the so-called Tamil "crisis" of the early 1980s to the Belarus-EU border crisis of 2021–22, it is simply impossible to understand the control dynamics based on the idea of a set of essentially independent units, subject to the super-imposed authority of the EU. We should consider European migration controls as an interdependent, yet politically highly segmented, system (Bommes, 2012). Hence, it is difficult to meaningfully compare the policies and their outcomes of each European state individually. Because they are part of a system, the differences and similarities among them can be understood only when looking at the role they play within it.

This systematic configuration emerges clearly in the case of visa policies. Initially using inter-governmental powers, and, subsequently, the supranational mechanisms at their disposal, a group of core, mainly Northern European states, has managed to progressively impose their migration control goals upon reluctant Southern European states. As a result, the original Northern model has become the widely accepted normative model across all European states today, formalised in the New Common Visa Code. Turning to policies to actual practices, we have seen in Sect. 2.3 that no significant North-South differences exist in terms of STVs granted. The same is true as far as the numbers of not issued STVs are concerned.

Existing differences between North and South Europe have to be read in light of this generally homogenous background. As a fact, the duty of monitoring Europe's "external" borders is thrust upon only a few states, i.e., the Southern Mediterranean – and, increasingly, Eastern – ones. As the requirement to obtain a visa prior to arrival in Europe makes reaching Northern European countries by flight far more complex and costly for many TCNs, they often opt to enter Europe irregularly using Southern (or Eastern) states as entry gateways. Such a role implies high costs for Southern and Eastern states, both financially and organisationally (Giordano, 2015; Italian Ministry of Defence, 2022).

At the same time, Southern countries often tend to "turn a blind eye" (Giordano, 2015, p.25) toward irregular migrants who refuse to register and apply for asylum in the first country of arrival (Following the Dublin Regulation), as they prefer to ask for asylum in Northern Europe. Looking at the official data about asylum requests, we can see that between 2014 and 2016 Sweden hosted the highest number of refugees per capita (2359 per one hundred thousand inhabitants against 254 per one

hundred thousand inhabitants in Italy, in 2016). Moreover, in absolute terms, Germany received one in three asylum requests of the total in Europe, in the same years (European Parliament, 2022; UNHCR, 2022).[7]

As regards return policy, we have shown how the scenario is highly fragmented and atomised. Strong coordination could actually be very useful, for example, in exerting unified pressure on sending and transit countries. The actual interdependence is, however, quite low and the barriers to the development of joint efforts quite substantial. While the amount of available data is overall small, these seem to point to two important considerations. The first is that there is no evidence of a North-South cleavage (as seen in Sect. 2.5). The second is that a process that we could define as "converge" is at play. Namely, all EU states (also including the United Kingdom) have shown to be largely ineffective in removing unauthorised TCNs from national and European territory.

Appendix A Note on Data

For visa policy, we have used data about short-term visas issued by the embassies and consulates of EU states between 2003 and 2020. These data are available on the websites of the European Council and the European Commission, DG Home Affairs.

Data on forced returns (used by Eurostat as a synonymous with "removal") are much more difficult to access and of lesser quality. Therefore, a few clarifications are in order.

A main problem is that Eurostat does not provide data on enforced returns for Germany and the United Kingdom. We have been forced consequently to use alternative sources: the Annual Reports issued by the German Federal Police, the Annual Migration reports published (since 2014) by the German Ministry of Interior, and the Immigration Statistics Yearbooks published by the UK government.

The collection of German data has been particularly difficult. The German Residence Act distinguishes two different categories of "forced removals": *Abschiebung* (typically translated as "deportations") and *Zurückschiebung* ("forced removals"). We have chosen to focus on the data about deportations only (*Abschiebung*), since it corresponds to the concept of removal as spelt out in Art. 3(5) of the 2008 RD, i.e., physical transportation out of the Member State (when no period for voluntary departure has been granted or when the obligation to return has not been complied with within the period for voluntary departure granted, usually 6 months in the German legislation) (Sect. 58 of the German Residence Act). By contrast, the *Zurückschiebung* is primarily linked to the act of illegally crossing the

[7] To be sure, this was also linked to the former chancellor Merkel's decision in August 2015 to take in an unlimited number of migrants (especially from Syria, Afghanistan, and Iraq), as the death of hundreds of refugees making their way to Europe in 2015, sparked outrage in Germany and among the international community.

national border by TCNs rather than the illegal permanence in the country after an order to leave.

