

# Creating Security through Immigration Control

An analysis of European immigration  
discourse and the development towards a  
common EU asylum and immigration  
policy

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# 1. Introduction

The purpose of this report is to discuss the extent to which immigration has come to be perceived as a security threat by European Union (EU) policy makers. The manner in which immigration issues are presented by policy makers at the European level is assumed to have substantive implications for the choice of instruments in the area. A second purpose is therefore to discuss the extent to which the development towards a common EU asylum and immigration policy can be interpreted as security policy strategy.

Increased immigration during the last few decades has coincided with increasing unemployment and economic restructuring in Western Europe. The issue of immigration became increasingly sensitive in the late 1980s after the collapse of communism in Central and Eastern Europe, when a tide of illegal immigrants was expected to inundate the West. Today, images of ships loaded with refugees off the shores of Italy, or of trucks filled with illegal immigrants crossing the English Channel, have become disturbing, but no longer rare features of European newspaper headlines. The impression is that of Europe being 'swamped', and unable to deal with the hordes of people standing outside its gates wanting in.

Traditionally, European security studies have concentrated on military power and territorial defence against potential aggressors. With the end of the Cold War, however, a broader security agenda emerged. According to some scholars, external security threats are no longer only military, but lie in terrorism, drugs and arms trafficking, and even in mass immigration (Andersen & den Boer 1995, Buzan et al. 1998). Others argue against the widening of the security concept to include issues such as immigration, because it could blur the security concept and create a false image of policy making, whereby security policy becomes all-encompassing (Walt 1991). I shall argue that by explicitly linking immigration issues with the broader agenda of national and internal security, EU policy makers have themselves taken the step towards a new understanding of the security concept. Thus, employing a widened notion of security, and arguing that asylum and immigration issues are increasingly perceived as security threats by EU policy makers, I am interested in examining the manner in which such an image is being created and sustained.

Historically, European judicial co-operation has been closely linked to the nation state's jurisdiction and what is considered one of the state's main roles: the protection of its own citizens. Not even mentioned in the 1957 Rome Treaty, asylum and immigration issues were only properly addressed in the EU following the Single European Act of 1986 and its call for the completion of the Single Market. A comprehensive strategy on asylum and immigration was for the first time recognised with the 1997 Amsterdam Treaty, incorporating asylum and immigration as a first pillar provision. At the same time it was recognised that increased immigration should be met with instruments that deal with political, human rights and development

issues in countries of origin and transit. Partnership with third countries concerned was considered a key element for the success of such a policy, with a view to promoting co-development.

Arguably then, the Amsterdam strategy on asylum and immigration contains new instruments that emphasise co-operation with third countries and stability-inducing mechanisms in order to deal with root causes of immigration. But at the same time, efforts to develop a common EU asylum and immigration policy have been widely criticised for weakening the principles, norms and rules of international refugee protection. This is said to take place by establishing stricter regulations that impede the entry of asylum seekers, and establish a system of negative redistribution for handling asylum claims (den Boer 1997, Monar 2000).

The expression of such different views suggests that fundamentally, migration is a question of relations: individual, institutional and international, to be found at the intersection between humanitarian commitments and economic and political confrontations. An examination of EU policies on asylum and immigration issues is therefore likely to highlight key aspects of the relationship between the dynamics of European integration and the protection of universal human rights which apply to all individuals irrespective of nationality. It is precisely in the intricate interplay of international interdependence, human rights and national sovereignty that the legal concept of territorial asylum has evolved both internationally and domestically in the course of the twentieth century.

### **1.1 Purpose and key questions**

Under the pressure of events since 1989, many scholars argue that the security concept should be widened to encompass new security policy challenges that have arisen (Andersen & den Boer 1995, Sjursen 2000). The post-1989 situation has suggested new scenarios, such as the end of bipolarity and the redefinition of borders. Often, economic and social imbalances, environmental problems and humanitarian disasters are considered as important, or even more important security challenges than military war. Thus, the point of departure of the analysis is the changing perception of what constitutes security threats, unravelled through an analysis of political discourse.

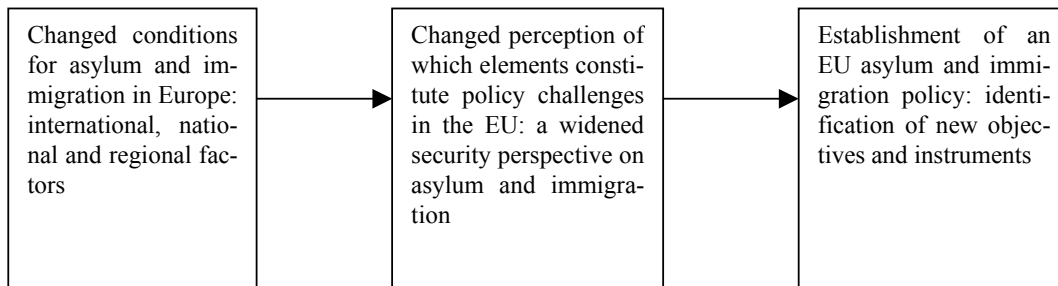
Since the aim of this report is to examine the change that has taken place in European perspectives on immigration, a study of political discourse will enable us to deconstruct a number of justificatory domains, which are supported by the members of the European policy community. The main hypothesis is that security considerations are clearly reflected in the establishment and development of asylum and immigration instruments following the Amsterdam programme. Another hypothesis is that the framing of immigration as a security threat has legitimised the introduction of objectives and instruments that have their origin in security policy. This is notably to be seen in the accession agreements with the Central and Eastern European applicant countries, as well in the so-called 'partnership-agreements' with immigrant countries of origin and transit.

Having established the broader aim of this report, I propose two main and inter linked questions as the framework for the analysis:

First: To what extent has the issue of asylum and immigration come to be seen as a security threat, and thus as a security matter at the EU level?

Second: To what extent is the above question reflected in the objectives and instruments of the common EU asylum and immigration policy? Can the development towards a common EU asylum and immigration policy be called a security policy strategy?

The key questions can be represented in the following model:



*The background variable* constitutes the foundation for the renewal of European strategies in the field of asylum and immigration. To understand the origin and development of this field of co-operation, it is necessary to gain an understanding of the context in which it arose. Here, the focus is primarily on the dramatic changes in the world economy in the 1970s, leading to increased inflation and unemployment, as well as comprehensive restructuring processes in many countries. Important factors relate to the ‘immigration stop’ introduced in the early 1970s, marking the beginning of more restrictive asylum and immigration measures in the Western European nation states. Attention should also be drawn to the consequences of the end of the Cold War on the ensuing development of the EU, the fall of the Soviet Union and the creation of new states. Yet another factor regards the European integration process, the construction of the Schengen area, and the deterritorialisation of markets, physical borders and identities. These factors are further examined in chapter 3.

*The intervening variable* constitutes the *perceptions* of the challenges emanating from asylum and immigration issues in the EU. Concerns with possible negative effects on European economies and fear of instability are assumed to be the most important explanations as to why immigration became a securitised issue on the European agenda. In this part of the analysis I am concerned with the extent to which immigration is defined as a security problem as a result of European political discourse. This chapter thus examines the ‘securitising moves’<sup>1</sup> of EU policy makers, and builds on the theoretical discussion in chapter two regarding different perceptions of security. These factors are further explored in chapter four.

<sup>1</sup> The notion of ‘securitising move’ was introduced by Buzan et al. (1998:25) to describe a discourse that takes the form of presenting something as an ‘existential threat’. The concept is further explored in chapter two (2.3.1).

*The dependent variable*, and what I seek to explain, is the contents of the EU policy on asylum and immigration as it developed after the Amsterdam summit. To what extent have the securitising moves examined in chapter four resulted in actual politics, and thus become securitised?<sup>2</sup> Changed conditions for asylum and immigration in Europe, and the changed fashion in which security is perceived at the European level, are assumed to have influenced the development of EU objectives and instruments in the field of asylum and immigration. By connecting immigration issues to first and second pillar co-operation, the EU is institutionalising relations with immigrant countries. The new partnership initiatives have created a security strategy aimed at normalising relationships, creating stronger predictability and spreading European norms and values to these countries. This is the subject of chapter five.

## 1.2 Delimitation

To limit the scope of the analysis, a delimitation of space and time should be made. Regarding *time*, asylum and immigration issues are seen in a broad historical context throughout the analysis. But the emphasis is on the development of a proper EU policy in the area, delimited to the events taking place after the 1997 Amsterdam Treaty, when asylum and immigration became a community matter. Before the Amsterdam summit, asylum and immigration issues were given little political attention (Lavenex 1999, Monar 2000). Foreseeing the creation of an area of freedom, security and justice, the Amsterdam Treaty signals the increasing importance of joint action in the area, as well as the development of new objectives and instruments.

Secondly, the analysis is delimited in *space* by precisely defining the understanding of the EU as a security policy actor. In order to conceptualise the EU I draw on the designation of the EU as a case of '*multi-level governance*', thus rejecting the nation-state analogy of the EU (Scharpf 1994, Schmitter 1996). Instead I see the Union as a polity *sui generis*, consisting of frameworks of co-operation that exceed other attempts at integration both in depth and in width. The description of the EU as an actor of '*multi-level governance*' is useful because the study of the EU's policy on asylum and immigration takes place on different levels. Being an intergovernmental matter, asylum and immigration issues have primarily been dealt with by the European Council and the Union Council, delivering decisions by unanimity. While the area largely remains characterised by objectives and strategies defined at this level, the European Parliament (hereafter the Parliament) enjoys a right to be consulted, and the European Commission (hereafter the Commission) enjoys a shared right of initiative with member states, and is crucial in the implementation of EU measures, as well as in the co-ordination of the three pillars.

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2 'Securitisation' is, according to Buzan et al. (1998: 23), the move that takes politics beyond the established rules of the game, and frames the issue either as a special kind of politics or above politics. A thorough account of the process of securitisation is provided in chapter two, where I also explain how I intend to employ the concept in this thesis.



I will argue that even if asylum and immigration issues have been confined to intergovernmental co-operation, the logic of multi-level governance is to be found in implementation procedures, as well as in the interplay between Community institutions, and the Community and nation states.<sup>3</sup> An analysis of European immigration discourse should therefore particularly emphasise the role of the Council, because of the unanimity requirement in decision-making, but also take account of the role of the member states as well as the other European institutions.

The analysis is also delimited in space by defining the concept of ‘asylum and immigration’. The concept of ‘asylum and immigration’ incorporates a broad category of people. Under human rights law, refugees are defined as persons who are forced to leave their country of origin because their life or freedom is threatened. The prohibition against returning such a person to a place where his or her basic human rights are threatened has evolved into a fundamental principle of international law. This is the central difference between the right of asylum as an international institution and immigration policies as a privilege of the state: in the case of asylum seekers and refugees, state sovereignty is circumscribed by the universality of human rights norms. But although far from being a given concept, the notion of refugee protection has evolved constantly over time and has at all times been significantly shaped by developments in the economic and political context of international co-operation. Persons wishing to apply for refugee status and to formally submit an asylum claim are referred to as ‘asylum seekers’. Once a person has been recognised under this formal procedure and granted refugee status, the terms ‘recognised refugee’ or ‘person granted asylum’ are used. In this sense, ‘refugees’ can refer to both asylum seekers and other forced migrants who do not apply for the formal status determination procedure. The term ‘immigrants’ is used for voluntary migrants. I thus employ the notion ‘asylum and immigration’ as a broad category, reflecting the use of the terms in EU rhetoric. Immigration can be legal or illegal, regular or irregular, temporary or permanent. When it is of analytical significance to distinguish between categories therefore, a distinction will be made.

### 1.3 Outline

The *second chapter* is devoted to theory and methodological design. I will describe how I intend to use the different theoretical perspectives, and introduce discourse analysis as the method used for gathering and analysing the empirical data. The *third chapter* deals with the background variable; with changes in international, national and regional conditions in Europe after the economic recession in the 1970s. *Chapter four* answers the first part of the key question; the extent to which a widened security perspective can be detected in the discourse on asylum and immigration on behalf of European policy actors. Can the asylum and immigration discourse be interpreted as an example of securitising moves by these actors? *Chapter five* discusses the

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3 The EU institutions dealt with in this analysis are the European Commission, the European Parliament, the European Court of Justice, the European Council (heads of states and governments) and the Council of the European Union (Secretaries of State).

dependent variable; the identification of new instruments and objectives through the establishment of an EU asylum and immigration policy. Have the securitising moves identified in chapter four become securitised? *Chapter six* sums up and presents the main findings.

## 2. Theoretical and methodological reflections on security and regional integration

One of the purposes of this chapter is to explore the ways in which asylum and immigration issues can be analysed employing security studies as a theoretical framework. This naturally requires reaching an understanding of the meaning of security. Probably few concepts employed in statecraft and in the study of international politics have as vague referents as does security. There is also a lacking consensus on how to define the concept in the academic literature. Traditionalist thinking maintains that military threats are the main security concerns of states. There is, however, an academic debate claiming that security needs to be redefined (Ullmann 1983, Buzan et al. 1998). With the end of the Cold War it is argued that the mix of factors affecting national security is changing. Challenging the central role of the state in security, the individual is increasingly seen as the main target of security policy, and the security agenda is dominated by threats such as ethno-nationalist conflict, migration and organised crime.

I begin with an examination of the concept of security as it appears in international relations theory today (2.1). Thereafter, I discuss the widened security concept (2.2), and the advantages of its use to discuss how non-military challenges like asylum and immigration can be made security concerns by political actors through a process of securitisation (2.3). Having established the theoretical foundations for the discussions on security, and the theoretical framework to employ, I proceed with some methodological considerations regarding how to answer the key questions posed in the introduction, and continue to discuss how discourse analysis becomes a means to that end (2.4).

### 2.1 Defining security

During the Cold War, the dominant perspective on security held by the majority of politicians, academics and defence planners, suggested that security issues were relatively straightforward. Security policy mainly concerned politico-military relations between states (Waltz 1979). Because it has become commonplace to associate the origins of security studies with the twin stimuli of nuclear weaponry and the Cold War, one can easily get the impression that security studies was created sometime between 1945 and 1955 (Baldwin 1995).

In the interwar period and the first postwar decade, however, 'security' was understood as a multi-disciplinary and multidimensional problem, which required the application of international law, international organisation, and political theory to the promotion of democracy, international institutions and

disarmament (ibid.). Also during the Cold War there were, of course, dissidents, who argued that the narrow security perspective was too limited. However, the so-called ‘narrow’ school of thought on security matters held sway. Western European security, therefore, was largely interpreted through the perception of threat emanating from the Soviet Union and its Warsaw Pact allies. The conventional rearmament debates of the 1950s, the nuclear strategy debates of the 1960s, and the détente debates of the 1970s, were all framed in NATO policy-making circles by concern over the nature of the ‘Soviet threat’.

The end of the Cold War led to a crumbling of these conservative determinants of policy. As Communism was overthrown in Eastern Europe, and the Soviet Union collapsed, it was clear that capabilities had dramatically changed. Consequently, the understanding of security also began to change. Throughout the Cold War, there had been critics of the narrow school of thought located in, amongst others, various peace movements. There was an increased recognition of the reduced value and importance of military power in international relations in general, and between the European states in particular. The individual as opposed to the state frequently became seen as the main target of security policy. With reduced threat to national territories, the European security agenda became dominated by a series of diffuse risks and challenges such as ethno-nationalist conflict, nuclear proliferation and organised crime. The so-called widened security perspective thus implied that the state as the only referent object in security and defence was challenged as never before.

### **2.1.1 Conceptualising security in international relations**

*Realism* and *neorealism* provide the main theoretical contributions of security studies in the decades leading up to the end of the Cold War. A basic assumption was that of states as the primary actors, sharing the same ‘national interests’ in the pursuit of security, defined in terms of military power (Waltz 1979). Largely ignoring the writings from previous periods, in particular Arnold Wolfers (1962:154), who rejected the essential link between security policy and coercive power, realist and neo-realist security analysts have been characterised as uni-dimensional in their attention to military force as the central issue of security.<sup>4</sup> The focus on military power is perhaps most strongly expressed by Stephen Walt (1991:212), who argues that security studies is about the phenomenon of war, and that it can be defined as ‘the study of threat, use, and control of military force’.

To the primacy of the state and the military focus of security policy emphasised by neorealists such as Walt, must be added the context in which security can be obtained. According to these scholars, the competitive pressure of an anarchic international system is a constant in history; it determines important types of state behaviour such as balancing. Self-reliance and independence thus became inherent to the notion of ‘national security’, especially as the term developed at the height of the Cold War.

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4 Contributors to this literature include Thomas Schelling, Glenn Snyder, William W. Kaufmann, Herman Kahn, Albert Wohlstetter, Henry Kissinger and others (Baldwin 1995: 123).

*Neoliberalism* (or neoliberal institutionalism) modifies the neorealist stance, arguing that international institutions provide an alternative structural context in which states can define their interests and co-ordinate conflicting policies. Robert Keohane (1984) emphasises how the institutional infrastructure of a post-hegemonic system can facilitate the co-ordination of conflicting policies by lowering the transaction costs associated with co-operation. Still, the assumption of unified state actors and a focus on the anarchical, systemic context of states are common to both neorealist and neoliberalist theorists. Structural neorealism and neoliberal institutionalism as the two dominant paradigms in the 'golden age' of security studies agree on the central importance of international anarchy for the analysis of international politics. Both theories focus on how structures affect the instrumental rationality of actors. Premised upon the Westphalian norms of sovereignty and non-intervention, these principles were consolidated with the state's monopoly on the use of military force, both inside and outside its territory.

But what scholars and policy makers consider to be national security issues is not fixed, but varies over time. The narrow definition of security tends to focus on material capabilities and the use and control of military force by states. However, these main perspectives on international relations shared with their critics the inability to foreshadow or foresee the momentous international changes caused by the end of the Cold War. There is also a tendency for both theories to treat states' conceptions of their interests as exogenous: unexplained within the terms of the theory. These points are elaborated by Katzenstein, when he states that:

For realists, culture and identity are, at best, derivative of the distribution of capabilities and have no independent explanatory power. For rationalists, actors deploy culture and identity strategically, like any other resource, simply to further their own self-interest...Neorealism assumes that the international system has virtually no normative content. Neoliberalism takes as given actor identities and views and beliefs as intervening variables between assumed interests and behavioural outcomes (Katzenstein 1996:85).

Katzenstein represents a meta-theoretical approach that has increased its relevance in the last decade. This approach has been called *social-constructivism* (Adler 2002). According to Katzenstein, security interests are defined by actors who respond to cultural factors (Katzenstein 1996). This does not mean that power, conventionally understood as material capabilities, is unimportant for an analysis of national or regional security. States and other political actors undoubtedly seek material power to defend their security. However, the constructivist approach offers a valuable contribution to security studies because it emphasises that norms, institutions and other cultural features of domestic and international environments can affect state security interests and policies (Jepperson et al. 1996).

However, the widespread use of the constructivist label amongst scholars suggests that it warrants scrutiny. In general, recent works in International Relations (IR) on the importance of norms have often been cast in what is

termed a ‘constructivist’ analytical mode.<sup>5</sup> The common ground of constructivists is that the material world does not come classified, and that, therefore, the objects of our knowledge are not independent of our interpretations and our language (Adler 2002:95). Constructivists of all types are not interested in how things are, but how they became what they are (ibid.). However, there are widespread differences amongst the constructivist scholars. *Modernist constructivism* results from the combination of objective hermeneutics with a cognitive interest in understanding and explaining social reality.<sup>6</sup> For the purpose of this study, the modernist constructivism represented by Emmanuel Adler (1997, 2002) is particularly useful, because he stresses that understanding social reality means uncovering the processes by which social facts are constituted by language and rules.

Language is important because the manner in which social facts become established in the social world is relevant to the way in which they exert their influence (Adler 1997:339). The idea that our understanding and ideas about the world are introduced, shaped and reconstituted through language is reiterated by Wæver (1995), who stresses the use of text and discourse analysis in the study of security and international politics. The use of such interpretive methods to examine European immigration discourse does not mean that all statements carry the same weight. Rather, such methods are used to uncover the validity of statements and to reveal social structures, social mechanisms and empirical regularities (Adler 2002:101). But in order to analyse the social mechanisms and empirical regularities of the EU asylum and immigration policy within a security framework, it is necessary to discuss the classification of asylum and immigration as a security issue. The debate regarding the widened security concept has the defining criteria of security as a starting point.

## 2.2 The widened security concept

Referring to the discussion above, I seek a definition of security that encompasses the changes we have witnessed during the last decade, where the traditional Westphalian model no longer seems adequate to describe the international system, and where structural constraint is understood in cognitive, rather than exclusively material, terms. The last decade was strongly marked by the end of bipolarity, the developments of globalisation, regional integration, the increase of migration flows and the fragmentation of major states. These events significantly affected the forms and the meanings of borders, individual and collective identities, and the sense and nature of state sovereignty and authority.

Especially three conditions illustrate these changes: Firstly, new issues, such as organised crime, terrorism and illegal immigration have emerged on

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5 Finnemore (1996:6) calls constructivism the most amorphous and least defined of the perspectives emphasising the causal nature of social structure. For an introduction to social constructivism, see Adler (2002).

6 Adler (2002:98) makes a distinction between modernist, radical and critical constructivism. Described briefly, radical constructivism results from a combination of a radical turn to language, with a dissident emancipatory attitude toward knowledge in general. Critical constructivism results from the combination of objective hermeneutics with a dissident interest in the emancipatory effects of knowledge. See Adler (2002:98) for a more thorough explanation.

the international political agenda (Sjursen 2000:7). Secondly, new transnational, supranational, economic, political and security actors have emerged in addition to the state, at the international level. What many of these actors have in common is that they do not have a territorial base and they act without reference to a specific national interest. Thirdly, the normative and legal dimension in the international system is strengthened through networks of agreements and international institutions that are not merely characterised by a balance of power (ibid.).

Following such changes in the international system, the debate regarding a widened notion of security grew out of dissatisfaction with the narrowing of the field of security studies imposed by the military and nuclear obsessions of the Cold War, and its inadequacy to describe contemporary security challenges.<sup>7</sup> The shared assumption of these scholars is that the narrow definition of security contrasts with the distinction of threats that affect not only states, but also groups and individuals, as well as other non-state actors.

However, there has been a tendency in the academic debate to encompass virtually any social fact as security concerns, including poverty, environmental destruction and industrial decline. This is the main argument of the opponents of the widened security concept.

### 2.2.1 Criticising the widened security concept

One of the key arguments of opponents of a widened security concept has been that progressive widening endangers the intellectual coherence of security, putting so much into it that its essential meaning becomes void (Walt 1991). By including other referent objects than the state in the analysis, thereby approaching security at the level of the individual, traditionalists argue that every question regarding threats to human well-being becomes a potential security problem. Such approaches, Mearsheimer (1994/95:37) argues, adopt an ‘anything goes’ attitude toward social science that can be seen as stemming from the general tendency of non-realist approaches to slide into pure idealism: the belief that ideas are the driving force of history and easily malleable. Along the same lines, Stephen Walt (1991:212) claims that:

By this logic, issues such as pollution, disease, child abuse, or economic recessions could all be viewed as threats to “security”. Defining the field in this way would destroy its intellectual coherence and make it more difficult to devise solutions to any of these important problems.

However, the so-called *Copenhagen School*<sup>8</sup> has managed to reach a compromise between this traditionalist position and the adherents of a widened security concept (Rieker 2000:10). On the one hand they take seriously the traditionalist complaint about intellectual incoherence by claiming that an

<sup>7</sup> Regarding the debate on the widened security concept, see for example Ullmann (1983); Buzan (1991); Walt (1991); Baldwin (1995); Bigo (1996) and Buzan et al. (1998).

<sup>8</sup> The so-called Copenhagen School is the name of a group of scientists at the Copenhagen Peace Research Institute, who have written extensively on the need to redefine security studies, and on non-military aspects of European security. The work of the Copenhagen School is more closely examined in 2.3.

international security issue must be understood in the same way as the traditionalist military-political understanding of security, where security about *survival* of a referent object (traditionally, but not necessarily the state), in face of existential threats. On the other hand they disagree with the traditionalists that the only or the best way to deal with such incoherence is the retreat into a military core. Such a retreat fails to capture the realities of policy shaping and policy making, and is therefore of limited use.

Following this logic, immigrants and asylum seekers can easily be defined as a security threat. However, critics of the widened security concept have resented the categorisation of immigration as a security threat, for both moral and factual reasons. Clearly, the transformation of migration and refugee flows into a security problem is neither a neutral nor an innocent activity. If migration is located in a security logic, it enters a specific discursive-practical space: it becomes a security drama (Huysmans 1995:54). The creation of such a security logic is sometimes regarded as an opportunist means of placing an issue on the political agenda: by saying 'security', a state representative declares an emergency situation, thus claiming a right to use whatever means are necessary to block a threatening development.

Huysmans (2002:43) also implies that social-constructivists face a normative dilemma when treating migration as a threat. If an author values a securitisation of migration negatively, he or she faces the question of how to talk or write about the securitisation of migration without contributing to a further securitisation by the very production of this knowledge. The normative dilemma thus consists of how to write or speak about security when the security knowledge risks the production of what one tries to avoid: that is, the securitisation of migration, drugs and so forth (ibid.).

In response to this, there is no doubt that the analysis of migration as a security problem risks the (re)production of the security drama. This is so because the researcher will reproduce the security agenda when describing how the process of securitisation works. But since I will argue that migration is already highly securitised in post-Cold War Western Europe, ignoring the issue is not a viable strategy. On the contrary, a possible solution is to employ what Huysmans (1995:66) call the constructivist strategy.<sup>9</sup> Constructivists consider security as a social construct, which means that it is something produced by social practices in a particular spatial and temporal context. Therefore security is not something static, but is fully embedded in the dynamics of social practice. The constructivist strategy does not try to understand what increases and decreases an objectively given security; rather it wants to understand how the process of securitisation works (Wæver et al. 1993). How is it that, in a particular context, particular issues are securitised? What triggers the social construction of security? According to this strategy, the dichotomy between natives/migrant is not reproduced because the con-

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9 Huysmans (1995) explores different ways of 'desecuritising' social issues (i.e. transforming them from security to non-security matters). Whereas the constructivist strategy offers a way to avoid the normative dilemma, the desecuritisisation of migration takes a step further to devise a strategy of identity fragmentation that seeks to break through the dialectic of inclusion and exclusion. The principal objective here, however, is to examine the manner in which asylum and immigration issues are securitised by European policy makers, and the process of desecuritisisation therefore falls outside the scope of this thesis. For a thorough reading on the process of desecuritisisation, see Wæver et al. (1993) and Huysmans (1995).



structivist does not think within its terms, but rather seeks to understand how it is produced and continued.

Moreover, the argument that progressive widening of the security concept to include migration endangers the intellectual coherence of security, is countered by Barry Buzan (1991:19). To maintain the analytical value of the security concept, Buzan argues that security is mainly conditioned by factors in five sectors: the military, political, economic, societal and environmental sector. Each sector is characterised by special security dynamics and faces different referent objects, i.e. units that are regarded as being existentially threatened and carrying a legitimate claim to survival.<sup>10</sup> Sectors also serve to disaggregate a whole for purposes of analysis by selecting some of its distinctive patterns of interaction. Buzan (1991:19–20) hence captures the spectra of different proposals concerned with widening the security concept, giving the following description of security sectors:

Generally speaking, military security concerns the two-level interplay of the armed offensive and defensive capabilities of states, and states' perceptions of each other's intentions. Political security concerns the organisational stability of states, systems of government and the ideologies that give them legitimacy. Economic security concerns access to the resources, finance and markets necessary to sustain acceptable levels of welfare and state power. Societal security concerns the sustainability, within acceptable conditions for evolution, of traditional patterns of language, culture and religious and national identity and custom. Environmental security concerns the maintenance of the local and the planetary biosphere as the essential support system on which all other human enterprises depend.

Many of the security sectors have other referent objects than the state. This implies a widening of the concept to include the safety of people, perceived as individuals or as the international collectivity. Whereas the political sector is about the organisational stability of states, systems of government, and the ideologies that give governments and states their legitimacy, society is defined as the identity, the self-conception of communities and of individuals identifying themselves as members of a community. Societal insecurity thus exists when communities of whatever kind define a development or potentiality as a threat to their survival as a community, or as a threat to 'civil society' (Buzan et al. 1998). For the purpose of this thesis, the analytical distinction between sectors helps organise the discussion on asylum and immigration by referring the issue mainly to the societal sector.

### **2.2.2 The societal security sector**

In the case of migration, insecurity can arise with the feeling that 'X people are being overrun or diluted by influences of Y people; the X community will not be what it used to be, because others will make up the population and X identity is being changed by a shift in the composition of the popula-

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<sup>10</sup> Security action is usually taken on behalf of, and with reference to a collectivity. The referent object is that to which one can point and say, 'it has to survive, therefore it is necessary to..' (Buzan et al. 1998:36).

tion' (Buzan et al. 1998:121). Society can react to such threats in two ways: through activities carried out by the community itself, or by trying to move the issue to the political agenda. The latter situation is the focus of this analysis, largely limited to an analysis of the societal sector, not at the state level, but at the EU level, where the threat of immigration for example can be addressed through legislation and border controls.

The introduction of the concepts of 'society' and 'identity' into the analysis of international security can be seen as a transitional phase in a shift within the mainstream tradition from material to cognitive structural resources, and from state to human subjects of security. While Buzan acknowledges that the predominant form of political organisation in the contemporary international system is the territorial state, other state-like or state-paralleling political organisations like the EU can sometimes serve as securitising actors at the unit level.<sup>11</sup> Wæver et al. (1993) are right to point out that the integration process not only creates some migration pressures by allowing freer movement for EU citizens, but it also places responsibilities for defence against migration away from national governments. As it is pointed out, 'if the EU is not seen to provide adequate defence, then the Community itself could become politically vulnerable to nationalist disaffection and charges that it was undermining national identities both by encouraging migration and by promoting the homogenising forces of Europeanisation' (Wæver et al. 1993:3).

Societal security thus accords significance or autonomy to human beings as the referents of security, and to political organisations like the EU as securitising actors. But the concept of societal security has also been met with criticism. By recognising that society is fundamentally about identity and civil society, and that 'societal security concerns the ability of a society to persist in its essential character under changing conditions', both 'society' and 'identity' are projected as objective realities. In this way, society is viewed as a social agent which has independent reality, or an 'independent variable'; a social fact immune to process inquiry, whose values and vulnerabilities are as objective as those of the state (Huysmans 1995).

It is clear that collective identity is a matter of perception. Because I want to avoid an objectivist view of what constitutes collective identity, and because I cannot offer a basis or criteria by which to arbitrate between competing identity claims, my approach to asylum and immigration as societal security issues has to be delimited. As McSweeney (1999:77) maintains; 'collective identity is not out there, waiting to be discovered. What is "out there" is identity discourse on the part of political leaders, intellectuals and countless others, who engage in the process of constructing, negotiating, manipulating or affirming a response to the demand – at times urgent, mostly absent – for a collective image'.

The implication of this is that a possible way to study asylum and immigration as societal security issues at the European level, is to examine the specific positions of policy makers that have a privileged capacity to transform non-security issues into security questions. Bigo (2000) points out that

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<sup>11</sup> *Securitising actors* are actors who securitise issues by declaring something – a referent object – existentially threatened. I discuss the securitisation process in further detail in 2.3.

these positions are located in particular sections of the bureaucracy that have the specific capacity to securitise issues because they are producers of professional security knowledge.

Notwithstanding this delimitation, a main objection raised by Jef Huysmans (1998:227) in the debate regarding the widening of the security concept, is that the discussion of the meaning of security has been too narrow in the widening debate, since it does not devolve enough into the question concerning the real meaning of the concept. Huysman instead suggests moving away from approaching security merely as a concept, and instead interpret it as a 'thick signifier'. This means bringing us to an understanding of how the category 'security' articulates a particular way of organising forms of life (ibid.).

Wæver and Buzan et al.'s way of looking at security as a practice as described above, might be considered a move in that direction (Rieker 2001). In their view, it is not enough to identify referent objects and threats, but an issue has to be articulated in a specific rhetorical structure in order to be a security issue (Wæver 1995). This rhetorical structure has been termed 'securitisation', and is the subject of the next section.

### 2.3 Securitisation and the theoretical framework of the Copenhagen School

The Copenhagen School has previously been identified as the name of a group of scientists at the Copenhagen Peace Research Institute, who have written extensively on the need to redefine security studies. The tag 'Copenhagen School' was coined by a critic, Bill McSweeney (1996), in an article called 'Identity and Security: Buzan and the Copenhagen School'.<sup>12</sup>

This section takes as a starting point the widened security concept as it was developed by members of the Copenhagen School. In the book *Security. A New Framework for Analysis*, Buzan, Wæver and de Wilde define a theoretical framework that encompasses existential threats and emergency measures as core elements of the security concept. I start by explaining the concepts of 'securitising moves' and 'securitisation' as employed by the Copenhagen School, and the manner in which asylum and immigration issues can be put on the European security agenda (2.3.1). Thereafter, an operationalisation of these core concepts is made (2.3.2).

#### 2.3.1 From securitising moves to securitisation

The term 'securitisation' is employed to understand when and how asylum and immigration becomes a security issue by European policy makers. The definition offered by Buzan et al. (1998:23) is that security is the move that takes politics beyond the established rules of the game, and frames the issue either as a special kind of politics or above politics. Securitisation can thus be seen as a more extreme version of politisation. In security discourse, an

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12 Members of the Copenhagen School include Barry Buzan, project co-ordinator at the institute since 1998, and Ole Wæver. According to Huysmans (1998), there are 5 main texts emanating from the Copenhagen School: Jahn, Egbert, Pierre Lemaitre & Ole Wæver (1987); Wæver, Ole, Pierre Lemaitre & Elzbieta Tromer (eds) (1989); Buzan et al. (1990); Wæver et al. (1993) and Buzan et al. (1998).

issue is dramatised and presented as an issue of supreme priority; thus by labelling it as *security*, an agent claims a need for and a right to treat it by extraordinary means.

According to the Copenhagen School, securitisation is intersubjective and socially constructed. It is the actor and not the analyst who decides whether something is to be handled as an existential threat. Hence, when a securitising actor uses a rhetoric of existential threat, and thereby takes an issue out of ‘normal politics’, there is a case of securitisation. When the issue is presented as an existential threat, it requires emergency measures and justifying actions. The implication of this is that if we place the survival of collective units and principles – the politics of existential threat – as the defining core of security studies, then we have the basis for applying security analysis to a variety of sectors, including asylum and immigration, without losing the essential quality of the concept. In this way, security studies expand their arena beyond the traditional military focus without debasing the concept of security itself. As expressed by Buzan et al. (1998:32), securitisation studies aim to gain an increasing understanding of who securitises, on what issues (threats), for whom (referent objects), why, with what results, and not least, under what conditions (i.e. what explains when securitisation is successful?).

The Copenhagen School differs from other ‘wideners’ in that it claims that the way to study security is to study discourse and political constellations: when does an argument with this particular rhetorical and semiotic structure achieve sufficient effect to make an audience tolerate violations of rules that would otherwise have to be obeyed? A discourse that takes the form of presenting something as an existential threat to a referent object does not by itself create securitisation – this is a *securitising move*. Analysing the securitising moves of European policy makers is the subject of chapter four. In fact, the issue of asylum and immigration is *securitised* only when the issue is presented as an existential threat, requiring emergency measures and justifying actions outside the normal bounds of political procedure. Put differently, securitisation is not fulfilled only by breaking rules (which can take many forms), nor solely by existential threats (which can lead to nothing), but by cases of existential threats that legitimise the breaking of rules (Buzan et al. 1998:25). If a given type of threat is persistent or recurrent, it is no surprise to find that the response and sense of urgency become institutionalised.<sup>13</sup> Moreover, an issue is securitised only if and when the audience accepts it as such (ibid.).

However, the authors themselves acknowledge that there is a problem of size and significance (ibid.). The concept of international security has a clear definition of what we are interested in, but does not tell us how we sort the important cases from the less important ones. There is in other words a question of operationalisation. In the following I will try to operationalise ‘securitising moves’ and ‘securitisation’, in order to employ the concepts in the study of asylum and immigration.

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<sup>13</sup> This situation is most visible in the military sector, where states have long endured threats of armed coercion or invasion and in response have built up standing bureaucracies, procedures and military establishments to deal with those threats (Buzan et al. 1989:27).

### 2.3.2 Operationalising ‘securitising moves’ and ‘securitisation’

A securitising move has already been described as a discourse that takes the form of presenting something as an existential threat to a referent object. According to the securitisation approach cited in Buzan et al. (1998), securitising moves are to be discovered in speech acts, and conducted on texts that are *central* in the sense that if a security discourse is operative in the community, it should be expected to materialise in a text because its occasion is sufficiently important. Employing language theory, the emphasis on speech acts amends classical realism by introducing a performative and generic understanding of language. Since not every speech act is by definition successful in establishing the elocutionary effect, the question arises: *Who* can utter security successfully or legitimately?

Buzan et al. (1989:40) assume that it makes a difference where the agents uttering security are socially positioned. This is in line with Bigo’s (2000) claim that common players in this role are political leaders, bureaucracies, governments, lobbyists and pressure groups. Buzan et al. (1998:40) add that these players are not usually the referent objects of security, because only rarely can they speak security through reference to the need to defend their own survival. Their argument will normally be that it is necessary to defend the security of the state, nation, civilisation, or some larger community, principle or system. An analysis of a plethora of European policy makers and their asylum and immigration discourse is thus likely to reveal the different referent objects referred to by these actors.

On the other hand, societal security concerns threats to cultural identity rather than state sovereignty; those who speak for or in the name of society are not necessarily only those who speak in the name of the state. The mobilisation of security dispositions in the societal sector may well depend on agents other than statesmen who utter security in a diplomatic context. This means that in analysing EU policy actors’ rethoric on asylum and immigration, one must be open to a wider diversity of agents than those speaking in the name of the Union. This is, however, a question of delimitation, and within the confines of this analysis, the main focus remains the speech acts of EU policy makers.

Regarding the operationalisation of securitisation, the shift from securitising moves to securitisation is not made very clear by the Copenhagen School. Rather it is assumed that securitisation ‘happens’ in various stages, beginning with a rhetorical phase. In this initial phase the securitising actor merely makes a securitising move – i.e. uses the rhetoric of existential threat (phase 1). One way of operationalising this shift is to claim that securitisation ‘happens’ when the securitising actor takes one step further and moves from political deliberations or discourse to actual decision making (see Rieker 2001:3). Whereas the political deliberations of European policy makers on immigration are the subject of chapter four, the actual policy making in the area is the subject of chapter five. When decisions are adopted along the same lines as expressed in the security discourse, without any strong popular resistance or protest, one may assume that public acceptance has been obtained (phase 2).

Being an intergovernmental matter, the decisions we study are those taken by the Union and the European Council. Hence, following this logic,

securitising moves taken by EU policy makers in the field of immigration, become securitised when unanimously adopted by the Council.<sup>14</sup> Notwithstanding that such decisions do not automatically admit general public approval, they are generally assumed to be acceptable to the public unless clear evidence of public protests can be found. Moreover, decisions adopted by the Council will require the support of national parliaments in order to be legitimate. ‘Public approval’ is thus perceived as a function of the support of democratically elected parliaments that depend on the support of their electorates.

## **2.4 Methodological considerations**

The choice of methodology is important in the analysis of society and politics because it contributes to systematising the way we examine reality, by giving us advice on how the researcher can collect, manage and analyse data (Hellevik 1994:14). As stated in the introduction, I am faced with a choice regarding various methods for collecting and analysing data. Ib Andersen (1990) suggests that the key question should determine the choice of methodology. Svein Andersen (1997:5), on the other hand, emphasises that this choice partly needs to be determined by the thematic topic. Considering both the key question, as well as the phenomenon to be analysed, I have chosen a qualitative approach in the study of the EU asylum and immigration policy. I start by outlining its main components, and explain why it is interesting to study the EU’s asylum and immigration policy using this framework (2.4.1). Thereafter I explain the choice of case study as the analytical strategy chosen (2.4.2). Lastly, I examine how security can be studied through discourse analysis (2.4.3).

### **2.4.1 Qualitative methodology**

Characteristic of the qualitative method is that the analysis contains few units and many variables. In addition, a non-statistical approach for the adaptation of data is employed. The advantages are several: in linking the problem to its context, a deeper understanding is reached. Secondly, an intensive examination provides for substantial and detailed knowledge, identifying a unit’s value on a long range of variables (Hellevik 1994). In this way, the qualitative method helps create a picture of the contextual aspects of social phenomena, and I find it particularly suitable in this case, as the intention of the analysis is to understand and explain a special process; the securitisation of asylum and immigration issues, and the objectives and instruments later defined in the area.

Moreover, the intention of the qualitative analysis is to understand the particular and the unique (Andersen 1990). Generalisations can therefore become problematic, and this is often perceived to be the main limitation regarding the use of qualitative methodology. However, qualitative method-

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<sup>14</sup> With the entry into force of the Treaty of Amsterdam, asylum and immigration became community matters, and the Treaty therefore provides for recourse to Community instruments, i.e. regulations, directives, decisions, recommendations and opinions. These are the kinds of instruments that will be further examined in chapter five.

ology is well suited to generate a deeper understanding of the object of study, as well as to understand its relation to the whole problem complex. While my intention is primarily to provide a deeper understanding of the topic, and not to produce generalised data, it is important to emphasise that qualitative and quantitative methods are not mutually exclusive, and that both seek to understand and explain the phenomenon being studied.

#### **2.4.2 A case study of the EU asylum and immigration policy**

When deciding upon the framing of the key questions, a choice was made regarding the design of the analysis. The choice signals the study of a single case, the development of a common EU policy on asylum and immigration. The notion ‘case’ stems from the Latin noun *casus* and emphasises the significance of the single and unique (Andersen 1997:8).

The analysis reflects Robert K. Yin’s definition of a single case study, where the EU’s policy on asylum and immigration is investigated as a ‘contemporary phenomenon within its real-life context, and where the boundaries between phenomenon and context are not clearly evident’ (Yin 1994:13). Andersen (1997:126) emphasises that there are no easy or clear-cut procedures to understand what is a case, how to perform a case study, or how to draw conclusions and present results.

According to Yin (1994:38), however, three purposes justify the above-mentioned research design. First, the case study should represent a *critical case*; i.e. a critical test of a significant theory. The case study is valuable if it tests a central, well-established or innovative theory within its field of research. The use of social constructivist theories in the analysis of the securitisation of asylum and immigration policy at the European level challenges traditional rationalist ideas regarding security. This does not mean that other theoretical contributions have been disregarded as uninformative, but simply that the changed security situation has been described to require a broader theoretical foundation. It should be emphasised, however, that the purpose of the analysis is not to test theory, but to employ a theoretical framework in order to create a deeper understanding of the case.

A second rationale for a single case study is one in which the case represents an *extreme or unique case*, representing a new combination of more or less familiar facts that have not before been studied (ibid.:39). The framing of the EU’s objectives on asylum and immigration following the 1997 Amsterdam summit reflects a reorientation and expansion of co-operation that has not been analysed in great depth by scholars. Emphasis on a cross-pillar approach creates new challenges and opportunities in the development of the EU asylum and immigration policy. While I have no intentions of formulating data that can be generalised and employed in new situations in international politics, I still hope to contribute to a deeper understanding of objectives and instruments in what can be termed a new phase of European judicial co-operation.

A third rationale for a single case study is the *revelatory case* (ibid.:40). This situation exists when an investigator has an opportunity to observe and analyse a phenomenon previously inaccessible to scientific investigation. Little research has been done approaching asylum and immigration from a

security perspective.<sup>15</sup> Until recently, asylum and immigration issues were at the margins of the European integration process, only vaguely included in the intergovernmental third pillar. Studies on the developments of the field after the 1997 Amsterdam summit have been scarce, and it is all the more interesting to study the objectives and instruments recently introduced.

Central to the theoretical framework employed is the study of discourse. Discourse analysis is particularly important to understand how policy is defined, interpreted and placed on the political agenda.

### **2.4.3 Studying security through discourse analysis**

As an analytical concept, discourse analysis has been frequently used during the last ten years, and it has been employed in texts and debates that often fail to specify its contents. Fairclough (1995:7) defines discourse as ‘analysis of how texts work within sociocultural practice’, discourse being the use of language seen as a form of social practice. Another broad interpretation is given by Vagle (1995:127), claiming that the concept should include verbal language in order to analyse the interplay between text and its context. The aim of discourse analysis, therefore, is to analyse text or the use of language, regarded as a social activity in its social context. Both written and verbal language can be subjected to discourse analysis, and all types of manifestations are included, ranging from newspaper chronicles to novels, speeches and informal conversations.

To discuss the EU’s policy on asylum and immigration I rely on Mathisen’s (1997:3) definition of discourse analysis as ‘analysis of the use of language in a societal context, focusing on how ideas and concepts that produce the context interpret and help shape parts of social reality’. This definition emphasises the relevance of discourse analysis to social sciences, and underlines the fact that not everything merely consists of text, and that not all communication takes place through the use of language. Without these distinctions, it would be difficult to criticise ‘mainstream’ texts or discourses when they do not give a proper account of the political significance of language (Mathisen 1997).

The definitions above imply an understanding of human actions as meaningful. To understand political actors and their actions it is necessary to analyse communication. This is not so because the texts give us an insight into their motives and strategies, but because it makes the actors what they are and regulate their actions. As stated by Buzan et al. (1998:25), the way to study securitisation is to study discourse and political constellations. It is important to establish when an argument with a particular rhetorical structure achieves sufficient effect to make an audience tolerate violations of rules that would otherwise have to be obeyed.

Discourse analysis is presented as a suitable method because we are interested in when and how something is established by whom as a security threat. The process of securitisation is what Wæver (1995) calls a speech act.

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15 Early works include Wæver et al. (1983) and Bigo (1996). More recently Huysmans (2002) and Buzan et al. (1998) have written on asylum and immigration from a security perspective. Most works on EU asylum and immigration, however, are historical or economic (spillover) analysis, and of less relevance here. See for example Castles and Miller (1998) and Hailbronner (2000).



It is not interesting as a sign referring to something more real; it is the utterance itself that is the act.<sup>16</sup> The defining criterion of security is textual: a specific rhetorical structure that has to be located in discourse. The implication of this is that discourse is studied as a subject in its own right, not as an indicator of something else (underlying motives, hidden agendas etc.). One of the weaknesses of this method, therefore, and as I will come back to later, is that it is an insufficient strategy for finding real motives. As pointed out by Buzan et al. (1998:177), ‘discourse analysis can uncover one thing: discourse’. Transposed to this analysis, discourse can uncover how asylum and immigration issues are presented as security threats through securitising moves.

However, and as I pointed out earlier, discourse analysis does not try to uncover the objective reality, or reveal the real intentions of actors. Its focus is rather to examine how we create our reality, so that it becomes a matter of course to us (Jørgensen & Phillips 1999). Presented like this, discourse analysis will not help to discover the true intents and motives of EU policy actors, and we are therefore faced with the potential problem that there might be a gap between what people say and how they act. However, the operationalisation referred to earlier tries to counter this problem. The shift from securitising moves to securitisation is interpreted as an indication of the extent to which rhetoric becomes practice, and will therefore reveal when political actors fail to act upon their securitising moves.

But there is also a potential problem when interpreting discourse. Neumann (2001:80) shows how scholars tend to emphasise the written and spoken word over the materiality of discourse. This implies reading too much into documents and texts, and too little into the reflection of discourse in societal institutions. In the analysis of EU asylum and immigration policy, emphasis is put on the degree to which representations are reflected in the actions of relevant actors, thereby assessing the reliability of the analysis. Reliability refers to accuracy of the operations performed. A high degree of reliability is achieved if two researchers examining the same phenomenon reach the same conclusion. Validity refers to the data’s relevance for the main problem of the analysis (Hellevik 1994:159). The validity and reliability of discourse analysis are often questioned, because they are premised upon definitive answers and clear quantitative results. The underlying assumption is that there exists one single reality or true representation that the researcher is able to grasp. This does, however, not correspond with the underlying assumptions of this analysis. Because a discourse analysis does not produce ‘hard facts’, reliability and validity are first and foremost assured through convincing argumentation and argumentational logic (Borgen 2001). Reliability hence becomes a question of identifying different

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16 Onuf (Kowert et al. 1998:66) calls a speech act ‘the act of speaking in a form that gets someone else to act’. According to Adler (2002:103), speech acts have an illocutionary dimension (doing something by saying something), and hence do not only describe reality, they also construct it. Wæver first theorises the speech act from a classical-realist perspective, where statesmen representing the state are the privileged agents in the securitising process. Later, he amended classical realism by introducing a performative and generic understanding of language. What the theorisation then does is to discriminate between the individual agents and determine ‘who’ is in a ‘powerful’ position to speak security. See Wæver (1995) and Huysmans (2002).

representations of a phenomenon, and admitting to one's influence in interpreting these representations (ibid.).

To further increase the validity and reliability of the analysis, I take advantage of *triangulation*. This is done by using several kinds of data. In addition to secondary literature, I employ both official and unofficial data. In other words, the analysis relies on several mutually independent sources. Methodological triangulation has also been used when performing unofficial interviews in addition to textual analysis of the same material. Finally, theoretical triangulation is assured through the use of several theoretical perspectives.

Through an analysis of the EU institutions' 'speech acts', I assume to get an idea of how the debate is structured. I will argue that speaking or writing about an issue in security language has an integrative capacity. It enables the connecting of isolated features such as, for example, migration, terrorism, drugs and Islamic fundamentalism into a meaningful whole. Thus, language operates as a mediating instrument that brings social practices into a particular communicative, institutionalised framework.