A further major problem with Germany is that the number of deportations listed in the Reports analysed include the so-called "Dubliners", the transfers to other EU or Schengen Member States under the Dublin procedure. German reports print the total numbers of deportations *and* the relevant percentage of Dubliners for each year since 2011. We have consequently calculated the number of deportations for TCNs (i.e., removals according to the 2008 RD) ourselves.

References

Baldwin-Edwards, M. (1999). Where free markets reign: Aliens in the twilight zone. In J. Arango & M. Baldwin-Edwards (Eds.), *Immigrants and the informal economy in southern Europe* (pp. 1–15). Routledge.

Baldwin-Edwards, M. (2001). Semi-reluctant hosts: Southern Europe's ambivalent response to immigration. *Brown Journal of World Affairs, 8*(2), 211–229.

Bernard, S. (2019). Oil shocks, migration and European integration: A (trans)national perspective on the Yugoslav crises of the 1980s. *National Identities, 21*(5), 463–484. https://doi.org/10.1080/14608944.2018.1498471

Bommes, M. (2012). In C. Bosswell & G. D'Amato (Eds.), *Immigration and social systems: Collected essays of Michael Bommes*. Amsterdam University Press.

Bourdieu, P. (1997). *Outline of a theory of practice*. Cambridge University Press.

Caponio, T., Jubany Baucells, O., & Güell, B. (2016). Civic integration policies from below: Accounting for processes of convergence and divergence in four European cities. *Ethnic and Racial Studies, 39*(5), 878–895.

Carrera, S. (2016). *Implementation of EU readmission agreements identity determination dilemmas and the blurring of rights*. Springer Open.

Cassarino, J. (2010). *Readmission policy in the European Union*. DG Justice, Freedom and Security. Available at: https://cadmus.eui.eu/handle/1814/14957.

Coleman, N. (2009). *European readmission policy: Third country interests and refugee rights*. Martinus Nijhoff Publishers.

Colombo, A. (2012). *Fuori controllo? miti e realtà dell'immigrazione in Italia*. Il Mulino.

Consterdine, E., & Hampshire, J. (2020). Convergence, capitalist diversity, or political volatility? Immigration policy in Western Europe. *Journal of European Public Policy, 27*(10), 1487–1505. https://doi.org/10.1080/13501763.2019.1674364

Coutin, S. B. (2015). Deportation studies: Origins, themes and directions. *Journal of Ethic and Migration Studies, 41*(2), 671–681.

Crego, M. D., & Clarós, E. (2020). *Data on returns of irregular migrants*. EPRS-European Parliamentary Research Service.

Cvajner, M. (2012). The presentation of self in emigration: Eastern European women in Italy. *The Annals of the American Academy of Political and Social Science, 642*(1), 186–199.

Czaika, M., de Haas, H., & Villares-Varela, M. (2018). The global evolution of travel visa regimes. *Population and Development Review, 44*(3), 589–622.

De Bruycker, P., Moraru, M., & Renaudiere, G. (2016). European synthesis report on the termination of illegal stay (Articles 7 to 11 of directive 2008/115/EC). *Robert Schuman centre for advanced studies. European University Institute. Migration Policy Centre*. Publications Office. Available at: https://data.europa.eu/doi/10.2870/10755. Accessed 12 Dec 2021.

De Genova, N. (2002). Migrant illegality and deportability in everyday life. *Annual Review of Anthropology, 31*, 419–447.

EuroMed Rights. (2021). *Return Mania. Mapping policies and practices in the EuroMed Region*; Chapter 1: The EU framework of return policies in the Euro Mediterranean Region. Available at: https://euromedrights.org/wp-content/uploads/2021/04/EN_Chapter-1-EU-Return-Policies.pdf. Accessed 10 Dec 2021.