## 2.5 Concluding remarks

In sum, the traditional security perspectives do not seem adequately equipped to deal with the post-Cold War security context, having emerged from the Cold War with a narrow military conception of national security and a tendency to assert its primacy over other policy fields. Its preoccupation with military statecraft limits its ability to address the many foreign and domestic problems that are not amenable to military solutions. Buzan and the Copenhagen School rightly point out that the concept of security is broad enough to integrate the fields of international relations theory, peace studies, human rights and so on.

Through a division of sectors, the Copenhagen School offers a framework for analysis that structures the security debate, and that includes other referent objects than the state in security analysis. Asylum and immigration issues are regarded as societal security issues when they are staged as a threat to a community, and the very identity of that community. To delimit the scope of the analysis, however, I approach societal insecurity through an examination of identity discourse on behalf of European political leaders. The main purpose is to discuss the extent to which the securitising moves revealed in European asylum and immigration discourse become policy through cases of securitisation. Securitisation has been described as the move that takes politics beyond the established rules of the game, and has been delimited and operationalised to encompass decisions taken unilaterally by the Union Council and the European Council. Such decisions require unanimity and are centred around the consensus principle, and it is therefore assumed that popular approval is largely obtained.

I have chosen a qualitative approach to the study of the EU's asylum and immigration policy, to be investigated as a case study that may shed light on the objectives and instruments recently proposed in the area. Discourse analysis offers a useful way to examine securitisation and political constellations with its emphasis on language that brings social practices into a particu-

lar communicative institutional framework. Through discourse analysis, I hope to gain insight into how the debate is structured, and how the representations discovered in discourse are reflected in the actions of EU policy makers. Different regional, national and international factors starting in the 1970s, envisaged changed conditions for asylum seekers and immigrants in Europe. These factors constitute the background variable of this analysis, and are the subject of the next chapter.



## 3. Changed conditions for asylum and immigration in Europe

This chapter seeks to describe the changing conditions for asylum and immigration seekers in Europe after the enormous changes in world economy in the 1970s, and the gradual emergence of common policies at the European level. My objective is to provide for a contextual analysis that can account for the background of the EU's policy on asylum and immigration, and the instruments used to promote such a strategy. Regional, national and international conditions have previously been identified as background variables having decisive influence on the later establishment of an EU asylum and immigration policy. These conditions have been operationalised to encompass factors that are assumed to have influenced European perceptions of immigration and security. In particular, these conditions can be divided into three factors: economic and political changes in the 1970s (3.2); the international system after the end of the Cold War (3.3); and the accelerating integration process in the European Union (3.4). But before I discuss these three different categories of explanations, and to understand the historical context in which these changes have taken place, it is necessary to outline the main elements of migration in Europe before the 1970s.

### **3.1 Patterns and tendencies in European migration history**

Migration is nothing new. In fact, it has been a constant feature of European history, driven by factors as diverse as war, famine and individual ambition. Many European countries have experienced waves of emigration, as was the case for Italy only 10–20 years ago, or for Norway 100 years ago. Characteristically, these countries witnessed the flight of large elements of its population to avoid hunger and starvation.

Migration was also easier before. Until the beginning of the First World War, few political or legal barriers prevented people from travelling or moving, and it was possible to travel within Europe without a passport (Brochmann 1997, Hailbronner 2000). Although the notion of 'asylum' as protection from persecution can be traced back to the times of the Greeks and Romans (Lavenex 1999:4), its formal foundations were only laid in the first half of the twentieth century when it was recognised that the refugee problem was a matter concerning the international community. The foundations for the contemporary system of international refugee protection were laid at the end of the 1930s, as a reaction to the dramatic intensification of the European refugee problem due to the spread of Fascism and Nazism on the eve of the Second World War. By the end of the Second World War, the refugee problem had reached dramatic proportions, relations between the Western powers and the Soviet Union had rapidly deteriorated, and the issue of refugees became trapped in East–West controversies. In the West,

refugees became a symbol of Soviet repression and were used by governments as instruments of Cold War antagonism (Urwin 1989, Loescher 1996).

The 1950s can be termed a liberal phase of refugee policy, consisting mainly of the repatriation of Second World War refugees and the protection of refugees from Central and Eastern Europe. In fact, Western governments welcomed and encouraged these emigrations in order to weaken their rivals ideologically and to gain political legitimacy in the Cold War struggle (Loescher 1996:59). This liberal approach to refugees was supported by a dynamic economic environment which favoured not only generosity towards refugees, but also the intake of large numbers of labour migrants in all Western European countries. Hence, in the years following the Second World War until the early 1970s, immigration played an important part in the development of Western Europe. The rapid and extensive welfare developments after the war were in many countries dependent upon the existence of foreign labour. Migrant workers thus contributed to a great extent to the industrialising and rebuilding of the continental countries, and did not become subject of public debate for the first 25 years after 1945 (Brochmann 1997). This is an indication that until the beginning of the 1970s, immigrants and asylum seekers were subjected to little public debate, and were not a contested group in the Western European societies.

Moreover, acute refugee crises in the third world very rarely affected Western Europe before the 1970s. Instead refugees moved within the areas they came from, thereby absorbing the problem regionally.<sup>17</sup> Western European countries could thus channel funds through the UN system, or bilaterally, and avoid a confrontation with the 'problem' inside their own borders.

### 3.1.1 Institutionalising asylum at the international level

It was in the hostile environment of the Cold War, and against the votes from the Eastern bloc, that the General Assembly of the UN decided to establish the Office of the United Nations High Commissioner for Refugees (UNHCR) in 1949. It has remained the central international organisation for the promotion of refugee protection, and it was under its auspices that the central principles, norms, rules and procedures of the international refugee regime became institutionalised (Lavenex 1999). In that respect, the primary source of refugee law is the Geneva Convention relating to the Status of Refugees of 1951, together with the New York Protocol of 1967. The convention, which was prepared by the UNHCR, was initially limited to persons who became refugees as a result of events occurring before 1 January 1951, and was designed to regulate the organisation of the right to asylum.

The provisions of the Geneva Convention presuppose the assignment and execution of refugee status as the prerogative of the sovereign contracting states, but also establishes the norm of *non-refoulement*. This principle stipulates that 'no contracting state shall expel or return ('refouler') a refugee in

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<sup>17</sup> Even if this picture has changed somewhat, this is still the main tendency: 90 % of the world's refugees come from third world countries, and 90% of these remain in the regions they were born in; i.e. they move to another developing country (Brochmann 1997).

any manner whatsoever to the frontiers or territories where his life or freedom would be threatened on account of his race, religion, nationality, membership or a particular social group or political opinion'.<sup>18</sup> Over the years it has gained the status of customary international law, which means that it is considered universally binding on all states irrespective of their assent to the convention.<sup>19</sup>

It is important to note that today, the range of persons protected by the prohibition of *refoulement* is much broader than the definition of refugees under the Geneva Convention. The acceptance of non-convention refugees by the host countries of the West usually occurs on a relatively informal and *ad hoc* basis. In the absence of a set of international rules, their status is very disparate through Europe and does not, by and large, award the same quality of rights and conditions for settlement as the Geneva Convention.

### **3.2 Economic and political changes in the 1970s**

The early 1970s introduced a new political phase in Western Europe's relationship with immigration. The oil crisis and the ensuing economic set-back marked the beginning of extensive restructuring processes in several countries. At the same time, new causes for concern for Western governments appeared, as the political crisis in Indochina and the coup d'état in Chile introduced new concepts such as 'boat refugee' and 'jet refugee' to the West (Brochmann 1997). Somewhat simplified, two main categories of interdependent causes for Western concern can be found in this period: socio-economic and political causes.

#### **3.2.1 Socio-economic causes**

The tendency towards the internationalisation of migration is one of the most pronounced features of recent times. Two processes account for this transformation. Firstly, the structures of communication have greatly expanded, enabling citizens of developing countries to be relatively well-informed about events, conditions and opportunities in the West (Miles & Thränhardt 1995). Around the world, people have better access to information that is relevant to their migration chances. Secondly, the means of public transportation have been revolutionised (*ibid.*). Today's refugees not only cross land borders but also travel by sea and by air. Now that communications have improved, the importance of the geographical proximity of the country left behind has declined.

The oil crisis and the following economic set-back confronted Western countries with inflation and unemployment at the same time, leading to a policy of modernisation and rationalisation in many sectors. The oil crisis no doubt legitimised a stricter immigration regulation in the early 1970s through the so-called 'immigration stop' (Brochmann 1997, Dinan 1999).

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<sup>18</sup> See Article 33 of the Geneva Convention.

<sup>19</sup> Thus, the crucial norm of the international refugee regime today is not the right to asylum as such, but the obligation of states not to return people demanding protection to countries where they would risk serious human rights violations. This central principle of asylum law is reinforced by by general human rights law and, to a lesser extent, by humanitarian law.

Germany was the first country to employ the new measure in November 1973, followed by France in April 1974. This mainly had two impacts on asylum and immigration policies. Firstly, when immigration rules were still generous, many persons forced to leave their country of origin because of persecution or other human rights violations did not necessarily apply for asylum if other ways of entering the country were available. Secondly, these restrictions revealed a basic contradiction in the refugee system itself: whereas before, refugees who did not fulfil the criteria laid down in the Geneva Convention were usually accepted under immigration law, governments now had to find new ways of either returning them to their countries of origin, or, with the risk of *refoulement*, providing another basis for their stay. After the abolition of economic migration schemes, asylum became the only legal avenue to enter Western European states apart from family reunification.

It is most likely, however, that not only economic reasons caused the radical changes in national immigration policies. It is instead probable that the 1973 oil crisis often became used as a legitimising factor paving the way for change. In France, decolonisation between 1958 and 1962 led to massive and almost uncontrollable immigration. The average, yearly number of immigrants increased from 66,400 in the period 1946–1955 to 248,800 in the period 1956–1967 (Brochmann 1997:41). Already in the late 1960s, there were forces in France that argued for a stronger differentiation of the immigrant population, corresponding with an increase in the number of non-European immigrants. The new attempts at controlling immigration can thus be explained as a result of the increasing displeasure with immigration from the third world. It was precisely in the period 1972–74 that the first symptoms of nationalist responses to immigration began to appear in France (Brochmann 1997, Castles & Miller 1998).

A similar pattern can be found in Germany, where a situation with no immigration control in the 1960s was replaced by more restrictive measures. The Western European governments did not have satisfactory control over the increasing level of immigration, and recruitment of foreign labour grew increasingly sensitive in the wake of rising domestic unemployment. As can be seen in France and Germany, but also in other European countries, immigrants came to be perceived as competitors in relation to work, housing and welfare benefits by the national labour force. Many immigrants had acquired the seniority to be entitled to social security in the host countries, and could not function as ‘buffers’ or reserve labour according to economic conjunctures. Through the introduction of an ‘immigration stop’, governments could at least attempt to prevent new establishments. The general message signalled by Western European governments was in other words that of immigration being a strain and an increasing burden on their societies.

### **3.2.2 Political causes**

Parallel to the economic recession, the 1970s mark the beginning of a globalisation of the refugee problem. The multiplication of causes and regions of origin, and the increase in overall mobility and information, led to the direct exposure of industrialised countries. In particular, two major interna-



tional crises carried the ‘new’ refugees to European borders: the spread of repressive military regimes in South America, and the protracted conflicts in Indochina producing innumerable refugees, especially after 1975. In contrast to earlier refugee flows in the third world, these refugees did not remain within their region of origin, but made their way to the industrialised countries. While during the 1970s, only select refugee groups were accepted on a quota basis, the end of the decade marked the arrival of increasing numbers of spontaneous refugees, which, in the eyes of the governments, undermined their sovereign power to control immigration (Castles & Miller 1998, Lavenex 1999).

However, a transformation of the international refugee problem had already begun in the early 1960s. On the one hand, ever fewer Central and Eastern Europeans applied for asylum in the West, partly in consequence of the erection of emigration barriers by the Communist governments. Secondly, the locus of forced migration passed to the third world, where anti-colonial insurgency and general violence following the rapid decolonisation generated vast numbers of refugees (Castles & Miller 1998). These developments led to a *de facto* extension of the categories of persons benefiting from international protection. An example is the refugee problem following the outbreak of decolonisation and secession struggles in Africa and India,<sup>20</sup> which produced sudden and violent outflows of millions of people. Although these millions of refugees remained mainly in their regions of origin and did not reach European states, their presence posed a challenge to the instruments of the international refugee regime, as it was institutionalised after the Second World War. The majority of these people did not fulfil the criteria of refugee status under the Geneva Convention. They were either victims of generalised violence or participants in mass movements rather than subject to individual persecution, and the reasons for their flight could not be related to events which had occurred prior to 1951.

In a first step, and to adapt to the new situation, the mandate of the UNHCR was extended in 1961 to include other persons under a ‘good offices’ doctrine (United Nations 1961). Secondly, on the initiative of the UNHCR, the international community agreed on the above-mentioned protocol to the Geneva Convention signed in New York in 1967 which abolishes the deadline of January 1951, and relinquished the geographical limitation for all states wishing to do so. In fact, the scope of international protection was *de facto* extended to a vaguely defined variety of persons suffering ‘relevant harm’ in their country of origin (Loescher 1996:81).

### 3.3 The international system after the end of the Cold War

A second factor that is assumed to have influenced European perceptions of asylum and immigration issues relates to the end of the Cold War. The Cold War split the world into two opposing camps; the Soviet-led communist camp, and the US-led liberal camp. During the Cold War, local conflicts

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<sup>20</sup> These were in particular the decolonisation struggles in Algeria (starting in 1959), Zaire (1960), Rwanda (1963), Portuguese Africa (circa 1961), the confrontation between North and South in Sudan around 1963, and the secession war in Bengali (northeast India), (see e.g. Castles & Miller 1998).

became internationalised: the USA, the Soviet Union and former colonial powers sent weapons and troops to intervene in wars and revolutionary struggles in Africa, Asia and Latin America. With the end of the Cold War, intra-state instead of inter-state conflicts predominate. Many of these conflicts have generated vast numbers of refugees, such as the civil wars in Somalia and Rwanda. Moreover, the disintegration of the former Yugoslavia presented Western Europe with an acute refugee problem, and many feared that the conflict would lead to increased instability in the region. The events of 1989–91 also led to an upsurge in movements of asylum seekers from Eastern Europe to the West.<sup>21</sup>

Corresponding in time with what has been called the ‘crisis of the welfare state’, a wave of right-wing parties popped up across Europe in this period, often arguing that many asylum seekers were in fact economic migrants who were using claims of persecution in order to evade immigration restrictions. As witnessed in most European countries, a result has been popular resentment and extreme-right campaigns and violence against immigrants. This has led some scholars to call immigration to Western Europe the heir to communism after the end of the Cold War (Weil 1992, Garcia 1992).

The conflicts in the Balkan states nevertheless confronted Europe with the most complex and extensive refugee crisis since the Second World War, and the Yugoslavian crisis thus injected urgency into the process of restructuring the Western European refugee strategy. It is likely that the refugee exodus from Bosnia arose on top of an existing concern in Western Europe over increasing migration from various parts of the world, and served as an impetus for tendencies that were already present. The majority of national economies in Western Europe have been under pressure during recent years with high unemployment and structural adjustments. In light of this, financially demanding asylum procedures have been viewed with increasing anxiety. Due to the fact that a large proportion of asylum applicants have been allowed to stay despite being refused refugee status (acceptance on humanitarian grounds), existing refugee policy has generally developed into a costly and time-consuming system, in which questions of fairness have also been raised. As stated by Lavenex regarding the case of Bosnia:

The Bosnian crisis was a marker both in terms of border control and in relation to internal conditions in the recipient country. Whereas refugee policy in principle belongs to the realm of human rights, it turned out to be a border control issue where the (in this case obviously legitimate) right for refugees to seek protection was discarded. For the refugees who were actually accepted, the novelty temporary protection was supposed to cater to the fear of permanent immigration, seen from the authorities’ point of view (Lavenex 1999:37).

In the Bosnian case, the majority of Western European countries discarded their normal practice of considering each case individually, and introduced temporary protection on a collective basis. The Bosnian case thereby clearly revealed the contentious nature of immigration policies, and the interdependence of the European countries in the face of refugee crisis.

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<sup>21</sup> The number of new asylum seekers in European OECD countries increased from 116,000 in 1981 to a peak of 695,000 in 1992 (Castles & Miller 1998:88).

However, the realism in these threat scenarios may be discussed. Among experts there is near consensus that both politicians and the media tend to dramatise the prospects (Brochmann & Hammar 1999). Historical parallels are drawn to show that the *de facto* flows of today are by no means alarming compared with earlier times in Europe. Besides, immigration ‘pressure’ is obviously also a function of how strictly border control is enforced. As long as foreign labour was in demand, immigration pressure was not an issue in the West. However, the point made by constructivists is precisely that if immigration is perceived as a threat, it *becomes* a threat, until the public can be convinced of the contrary. It is in the end the *feeling* of being swamped, as well as worries in relation to the unpredictability of the future that substantiate general anxiety over immigration. This topic is further discussed in chapter four.

### 3.4 The European integration process

A third explanatory factor regarding changing European perceptions of asylum and immigration, relates to the European immigration process. The end of the Cold War provided the Union and its member states with increased freedom of action, and at the same time it boosted the Union’s external relations. The fall of the Iron Curtain and German reunification were important factors to explain the signing of the Treaty on the European Union (TEU) in Maastricht in 1992 (Dinan 1999). The acceleration of the EU integration process must also acknowledge that important changes were made by the member states themselves within the sphere of international politics. The signing of the European Single Act in 1985 provided the Union with a single institutional framework, and decided to establish the Single Market within the end of 1992. In this way, economy and politics were tied together into a whole, thereby pushing forward the development of common policies. The TEU can be regarded as a continuation of the main line the Community has been following since the 1969 Hague summit, whereby the authority of the Community institutions is gradually deepened (Sæter 1993:80).

Not even mentioned in the 1957 Rome Treaty, co-operation on asylum and immigration matters long evolved outside the European Community framework. The ‘Ad Hoc Group Immigration’, established in 1986, emerged from an already existing forum, the TREVI group,<sup>22</sup> founded at the European Council in Fontainebleau in 1976. Located outside the Community framework, its task was to co-ordinate justice and home affairs in the field of internal security and public order, especially in matters of terrorism and organised crime. The TREVI group’s scope was, however, qualitatively expanded in the mid-1980s, as a reaction to the confirmation of the internal market project in the 1986 Single European Act, whereby ‘an area of free movement of goods, capital, services and people should be ensured by the end of 1992’.<sup>23</sup> Fearing a loss of control over immigration into their territories after the abolition of internal borders, the TREVI ministers decided to establish a formally independent ad hoc group on immigration, with a remit to safeguard internal security (Bigo 1996).

22 TREVI: Terrorisme, Radicalisme, Extrémisme et Violence Internationale.

23 Single European Act, Article 8A.

It has been claimed that the intergovernmental co-operation that eventually developed amongst EU member states was inspired less by the growing pressure of the world refugee problem, than by the reaction of national governments to the forthcoming abolition of internal border controls in the context of the Single Market project (Dinan 1999, Monar 2000). This was because the abolition of border controls would lead to a loss of control over the entry of persons to the territory. Especially with regard to asylum seekers, it was feared that freedom of movement would be accompanied by an increased abuse of domestic asylum procedures through the simultaneous or repetitive allocation of multiple asylum claims in several member states, or ‘asylum shopping’ (Lavenex 1999).

Thus, co-operation on asylum and immigration matters largely emerged as a counter-reaction to the prospect of the abolition of internal borders, and was presented as a necessary compensatory measure to safeguard internal stability and security. As we shall see in the following, the Schengen process and the Maastricht Treaty marked the beginning of a common approach to asylum and immigration (3.4.1), whereas co-operation only gained true momentum after the 1997 Amsterdam summit (3.4.2).

### **3.4.1 The beginnings of co-operation on asylum and immigration**

As a consequence of the lost control at national borders following the Schengen agreement, entry control was supposed to be reinforced at the external Schengen borders, and so-called ‘compensatory measures’ should be developed.<sup>24</sup>

The Schengen agreement is often claimed to have had an inconsistent impact on immigration control in Europe (Marinho 2001). On the one hand it introduced the right to free movement for third country nationals having entered the Schengen area legally. It also substantiated the responsibility of the ‘first country’ to handle asylum applications (unless they are ‘clearly unfounded’ and therefore refused directly at the border). On the other hand, entry into the Schengen area was (at least intentionally) made even more restrictive and, not least, the internal control within different nation states has been stepped up through the Schengen Information System (SIS), and through physical units on the ground. As I will argue in chapter four, there is little doubt that through the Schengen system, immigration has been handled as a *security* issue (den Boer 1998, Brochmann & Hammar 1999). The categorisation of asylum and immigration as purely ‘compensating measures’ for the loss of control over internal borders, strongly underlines this argument.

Asylum and immigration issues were institutionalised following the 1993 Maastricht Treaty, when listed as two out of nine ‘areas of common interest’ in the new and intergovernmental third pillar.<sup>25</sup> Although now formally inte-

24 ‘Compensatory measures’ is here another term for increased mobilisation of security and internal control systems. Apart from regulations on the fight against drugs, terrorism, international crime and police co-operation, compensation included measures relating to the entry and the expulsion of non-EU citizens and asylum seekers.

25 The third pillar comprised the questions of asylum, the crossing of external borders, immigration, drugs and fraud, together with judicial, customs and police co-operation. The reluctance of member states to engage in binding obligations in the field is proved through the adoption of informal, non-binding instruments such as ‘resolutions’ and ‘conclusions’.

grated into the structure of the European Union, co-operation in these matters was left to the intergovernmental level. The third pillar of the Maastricht Treaty only provided limited institutional innovations and formalised the existing structure of the Ad Hoc Group Immigration<sup>26</sup> (den Boer 1998). But the fact that agreement was first reached over the issue of asylum illustrates the priority given to this field of co-operation by the member states.

The cornerstones of co-operation in the area remain the Dublin Convention of 15 June 1990,<sup>27</sup> and the draft Convention on the Crossing of External Borders. The impact of these agreements on European asylum policies has been considerable. Although initially framed as a limited side aspect of the implementation of the Single Market, the two agreements redefine the rules of international co-operation in asylum matters amongst EU member states, and restrict the conditions of entry for third-country nationals. The central rule regarding asylum is the implementation of a system of redistribution for handling asylum claims based on the 'safe third country' rule. This rule establishes the single responsibility of one signatory state for the examination of an asylum claim. Coupled with the conclusion of readmission agreements, the application of the 'safe third country' rule to Central and Eastern Europe has led to the unilateral incorporation of these newly liberalised countries into the emergent EU refugee regime. Based on the so-called London resolutions, the result is reduced pressure on national asylum determination systems by two strategies: the rapid singling out of applications which are regarded as bogus, and the externalisation of those asylum seekers who do not reach the Union's territory directly, but who have passed through a country in which they could have found protection.

The agreements do not aim at substantive harmonisation as both the procedures for the examination of an asylum claim and the criteria for the determination of refugee status remain within the competence of the member states. Notwithstanding this, the purpose of these measures has been evident: to prevent the uncontrolled movement of immigrants and asylum seekers in the European Union and limit their access to member states' territories and asylum procedures. But as we shall see, dissatisfaction with the functioning of the third pillar resulted in the transfer of asylum and immigration to the supranational first pillar at the 1997 Amsterdam summit.<sup>28</sup>

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26 The Commission was given a new right of initiative, to be shared with the member states, and the European Parliament was allowed a limited involvement foreseen through its regular information and consultation on principal aspects of the activities in these areas.

27 The full name is the Dublin Convention on the State Responsible for the Examination of an Asylum Claim. The Dublin Convention has taken over the respective provisions of the Schengen Implementing Convention.

28 As a general rule, organisational changes should only occur after a 'transitional period' of five years following the entry into force of the revised Treaty. Then, the Commission should be granted the sole right of initiative and the Council will take a decision regarding the greater involvement of the European Parliament. The central decision-making body remains the Council which, contrary to previous expectations, continues to work under the unanimity rule. A more significant amendment was taken with regard to the role of the European Court of Justice, which is granted the competence to give preliminary rulings over Council acts in asylum and immigration matters. However, this competence could in practice be limited by the accompanying clause that it should not apply to measures 'relating to the maintenance of law and order and the safeguarding of internal security'.

### 3.4.2 Towards a common EU asylum and immigration policy

The Amsterdam European Council transformed the development of EU policies in justice and home affairs into a fundamental treaty objective, whereby the new Article 2 TEU provided for the maintenance and the development of the EU as an ‘Area of Freedom, Security and Justice’. This new integration objective was at the same time strengthened through the communitarisation of large parts of the former third pillar, the incorporation of the Schengen *acquis*, new and more appropriate legal instruments and improved judicial control. This was followed by the decision of the Commission to set up a new Directorate-General for justice and home affairs, and a special European Council in Tampere in October 1999 which provided for a significant set of new guidelines for the areas of asylum and immigration. It is not an exaggeration to say that the objective to develop a common asylum and immigration policy only gained true momentum after the Amsterdam Treaty revision, and the decision to establish an ‘area of freedom, security and justice’<sup>29</sup> (Guild & Harlow 2001, Marinho 2001).

Up until the Amsterdam Treaty, all asylum and immigration initiatives had been justified as compensatory measures to be put in place before the abolition of internal border controls. However, in the years following the Maastricht Treaty, a number of initiatives had been adopted,<sup>30</sup> whose logical connection to the necessities of the Single Market appeared to be rather remote. For example, the progressive harmonisation of national asylum policies was slowly becoming a goal in itself. As described by Boccardi (2002: 153):

Overall, momentous progress was made in the field of asylum and immigration at Amsterdam. Confirming the slow transition which had taken place in the years following the Maastricht Treaty, new areas of co-operation were introduced that did not specifically relate to the objectives of the internal market. Harmonisation of national asylum policies – or at least aspects of them – had finally become an objective in itself. The new Title IV TEC did not lay down any substantive harmonisation principles, but it “equipped” the Community with the necessary instruments to fulfil its new asylum objective.

The new and more effective instruments in JHA matters resulting from the Amsterdam IGC can be seen as an indication of an EU pledge to develop a common asylum and immigration policy, an approach that was long endorsed by the Commission and the Parliament. Partnerships with third countries of origin and transit were to be incorporated into the EU’s external relations, and to be the guiding principle of the common asylum and immigration policy. As previously mentioned, it was thought that by establishing a political dialogue and trade and aid links with countries producing migration flows, or affected by transit migration, the causes of population displacement could

29 The Amsterdam Treaty contained a five-year transition period: five years after its ratification, the Council acts by unanimity, the Commission only has a shared right of initiative, and the Parliament is consulted only on proposed legislation. After the transition period, the Commission will acquire an exclusive right of initiative and the Council will decide whether to use the co-decision procedure to enact legislation on the free movement of people, but the Council must make that decision unanimously.

30 Among those initiatives were for instance those concerning the uniform interpretation of Art.1, GC, minimum standards for asylum procedures and burden-sharing.

be addressed more effectively. This approach indicates a qualitative shift in terms of a commitment towards a holistic asylum and immigration policy, replacing ‘compensatory measures’ with a more co-ordinated immigration strategy. In the next chapter, the argumentative logic behind such a strategy is further examined.

### **3.5 Concluding remarks**

The oil crisis and the following economic set-back in the early 1970s marked the beginning of extensive restructuring processes in many European countries, leading to the so-called ‘immigration stop’ after a period where liberal immigration policies had prevailed. The end of the Cold War, and the following upsurge in asylum seekers from Eastern Europe to the West, followed by the dissolution of the Soviet Union and Yugoslavia, and the ‘crisis of the welfare state’, injected urgency into the process of restructuring the Western European asylum and immigration strategy. The concept of ‘temporary protection’ following the Bosnia crisis signals a change of policy regarding European standards of refugee protection.

Gradually developed as a European policy area as a response to the Single Market project, progress on asylum and immigration in the EU was long hindered by the cumbersome decision-making structure and the structural inadequacies of the Maastricht third pillar provisions. This chapter has indicated that the development towards a common asylum and immigration policy was boosted by the Amsterdam European Council in 1997, creating an area of freedom, security and justice. This development reflects a response to challenges and factors of instability that can be found, amongst others, in migration pressures, and in the poor economic conditions and the socially and politically instable regimes of the countries of origin. New objectives and instruments have been developed to deal with a growing immigration pressure, and this change towards a holistic approach to migration must be understood in light of the changed conditions for asylum seekers and immigrants that were the object of this chapter.

In sum, the factors described in this chapter provide the background variable for a changed European immigration discourse. Such a discourse, frequently presenting asylum and immigration issues as security challenges, is the object of the next chapter.





## 4. European perceptions of immigration as a security threat

As described in chapter three, and despite the obstacle constituted by concerns about the loss of national sovereignty in the area of immigration and internal security, the member states of the European Union have begun to undertake concerted action in this field. This chapter goes beyond the national arena, and deals primarily with European perceptions of challenges emanating from asylum and immigration. Having discussed the nature of security, as well as when and how an issue becomes a security matter, I will study EU discourse to examine *to what extent the phenomenon of asylum and immigration is defined as a security threat*.

This question is answered by structuring the chapter in three parts; by discussing European discourse on asylum and immigration matters employing a typology developed by den Boer (1995:98). Den Boer points to three cornerstones for the construction of immigration as a threat to the internal security of EU member states: i) the link between immigration and crime; ii) the link between immigration and economic instability; and iii) the link between immigration and instability caused by xenophobia and racism.

The typology is interesting because most of the contentious links referred to above relate to national immigration policies, yet they are often mentioned in the context of international, communitarian immigration measures. Moreover, most of the areas mentioned above are linked with the democratic necessity of controlling or preventing social outrage, racist abuse, unlawful exploitation and possibly even anarchy. An internal security problem may not be directly caused by the presence of immigrants in society, but in the way in which interior and judicial authorities are seen to be in control of potential trouble. An internal security problem is, therefore, at least as far as immigration is concerned, a problem of image and belief in the democratic competence of the authorities to guarantee a balance of treatment between various groups in society. Various EU documents are compared according to the theoretical and methodological framework previously identified.

### **4.1 The link between immigration and crime**

The end of the Cold War presented the EU with new challenges, such as German reunification, and the daunting prospect of a future enlargement to the East. The fundamental changes that had occurred in the world's security order, led Robert Aliboni, a prominent security expert, to state that:

What is at stake is not national security in a conventional sense, but the security of European democratic polities and the welfare and civic order of the latter as they have developed after the end of the Second World War. The most important

spill-over effects concerning the EU are related to immigration, terrorism and internationally organised criminality (Aliboni 1998:2).

Aliboni's underlying premise is that our understanding of security is changing. Following the logic of the widened security concept, Aliboni enlarges the security concept to include the welfare of individuals, as well as the survival of the state. But Aliboni takes a step further, and continues to sketch the new security challenges of the post-war era, including immigration as one of them. In the following I shall argue that listing immigration together with terrorism and organised crime is symptomatic of the emerging understanding of the phenomenon of immigration. Following Aliboni's reasoning, we shall see that the perception of migratory flows as bringing internal security into jeopardy often slips into the vocabulary of national security considerations.

The link between immigration and crime is the general headline when looking in particular at three areas of co-operation that all have a tendency to emphasise immigration as a security threat. These are: securing the Single Market (4.1.1), the fight against organised crime (4.1.2) and the discussions about future enlargement (4.1.3).

#### **4.1.1 Creating security in the Single Market**

As previously stated, asylum and immigration issues were only properly addressed following the establishment of the Single Market, when these areas were ranged as two out of nine 'compensatory measures' in the accomplishment of a 'border-free Europe'. The signing of the Schengen Implementation Convention and the Dublin Convention in 1990 already signalled an intensification of national policy harmonisation in the areas of border controls, visa and asylum. Various statements imply that fear of immigration pressures, and the impact of immigration flows on criminal activity in the Union, was an important motivational factor in these developments. During the discussions about the implementation of the Single Market at the EU summit in Edinburgh in 1992, immigration was clearly denominated as a destabilising factor:

It noted the pressures on Member States resulting from migratory movements, this being an issue of major concern for Member States, and one which is likely to continue into the next decade. It recognised the danger that uncontrolled immigration could be a destabilising factor and that it should not make more difficult the integration of third country nationals who have legally taken up residence in the Member States (Bulletin of the European Communities – BEC 12-1999:22).

Employing words such as 'major concern' and 'uncontrolled' contributes to reinforce the importance of the issue, and easily creates associations to the concept of survival. 'Society' is projected as the main referent object, because the threat of 'uncontrolled immigration' is directed against the integration of third country nationals already residing in the Union. Not likely to decrease in pressure, the quotation indicates that the EU perceives immigra-

tion to be a grave destabilising factor, and that tension between groups could proliferate through increased immigration. This implies an understanding of an objective threshold regarding how much immigration pressure Western European societies can handle. The actual scope of such a threshold, however, is not specified.

The well-functioning of the Single Market was also a hot topic at the Dublin summit in December 1996. The Irish presidency went to great lengths to explain the need to create the new objective of an ‘area of freedom, security and justice’ as a guarantor of the functioning of the Single Market, and to protect the population from ‘threats to their personal security’ (European Council 1996:13). In this context, asylum and immigration initiatives were once again presented as mere ‘flanking’ measures for the establishment of the internal market. The international human rights dimension was almost completely ignored when it was stated that:

Issues such as immigration, asylum, visas and external borders...must be handled collectively if free movement in the Union is to be achieved without jeopardising the security of citizens (ibid.:13).

Unfortunately, in what way asylum seekers and immigrants might have constituted a threat to the safety of EU citizens was left unexplained. However, the communication continues to sketch the importance of communitarising asylum and immigration at the next IGC, and implicitly acknowledges the link to international crime when stating that:

The Dublin European Council calls on the Intergovernmental Conference to incorporate in the treaty provisions which will make it possible to combat international crime successfully, particularly by communitarising policies on asylum, immigration, visas, anti-terrorism measures, organised crime, drugs, fraud, corruption and trafficking in women and children (European Council 1996, paragraph 11).

Presented in this fashion, the communitarisation of asylum and immigration serves the main purpose of successfully combating international crime. It is assumed that co-operation on asylum and immigration will enable a stronger fight against bogus asylum applications. This is seen to be necessary because the loss of control following the abolition of internal borders could lead to a further increase in such applications, and a resulting destabilisation in the countries taking refugees. Not only is a link created between immigration and crime, but co-operation on asylum and immigration is presented as a mere instrument in the fight against international crime.

One can argue, however, that this passage highlighted the theoretical model on which the development towards a common asylum and immigration policy has been conceived. Addressed in the context of the Single Market project, the immigration and asylum question is being framed as a challenge to the free movement of persons in Europe. Boccardi (2002:127) describes the process as an ‘intergovernmental-inspired vision of a liberal “freedom-from” polity, where the Union citizenship was seen as “a minimal framework of civil rights” in the context of the Union’s market-building

vocation'. In such a vision, European citizens are identified as the referent objects, by separating them from the 'foreigners' who need to 'be excluded in order to make the citizens feel secure' (ibid.). Such an understanding of the integration process as mainly economically driven is quite widespread amongst scholars (Hoffmann 1982, Moravcsik 1998). The assumption is that economic issues take precedence over the softer policy areas of asylum and immigration. Instead, migration issues are shaped by domestic pressures and interactions which in turn are often conditioned by the constraints and opportunities that derive from economic interdependence.

According to Buzan et al. (1998:119), societal insecurity exists when a group defines a development as threatening for its own survival. Describing immigration as a '*threat to personal security*', the European Council can be described as a securitising actor at the European level, who defines citizenship as limited to member states' citizens. However, the approach of the European Council contrasts clearly with that of the Parliament and the Commission. In the Commission proposal to create a 'Social Europe', immigration is referred to as a resource and a strength to the European societies (European Commission 1996). According to the Commission's model, citizenship should be characterised by extensive political, social and economic rights for all without exclusion. "Social Europe" can therefore be called a supranational vision of an inclusive model.<sup>31</sup> In the Commission's view, the area of freedom, security and justice is merely one of the many aspects of Union citizenship, whereas for the European Council it actually constituted the starting point for all subsequent rights.

The tendency to link asylum and immigration to crime and to the security of the Single Market is also apparent in the Schengen Convention. However, contrary to the other aspects covered in the Convention, asylum and immigration matters were not specifically mentioned in the agreement of 1985. The subsequent insertion of asylum provisions was justified by a passage in Article 17 of the Schengen agreement, simply stating that:

With regard to the free movement of persons, the Parties shall endeavour to abolish checks at common borders and transfer them to their external borders. To that end, they shall endeavour first to harmonise, where necessary, the laws, regulations and administrative provisions concerning the prohibitions and restrictions on which the checks are based and to take complementary measures to safeguard internal security and prevent illegal immigration by nationals of States that are not members of the European Communities (Schengen Implementing Convention, Article 17).

The wording of the article indicates that immigration controls were seen as a vital function of public security, and primarily as a compensatory measure in the creation of the Single Market. Arguably then, the starting point and central concern of the Schengen Convention is not refugees, but the question of freedom of movement and creating security within the territorial borders of the EU. As Malcolm Anderson (1996:11) explains, *borders* have highly

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<sup>31</sup> The Commission proposal COM (96)90 of 28/2/96 was seen as a 'blueprint for a new approach to Union citizenship based on a "European social model" of an inclusive nature', and was supported by the Parliament (Miles and Thränhardt 1995).

symbolic power: as institutions they define a legal understanding of the sovereign state; and as processes, they are markers of identity, invested with mythic significance in building nations and political identities.

There is, however, a dangerous side-effect to this process. By framing asylum matters in the context of a border-free Europe and the inevitable necessity of controlling the internal movements of aliens, asylum policy becomes increasingly identified as a mere part of immigration controls, and as a tool to combat international crime. On this background, it can be argued that member states appear to be losing sight of the fundamental aspect of protection, and increasingly subject refugees to the same restrictive trends they imposed on prospective migrants. As was argued by the Parliament:

A Convention on the responsibility for asylum applications should in theory have been about protection from persecution and access to protection (European Parliament 1999:3).

However, by linking the two conventions, the principle of states' responsibility for asylum applications became primarily a function of public security and the protection aspect was inevitably played down. Moreover, by emphasising the priority of control and internal security over the humanitarian value of asylum and refugee protection, internal security is presented as a process that can only be achieved through stricter border measures whose prime aim is to fight international crime. As will be shown in the next passage, this process has been accelerated by the emphasis on the fight against organised crime.

#### **4.1.2 The fight against organised crime**

Problems connected to law and order often constitute the core of immigration debates, and have therefore formed the politics of European governments. Globalisation, increased population mobility and the opening up of external borders are all reasons why organised crime has increased throughout Western Europe since the 1980s. European governments' problems in controlling the actions of non-state actors, have led Susan Strange (1996: 121) to characterise international organised crime 'as a major threat, perhaps *the* major threat to the world system in the 1990s and beyond'.

Throughout the 1990s, questions of organised crime were repeatedly connected to immigration (Lavenex 1999, Monar 2000). Bigo & Leveau (1992:9) note that the perception of migratory flows as bringing international security into jeopardy, often slips into the vocabulary of internal security considerations. Use is made of simple rhetoric, which usually starts with 'of course we should not confuse the concepts of terrorism, drugs, organised crime with that of immigration, but...' (ibid.).

According to Huysmans (1995:53), the functional expansion of certain intergovernmental frameworks at the European level (such as TREVI, whose remit originally only covered terrorism) with the concern over migration, is symptomatic of the construction of an internal security continuum. Such a security continuum was further developed by the Schengen Convention and the Dublin Convention, putting migration into the same basket as the

struggle against drugs and terrorism, police co-operation, mutual assistance in criminal matters etc. The European Parliament Committee on Racism and Xenophobia has, ever since TREVI, accused EU member states of an ‘unacceptable amalgam’ across the various committees, dealing with criminals on the one hand and with migrants on the other (European Parliament 1991: 128). Just after having become an EU member state, this amalgam between immigration and organised crime is exemplified by a statement by the Swedish government, in a report called ‘Sweden in Europe and the World’:

Unemployment, organised crime and new risks of serious internal social tensions i.e. as a consequence of the last decades’ large migration flows to Europe constitute problems also in the established democracies of Western Europe that under unfavourable conditions may undermine the foundations of democracy (Swedish Ministry of Defence 1995:17).

The change from a relatively ethnic homogenous society to a somewhat more heterogeneous ethnic composition is referred to by the Swedish government as a phenomenon that in its extension may threaten democratic institutions. Migration flows are uncritically perceived to be an important cause of social tensions, unemployment and organised crime, but the report lacks any statistical evidence to support these allegations.

Parallel government statements can be found in most EU member states. The Italian Minister of Defence, Mr Carlo Scognamiglio, pointed to Islamic fundamentalism as the threat that replaces the threat of communism and proposed the use of the army in immigration control (Bigo 2000: 187). In Germany, Helmut Kohl considered the Kurdistan Workers’ Party (PKK) to be an exclusively terrorist party and a threat to national security, while in France, the 1995 bomb attacks relaunched the surveillance of all immigrant associations and the strengthening of legislation concerning not only terrorism but immigration and political asylum (ibid.).

It is possible to argue that national government rhetoric has a tendency to be harsher than EU rhetoric first and foremost because government officials respond directly to their electorates. EU co-operation on asylum and immigration is based on unanimity, and statements have a tendency to be diplomatic and politically correct to accommodate the views of all of the member states.

An exception to this general tendency, however, can be found in the ‘Strategy Paper on Asylum Policy’ that was written by the Austrian presidency in the summer of 1998. The paper was secretly distributed to member states during the first meeting of the expert committee on asylum and immigration, but was quickly leaked by an Austrian newspaper, causing extreme alarm among human rights experts across Europe. The connection to organised crime was made explicit, as cited in Boccardi:

Of the original proposal, only short extracts and summaries provided by the press were available for analysis. The language was characterised as blunt, the contents as reiterating once again a paranoid vision of a “Fortress Europe” under assault...and migrants as sources of crime and instability. The main Austrian idea appeared to be the need for a unilateral rewriting of the Geneva Conventi-

ons. The revised version certainly displayed a more “politically correct” tone, but it remained, nonetheless, a very powerful proposal, very different in tone and content from previous EU asylum and immigration initiatives (cited in: Boccardi 2002:157).

The intense criticism that surrounded the paper (it was never intended for public consumption), caused several member states to officially distance themselves from the Austrian perspective, and the Presidency was eventually obliged to withdraw it and reformulate its position. Explicit linkages between immigration and organised crime were made, and the choice of title indicated an intention to treat refugee issues within the broader framework of migratory problems. Only once, towards the end of this very lengthy proposal, did the authors acknowledge that there ‘should be a clear analytical distinction between the accepted legal concepts of asylum and immigration’ (ibid.). Throughout the proposal, the two terms were used interchangeably. The importance of this Strategy Paper should not be undervalued as it represented the first global vision of a future EU asylum and immigration policy to be officially expressed after the signing of the Amsterdam Treaty. Although it was never adopted at the subsequent Vienna Council as a common policy statement, it undoubtedly influenced the parallel drawing of the new Action Programme demanded by the Cardiff Council in June 1998 (Boccardi 2002:160).

The link between immigration and organised crime can thus be found in both member state and EU discourse, where the referent objects often refer to ‘society’ or ‘democracy’. According to the language of Buzan et al. (1998), the existential threat can be characterised as the very identity and homogeneity of the European societies. However, immigration is not only linked to, but becomes a part of organised crime, when referring to the phenomenon of *illegal immigration*. In the last decade, illegal immigration has been the most discussed and disputed topic in immigration debates. As stated by the Parliament:

The traffic and employment of illegal immigrants is often linked to other forms of international organised crime. In order to combat all forms of illegal immigration, the Assembly recommended, in particular, the elaboration of a convention which would impose sanctions upon those smuggling illegal migrants into the country and those employing them. (...) Illegal entry goes hand in hand with criminal activity, (...) the networks cover the sale of drugs and weapons, gambling houses, prostitution, the “adoption” of children, the sale of human organs, and the sale of false and stolen documents as well as the counterfeiting of money (Europe 1993:15).

Human rights groups, such as the European Council on Refugees and Exiles, have reacted against the categorisation of different kinds of immigrants under the heading ‘illegal immigration’ (ECRE 2002). Some groups face the risk of refoulement if they return to their country of origin, but by treating these groups in the same manner as for instance economic migrants, this sig-

nificant difference is overlooked.<sup>32</sup> Moreover, it can be argued that by connecting illegal immigration with categories such as organised crime, the group is subjected to criminalisation. Since the focus of this section lies on presentations of migration as a security threat, it is important to highlight the fact that so-called illegal immigration does not have to be securitised, neither rhetorically nor in praxis. Bosniak (1991:744) shows that until the early 1970s, undocumented immigrants constituted up to 80% of all immigration to France, and was simply described as ‘spontaneous migration’ and tolerated as such. This was also the case in other Western European countries.

But with stricter border controls, illegal immigration has become connected to other forms and practices of organised crime. Limitations on the intake of immigrants in Europe since the 1970s, have created a lucrative market for human trafficking. According to statistics from the International Organisation for Migration, about 30% of all illegal immigrants, and 40% of all asylum seekers who arrived in Western Europe in 1993, used trafficking services (Borgen 2001:60). Human trafficking is regarded as a threat because it undermines government laws and procedures regarding residence, immigration and asylum.

In this respect, an attempt to counter illegal immigration and human trafficking has been made through so-called ‘carrier sanctions’. Measures relating to carrier sanctions were contained in Chapter VI under the heading of ‘Measures relating to organised travel’ in the Schengen Implementing Convention.<sup>33</sup> As stated in a communication from the Commission to the Council:

The prevention and the fight against illegal immigration are essential parts of the common and comprehensive asylum and immigration policy of the European Union...The creation of an area of freedom, security and justice requires all Member States to effectively apply common rules effectively. The common security system is only as strong as its weakest point. Consequently, it is crucial to enforce existing rules properly as a main priority (European Commission 2002a:24).

According to the above statement, the EU is described as a ‘security system’, and measures such as carriers’ liability are designed as mechanisms to improve the functioning of this system. However, the UNHCR has repeatedly stressed that the way EU states have designed and enforced their carrier sanctions violates their obligations under the 1951 Geneva Convention, and places an unbearable burden on untrained airline personnel.<sup>34</sup> The referent

<sup>32</sup> ECRE argues that particularly three types of persons should not be included in the term ‘illegal immigrants’. These are 1) those who are failed asylum seekers; 2) those whose protection status has ceased; and 3) those whose temporary protection has ended after they have had effective access to the asylum system. Facing the risk of refoulement, ECRE suggests these three groups be defined as ‘people who no longer have a legal basis for remaining in the EU’ (ECRE 2002).

<sup>33</sup> They provide for the compulsory introduction to the member states’ legislation of two types of measures. Firstly, it establishes the responsibility of the carrier to return every illegal alien to the country of origin, the country of departure, or a third country which would guarantee entry. Secondly, it provides for the introduction of penalties against carriers that transported aliens without proper travel documents from a third state into the Schengen territory.

<sup>34</sup> See, for example, Conclusions of the International Protection of Refugees, adopted by the Executive Committee of the UNHCR, published by the UNHCR, 1991, pp.52-53.



object being the ‘security systems of Member States’, one is led to believe that immigration affects both state and society. The feeling of vulnerability on the part of the EU forces through the perception that extraordinary measures are necessary in order to guarantee internal security. Employing the terminology of Wæver (1995:55), the introduction of carrier sanctions brings the issue out of ‘normal politics’, because state responsibility for countering illegal immigration is partly placed upon private parties.

Moving next to the discussion on asylum and immigration within the context of eastward enlargement, the securitising moves are made even clearer.

#### 4.1.3 Eastward enlargement

As all the eastern neighbours of the EU have applied for membership in the Union, and negotiations for accession commenced in 1998 with five of these applicant states,<sup>35</sup> the main stretch of the erstwhile Iron Curtain is destined to become an internal EU boundary in the following few years. However, the enlargement facing the EU today poses a unique challenge, since it is without precedent in terms of scope and diversity: the number of candidates, the area (increase of 34%) and population (increase of 105 million), as well as the wealth of different histories and cultures (European Commission 2002b). The Central and Eastern European countries constitute not only the immediate backyard of the EU’s emerging internal security zone, but also an area of primary concern to the EU security regime. Serious structural weaknesses in the policing and border control systems, a high incidence of corruption in some countries, exposure to organised crime and migratory flows, have all added to the perception on behalf of the EU member states, that enlargement will be a big and potentially even dangerous challenge in the area of internal security. On this background, the Luxembourg European Council in 1997 stated that:

Extending the European integration model to encompass the whole of the continent is a pledge of future stability and prosperity... The applicant countries must share a commitment to peace, security, and good neighbourliness, respect for other countries’ sovereignty, the principles upon which the European Union is founded, and the integrity and inviolability of external borders (European Council 1997:13).

The emphasis of the European Council is on the need to maintain the security standards of the EU when a future enlargement takes place. Stringent external border measures are presented as a condition for the stability and prosperity of the Union – central values upon which the integration process is founded. The referent object can be interpreted as the integration process *per se*, because the failure to adopt to the European integration model will have the effect of hampering a successful accession.

Part of the accession process is the demand by the EU that the applicant countries police their eastern borders efficiently. In this respect, European

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<sup>35</sup> These were Poland, the Czech Republic, Hungary, Slovenia and Estonia.