European Parliament. (2022). *A welcoming Europe? Asylum applications data*. Available at: https://www.europarl.europa.eu/infographic/welcoming-europe/index_en.html#filter=2015-pt.

Finotelli, C. (2009). The north-south myth revised: A comparison of the Italian and German migration regimes. *West European Politics, 32*(5), 886–903. https://doi.org/10.1080/01402380903064747

Finotelli, C., & Michalowski, I. (2012). The heuristic potential of models of citizenship and immigrant integration reviewed. *Journal of Immigrant & Refugee Studies, 10*(3), 231–240. https://doi.org/10.1080/15562948.2012.693033

Finotelli, C., & Sciortino, G. (2009). The importance of being southern: The making of policies of immigration control in Italy. *European Journal of Migration and Law, 11*(2), 119–138. https://doi.org/10.1163/157181609X439998

Finotelli, C., & Sciortino, G. (2013). Through the gates of the fortress: European visa policies and the limits of immigration control. *Perspectives on European Politics and Society, 14*(1), 80–101. https://doi.org/10.1080/15705854.2012.732390

FitzGerald, D. S. (2019). Building fortress Europe. In D. S. FitzGerald (Ed.), *Refuge beyond reach* (pp. 160–191). Oxford University Press. https://doi.org/10.1093/oso/9780190874155.003.0008

Gatrell, P. (2000). *Forced migration during the second world war: An introduction*. Gale, a Cengage Company.

Gatrell, P. (2019). *The unsettling of Europe: The great migration, 1945 to the present*. Penguin UK.

Giordano, A. (2015). *Movimenti di popolazione. Una piccola introduzione*. Luiss University Press.

Giuffré, M. (2015). Obligation to readmit? The relationship between interstate and EU readmission agreements. In F. Ippolito & S. Trevisanut (Eds.), *Migration in the Mediterranean* (pp. 263–287). Cambridge University Press. https://doi.org/10.1017/CBO9781316104330.012

Hatton, T. (2004). Seeking asylum in Europe. *Economic Policy, 19*(38), 5–62.

Hollifield, J., Martin, P., & Orrenius, P. (2014). *Controlling immigration: A global perspective*. Stanford University Press. https://doi.org/10.1515/9780804787352

Italian Ministry of Defense. (2022). *Operation Mare Nostrum*. Accessed 10 Jan. Available at: http://www.marina.difesa.it/cosa-facciamo/operazioni-concluse/Pagine/mare-nostrum.aspx.

Jakulevičienė, L. (2020). Re-decoration of existing practices? Proposed screening procedures at the EU external borders. *Special collection on the 'new' migration and asylum pact. EU immigration and asylum law and policy*. Available at: https://eumigrationlawblog.eu/re-decoration-of-existing-practices-proposed-screening-procedures-at-the-eu-external-borders/?print=print. Accessed 22 Mar 2022.

Joppke, C. (1998). Why liberal states accept unwanted immigration. *World Politics, 50*(2), 266–293.

Joppke, C. (2021). *Neoliberal nationalism: Immigration and the rise of the populist right*. Cambridge University Press. https://doi.org/10.1017/9781108696968

Judt, T. (2006). *Postwar: A history of Europe since 1945*. Penguin UK.

Lindberg, A., & Khosravi, S. (2021). Situating deportation and expulsion in migration governance. In E. Carmel, K. Lenner, & R. Paul (Eds.), *Handbook on the governance and politics of migration* (pp. 354–365). Edward Elgar Publishing.

Meyers, E. (2002). The causes of convergence in Western immigration control. *Review of International Studies, 28*(1), 123–141. http://www.jstor.org/stable/20097782

Milazzo, E. (2021). Return sponsorship in the EU asylum system: A normative assessment. *SSRN Electronic Journal* [Preprint]. doi:https://doi.org/10.2139/ssrn.3987026.

Moraru, M. (2020). The new design of the EU's return system under the pact on asylum and migration. *Special collection on the 'new' migration and asylum pact. EU immigration and asylum law and policy*. Available at: https://eumigrationlawblog.eu/the-new-design-of-the-eus-return-system-under-the-pact-on-asylum-and-migration/ Accessed 23 Mar 2022.