Commissioner of the Single Market, Mario Monti, told the Polish government that:

Poland's chances of joining the EU depends to a great extent on how well it polices its borders. The strengthening of Poland's eastern border is seen as the first attempt to erect a serious obstacle to illegal immigration flows and illegal trade from east to west (cited in den Boer 2000:95).

The Commissioner signals the priority of border controls over other topics in the accession negotiations. Schengen standards, in other words, are being exported eastwards in order to prevent organised crime, and to secure the future eastern frontier of the EU. Immigration can be interpreted as a political threat because it can lead to the undermining of democracy. The direct language is reminiscent of what Buzan et al. (1998) call the 'grammar of security' – because what is at stake is the very survival of the political system. According to Buzan et al. (ibid.), societal insecurity exists when a group defines a development as threatening to its own survival. The perception of immigrants as representing flows rather than individual human beings, reinforces the threat image of immigration. Metaphors like 'flood', 'invasion', and 'hungry hordes' play on people's fear and insecurity in the receiving countries.

The fact that immigration issues are of importance, not only to the EU's internal security, but also to its foreign policy, became obvious already in 1994, when a Commission report on enlargement stated that:

If migratory pressures are not carefully managed through planned co-operation with the countries concerned, they could all too easily give rise to friction, damaging both to international relations and the immigrant populations themselves (European Commission 1994:11).

The argumentation technique is typical of that of creating a security discourse, whereby the societies of the EU member states are referred to as the referent objects. Economic and political problems in the applicant countries are increasingly perceived to be European problems that impinge upon EU states. The argument is that if the Eastern European countries do not take actions to improve their economic and political situation, increased immigration will lead to confrontations between population groups, as well as problems maintaining law and order. Turning migration into a question of external and internal security, the Union could thus use this argument as a negotiating tool, when the strategies towards eastward enlargement were laid.

On behalf of the Committee on Civil Rights, a member of the Parliament comments on the approach of the Commission and the member states regarding enlargement:

As opposed to the objectives of the Amsterdam Treaty, most Member States have no true and consistent immigration policy in relation to other European countries. To develop a common policy, the participation of all the Member States and the candidate countries is needed. For success, the following are indispensable: an attitude of convergence, solidarity and mutual trust, with a strong commitment to equalisation and proportionality, and a common responsibility

for the management of the external borders. This requires an interpillar, integrated approach, in particular with regard to the relationship with third countries and transit of migrants. It is necessary to take account of migration policy in other fields, such as regional policy, social policy, education and external relations. We will get nowhere without a multidisciplinary approach (Watson 2001:48).

Taking a more inclusive stance, the Parliament has a tendency to employ strong words as a call for action, and to criticise the lacking ability of member states and the Commission to make decisive decisions. The committee representative goes on to say that ‘a coherent policy was, and still is, lacking’ (ibid.). Employing words such as ‘solidarity’, ‘convergence’ and ‘mutual trust’ projects an image of equal footing with the candidate countries. The Parliament also emphasises the need for a multidisciplinary approach, suggesting a holistic understanding of asylum and immigration issues. However, the Parliament is often accused of using strong words and a call for action without taking account of budgetary restraints and diverging member states’ positions. As a result, Parliament discourse tends to be of a more critical and direct nature.

Moving next to the link between immigration and economic instability, such institutional differences in European discourse are even more highlighted.

## **4.2 The link between immigration and economic instability**

The consequences of shaping policy issues in a certain rhetorical mode become vital for those concerned when a certain representation becomes dominant in press and public discourse. As I will argue in the next sections, securitising moves have been especially noticeable in European discourse that has created a link between the notion of immigration and that of economic decline or instability. In a situation of economic restructuring and high unemployment, the argument favoured by European far-right politicians has often been that immigrants constitute an additional burden on already strained European societies, linked with the fear of ‘immigrants stealing our jobs’. But at the European level, economic arguments to reduce immigration are often of a more subtle nature. In the next sections I will argue that the link between immigration and economic instability has been particularly visible throughout the 1999 Kosovo crisis (4.2.1), as well as in establishing ‘partnership’ action plans on third countries (4.2.2).

### **4.2.1 The Kosovo crisis**

In Kosovo, Europe faced the most dramatic humanitarian crisis since the Second World War. More than a million people were displaced, some 700,000 persons within Kosovo, the others fleeing towards Montenegro, Albania and Bosnia-Herzegovina (Mahncke 2001:135). As during the Bosnian crisis (see chapter three), the EU was heavily criticised for its inability to act swiftly and successfully to restore stability and stop aggression. Collectively endorsing NATO action, and leaving the substantial part of the military campaign to the Americans, the EU finally agreed to

provide practical support to assure refugee relief (Council of the European Union 1999a, The Independent International Commission on Kosovo 2000).

Prior to the war in Kosovo, however, European Union countries were criticised for failing to acknowledge the difficult situation for the many Kosovo Albanians, who were trying to flee from their country. Sweden and Germany signed readmission agreements with the Federal Republic of Yugoslavia (FRY) in 1996, and began repatriating Kosovo Albanians despite reports that a quarter of those repatriated were questioned, threatened or incarcerated upon their return (Campaign against Racism and Fascism 1999: 2). In Austria, only 10% of Kosovo Albanians' asylum claims were successful, and in the UK, where an immigration appeal tribunal decided in 1997 that 10,000 Kosovo Albanian asylum seekers were genuine refugees, the Home Office refused to give refugee status immediately to the claimants, saying it would deal with them on a case-by-case basis (*ibid.*).

These national reactions were accentuated despite an appeal by the UNHCR to European governments in March 1998 not to return rejected asylum seekers from Kosovo (U.S. Committee for Refugees, 1998). At the same time, the German Interior Minister, Manfred Kanther, criticised the seven German states that had agreed not to deport Kosovars, saying that:

The decision sends out a devastating signal that could encourage more ethnic Albanians from Kosovo to seek asylum in Germany (cited in U.S. Committee for Refugees, 1998:3).

The economic reasoning behind these actions was strengthened when German Internal Affairs Minister Otto Schily described the acceptance of Kosovo refugees in the countries of the EU as 'the last of resort, and the last of several possibilities for aid'. Moreover, in August, the Austrian Interior Minister, Karl Schlögl, said that:

Austria will not provide temporary protected status and assistance to Kosovar Albanians, as was given to Bosnians, because they do not have the same willingness to integrate (*ibid.*).

These statements leave a lot of questions unanswered. While the first statement seems to regard all immigration from Kosovo as a general evil, a view that is enhanced by employing the word *devastating*, the second statement builds on the peculiar comparison of Kosovar refugees with Bosniak ones. The Kosovo population is regarded negatively, in that they are assumed to be unable to integrate. Any acknowledgement of their life situation was left un-commented. The link between immigration from Kosovo and economic instability is implicit in these statements, because the problems referred to regarding the acceptance of Kosovo Albanian refugees were in the last instance economic. Assumably, the signal sent to these refugees were 'devastating' because of the economic ramifications their integration would entail. In addition, most of the discussion between EU countries in this period concerned quarrels over burden-sharing.

At the EU level, in September 1998, as more Albanians were being killed and burned out of their homes in Milosevic's offensive, an EU home minist-

ers' meeting expressed concern at 'the risk of massive migration outflow', but did nothing to plan for the organised reception of the many thousands that would have to flee. Apparently, all the EU member states were keen to keep the 'problem' of war refugees out of their countries.

The Commission indeed emphasised the security aspect of migration, when the External Relations Commissioner, Christopher Patten<sup>36</sup>, commented on the Kosovo crisis, stating that:

Our citizens rightly expect the European Union to prevent, or at least to manage effectively, conflicts in its own backyard. The best contribution the Commission can make to EU foreign policy, is the ability to bring Community policies (such as trade, aid and migration) to bear on the EU's foreign policy objectives (Patten 1999:1).

Exactly how migration policy could bear on foreign policy objectives was left unanswered. But by including migration as an aspect of foreign policy, and as a tool in the management of the Kosovo crisis, Mr Patten indirectly underlined the security aspect of migration policy. On the positive side, the Kosovo crisis certainly proved that a good co-ordination of foreign policy and the will to devise a unanimous front in security matters were able to make an enormous difference in the solution of refugee crisis. Indeed, Kosovo showed that the military had an important role to play in the everyday management of such a crisis.

On the other hand, the technological development has revolutionised the mass media, and at the same time the immediacy of conflicts. Because of the popular outrage and distress that images of mass suffering create, democratic countries are heavily pressured to 'do something' to mitigate the suffering. Arguably then, and as I shall come back to in chapter five, a possible way of easing popular outrage without creating a long-term asylum commitment to the Kosovar refugees was found in the so-called 'temporary protection regime'. This regime affords practical assistance to war refugees without giving them any expectation of permanent settlement in the EU.

Despite this criticism of the EU's role in the solution of the Kosovo crisis however, there is no doubt that this became a humanitarian campaign, and the concern with the destiny of the Kosovo Albanians was repeatedly expressed by all EU member states. The EU and NATO repeatedly stated that they had a 'moral duty to end the violence and the humanitarian disaster in the province'. As stated by the Berlin Council in 1999:

Europe cannot tolerate a humanitarian catastrophe in its midst... We, the countries of the European Union, are under a moral obligation to ensure that discriminate behaviour and violence are not repeated. We are responsible for securing peace and co-operation in the region. We have a duty to ensure the return to their homes of hundreds of thousands of refugees and displaced persons. This is a way to guarantee our fundamental European values, i.e. respect for human rights and

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<sup>36</sup> Rt Hon Christopher Patten, CH Member of the European Commission responsible for External Relations: 'The Future of the European Security and Defence Policy (ESDP) and the role of the European Commission', Conference on the Development of a Common European Security and Defence Policy – The Integration of a New Decade. Berlin, 16 December 1999.

the rights of minorities, international law, democratic institutions and the inviolability of borders (Bulletin of the EU 3-1999:1.40).

The reader is struck by the consistency in the norms fundamental to the EU's role (such as democratic values and human rights), and the endorsement of action to ensure the handling of the refugee crisis. Claiming that 'we are responsible for securing peace and co-operation in the region' can easily be interpreted as a justification for intervention. Acknowledging such a responsibility thus implies the endorsement of military intervention as a form of appropriate behaviour. But although an intervention finally came, European responses to the Kosovo refugee crisis will largely be remembered through the innovation of temporary protection and the quarrels over burden-sharing.

The next section examines the so-called 'partnerships with third countries' that were the result of the Tampere European Council in December 1999. Founded on the principles of dialogue and equality, the link between immigration and economic instability is particularly visible in the strategic outlines of the partnership action plans.

#### **4.2.2 Partnerships with third countries**

The Tampere Conclusions refer to partnership with immigrant countries of origin and transit<sup>37</sup> as guiding principles underlying a common asylum and migration policy. According to the Tampere 'milestones', co-operation with immigrant source countries is to be an essential element of such a strategy (European Council 1999). It was argued that, by establishing a political dialogue and trade and aid links with countries producing migration flows or affected by transit migration, the causes of population displacement could be addressed more effectively. At the same time, instability in third countries is assumed to have unfortunate and spreading economic consequences for the EU countries (*ibid.*)<sup>38</sup>

The interpillar approach suggested here had long been the objective of the EU's Mediterranean policy. Provisions that include migration are present in policies designed for the whole Mediterranean, most notably in the EU's Euro-Mediterranean Partnership Initiative (EMP), launched in November 1995. Through its three chapters the EMP has sought to create a holistic, symbiotic and all-encompassing approach to the creation of what the Barcelona Declaration calls a 'region of peace and stability' (European Commission 1995). As it was described in a Commission proposal in 1994:

The Mediterranean basin constitutes an area of strategic importance for the Community. The peace and stability of the region are of the highest priority to

37 Instead of the term 'country of transit', the term 'countries in the neighbouring region' has been preferred in recent EU documents. Iran and Pakistan have hosted hundreds of thousands of Afghan refugees during two decades now and can therefore hardly be considered as countries 'of transit'.

38 The High Level Working Group decided on the selection of countries for preparations of an action plan to implement the partnership initiatives on 25 January 2000. The action plan covered Afghanistan/Pakistan, Albania and the neighbouring region, Morocco, Somalia and Sri Lanka. The group was also tasked with providing an assessment of the existing action plan on the influx of migrants from Iraq and the neighbouring region (see Council of the European Union 1999b).

Europe. To consolidate that peace and stability in the region, a number of challenges have to be faced, notably: (i) to support political reform, respect for human rights and freedom of expression as a means to contain extremism; (ii) to promote economic reform, leading to sustained growth and improved living conditions, a consequent diminution of violence and an easing of migratory pressures (European Commission 1994).

The Commission proposal reflects the worries of the EU member states regarding factors that contribute to create conflicts in the EU's near abroad, including migratory pressures. The inclusion of migration indicates the role of migratory pressures as a function of increased security. The importance of this region for the security of Europe is further emphasised through accentuating the need to develop peace and stability in the region. To this end, both economic and political factors are deemed important.

Clearly, at the end of the Cold War, the Mediterranean region constituted the main gap on Europe's strategic map. Through the EMP partnerships, efforts have been made to include the Mediterranean in Europe's security considerations, employing a holistic approach that also accounts for the perceived challenge of migration from this region. Implicit in the above statement is the assumption that migratory pressures are a source of economic instability, and that the EMP initiative offers a remedy through the creation of peace and stability.

The same logic can be found in the partnership action plans with immigrant countries established at Tampere. Inherent in the argumentation for partnership agreements is the focus on security. As stated in a Commission communication:

Preventive action should be aimed at preventing situations conducive to large-scale refugee or migratory movement...Prevention must be aimed at addressing potential sources of instability and insecurity (cited in Van der Klaauw 2001:22).

The statement openly admits to the need to reduce the immigration pressures facing the EU. However, the impression of migratory movements as sources of instability is enhanced when the communication continues to state that: *'the ultimate goal of such strategies is to promote stability and security'* (*ibid.*).

Failing to specify for whom security is required, the assumption is that partnerships with third countries are necessary to ensure the security and stability of the Union. Such formulations provide a subtle way of presenting immigration pressures as a security threat, and do not comply with the 'grammar of security' discourse referred to by Buzan et al. (1998). But even if the referent object remains unclear, the communication indicates the urgency of EU action.

The initiative to deal with root causes of migration was much appreciated by refugee organisations and human rights activists (Marinho 2001). However, the promising declarations to create partnerships with immigrant countries of origin have been met with criticism regarding their implementation.

The main objections have been raised by the Parliament<sup>39</sup>. A report to the European Council in Nice in December 2000 noted that:

There is a general problem of integrating objectives relating to migration into development policies, and the lack of sufficient human and financial resources are the main impediments to implementing the Action Plans. There is the risk of an unbalanced approach with emphasis on security and control aspects which are often quicker and easier to implement, than measures aimed at promoting respect for human rights (European Parliament 2000:7).

While endorsing the interpillar approach stipulated in the partnership initiatives, the Parliament warns against the priority to ensure security over matters such as human rights. Compared to the discourse used by the Commission and the Council, the Parliament seems to have a different view of what an ‘interpillar approach’ in immigration questions means. The view taken by the Parliament is that high priority should be given to adequate funding to ensure a proper and balanced implementation of the action plans. The Council’s interpretation of an interpillar approach has been that justice and home affairs elements are to be ‘factored into the EU’s external relations with target countries, rather than providing JHA policies with an external, foreign policy dimension’.<sup>40</sup> Although this must be called a vague definition, the implications of introducing migration policy in the EU’s foreign and security policy are obvious in terms of securitisation. As I shall return to in chapter five, including asylum and immigration matters as an element of the Union’s security policy means, at least in terms of organisational value, to turn the issue into a security matter.

In the next section, however, discussions on asylum and immigration shift away from a focus on an integrated approach towards a European discourse that is highly influenced by the new geopolitical realities facing the European states today.

### **4.3 Linking immigration and instability due to racism and xenophobia**

Argumentation in favour of stricter immigration control is often legitimised by the need to prevent xenophobia and racism, typically warning against right-wing popular insurgency. National politicians have helped in constructing immigration as an internal security threat, as when the former British Foreign Secretary, Tristan Garel-Jones, expressed that ‘maintaining firm immigration controls helps to keep fascism at bay’ (cited in: Goldsmith 1992:39). This philosophy was echoed by the former British Home Secretary, Kenneth Baker, who said that “if immigration flows are not checked, extreme nationalist politics will resurge right across Europe” (BBC documentary 1992). The ideology reiterated by these statements is that

<sup>39</sup> Mainly due to pressure from the Parliament, a special budget heading for external actions in the field of migration and asylum was created in 2000 to reinforce the Commission’s role in the implementation of the action plans.

<sup>40</sup> This was confirmed in the report submitted to the Feira European Council, June 2000, on the EU priorities and policy objectives for external relations in the field of justice and home affairs, para II (a).



governments should introduce tough controls to exclude immigrants because xenophobia and right-wing extremism are reactions against a growing number of immigrants. Consequently, these phenomena risk endangering the internal security and national stability of the individual member states.

Wæver et al. (1993) point to society as a referent object that is to be distinguished from the sovereign state. The interpretation of mass migration, together with European integration, is considerably bound up with the separation of society from the state: foreigners, understood as cultural others, are primarily seen to threaten society, rather than the state. Hence, the justification of politicians for control-inspired and exclusive measures is often related to the fear of racist extremism, and how this might impinge on society.

Immigration policy became a top priority issue at the European Council in Seville in June 2002. Especially set to focus on illegal immigration, the Spanish Prime Minister, José María Aznar, leading the Spanish Presidency, described illegal immigration as ‘the most important question in European politics at the moment’ (Financial Times 21 May 2002). European discourse on asylum and immigration particularly figured in two debates that both tended to create a link between immigration and instability caused by racism and xenophobia: namely, the dramatic change in the world’s security order after the events of 11 September 2001 (4.3.1) and the perceived need to fight illegal immigration (4.3.2).

#### **4.3.1 11 September and the fight against terrorism**

Ever since the establishment of the TREVI group in the mid 1970s, efforts have been made at the European level to find common solutions to terrorist threats, especially regarding the activities of European left radicals, separatists or right-wing extremists. Clearly, the attacks on the US on 11 September 2001 provided a sense of urgency to step up co-operation. As it was emphasised by a Commission proposal on combating terrorism on 19 September 2001:

Terrorism constitutes one of the most serious threats to democracy, to the free exercise of human rights and to economic and social development. This has never been clearer than in the terrible aftermath of the unprecedented, tragic and murderous terrorist attacks against the people of the United States of America on 11 September 2001 (European Commission 2001a).

As a result, several measures were agreed upon, including the decision to establish a European arrest warrant.<sup>41</sup> On 7 May 2002, moreover, the Commission proposed measures for the integrated management of the EU’s external borders, including the longer-term objective of setting up a European corps of border guards. Although this must be characterised as a

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<sup>41</sup> The European arrest warrant replaces the current extradition system. Its mechanism is based on the mutual recognition of court judgements. The basic idea is that when a judicial authority of a member state requests the surrender of a person, either because he has been convicted of an offence, or because he is being prosecuted, its decision must be recognised and executed automatically throughout the Union. Refusal to execute a European arrest warrant must be confined to a limited number of hypotheses (see European Commission 2001b).

contentious proposal, it signals the increasing attention given to the fight against terrorism after 11 September. The EU High Representative, Javier Solana, highlighted the challenges facing the EU after 11 September, and included migration issues as an integrated part of these challenges, when he stated that:

Security threats, and our responses to them, were evolving rapidly even before 11 September. That challenge has now doubled: we are having to rethink our entire security strategy. Ever since the end of the Second World War, the causes of conflict have had little to do with the nineteenth century concept of sovereign nations...Security risks today arise from a variety of causes, such as poverty and lack of economic development, disintegration of state structures, ethnic and religious conflicts, organised crime, uncontrolled migrations, environmental disasters. The transnational nature of these risks has rendered purely national responses much less effective if not totally inadequate (Solana 2002a).

The views expressed by the High Representative give resonance to the works of Buzan et al. (1998) and the Copenhagen School regarding a widened notion of security that encompasses a broader agenda than military defence. The statement indicates a stronger attention to these challenges in the aftermath of 11 September, and suggests that new security threats were exacerbated after this event. 'Uncontrolled migration' is explicitly referred to as a security threat, and a risk that needs to be acted upon collectively. The listing of uncontrolled migration as one out of many new 'security threats' in need of extra attention after the events of 11 September creates the impression that migration is a destabilising and potentially disruptive force.

Moreover, the threat of terrorism gives legitimacy to defensive actions. In the aftermath of 11 September, political leaders have repetitively employed the words 'terrorist activities' to describe what they perceive to be illegitimate opponents, whether that be on the part of Israeli authorities to characterise Palestinian opposition, or Russian President Putin's description of Chechen rebels. Using the 'terrorist argument', and the need for action after 11 September inject increased salience to measures aimed at imposing stricter immigration controls. While the referent object remains unclear in the passage, a similar speech by the High Representative regarding 'new security threats', gives further details on the matter:

An assessment of the threats to European security, conventional and unconventional, requires an understanding of what triggers conflict, its root causes, and its nature in the modern world...The relatively new phenomenon of mass movement of people has meant that we live in multi-ethnic multicultural societies, in which distant conflicts almost always have a resonance on the part of our own society...To conclude, the primary security task for European nations is no longer territorial defence and our survival is not threatened as it was in the era of the Cold War. What we must defend today are our values, interests and stability – and these do not end at our borders (Solana 2002b).

Immigration is again described as a destabilising factor, whereby multicultural societies bring with them a risk of fragility and vulnerability. But the

referent object is not the state, but the very survival of Western European values, i.e. our identity. The impression is that of conflict between Western European and non-Western European values, implying that the two are indeed incompatible. This easily creates what Wæver (1993) calls a ‘we-them’ feeling, where co-ordinated action is needed to avert the loss of common values.

In the aftermath of 11 September, fears that the incidence should lead to a deterioration in the relationship between the West and the Arab world were widely proclaimed, also by EU representatives.<sup>42</sup> Perceptions of Muslim fundamentalism as a security threat to Western societies can clearly have repercussions for Arab immigrants to the West. It is difficult, however, to find clear examples of EU statements suggesting that Islam and Islamism constitute security challenges. Signs of tensions between the two ‘camps’ are more easily traced. For example, Shireen Hunter (1997:141) explains how the fear of Islam is deeply rooted in the collective memory of Europeans dating back to the rivalry between Islam and Christianity in the era of crusading. In modern times, the fear of Islamic fundamentalism is primarily related to the Iranian revolution in 1979, bringing to power a revolutionary Islamist regime in what the West considered to be a strategic allied state (Borgen 2001:67). Terrorist acts performed by Islamist movements during the 1980s and 1990s contributed to enhance the connection between Islam and security, because the fear led to a formulation of discourse in security terms. The Secretary General of NATO, Willy Claes, described Islam fundamentalism as ‘the greatest threat to European security after the fall of communism’ (Europe, no. 6416, 1995:3), indicating that Islam has replaced communism as the leading ideological challenge to the Western world.

Hence, there is reason to believe that Islam to some extent already constituted a threat in the eyes of Western policy makers before the events of 11 September. A report by the Western European Union (WEU) in 1993 lists *‘migration and refugee flows as the third biggest threat against European security, after instability in Russia and in the former Soviet republics’* (WEU 1993:8). Describing immigrants from the south as a threat to national identity, the report exclaims:

Many of the migrants from the South have not, or do not want to assimilate into Western European society. For different reasons, many of them prefer to keep and cultivate their cultural identity. For many, accustomed to newcomers seeking to assimilate and integrate, this multiculturalism is seen as a threat (ibid.).

Reiterating Wæver’s vocabulary and the creation of a we-them continuum, the report suggests that Western societies have difficulties integrating large groups of immigrants, and that immigrants’ resistance to integrate affects a society’s ability to govern. Post-war non-European immigration has transformed most European states into multicultural societies, where the presence of a large Muslim population is especially dominant. Following the above statement, immigration is perceived to be a threat against national identity

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<sup>42</sup> See for example Javier Solana: “My Message to the Arab World”, Article published in the Arab League Countries’ newspapers on 27 March (Solana 2001), and Proposal for a Council Framework Decision on combating terrorism, (European Commission 2001a).

when large groups of immigrants wish to maintain their cultural, linguistic and religious traditions in their new countries of residence instead of assimilating. Here, the underlying logic has often been that since popular disapproval of governments' immigration and refugee policies may increase the room for manoeuvre for populist and right-wing extremist parties, immigration may in the long run threaten democracy. Immigration thus becomes an urgent issue, since the popular opinion in this area remains important to all politicians in power.

According to Wæver et al. (1993:45), immigration has the potential to redefine 'the nation', thereby redefining the idea of the state as a consequence of the changes in the ethnic composition of the population. The clearest examples of immigrants being presented as security threats can be found in the discourse of extreme right-wing parties, such as the French Front National, and the Dutch party of Pim Fortuyn. In France, Bruno Mégret, one of the Front National's leaders, has on several occasions claimed the return of immigrants to be a question of 'national survival' (Borgen 2001:64). The threat of 'islamisation' was here one of the main arguments, endangering the French principle of 'la laïcité'; the French Republic's principle of reducing religious influence in the public space to a minimum. In fact, surveys from a variety of countries show that the fear of Islam is dominant throughout Western Europe, and that this religion is highly associated with violence (Spencer 1993:53). Cultural stereotypes have rendered the discussions on integration of immigrant groups difficult, and the enemy picture created by the events following 11 September and the ensuing war on Afghanistan could contribute to an 'islamisation' of the Muslim population in Europe, and thereby create social unrest and ethnic tensions. Signs of this is visible throughout Europe today, where extreme right-wing parties have gained an unprecedented popularity and upsurge. Although not regarded as a threat in itself in EU documents, Arab immigration is often indirectly included in the presentation of other security challenges, for example when identifying Arab countries as unstable regions. A similar process, we shall see, relates to the concept of 'illegal immigration'.

#### **4.3.2 The fight against illegal immigration**

The fight against illegal immigration topped the agenda at the Seville European Council in June 2002, where the Spanish Presidency was keen to win approval for a new action plan to improve external border controls. In fact, illegal immigration was described as 'the most important question in European politics at the moment', by José María Aznar (Financial Times, 7 June 2002). It can be argued, however, that the European discourse that followed the Seville Council failed to draw a clear line between legal and illegal immigration, but instead confounded the one with the other. Following his meeting with the Prime Minister of Luxembourg, Jean-Claude Juncker, Mr Aznar, the President of the European Council, stated that:

Immigration must be neither a fortress nor a sieve, nor wide open. Unless Europe's leaders tackle the phenomenon of immigration seriously, there could be many problems in the future. The landscape has changed. We can no longer

maintain the line that there is room for us all, with legal and illegal immigrants alike (Press statement, Spanish Presidency web-page 10 June 2002).

The statement suggests that the very phenomenon of immigration, both legal and illegal, constitute a burden and a challenge to the societies of the EU. Failing to distinguish between the two categories, the impression is that Western European societies lack the capacity to host both legal and illegal immigrants. The referent object 'we' gives the impression of a common European stance and the impression of shared solidarity in the face of a common problem. The immigrant is negatively defined; he or she lacks something which is considered crucial for normal membership. Commenting on the Spanish agenda in Seville to fight illegal immigration, the Italian Interior Minister, Claudio Scajola, introduced the security argument when telling the Guardian that:

We don't want Europe to turn into a fortress, but we want to promote an integrated model that will guarantee the security of our citizens within our common space (The Guardian Friday 31 May 2002).

The implication of this statement is that the security of EU citizens within the common European space requires stricter immigration measures. The statement made by the Italian minister must take account, however, of the strategic location of Spain and Italy as the guardians of the external EU border to the south. Providing the entry gate into the Union from the south, these countries have been advocates of stronger external border measures, and a division of funding to initiate such measures. But even if the motivations of the southern member states seem relatively clear, the security argument is a powerful one, bringing with it a sense of urgency, and the capacity to place immigration at the top of the political agenda.

The sense of urgency was enhanced by the British proposal at the Seville summit, to make overseas aid to developing countries conditional upon their co-operation in cracking down on illegal migration, and their taking back rejected asylum seekers. The proposal was met with harsh criticism from human rights groups. Amnesty International stated that 'any sense of balancing objectives of security and immigration control with human rights and protection obligations appears to have been lost altogether' (The Guardian 13 June 2002). Romano Prodi, president of the Commission, sounded a note of caution, telling governments to:

Take care not to undermine democratic principles and retreat into nationalism. Recent political signals we have received are very clear. We cannot allow the question of security to take a back seat. Nor can we go back and retrench on nationalistic positions. This is not going to help us rise to transnational challenges (ibid.).

The position of the Commission contrasts sharply with the tone of the Council and the Presidency. Mr Prodi even infers that the proposal risks undermining the very principles upon which our democracies are founded. Moreover, the security argument is presented as a step towards far-right nationalism. Although the British proposal to withhold aid to third countries was not

adopted in its original form, a strong caution and a signal was clearly made, when the Seville Presidency conclusions stated that:

The European Council considers it necessary to carry out systematic assessment of relations with third countries which do not co-operate in combating illegal immigration. Inadequate co-operation by a country could hamper the establishment of closer relations between that country and the Union...In that event the Council may, in accordance with the rules laid down in the treaties, adopt measures or positions under the Common Foreign and Security Policy and other European Union policies (European Council 2002).

Although failing to specify what criteria constitute 'inadequate co-operation', the Presidency conclusions signal the view of illegal immigration as a challenge and a threat, and warn that sanctions could be introduced if third countries should decide not to co-operate with the Union. If sanctions were to be introduced following the Seville declaration, it would be an example of a securitising move that turns into a successful securitisation. According to Buzan et al. (1998:25), 'securitisation is not fulfilled only by breaking rules (which can take many forms), nor solely by existential threats (which can lead to nothing), but by cases of existential threats that legitimise the breaking of rules'. In this case, the European Council in Seville does not only signal a deterioration in the relationship with countries that fail to co-operate in combating illegal immigration. Instead, the statement opens up the possibility of taking extraordinary 'measures' should the Union deem it necessary. The statement thus signals the importance of the immigration issue for the Union's role with third countries.

Many academics have pointed to the inaccuracies inherent in the presentation of illegal immigration by national and European policy makers. Miles and Thränhardt (1995:76) have proven flaws in immigration statistics in many of the EU countries. For example, Italy is commonly believed to be 'flooded' by an uncontrollable 'wave' of immigrants, especially from North Africa. Speculations about the exact number of foreigners living illegally in Italy have produced widely different figures. While some estimates speak of a total of between 1.5 and 2 million illegal aliens, Montanari and Cortese argue that in 1990 there were fewer than 500,000 illegal migrants from non-EU countries (ibid.). With 57 million people, illegal immigrants represent less than 1% of Italy's total population, and it is therefore doubtful whether one can speak of an immigrant flood to that country. An important aspect of this problem is described by den Boer (1995:97):

The question is whether Europe's internal security is at stake as a result of immigrants taking advantage of Europe's exposure. The "internal security-gap" ideology ignores the lack of substantial evidence about the effectiveness of border controls against crime and illegal immigration, and injects a belief into the public that international crime and illegal immigration are new phenomenon reinforced by the abolition of border controls.

Den Boer points to the lack of evidence and reliable numbers in the debate concerning immigration pressures. According to den Boer (ibid.), the rhetoric of populist right-wing parties, largely focusing on social benefit

abuse by immigrants, conceals a certain hypocrisy: namely that some governments regard clandestine immigration and employment as instrumental in certain sectors of the economy. Moreover, in Britain, critics have noted that allegations of supplementary benefit abuse, and illegal immigration itself, are ‘marginal features of the social scene but they command disproportionately great attention and an actual maldistribution of administrative efforts and other public resources’ (den Boer 1995:98). The virtual absence of abuse of the social security system by (illegal) immigrants has also been echoed in the Netherlands (*ibid.*).

Although some will dispute such findings, or argue that the exact numbers regarding illegal immigration are not available, an internal security problem still constitutes, at least as far as immigration is concerned, a problem of image and belief. As emphasised by Buzan et al. (1998), when an issue is repeatedly stated as an internal security problem, and when extraordinary measures are adopted to deal with it (such as an unexpected strengthening of the EU external borders), asylum and immigration become security matters by virtue of being referred to as such. As witnessed in this chapter, proclaiming asylum and immigration as an internal security problem has been described to happen ever since the issue was brought into the Community fold. Evidently, security arguments continue to constitute an important feature of European asylum and immigration discourse, as recently expressed by the 2002 Seville European Council.

#### **4.4 Concluding remarks**

This chapter has focused on the political significance of the migration question in the European Union. It has highlighted how migration essentially articulates more than a managerial question of how to effectively manage transnational population flows, and the integration or assimilation of immigrant communities. It is entangled with a complex challenge to the legitimate political order of post-war Europe, which is partly reflected in the European integration process and partly exacerbated by it.

In the introduction of this chapter I asked to which extent asylum and immigration issues have been defined as security threats at the European level. To this end, the typology offered by den Boer (1995:98) corresponded well with the structuring of the debate. The securitising moves of European policy makers have been identified in three main discursive spaces: the link between immigration and crime, between immigration and economic instability, and between immigration and instability due to racism and xenophobia.

Regarding the link between immigration and crime, the classification of asylum and immigration as ‘compensatory measures’ in the establishment of the Single Market contributed to the perception of immigrants as a challenge to the free movement of persons in Europe. Eastward enlargement and the fight against organised crime both put an emphasis on providing security to EU citizens through enhancing border controls and harmonising legislation. Linking immigration with the fear of economic instability was particularly prominent in the quarrel over burden-sharing during the 1999 Kosovo crisis, and as an element of the partnerships with third countries. The partnership

initiatives reflected the worries of the EU member states regarding factors that contribute to create conflicts in the EU's near abroad, including migratory pressures. Economic and political incentives were accentuated as a means of enhancing security. Thirdly, the link between immigration and instability due to racism and xenophobia was frequently used as a legitimising factor in favour of stricter immigration control after the 11 September attack on the US, and in the fight against illegal immigration following the 2002 Seville summit. Describing immigration as a destabilising factor, multicultural societies were frequently portrayed as bringing with them a risk of fragility and vulnerability. In particular, stricter immigration measures have been presented as a necessity by European governments in order to decrease the room for manoeuvre for populist and right-wing extremists. At the same time, established national political parties have reformulated their immigration policies in more restrictive terms in an attempt to regain votes from anti-immigration parties. As a result of all this, crime, borders, immigration and threats to national identity have become inextricably intermingled.

The referent objects of the analysis can be found within the confines of the societal security sector referred to by Buzan et al. (1998:119). The referent objects sometimes refer specifically to the EU societies, but are often left unspecified, simply referring to 'Western values' or 'identity', suggesting that there exists a cultural difference between recipient and sending country, and that this difference would affect (i.e. threaten) the cultural identity of the host population. The statements analysed in this chapter can be interpreted as examples of what Buzan et al. (1998:25) call 'securitising moves'; i.e. discourse that takes the form of presenting something as an existential threat to a referent object.

However, this subtle identity discourse on behalf of European policy makers does not completely correspond with the description of 'securitising moves' projected by Buzan et al. (1998:25). According to the Copenhagen School, securitising moves refer to the necessity to implement 'extraordinary measures'. The problem concerning this criterion is that 'extraordinary measures' are quite problematic to propose in democratic and bureaucratic institutions like the EU, because such measures require the circumscribing of regular proceedings. This does not mean that European discourse fails to refer to immigration and asylum issues as security matters. However, the framing of these issues as security issues are not necessarily presented as existential threats requiring 'emergency measures'. This finding suggests that the exclusive use of official documents as data material has certain weaknesses, and that it has proved more difficult than originally presumed to employ the theoretical framework to distinguish between politisation and securitisation in an empirical analysis of speech acts.

Lastly, and regarding the identification of the securitising actors, the question of representativeness has to be posed. How representative is the discourse examined in the general European debate regarding asylum and immigration? Asylum and immigration control has been created within and by forums which are not integral parts of the European Union, thereby constructing a web of intergovernmental relations. The main securitising actors and agenda setters in the European context, therefore, have mainly consisted of



the European Council, the Union Council and the role of the different presidencies. Although the analysis does not distinguish between the relevance of the various statements, it is natural to assume that the ability of different actors to influence the meanings and reflections of politicians vary. As I previously argued, being an intergovernmental matter, the European Council's statements are assumed to embrace shared views, because the decision-making procedure is consensus. On the other hand, the activity of the European Councils is closely coupled to national perspectives, and is often characterised by diplomatic statements, and a reluctance towards expanding EU competencies. This must be taken into account when analysing its common statements.

The Commission enjoys a shared right of initiative with the member states in asylum and immigration issues, and can be seen as visionary and an actor trying to drive the integration process forward, often through the development of long-term strategies. In Commission statements, the integration process *per se* is often the referent object of European security. This must be interpreted according to the unique role of the Commission as agenda-setter and initiator in the European institutional construction.

The Parliament is more often seen to be emphasising the human rights dimension of asylum and immigration measures. The Parliament comes across as more outspoken, with a tendency to frame asylum and immigration in security terms as a means to criticise the inaccuracies and lack of action by the Council and the Commission. Having little impact on the decisions made in the area of justice and home affairs, the views of the Parliament are given less attention, but should not be ignored completely. The above variation in representations, however, is not all together that diverse, leading to the conclusion that the analysis has managed to throw light on the dominant representation of EU perceptions of asylum and immigration.

Moreover, the representativeness of the discourse analysed is put to a test in the next chapter. Chapter five focuses on the objectives and strategies developed through the common EU asylum and immigration policy, and aims at finding out whether the 'securitising moves' proclaimed by EU policy makers, and revealed in this chapter, have been securitised through EU decision-making. This is assumed to give an indication of the extent to which the common asylum and immigration policy also merits to be called a 'security strategy'. Generally criticised for its inability to reveal the true motives behind political statements, discourse analysis should be complemented with an analysis of actual decision-making and 'political facts'. The study of securitisation in the next chapter can be called a step in that direction.



## 5. From perceptions to policy: the European Union's common asylum and immigration policy

While the preceding chapter sought to identify securitising moves by European policy makers in the field of asylum and immigration, the purpose of this chapter is to examine the extent to which these moves have been securitised. To what extent has the threat image of migration developed into a policy framework where new objectives and instruments have been designed as mechanisms to counter these threats? Jef Huysmans refers to the process of securitisation when he states that:

Although migration is often represented as a managerial problem and as a nuisance or even a threat, it is also a force which has a capacity to call into being or at least to support a struggle about responsibility and the nature of the political community in which this responsibility is institutionalised and enacted. In other words, migration is not just a threat or a risk for a community, leading to a call for preserving the community as it is, it is also an anchoring point for political movements seeking the transformation of the political community (Huysmans 2000:149).

It is thus necessary to analyse the creation of specific instruments in the field of asylum and immigration, and the extent to which these can be regarded as instruments of 'threat-management'. In the light of this therefore, I first discuss the extent to which the securitising moves revealed in the previous chapter have become securitised; i.e. turned into actual policies (5.1). Secondly, I explore the relationship between the perceived challenges and the instruments developed, in order to analyse the actual functioning of the common asylum and immigration policy (5.2). Can the development towards a common asylum and immigration policy be called a security policy strategy? Thirdly, and on a somewhat more normative note, the last part of the chapter tries to assess the impact of the common EU asylum and immigration policy on the international regime for refugee protection (5.3).

### 5.1 The securitisation of asylum and immigration

A securitising move was described in chapter two as the 'move that takes politics beyond the established rules of the game, and frames the issue either as a special kind of politics or above politics' (Buzan et al. 1998:23). However, except describing securitisation as requiring emergency measures and justifying actions outside the normal bounds of political procedure, the Copenhagen School gives few indications on how to operationalise the shift from securitising moves to securitisation. The study of measures adopted by

the Council in the area of asylum and immigration is an attempt to operationalise this shift, by delimiting the concept to decision-making and political processes at the EU level (Rieker 2001:3).

In order to follow the reasoning from the preceding chapter, the typology developed by den Boer (1995:98) is also employed to discuss the securitisation of asylum and immigration. The process of securitisation is thus discussed by looking at the link between immigration and crime (5.1.1), between immigration and economic instability (5.1.2), and between immigration and instability caused by xenophobia and racism (5.1.3).

### **5.1.1 The link between immigration and crime**

Chapter four stressed how the securitising moves of EU policy makers could be found in the discursive practices that linked immigration with crime, and most frequently with international crime. However, securitisation goes beyond rhetoric. In the words of Didier Bigo:

Securitisation is not simply rhetoric, but the product of a considerable work of mobilisation. Securitisation rests on the capacity of actors to constitute statistics about their aim and under their own categories, to put them in series, to be able to submit them to examination, to protocols of research, with empirical checks, in short, to produce “a truth” on these statements (Bigo 2000:195).

The ‘criminal migrant’ thesis was shown in chapter four to be frequently supported by EU policy-makers as well as by the media, creating a ‘security short-circuit’ that presents immigration as being synonymous with insecurity. One of the major arguments put forward by the supporters of the ‘criminal migrant’ thesis is the high criminal involvement rate of migrants, and their overrepresentation in European prisons throughout the 1990s. It should be noted, however, that any comparison of the criminal involvement of migrants with that of nationals is by definition problematic. This is so because not only are migrants usually young, male, unmarried, and poor (each of which variable is a criminogenic factor), but they are also often discriminated against by the criminal justice system of their country of residence (Ceyhan & Tsoukala 2002:26). Moreover, migrants tend to be over-represented because when they are involved in criminal activity it is usually crime of a highly visible kind (ibid.).

It is possible to argue that the 1998 ‘Action Plan on establishing an area of freedom, security and justice’ represents a case of securitisation because it constitutes a response to the challenges that have been raised in European immigration discourse. The plan was approved by the European Council at the Vienna summit in December 1998, and laid down the priority areas on which the Council should focus its initiatives in the following five years. The plan pointed out that past initiatives had been crippled by two main weaknesses: their lack of binding effects and the absence of adequate monitoring mechanisms. Hence, the transfer of the asylum and immigration competences to the first pillar at the Amsterdam summit opened up the opportunity to correct such weaknesses with new legally binding instruments.

However, the new legally binding instruments sketched out in the Vienna action plan have been criticised for their emphasis on control and monitoring instead of protection and uniformity. The plan's emphasis on stricter control measures has led some scholars to describe asylum and immigration as a mere security matter in the post-Amsterdam era (Bigo 2000, Lavenex 2001). Highest on the asylum and immigration agenda were indeed measures concerning external border control and burden-sharing. Improving the effectiveness of the 1990 Dublin Convention was seen as essential, and the entry into force of Eurodac was also seen as imperative.<sup>43</sup> The Eurodac system was considered an important mechanism in the Union's fight against organised crime, and as a mechanism to reveal bogus asylum seekers and to monitor migration flows (Council of the European Union 1998b). In fact, according to the Commission scoreboard, only one-third of the Commission's legislative proposals on asylum and immigration have been adopted by the Council so far within the timeframe of five years set out by the Amsterdam Council (European Commission 2002c).<sup>44</sup> The decisions adopted so far refer mainly to the protection of the Single Market against criminal activities related to migration such as human trafficking, and the prevention of 'asylum shopping'. Measures to provide minimum protection standards have yet proved difficult to agree upon.

Moreover, and in order to ensure a more speedy implementation of the priorities of the action plan, the Vienna Council decided to create a European Task Force on Immigration and Asylum that would report to the special October Council in Tampere the following year. Among its tasks were the preparation of a series of reports on a number of countries that were great sources of migration to the EU, ('migration' intended as an influx both of asylum seekers and immigrants), and so-called 'sources of instability'. These reports clearly constituted the precursor of the partnerships with third countries, and were particularly aimed at 'sources of instability', in terms of criminality and social and political unrest (European Council 1998a).<sup>45</sup>

The Vienna action plan thus seems to fulfil the criteria of securitisation, in so far as the main body of asylum and immigration measures decided so far have been directed at securing the Single Market. This point is reiterated by Boccardi (2002:163), claiming that the Vienna action plan aimed primarily to deal with the root sources of organised crime, and lacked a comprehensive strategy of efficiency and fairness. Among the measures deemed less urgent in the action plan – arguably because they were more controversial – were the definition of minimum standards on the reception of asylum seekers and the harmonisation of national carriers' liability laws. The Parliament, commenting on the action plans, indicated that supplementary measures on data protection should also have been included on the agenda, and described

43 Eurodac was envisaged as a database, set up at the Commission, to which member states would communicate fingerprints taken from asylum applicants and certain other illegal aliens, in order to control whether a person had already applied for asylum in another member state. The draft Convention was agreed upon at the 1998 Vienna summit. The proposal was then frozen in order to wait for the coming into force of the new Treaty, so that it could be adopted as a Community legal instrument.

44 The scoreboard is updated every six months and sets out a timetable on how far the Commission and the Council have progressed regarding the objectives set out by the Tampere European Council in December 1999. See European Commission 2002c.

45 The initial six countries chosen were Albania, Afghanistan, Morocco, Somalia, Sri Lanka and Iraq.

the outcome to be more ‘the result of a “reactive” approach than that of a “proactive” comprehensive strategy’ (European Parliament 1999:64).

No doubt, on the surface, the action plans appeared to be a fairly good starting point for the development of a stronger EU asylum and immigration policy. However, the noticeable emphasis on stricter control measures and minimum standards instead of protection measures signalled the priority among EU member states to strengthen the security aspects of this policy area. In that respect, these measures can be seen as a response to the perceived security threats outlined in chapter four. On the other hand, the principle of the respect for human rights, as contained in Article 6 TEU, was to be taken into full account in the Union’s asylum and immigration policy, and consultation with the UNHCR was encouraged. In addition, the principles of subsidiarity, solidarity and operational efficiency were seen as extremely important, and as guiding principles in the development of ‘an area of freedom, security and justice’.

It can be argued that there is no example in history of an emerging political community which has not relied at least to some extent on a distinction between ‘members’ and ‘non-members’, those ‘within’ and those ‘without’. This logic is exemplified by the role of the Schengen *acquis* in the co-operation on asylum and immigration. The mere compensatory status of asylum and immigration has made some academics claim that the Schengen framework has securitised asylum and immigration matters (den Boer 1995: 94). In respect to eastward enlargement, the EU has made the entirety of the Schengen *acquis* an obligatory part of the EU *acquis*, which the applicants will have to accept for admission. As argued by Monar (2000:17), the Union has an obvious interest in expanding its security regime already before the accession of the new member states because it is likely to reduce the risks of the applicant countries ‘importing’ specific internal security risks, such as organised crime, into the Union through immigration flows. Given that the EU member states have had the choice of whether or not to join Schengen, the ultimatum is surprising and unprecedented. In the case that the new members are not able to take on the entire Schengen *acquis*, either their accession to the EU could be delayed, or border controls between the Schengen zone and the applicant countries could be maintained after accession.

As was pointed out in chapter four, the new EU Treaty objective of Article 29 TEU is to ‘provide citizens’ freedom through a high level of safety’. According to Monar (2000:3), the underlying idea of guaranteeing citizens’ freedom through a high level of safety has clear major implications: it implies a fundamental distinction between a ‘safe(r) inside’ and an ‘unsafe(r) outside’, with the EU’s frontiers as the dividing line and law enforcement as the key instrument of securitisation; to maintain and further enhance this distinction. The reference to European citizens’ ‘concerns’ adds a powerful claim to legitimacy regarding this distinction and its full implementation when set out to enlarge the internal security zone of the EU eastwards.

Contrary to the above-mentioned fears, however, a study made by the Commission, suggests a different scenario:

A study called "The Impact of Eastern Enlargement on Employment and Labour Markets in the EU Member States", suggests that only about 335,000 people would move to the EU-15 countries from Central and Eastern Europe even if there were free movement of workers immediately on accession. In fact, the Union has now agreed on a flexible transition period of up to seven years for limiting the inflow of workers from new member states (Boeri & Brücker 2000: 12).<sup>46</sup>

The Commission study counters the fears expressed in most member states that enlargement will bring about uncontrolled immigration. For instance, the data for 1997 in Germany indicates that more foreigners left the country than entered it (*ibid.*). It is also pointed out that the wave of labour migration predicted when Spain and Portugal joined did not materialise.

Thus, fears regarding immigration pressures are often unwarranted. However, one can argue that immigrants are criminalised through the unilateral control rationale of the Schengen *acquis*. Such evidence of securitisation via Schengen control mechanisms can, for instance, be found in the Union's visa policy. Visa policy is a classic instrument of admission and exclusion of foreign nationals. A Schengen visa cannot be issued to any person who has been reported by any of the Schengen countries for the purpose of being refused entry. This means that a third country national may be excluded from the entire Schengen zone if only a single Schengen country has reported him as a 'person not to be permitted entry'. Bø (2002) shows how visa procedures often block the possibility of applying for asylum in most EU countries. In order to apply for asylum in the Union, the asylum seeker has to be in the country of destination or at its borders. However, visa is particularly demanded from persons from so-called 'asylum-seeking countries', and for these countries, visa requests are routinely rejected if the authorities suspect that a visa applicant is a potential asylum seeker. Bø claims that these visa practices contradict the UN Declaration on Human Rights, and its Article 14, stating that 'everyone has the right to seek and to in other countries enjoy asylum from persecution' (Bø 2002:210). Instead, the Union's visa regime serves to criminalise third country nationals, because potential asylum seekers are routinely rejected as 'bogus' asylum seekers. The link between immigration and crime is here of an implicit nature, but nevertheless obvious.