Nicolosi, S. F. (2020). Refashioning the EU visa policy: A new turn of the screw to cooperation on readmission and to discrimination? *European Journal of Migration and Law, 22*(4), 467–491. https://doi.org/10.1163/15718166-12340089

Olsson, L. (1996). Labor migration as a prelude to world war I. *The International Migration Review, 30*(4), 875–900. https://doi.org/10.2307/2547596

Orchard, P. (2014). *A right to flee: Refugees, states, and the construction of international cooperation*. Cambridge University Press.

Paoli, S. (2018). *Frontiera Sud. L' Italia e la nascita dell'Europa di Schengen*. Mondadori Education.

Peach, C. (1997). Postwar migration to Europe: Reflux, influx, Refuge. *Social Science Quarterly, 78*(2), 269–283.

Peers, S. (2000). *EU justice and Home affairs law*. Oxford University Press.

Presidency Conclusions. (1999). Tampere European Council.

Rinauro, S. (2009). *Il cammino della speranza. L'emigrazione clandestina degli italiani nel secondo dopoguerra*. Einaudi.

Schönwälder, K. (2001). E*inwanderung und ethnische Pluralität.* In Politische Entscheidungen und öffentliche Debatten in Großbritannien und der Bundesrepublik von den 1950er bis zu den 1970er Jahren. Klartext.

Sciortino, G. (2005). La politique migratoire européenne: une orthodoxie restrictive. In E. Ritaine (Ed.), *L'Europe du Sud face à l'immigration* (pp. 223–257). Presses Universitaires de France.

Sciortino, G. (2017). *Rebus Immigrazione*. Il Mulino.

Thränhardt, D. (2003). Der Nationalstaat als migrationspolitischer Akteur. In D. Thränhardt & U. Hunger (Eds.), *Migration im Spannungsfeld von Globalisierung und Nationalstaat* (pp. 8–34). Westdeutscher Verlag.

Toshkov, D., & de Haan, L. (2013). The Europeanization of asylum policy: An assessment of the EU impact on asylum applications and recognitions rates. *Journal of European Public Policy, 20*(5), 661–683. https://doi.org/10.1080/13501763.2012.726482

UNHCR. (2011). *Asylum levels and trends in industrialized countries 2010*. UNHCR.

UNHCR. (2022). *Population statistics, the world in numbers*. UNHCR. Available at: http://popstats.unhcr.org/en/overview#_ga=1.35502306.271467300.1455629282 Accessed 22 Mar 2022.

Van Mol, C., & de Valk, H. (2016). Migration and immigrants in Europe: A historical and demographic perspective. In B. Garcés-Mascareñas & R. Penninx (Eds.), *Integration processes and policies in Europe (páginas)* (IMISCOE research series). Springer. https://doi.org/10.1007/978-3-319-21674-4_3

Vedsted-Hansen, J. (2020). Border procedure: Efficient examination or restricted access to protection?. *Special collection on the 'new' migration and asylum pact. EU immigration and asylum law and policy*. Volumen y páginas. Available at: https://eumigrationlawblog.eu/border-procedure-efficient-examination-or-restricted-access-to-protection/ Accessed 22 Mar 2022.

Vogel, D. (2020). Irregular migration, human trafficking and return figures, trends and EMN outputs in the field of return. European Migration Network Portal. Available at: https://emn-belgium.be/sites/default/files/attachments/10%20Vogel%20David_Return%20figures%20def%20%5BAlleen-lezen%5D.pdf. Accessed 22 Mar 2022.

Documents Cited

Communication from the Commission to the European Parliament, the Council, the European economic and social Committee and the Committee of the Regions, A European Agenda on Migration, COM (2015) 240 final, 13 May 2005.

Communication from the commission to the European Parliament and the council, evaluation of EU readmission agreements, COM (2011) 76 final, 23 February 2011.

Communication to the European Parliament, the European Council and the Council, Progress report on the Implementation of the European Agenda on Migration, COM (2019) 481 final, 16 October 2019.
International Committee of the Red Cross. (1983). *Basic rules of the Geneva conventions and their additional protocols*. International Committee of the Red Cross.
Regulation (EU) 2019/1155, Art 25a.