To conclude, the securitisation of asylum and immigration has taken place through the Schengen framework and the Vienna action plan, where the adopted measures have been mainly control-inspired, and have intended to deal with the problem of organised crime and the protection of external borders, while the protection aspect of asylum and immigration has been played down. Although it is the Union's declared aim to arrive at an 'open and secure European Union', the security imperative has so far clearly and by far prevailed over that of openness. The Union's visa regime is a clear example of the securitisation of the link between immigration and crime,

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<sup>46</sup> 'The Impact of Eastern Enlargement on Employment and Labour Markets in the EU Member States' was a study made for the Directorate General for Employment and Social Affairs, by T. Boeri and H. Brücker, European Integration Consortium, Berlin and Milano, 2000.

because certain third country visa applicants are rejected under the suspicion of being bogus asylum seekers even before they apply for asylum. This evidence of securitisation is in line with the model sketched out by Buzan et al. (1998:23), framing the issue as a ‘special kind of politics’, whereby migration policy largely becomes a matter of internal and external control.

### 5.1.2 The link between immigration and economic instability

Chapter four highlighted the extent to which EU discourse on the partnership action plans focused on the need to prevent economic instability in the Union as a result of migration. Commenting on these action plans, Lavenex (2001:136) claims that we have an indication of securitisation when it is recognised that a foreign affairs dimension to asylum and immigration policies exists. The focus of the action plans has been to ensure that migration policy takes into account the political, human rights and development issues in the immigrant countries of origin and transit through *partnerships* with them. The external dimension of the partnerships is emphasised by the 1998 European Council:

The advances introduced by the Amsterdam Treaty will also enhance the Union’s role as a player and a partner on the international stage, both bilaterally and in multilateral forums. As a result, and building on the dialogue that it has already started in Justice and Home Affairs cooperation with an increasing number of third countries and international organisations and bodies, this external aspect of the Union’s activities can be expected to take on a new and more demanding dimension. Full use will need to be made of the new instruments available under the Treaty. In particular, the communitarisation of the matters relating to asylum, immigration and judicial cooperation in civil matters permit the Community...to exercise its influence internationally in these matters (European Council 1998b:2).

Emphasising the external aspect of justice and home affairs, the action plan highlights the ambition of the EU to establish itself as an important international actor.<sup>47</sup> The EU’s external identity has also expanded to encompass elements of justice and home affairs. The High Level Working Group on Migration and Asylum (HLWG) was created in 1998 to develop integrated and cross-pillar operational strategies to address refugee and migration movements from selected main source countries. The securitisation approach referred to by Buzan et al. (1998:23) can be found in the many reports of the HLWG, recognising the mutual dependency between democracy, economic development and security. Commenting on the action plans of the HLWG, van der Klaauw (2001:26) notes:

The ultimate goal of such strategies is to promote stability, safety and security by remedying the variety of factors causing further flows. Comprehensive

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<sup>47</sup> Efforts to enhance the international influence of the EU have been pronounced in the last few years. The development of a European Security and Defence Policy (ESDP) was boosted by the Anglo-French Saint Malo declaration in 1998, and the EU has gained competence over all meaningful security operations short of collective defence (Youngs 2002).



approaches to particular problems of displacement include the promotion of human rights, democratic institutions, good governance and the strengthening of the rule of law in countries of origin.

Liberal Western ideals of democracy and the rule of law are in other words the main components upon which these strategies are founded. The European integration process has proven how conflicts between former enemies have been rendered unthinkable through economic development and regional co-operation. It is precisely because the discursive logic behind the action plans builds on a security argumentation that it is possible to call these measures a result of securitisation. The common asylum and immigration policy seeks to prevent situations conducive to large-scale refugee or migratory movement, and thereby address potential sources of instability and insecurity through economic development. Among the activities thought to contribute to the prevention of situations of migratory movements are preventive diplomacy at national, regional and international level, and the establishment of early warning mechanisms based on timely data collection and analysis (Marinho 2001). According to Van der Klaauw (2001:29), other elements encompassed by these strategies are legal and judicial capacity-building in actual and potential refugee-producing countries, educational, cultural and mass media activity to promote tolerance and reconciliation, and, where necessary, the establishment of an international monitoring of peacekeeping presence in areas of actual or potential displacement.

Van der Klaauw goes on to say that political and social instability is among the principal causes of refugee and migratory movements. The international community can best address these factors through a mixture of effective political pressure, expert technical assistance, generous aid and fair trade measures (Van der Klaauw 2001:28). One can thus argue that the European integration model is sought transferred to the partnership countries, whereby regional economic co-operation becomes an important mechanism for conflict prevention and peaceful co-existence. Liberal trade seeks to increase transactions between states and create a feeling of mutual trust, as well as 'expectations of peaceful change' between the parties.

The thinking behind increased regional trade and deregulation as an instrument in the EU's asylum and immigration policy to limit migration flows, implies that the instruments will promote productivity and increase European investments in the area. This is in turn assumed to create employment opportunities, improve trade balances, increase export revenues and of course reduce migration pressures. The foundations for these strategies can be found in neoliberal economic theory, perceiving economic reforms as crucial for developing countries to be competitive in a globalised economy.<sup>48</sup> As we saw in chapter four, the Seville European summit declined the British proposal to withhold economic aid to partnership countries whose help to tackle illegal immigration was considered inadequate. Instead, a declaration

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<sup>48</sup> Based on the so-called 'Washington consensus', neoliberal economic theory is founded on a common understanding between American authorities, the IMF and the World Bank on the strategy to deal with underdevelopment and debt problems in the third world. The action plan consists of elements aimed at limiting public expenditure, tax reform, liberalisation of trade, strengthening foreign investments, privatise state-owned enterprises and re-regulate production (Borgen 2000:106).

was made whereby economic aid should be used as a ‘carrot’ to countries providing substantial support in the area. The ‘carrot instead of the stick approach’ to economic aid in developing countries is thus a clear example of securitisation through economic strategies in the EU asylum and immigration policy.

The European Council on Refugees and Exiles (ECRE) commented on the Seville Presidency conclusions, saying that:

Regrettably, the Conclusions limit themselves to border control enforcement measures and the evaluation of agreements with host and transit countries to promote their cooperation in the fight against illegal immigration and do not include any measures to ensure access to the EU for those who need protection (ECRE web page, 25.06.2002).

The comments made by ECRE suggests that refugee protection measures are not at the top of the agenda in the EU discussions on required strategies in the field of asylum and immigration. Moreover, the Commission action plans have been criticised for their vague nature, and for trying to replace action by words (Marinho 2001). The partnership action plans have thus been proved to build on a security-based rationale, whereby instruments such as development aid have been introduced to deal with the perceived challenges in this field, such as that of economic instability.

Although not referred to explicitly as a security threat, chapter four described how the link between immigration from Kosovo and the prospect of economic instability became clear through the measures agreed upon to deal with the exodus, including the quarrel between member states over burden-sharing. Fundamentally, the EU dealt with the Kosovo refugee crisis through measures aimed at ‘voluntary repatriation’ (Council of the European Union 1999a:1). The term ‘displaced persons’ had hitherto been used to define persons who were not perceived to be covered by the Geneva Convention, but who were nonetheless in need of protection. They constituted the great majority of the refugees that had fled to Europe during the Balkan conflicts of the early 1990s. It was clear from the situation covered by these initiatives that member states intended their protection to be only of a ‘temporary’ nature, hence the stress on ‘repatriation’. The Joint Actions adopted focused mainly on financing repatriation, but also served the indirect purpose of giving official sanction to the idea that repatriation was an unavoidable part of affording protection. Consequently, most member states contended that the majority of the refugees of the last decade were in fact not Geneva Convention refugees, because their grounds for persecution did not fall under those listed in the convention, or because they could not prove ‘individual’ persecution. This assumption was widely criticised by academics and human rights groups.<sup>49</sup>

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<sup>49</sup> Evidence that the temporary protection regime was not as comprehensive a solution as it had been hailed to be was made clear by the inherent paradox to exclude certain categories of refugees from the protection of the GC. For example, in the case of the Rwandan massacres, Tutsi individuals that might have made it to Europe would have been left virtually unprotected because ethnic cleansing would not have been acceptable as a ground for persecution under the GC. See for example ECRE, *Guarding Standards – Shaping the Agenda* (London, May 1999).

Eventually, quarrels over burden-sharing were subsumed into the new European refugee fund, and a radically revised temporary protection directive was adopted by the Council in July 2001 (Council of the European Union 2001). The handling of the Kosovo refugee crisis corresponds with the securitisation model presented by Buzan et al. (1998:23) in so far as the temporary protection regime can be described as requiring emergency measures and justifying actions outside the normal bounds of political procedure. 'Temporary protection' was an innovation in order to deal with mass influxes of refugees, and was dealt with as an emergency situation needing immediate handling. Chapter four concluded that there is little doubt that EU member states regarded permanent migration from Kosovo as a destabilising and a costly element. In fact, the introduction of the 'temporary protection' clause can be interpreted as an attempt to *circumvent* responsibility laid down in international agreements in order to deal with the costly treatment of long-term refugees.

### **5.1.3 The link between immigration and instability caused by xenophobia and racism**

Chapter four also concluded that European discourse tends to argue that stricter controls should be introduced to exclude immigrants because xenophobia and right-wing extremism are reactions against a growing number of immigrants, and because these phenomena endanger the internal security and national stability of the individual member states. Hence the justification for control-inspired and exclusive measures is related to the fear of racist extremism.

In this area, however, there are less clear examples of actual decision-making on asylum and immigration that refer explicitly to the need to fight racism and xenophobia. There does not seem to be much evidence of what Buzan et al. (1998:23) call emergency measures resulting from politicians 'justifying actions outside the normal bounds of political procedure'.

On the other hand, there are examples of a more implicit nature of decision-making in the EU that securitises the discursive practices revealed in chapter four. The 11 September attack initiated a so-called 'war on terrorism', led by the United States, but closely followed by Western Europe. In a Parliament newsletter on developing the external dimension of the third pillar, it was emphasised that:

The determination to combat racism, anti-semitism and xenophobia constitutes a core element of the Union's external policy and the efforts to combat terrorism (European Parliament 2001:1).

The need to fight racism and xenophobia was thus promoted as a foundation of the policy initiatives promoted in the fight against terrorism. The communication referred in particular to the decision to establish a European arrest warrant, and the framework decision on combating terrorism (ibid.). The European arrest warrant does not cover just terrorists, but will replace all extradition procedures and widen the scope of offences for which people can be extradited. Although an efficient solution to the European extradition re-

gime, human rights groups have warned of the consequences for asylum seekers and immigrants. Statewatch has warned of a witch-hunt against people with Arabic roots, and has suggested that fast-track extradition may expose increasing numbers of innocent citizens to injustice (Statewatch 2001:2). ECRE welcomes the commitment to combat racism and xenophobia in the aftermath of 11 September, but regrets that the Council limits itself to border control enforcement measures, and does not include any measures to ensure access to the EU for those who need protection (ECRE 2002: 1).

In fact, in its communications after 11 September, the Commission has listed a number of principles that should be the foundation of European migration policy, including the fight against racism with the work towards creating peace and stability in Europe's near abroad; encouraging refugees to remain as close as possible to their homes, promoting trade, economic co-operation and fight illegal immigration together with the sending countries (European Commission 2001c). More clearly than before, asylum and immigration issues are integrated in the common foreign and security policy, reflecting the security dimension of JHA issues. It is arguable that we have a case of securitisation when the fight against racism and xenophobia is interpreted as a legitimising factor in the creation of new instruments to promote security in the area of freedom, security and justice.

On the other hand, the EU has issued several declarations that stress the need to fight racism and xenophobia as an integrated element of its justice and home affairs policy. There was already inter-institutional consensus surrounding the 1990 declaration, stating that:

The European Council deplores all manifestations of these phenomena (anti-Semitism, racism and xenophobia). It agrees that vigorous measures must be taken to combat them, whenever and wherever they appear in the Community (BEC 6-1990:20).

The fight against extremism is presented as a matter of urgency, and the Union signals its willingness to employ extraordinary measures in order to combat such movements. The decision to establish a European Monitoring Centre on Racism and Xenophobia is an indication that the Union takes this policy seriously. Moreover, the European Commissioner for Justice and Home Affairs, António Vitorino, has repeatedly emphasised the charter of fundamental rights as a foundation for the area of freedom, security and justice (Vitorino 2000a). In the aftermath of 11 September it has been of particular importance to prevent a criminalisation of the Arab population.

However, the danger of criminalising the Arab population did not arise with the events of 11 September 2001. Following the end of the Cold War, Francis Fukuyama and Samuel Huntington provoked an intense debate that is still going on. According to Fukuyama's (1989) 'end of history' thesis, the lack of ideological clashes after the end of the Cold War would lead to the end of history for the rich countries of the world. Conflicts would still prevail, but principally between rich states and those parts of the world still caught 'in the grasp of history'. The main dividing line would thus be between rich and poor nations, geographically located between the North and the South.

The alleged confrontations between the Muslim world and the West created by the 1990-91 Gulf War, was the background of Samuel Huntington's (1993) thesis that future conflicts would take place between nations and groups from different cultures. The Iraqi invasion of Kuwait mobilised a new coalition of former enemies that joined forces in a massive bombing campaign. Saddam Hussein's encouragement to the world's Muslim population to go to holy war (*jihad*) towards the West, was a reminder to many Europeans of Ayatolla Khomeini's threat in 1979 to export Iran's Islam revolution to the rest of the world. The Gulf War was by many Europeans considered to be a confrontation between Islam and the West, and Huntington argued precisely that the dividing lines after the end of the Cold War would lie between 'civilizations', and that clashes between these would dominate global politics (*ibid.*:22).<sup>50</sup>

Fukuyama's and Huntington's predictions have experienced a revival after the attack on the US on 11 September, and have contributed to fuel an academic debate that examines the relationship between the Western and the Islamic world.<sup>51</sup> I have shown that there has been a wide emphasis from EU policy makers that the fight against terrorism should not under any circumstances be particularly directed at the Arab population. The extent to which EU asylum and immigration measures become securitised as a result of the fight against terrorism, where the Muslim population is particularly targeted, is yet too early to say. But I have pointed to the warnings made by human rights groups such as Statewatch and ECRE that the European arrest warrant and the framework decision on terrorism might impinge negatively on innocent immigrants and asylum seekers. Whether this will be the case must be the subject of a later analysis. In any case, the revival of Huntington's thesis, and the intense debates on Western-Arab relations after 11 September have clearly put a stronger emphasis on the security dimension of asylum and immigration policies, and have caused a debate in most EU member countries regarding the extent to which national asylum laws admit 'terrorists'. It is thus possible to argue that the dynamics of securitisation have been fuelled in part because the EU has chosen to react to the events of 11 September through its asylum and immigration policy.

But the actual functioning of the common asylum and immigration policy does not necessarily correspond with the decisions made and the instruments adopted in the area. An important question to pose is therefore the extent to which the securitisation of asylum and immigration is visible through the actual functioning of this policy area. The purpose of the next section is precisely to gain an idea of the functioning of the common EU asylum and immigration policy, through an analysis of the relationship between the perceived challenges and the instruments developed.

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50 Huntington, in particular, has been frequently criticised for his predictions. Academics have questioned the manner in which the eight civilisations are divided, and the presentation of the civilisations as 'super-states' (Rubinstein & Crocker 1994). Huntington also assumes that civilisations strive towards the same political purposes and goals, and he fails to acknowledge that there does not exist a collective block of Islamic states, or any political foundation for such a coalition.

51 For an insight into this debate after 11 September 2001, see for example Silberstein (2002), Hiro (2002) and Satloff (2002).

## 5.2 The functioning of the common asylum and immigration policy

The securitisation of asylum and immigration takes place through the development of objectives and instruments whose purpose is to respond to the challenges sketched out in chapter four, dealing with asylum and immigration issues within a security framework. By looking at the way in which this policy works in practice, it is possible to assess the relationship between the perceived challenges and the instruments developed. If the instruments are adequately equipped to meet the challenges outlined in chapter four, then it is possible to refer to the development towards a common asylum and immigration policy as a security strategy.

In the following therefore, I take as a starting point the Commission scoreboard reviewing progress on the creation of an area of freedom, security and justice (5.2.1). I then proceed to examine the internal control mechanisms (5.2.2), and the external control mechanisms (5.2.3) upon which the common asylum and immigration policy is founded.

### 5.2.1 The European Commission scoreboard

With the entry into force of the Amsterdam Treaty, the EU institutions have embarked on a five-year legislative programme to develop the main elements of a common asylum and immigration policy as provided for under Title IV of the treaty.<sup>52</sup> The scoreboard to review progress on the creation of an area of freedom, security and justice is presented by the Commission every six months to monitor progress in the adoption and implementation of justice and home affairs measures. The scoreboard is interesting because it meticulously lists the main achievements in the area of asylum and immigration since Tampere, and therefore serves as a good indication of the functioning of this policy.

Most interesting, when examining the latest Commission scoreboard, is the substantial delay regarding the objectives set out by the Tampere European Council (European Commission 2002c). In fact, only one-third of the legislative proposals set out by the Commission have been adopted so far (*ibid.*). The adopted proposals in the latest term refer mainly to decisions to combat illegal immigration, a regulation on the Eurodac system, and technical decisions regarding common visa formats. The Commission has commented on the delay in important areas of asylum and immigration, saying that:

The decisions on the proposals concerning the European arrest warrant and the framework decision on terrorism, suggest that the Union is capable of taking practical action on the objectives set by the Amsterdam Treaty where the need for action conjoins with the will to act (European Commission 2002c:4).

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<sup>52</sup> Within five years the Council must adopt measures defining: the member state responsible for examining an asylum claim, minimum standards on the reception of asylum seekers, minimum standards on the qualification of third country nationals as refugees and beneficiaries of subsidiary protection, minimum standards on procedures for granting and withdrawing refugee status, and minimum standards for giving temporary protection.

The message signalled by the Commission is thus that in the more sensitive areas of minimum common standards, repatriation and family reunification, it has been more difficult to find common solutions than in the more technical field of safeguarding the Single Market. While the events of 11 September boosted member states' willingness to deal with topics related to terrorism, such a drive has been lacking in most other areas. The current proposal on family reunification is the third amended proposal by the Commission, and has proved a very sensitive issue in the Council negotiations. A potential problem with amended proposals is that continued amendments often water down the contents, leading to decisions using the lowest common denominator.

The dividing lines in the Council vary from topic to topic, but one of the most important innovations of the Amsterdam Treaty is the strengthening of forms of flexible integration, and especially the possibility of opt-outs in this field. Because of the implications on questions of national sovereignty, a special protocol on the United Kingdom, Ireland and Denmark enables these countries to choose between participating and remaining outside every measure undertaken in the Treaty Title on asylum and immigration.<sup>53</sup> In particular, these states have been freed from the need to vote under any of the procedures and from any binding character regarding the measures taken, as well as from the operational costs involved. The strong use of flexibility in EU asylum and immigration policy has led to concerns over legal and political fragmentation. Moreover, the continuation of unanimity in decision making has been called a source of rigidity (Lavenex 2001:131). Germany, formerly a strong proponent of communitarisation, laid down a veto on the introduction of qualified majority during the 1996–97 IGC. The main reasons for this retreat were the opposition of some Länder, that feared being outvoted by other member states which follow different ambitions in the field of asylum and immigration, in particular the former transit countries of the South and the Scandinavian countries (*ibid.*).

One can argue, however, that democratic and judicial accountability has been improved by the introduction of European Court of Justice competence to give preliminary and interpretative rulings in asylum and immigration matters (Article 68 EC).<sup>54</sup> This competence will empower the ECJ to assure uniform interpretation of binding legislative measures taken under Title IV TEC. But despite national differences on which asylum and immigration measures to adopt, the legal instruments proposed in the negotiations have also proved quite difficult to use. No precise description of the effects of a 'common position' or a 'joint action' was contemplated in the Treaty on European Union. It has been argued that because of the lack of binding effect following such common statements, most of them are of a vague and uncertain nature (Guild & Harlow 2001). As for conventions, they have proved to be a very unwieldy instrument, as states have to submit them for

53 Protocol 4 TEU relating to the United Kingdom and Ireland, and Protocol 5 TEU relating to Denmark enable these states to choose between participating and remaining outside with respect to every measure undertaken through this Title.

54 Preliminary rulings refer to the old Art. 177 TEC (new Art. 234 TEC), under which national courts may submit cases to the ECJ in order to clarify the validity of Council acts with regard to primary European law. Interpretative rulings can also be requested by the Council, the Commission or a member state regarding questions concerning primary and secondary law in this area.

ratification at national level. Although numerous conventions have been signed, their implementation is still awaited, whereas circumstances often call for rapid responses.

According to António Vitorino, the European Commissioner for Justice and Home Affairs, the many delays in the Union's asylum and immigration policy must be understood in light of the incremental nature of policy making in this field:

The Commission has outlined the principal dimensions of an integrated policy in regard to migration in its 1994 Communication. Since then, we have stuck to this vision of tying together relations with third countries, the management of migration flows and integration policies... The development of such a policy is, however, a long-term work, and its results will not be visible immediately (Vitorino 2000b).

This *process-oriented perspective* suggests that the common asylum and immigration policy should be studied as a long-term strategy, and not as a project likely to be realised in the near future. Similar to the development of the EU, the common asylum and immigration policy should be regarded as a process without a clearly defined goal. In the literature on regional integration, the end product of the integration process is often left unspecified or unclear.<sup>55</sup> This logic is reflected in the Commission statement that the common asylum and immigration policy must be regarded as a movement 'towards an integrated policy in regard to the entire phenomenon of migration... It is also, of course, important to avoid illusions or dangerous short-cuts' (ibid.).

The process towards a common asylum and immigration policy can thus be viewed as an incremental process, as well as an all-encompassing one. The process is *incremental* in that there is a widespread belief among EU politicians that co-operation in one area facilitates co-operation in other areas (Dinan 1999:447). The process must also be characterised as *all-encompassing* because of the mutual interdependence between fields of competencies. This can be seen in the Schengen agreement and the Dublin Convention that placed asylum and immigration issues within the same organisational and institutional framework as the struggle against drugs and terrorism, police co-operation and mutual assistance in criminal matters, and framed the issue as one out of many 'compensatory measures' in the establishment of the Single Market.

Thus, the functioning of the common asylum and immigration policy does not correspond exactly with the 1997 Amsterdam legislative agenda. The instruments developed so far have not adequately met the challenges that were pointed out in chapter four, at least what concerns refugee protection standards and common minimum standards. Instead, decisions aimed at increasing security and control have been at the forefront of the political agenda. But the Commission scoreboard is not a sufficient indication of

55 For example, the neofunctionalist Ernst B. Haas (1973:18) gave the following statement on the problems defining the end product of integration: '(...) the task of selecting and justifying variables and explaining their hypothesized interdependence cannot be accomplished without the agreement as to possible conditions to which the process is supposed to lead. In short, we need a dependent variable'.



actual practices. In fact, the common asylum and immigration policy can be said to function both as a mechanism of internal control as well as a mechanism of external control. In the following, an examination of these two types of mechanisms is hoped to provide an answer to the extent to which the common asylum and immigration policy can be described as a security policy strategy.

### 5.2.2 Asylum and immigration as a mechanism of internal control

The term 'immigration control' is often used synonymously with the more frequent term 'immigration regulation' (Brochmann & Hammar 1999:9). The term can, however, be used more broadly, concentrating on policy generation, content, implementation, outcome as well as evaluations (ibid.). While *internal control* of aliens may be exercised from their first entry to their possible fulfilment of citizenship, *external control* consists of the more visible measures undertaken by states to control entry before arrival (here explored through the Union's external relations policy).

It can be argued that an important aspect of improving internal immigration control can be found in the transactions taking place within the framework of the common asylum and immigration policy.<sup>56</sup> Co-operation on asylum and immigration between EU member states has nurtured a qualitative and quantitative growth of transactions, reshaping collective identities and altering social facts, using the terminology of Emile Durkheim (Durkheim 1984). Although still confined to an intergovernmental framework, asylum and immigration issues are deliberated in working groups and in European parliamentary forums on a daily basis, and have become the subject of co-operation between different European executive agencies such as Schengen and Europol. Den Boer (2000:45) demonstrates how member states' provisions on asylum and immigration are affected by co-operation at the European level regarding administrative adaptation. The Schengen structures have been strongly enmeshed with national administrative structures, and the implementation effect of Schengen has been noticeable in a number of ways: decentralised information centres that are linked up with the Schengen Information System, direct access to the SIS by different law enforcement agencies (around 40,000 terminals throughout the Schengen area) etc. At the national level, these implementation efforts have unleashed new co-operative ventures across different law enforcement agencies and new inter-institutional relationships with government (ibid.).

In addition, increased co-operation between member states' immigration authorities regarding the secondment of liaison officers signals the variety of transaction channels between the contracting parties. The secondment of liaison officers is experienced as 'extremely efficient and useful for daily practices', mainly because it contributes to confidence-building and to the acceleration of co-operation between immigration authorities (European Commission 1999).

Internal control is primarily exercised through *institutions*. Seen through a neoliberal as well as a social-constructivist lense, institutions 'facilitate and

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<sup>56</sup> A *transaction* can be defined as a 'bounded communication between one actor and another' (Adler & Barnett 1998:41).

encourage transactions and trust by establishing norms of behaviour, monitoring mechanisms, and sanctions to enforce those norms' (Adler & Barnett 1998:41). Institutions are therefore an important contribution to increase transactions in the field of asylum and immigration, because they can create transparency, exchange information and monitor agreements, and can thus be presented as sites of *socialisation* and *learning*, places where political actors learn and perhaps even 'teach' others what their interpretations of the situation and normative understandings are (ibid.). Transferred to the European level, Lambert (1995:127) claims that the dynamics of European integration has forced a common perception of migratory challenges at the European level, originating in the move towards the Single Market and the abolition of internal borders. The prospect of a Single Market with common external borders prompted member states to address the immigration issue together, and devise common internal control instruments.

It can be argued that the development of asylum and immigration within the third pillar as an internal control mechanism together with areas such as police co-operation and drugs control, framed the issue as an element of a broader security strategy in the safeguarding of the internal market. This is particularly so because the organisation of co-operation on asylum and immigration largely takes place within security organs such as the Schengen Information System and Europol. This is, however, not only the case when looking at the internal control mechanisms of asylum and immigration, but even more clearly so when looking at external control mechanisms.

### **5.2.3 Asylum and immigration as a mechanism of external control**

External control thus refers to the more visible measures undertaken by states to control entry of aliens into the EU before departure or arrival (Brochmann & Hammar 1999:12). In the European Union, the domain of external relations is traditionally where the EU executes its foreign and security policy, through bilateral and multilateral co-operation. However, the Tampere European Council affirmed the need to integrate migration policy into the broader framework of external relations, and in this respect it provided the Commission with the authority to initiate legislative proposals (European Council 1999:5). It can be argued that the area of asylum and immigration functions as an external control mechanism in the Union's external relation policy, and that a security policy dimension has been attributed to the area following the Tampere European Council. This is particularly noticeable in the process towards eastward enlargement, and in the partnership action plans with third countries.

In the case of enlargement, chapter four pointed to the fear expressed in European discourse regarding a wave of immigration from the East. Responding to this potentiality, the EU member states have made the entirety of the Schengen *acquis* an obligatory part which the applicant states will have to accept for admission, and there has been a significant upgrading of mechanisms monitoring the implementation of the Union *acquis* in justice and home affairs (Monar 2000:15). For the Central and Eastern European countries this entails not only major practical challenges – extensive changes are needed in legislation, administrative and judicial structures, training and

practical procedures. There are also difficult political challenges, such as the need to accept the EU's restrictive visa regime (which is to disrupt long-standing cross-border links with some of their eastern neighbours), and to adopt much more restrictive EU approaches in a number of JHA policies (such as immigration and police co-operation). As noted by Monar:

Security regimes have the tendency to be expansionist: They aim both at maximising control within their territory and at providing "added" security by creating protective zones outside of their territory...The Union's emerging area of freedom, security and justice is no exception to that. During the last few years the Union has been quite successful in expanding substantial elements of its internal security regime beyond its own borders, either through partial inclusion or through the threat of exclusion in case of non-compliance with its own internal security standards and mechanisms (Monar 2000:11).

Asylum and immigration can thus be seen to function as an external control mechanism in the process towards eastward enlargement. The pressure put on the Central and Eastern applicant countries, and the strict terms for membership negotiations, are indications of the power asymmetry between the EU and its negotiating partners.

Power is engendered with a double meaning: on the one hand power conventionally understood can be the result of a core state's ability to nudge and occasionally coerce others to maintain a collective stance. Yet power can be alternatively understood as the authority to determine shared meaning that constitutes a 'we-feeling', as well as the conditions which confer, defer or deny access to the community and the benefits it bestows on its members (Adler & Barnett 1998:45). In this sense, a community formed around a group of strong powers creates the expectations that weaker states joining the community will be able to enjoy the security and potentially other benefits that are associated with that community, and can thus be termed 'normative' or 'soft power'<sup>57</sup> (Nye 1997, Matlary 2002).

Arguably, the use of soft power has been important in the negotiations on eastward enlargement, where the EU may be characterised as a hegemon that has managed to conclude various measures safeguarding the EU internal space, for example through so-called readmission agreements.

On the other hand, there are obvious restrictions on the unlimited use of power by EU member states in the accession negotiations. Clearly, the EU stands to lose both political recognition and legitimacy should enlargement fail to take place within the time frames and conditions agreed upon by the parties. An additional consideration is the fact that one day, the applicant countries become equal member states of the Union, and the importance of establishing good relationships should therefore not be neglected. There is also a risk of an increase in social unrest and dissatisfaction in the applicant states should the terms and conditions of membership prove too difficult to manage.

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<sup>57</sup> There are many contributors to the relevance of 'soft power' in international relations. In particular, Joseph S. Nye (1997) theorises on the continuum of power, where on the most familiar end we find coercive power, while on the other end we find co-optive or 'soft power'. As we move towards this side of the continuum, we find 'agenda-setting' and 'attraction' as important instruments.

The role of the Union's asylum and immigration policy as a mechanism of external control is also relevant when analysing the role of the partnerships with third countries. The emphasis on norms such as democracy, the rule of law and human rights in the partnership action plans can be interpreted as a liberal framework through which the EU is seeking to change the identities and interests of the partner countries. In particular, the EU is creating material incentives for these countries to accept the norms and principles formerly discussed. The incentives are focused on economic and technical aid and loans. Put differently, the EU is offering the partnership countries economic support as well as other benefits accrued from participating in international co-operation. In return, it wants a commitment towards democracy and economic liberalisation.

The Seville Presidency conclusions (European Council 2002) underline the structural power of the EU, when stating that:

In accordance with the Tampere European Council conclusions, an integrated, comprehensive and balanced approach to tackle the root causes of illegal immigration must remain the European Union's constant long-term objective. With this in mind, the European Council points out that closer economic co-operation, trade expansion, development assistance and conflict prevention are all means of promoting economic prosperity in the countries concerned and thereby the underlying causes of migratory flows. The European Council urges that any future co-operation, association or equivalent agreement which the European Union concludes with any country should include a clause on joint management of migration flows and on compulsory readmission in the case of illegal immigration (European Council 2002:3).

In very explicit terms, the European Council underlines the link between economic aid and the management of migration flows, urging its co-operation partners to participate in the fight against illegal immigration, towards which the economic assistance is intended. As the strongest actor of the parties, the EU can be said to yield substantive power through its capability to offer economic aid to countries willing to co-operate on migration issues, a suspicion that is enhanced by the continuation of the Seville Presidency conclusions, adding that:

After full use has been made of existing Community mechanisms without success, the Council may unanimously find that a third country has shown an unjustified lack of co-operation in joint management of migration flows. In that event the Council may, in accordance with the rules laid down in the treaties, adopt measures or positions under the Common Foreign and Security Policy and other European Union policies (ibid.)...

Failing to specify which criteria should be employed to determine what constitutes 'unjustified lack of co-operation', the conclusions are nevertheless of a threatening nature, implying the use of sanctions should co-operation with a third country be deemed unsatisfactory. This adds to the perception of asylum and immigration as a security strategy, using the fight against illegal immigration as a mechanism of external control. This is a perspective similar

to that presented by Michael Smith (1996), claiming that the EU is trying to create a 'negotiated order' through a hierarchical structure of different association agreements.

Asylum and immigration issues have, in other words, become important elements of the Union's external relations, playing a particularly important role in the relationship with the Central and Eastern European applicant countries, as well as in the partnership action plans. The inclusion of asylum and immigration in the Union's external relations has important implications for the perception of the area as a security matter, and is in line with the securitisation of the policy area referred to in 5.1. In this section, asylum and immigration issues have been seen to function as an external control mechanism, displaying an asymmetrical power balance between the Union and third countries.

An important question, however, relates to the importance of the securitisation of asylum and immigration on the broader issue of refugee protection. Chapter two raised the question whether the researcher faces a normative dilemma when analysing securitisation practices. Huysmans (2002:43) maintains that the normative dilemma consists of how to write or speak about security when the security knowledge risks the production of what one tries to avoid: i.e. the securitisation of asylum and immigration. It is possible to argue that an analysis of European securitisation practices is important, because it has major implications for the international regime for refugee protection. This is the topic of the next section.

### **5.3 Consequences for the international regime for refugee protection**

In contrast to the main body of the European *acquis*, which focuses on economic matters, the development of a common asylum and immigration policy addresses a deeply political issue which is directly linked to questions of human rights and state sovereignty (Lavenex 2001). Defined as persons who, having been violated in their basic human rights and having lost the protection of their country of origin, seek refuge in another country, the notion of refugees derives from universal human rights. Conversely, the admission of refugees and the granting of protection are subject to the fundamental norm of state sovereignty, which provides the right of states to admit or refuse the admission of aliens into their territory.

As we saw in chapter three, the right of asylum was formalised in parallel with the codification of international human rights in the international regime and in national laws after the Second World War. With the multiplication of migration flows worldwide and the end of the East-West ideological antagonisms, however, the normative core of the asylum concept has become increasingly blurred (Loescher 1996, Lavenex 2001). In the following, therefore, I discuss the consequences of EU co-operation on the global refugee regime (5.3.1)

### 5.3.1 The consequences of EU asylum and immigration strategies

As we saw in chapter three, the Maastricht Treaty was a positive step towards the development of more efficient asylum and immigration co-ordination, albeit on an intergovernmental basis. The third pillar codified and streamlined the old EPC structures, building its new system along the path set by the Schengen and Dublin initiatives. However, these initiatives did not represent any substantive harmonisation of national asylum laws. In the form of ‘resolutions’ or ‘conclusions’, they were only soft law initiatives that led to scarce and far from uniform implementation (Boccardi 2002).

The progress in the field of asylum and immigration achieved at Amsterdam was by any standards exceptional. Communitarisation undoubtedly displayed all the advantages that past intergovernmental co-operation had lacked. Democratic accountability, judicial control and a more independent role for the Commission were certainly key aspects of the development of a fairer refugee policy, as well as a truly ‘common’ approach. But from the refugee protection point of view the potential impact of the new provisions on asylum and immigration was of a mixed nature. Among the measures conspicuously missing were those concerning the national integration of refugees. These could have greatly benefited a fairer European refugee protection. Likewise, real democratic accountability could only take place if in the future the Council renounced its unanimous decision-making in favour of co-decision. Therefore, the five-year interim period envisaged by the Amsterdam Treaty has proved to be of pivotal importance. The numerous opt-outs to the provisions on asylum and immigration and the Schengen Protocol are indicative of the reluctance of some governments to deepen co-operation in the field of asylum and immigration. In particular, the UK, Ireland and Denmark negotiated extensive exception clauses to co-operation in these matters, which in practice allow them to participate or not, measure by measure.

More substantively, a heavily disputed innovation was the successful Spanish proposal to exclude EU citizens from the right of asylum in the EU, thereby introducing a *de facto* geographical limitation to the Geneva Convention, the underlying intention being to prevent, among other things, members of the separatist Basque organisation ETA from being granted asylum in another member state as had been the case in France and Belgium (Lavenex 1999:47). While it is not yet clear whether this protocol will really affect the policies of member states, it illustrates the controversial political and diplomatic character of the act of conceding asylum. Lavenex (1999:65) has noted that:

With this closed institutional configuration, the EU refugee regime evolved outside the existing structures of the international refugee regime and excluded traditional actors dealing with international protection such as the UNHCR, the Council of Europe and NGOs from participating. This exclusive institutional structure was accompanied by a closure of the circle of deliberation, which favoured the adoption of a homogeneous and limited technical view of the refugee problem.

This approach to the refugee issue is reflected in the legal *acquis*, reached in this field, which basically consists of those measures considered necessary to safeguard internal security in the Single Market. As I discussed in chapter four, and as stated by Lavenex: 'having been linked from the beginning with other, negative phenomena such as international crime, drug trafficking, and terrorism as a threat to internal security in the Single Market, this perspective has supported the reinterpretation of refugee policies from a formerly humanitarian question to one of internal and international security' (ibid.).

Against the background of the normative tensions inherent to the refugee concept, this restrictive trend places EU co-operation on refugee policies between two conflicting paradigms: the commitment to international human rights on the one hand and the preoccupation with the safeguarding of internal security on the other. But coupled with the multiplication of migration flows worldwide and the end of the East–West ideological antagonisms, the normative core of the asylum concept has become increasingly blurred. Together, the multiplication of the causes of forced migration and the attempt to limit the exposure to refugee flows as witnessed in this thesis, have contributed to a conceptual confusion regarding the definition of refugees and their protection, expressed most conspicuously in the inconsistent approaches developed towards the admission of Bosnian and Kosovo refugees in the 1990s. The novelty of 'temporary protection' became, as we saw in chapter three, a means whereby the member states sought to deal with the mass influx of refugees from the Balkans during the two crises. But this provision has been met with heavy criticism (Lavenex 1999, Hayter 2000). Boccardi (2002) has stated that:

If the purpose of the temporary protection regime was to fill the gaps left by the obsolescence of the Geneva Convention, then it was insufficiently equipped for its task. Firstly it conditioned the possibility of approving a temporary protection regime in favour of a certain country because of an ill-defined concept of "mass influx of refugees". What would in practice be a "significant number of refugees: hundreds, thousands, millions? The squabbles that ensued from the attempts to reach an equitable distribution of Kosovar refugees sadly illustrated the relativity of this concept (Boccardi 2002:170).

In practice, this meant that only areas in the EU periphery could eventually qualify for it, since large masses of refugees could only travel relatively short international distances. Moreover, the presumption that the offering of an alternative 'protected' status could effectively suspend a member state's obligation to examine an asylum application under the Geneva Convention was in itself open to questioning.

Thus, the effects of EU co-operation on asylum and immigration issues on the wider international regime of refugee protection is left unclear. The concept of temporary protection is likely to contribute further to a strengthening of the state vis-à-vis the individual refugee in so far as it tends to be applied also to persons who fall within the scope of the Geneva Convention, as shown in the case of the Kosovo crisis. In sum, the main result of EU co-operation in this field can be seen in the adoption of limited, mainly restrictive, and legally non-binding measures restricting access to domestic

asylum procedures. The consequence is that today, the emergent European refugee policy faces a fundamental confusion, namely the difficulty to determine who deserves protection – and who does not.

#### **5.4 Concluding remarks**

This chapter discussed the extent to which the securitising moves revealed in chapter four have been securitised and transformed into actual policy making at the European level. Secondly, I analysed the relationship between the perceived challenges and the instruments developed, to explore the manner in which the European asylum and immigration policy is implemented. Thirdly, the impact of European integration on the international refugee regime was discussed.

The presentation of asylum and immigration as a security threat has been met with co-ordinated action through policy making in the European Union. Regarding the link between immigration and crime, most policy initiatives dealing with asylum and immigration have been control-inspired, and take place within frameworks that link asylum and immigration with the fight against organised crime, human trafficking and drugs control, such as the Schengen and Dublin frameworks. Their intention is to create security in the Single Market and protect the Union's external borders through instruments such as visa control, and these aspects have by far prevailed over the need for stronger harmonisation and the creation of minimum protection standards in the common asylum and immigration policy.

The link between immigration and economic instability has been securitised through the EU's external relations, where asylum and immigration issues are playing an increasingly important role. The decision to establish partnership action plans with immigrant countries of origin and transit build on a security rationale, where trade and development aid are perceived to be the main instruments. Moreover, the temporary protection regime developed after the Balkan refugee crisis can be described as an 'emergency measure that justified actions outside the normal bounds of political procedure' (Buzan et al. 1998:23). The temporary protection directive, and the emphasis on limiting the migration flows from Kosovo can be interpreted as an attempt to circumvent responsibility laid down in the Geneva Convention in order to deal with the costly treatment of long-term refugees.

After 11 September, the need to fight racism and xenophobia has been employed as a legitimising factor to introduce stricter immigration controls, and human rights groups warn against the effects of the new extradition regime. Although the charter of fundamental rights and the European Monitor Centre on Racism and Xenophobia represent positive measures in this respect, the 'war on terrorism' risks an unwanted criminalisation of the Arab population.

However, the analysis revealed a problematic aspect regarding the theoretical framework employed, namely the criteria emphasised by Buzan et al. (1998:23) that a matter only becomes a security matter when 'requiring emergency actions, taking an issue out of normal politics'. The securitisation of asylum and immigration has often been the result of recognising a foreign affairs dimension to EU co-operation, by expanding the EU's external iden-



tity to encompass elements of asylum and immigration. Securitisation has also been revealed in the continuing emphasis on security and control in the asylum and immigration field, to the detriment of protection and minimum standards. There are, however, fewer indications of the EU having taken 'emergency actions', although the temporary protection regime, and the decisions following 11 September might be categorised as such. This is an indication that the analysis did not correspond completely with the framework offered by Buzan et al.

On the other hand, the analysis must take account of the special nature of EU policy making. Being an intergovernmental matter, and governed by an extensive bureaucratic structure, the extent to which 'emergency actions' can be taken within short timeframes is limited. This is perhaps an indication that the securitisation model developed by Buzan et al. (1998) is too stringent – at least when employed to policy making in the European Union.

This chapter also analysed the functioning of the common asylum and immigration policy. The Commission scoreboard revealed that political realities do not correspond exactly with the 1997 Amsterdam legislative agenda. The instruments developed so far have not adequately met the challenges that were pointed out in chapter four, at least what concerns refugee protection standards and common minimum standards. Instead, asylum and immigration issues function as mechanisms of internal and external control, projecting the Union as a hegemonic actor and a role model in its relationship with the Eastern and Central European applicant countries. Lastly, the effects of EU co-operation on asylum and immigration on the wider international regime of refugee protection remain unclear. The concept of temporary protection is likely to contribute further to a strengthening of the state vis-à-vis the individual refugee, in so far as it tends to be applied also to persons who fall within the scope of the Geneva Convention. This was made clear by the 1999 Kosovo crisis.



## 6. Concluding comments

The purpose of this report was to examine the change that has taken place in European perspectives on asylum and immigration in the 1990s, through an analysis of political discourse, and to demonstrate how this is reflected in new security policy strategies at the EU level. The key question was twofold: *To what extent has the issue of asylum and immigration come to be seen as a security threat in the European Union? And: To what extent is the above question reflected in the objectives and instruments of the common EU asylum and immigration policy?* In the following I will present the main findings, and discuss the reliability and validity of these findings.

The perception of immigration as a security challenge was not created by the 1997 Amsterdam summit. Many factors contributed to the perception of a challenge that needed to be dealt with at the European level. The oil crisis and the following economic set-back in the early 1970s marked the beginnings of extensive restructuring processes in many European countries, leading to an 'immigration stop' after a period where liberal immigration policies had prevailed. It is most likely, however, that the 1973 oil crisis was used as a legitimising factor paving the way for change, in the wake of the first signs of nationalist responses to immigration in many countries, together with growing displeasure with third world immigration.

Coinciding with the spread of globalisation, cross-border migration at the same time became strongly affected by transnational processes, characterised by developments within world economy, production and finance, transportation, information and mass media. In a globalised world, transportation enables relatively poor migrants to travel further away from their places of origin, and information technology makes it easier to keep in touch with family and friends.

A second factor explaining why immigration came to be perceived as a threat refers to the end of the Cold War. The following upsurge in asylum seekers from Eastern Europe to the West, followed by the dissolution of the Soviet Union and Yugoslavia, injected urgency into the processes of restructuring the Western European refugee strategy. While superpower rivalry internalised local conflicts, intra-state conflicts have predominated after the lid of the Cold War was removed. This, in turn, generated vast numbers of refugees, as in the cases of the civil wars in Rwanda and Somalia. Facing the refugee exodus from Bosnia, the majority of Western European countries discarded the Geneva Convention requirement of considering each case individually, and introduced 'temporary protection' on a collective basis, thereby signalling a change of policy regarding European standards of refugee protection.

Thirdly, the European integration process included asylum and immigration on its agenda from the early 1990s onwards. Gradually developed as a European policy area as a response to the Single Market project, the area of asylum and immigration was long treated as a mere 'compensating measure',

and only included in the intergovernmental Schengen co-operation to facilitate the abolition of internal border controls. Within the framework of the Maastricht Treaty, however, co-operation on asylum and immigration was anchored in a special institutional structure, and began to develop its own dynamics. In sum, the combination of these factors contributed to the perception of immigration constituting a challenge that needed to be solved at the European level.

Distinguishing between referent objects, and claiming that every issue in principle can become a security matter through speech acts, the theoretical framework developed by Buzan, Wæver and de Wilde (1998) has proved well suited for the analysis of different EU representations on immigration. At the European level, this thesis has shown that cross-border migration is increasingly discussed and treated as a security matter in the societal sector. The referent object is frequently seen to be the societies and identities of the European member states, and immigration is referred to as a phenomenon with the potential to threaten national security.

Regarding the *first* part of the key question, and in light of the changes in the framework conditions for European security after the end of the Cold War, a discourse analysis of various EU documents has shown that the construction of immigration as a threat to the internal security of EU member states had three cornerstones (den Boer 1995:98): 1) the link between immigration and crime; 2) the link between immigration and economic instability; and 3) the link between immigration and instability caused by xenophobia and racism.

Regarding the link between immigration and crime, chapter four described how the classification of asylum and immigration as ‘compensatory measures’ in the establishment of the Single Market contributed to the perception of immigrants as a challenge to the free movement of persons in Europe. Eastward enlargement and the fight against organised crime both put an emphasis on providing security to EU citizens through enhancing border controls and harmonising legislation. Linking immigration with the fear of economic instability was particularly prominent in the quarrel over burden-sharing during the 1999 Kosovo crisis, and as an element of the partnership action plans with third countries. The partnership initiatives reflected the worries of the EU member states regarding factors that contribute to create conflicts in the EU’s near abroad, including migratory pressures. Economic and political incentives were accentuated as a means of enhancing security. The link between immigration and instability due to racism and xenophobia was frequently used as a legitimising factor in favour of stricter immigration control after the 11 September attack on the US, and in the fight against illegal immigration following the 2002 Seville summit. Describing immigration as a destabilising factor, multicultural societies were frequently portrayed as bringing with them a risk of fragility and vulnerability.

However, while the chosen discourse reflects different representations of reality, not everyone utters security with the same authority. Because of the intergovernmental nature of co-operation on asylum and immigration, the European Council has played a particularly important part in framing the EU’s agenda in asylum and immigration matters. For this reason, the Council is given special attention, and is regarded as the main securitising actor.

Commission statements tend to treat the integration process as the referent object of European security, in order to push the integration process forward. The Parliament, on the other hand, has a tendency to emphasise the human rights dimension of asylum and immigration measures. The Parliament often frames asylum and immigration in security terms in order to criticise the lack of action by the Council and the Commission. Although the referent object in most cases refers specifically to the European societies, it is also often left unspecified, simply referring to ‘Western values’ or identity, suggesting that there exists a cultural difference between segments of the population.

Regarding the *second* main question, chapter five discussed the extent to which the securitising moves identified in chapter four have been transformed into actual policies, i.e. securitised. Regarding the link between immigration and crime, most policy initiatives dealing with asylum and immigration have been control-inspired, and take place within frameworks that link asylum and immigration with the fight against organised crime, human trafficking and drugs control, such as the Schengen and Dublin agreements. Their intention is to create security in the Single Market and protect the Union’s external borders, and these aspects have by far prevailed over the need for stronger harmonisation and the creation of minimum protection standards in the common asylum and immigration policy.

The link between immigration and economic instability has been securitised through the EU’s external relations, where the area of asylum and immigration is playing an increasingly important role. The decision to establish partnership action plans with immigrant countries of origin and transit builds on a security rationale, where trade and development aid are perceived to be the main instruments. Moreover, the temporary protection regime developed after the Balkan refugee crisis can be described as an ‘emergency measure that justified actions outside the normal bounds of political procedure’ (Buzan et al. 1998:23). The temporary protection directive, and the emphasis on limiting the migration flows from Kosovo can be interpreted as an attempt to circumvent responsibility laid down in the Geneva Convention in order to deal with the costly treatment of long-term refugees.

After 11 September, the need to fight racism and xenophobia has been employed as a legitimising factor to introduce stricter immigration controls, and human rights group warn against the effects of the new extradition regime. Although the charter of fundamental rights and the European Monitor Centre on Racism and Xenophobia represent positive measures in this respect, the ‘war on terrorism’ risks an unwanted criminalisation of the Muslim population.

However, there were some problems complying with the securitisation model sketched out by Buzan et al. (1998:23). In practice, it was difficult to find clear examples of speech acts that corresponded with the criteria of securitisation listed by Buzan et al. (ibid.:25). Evidence of EU decision making regarding what Buzan et al. (ibid.) call ‘extraordinary measures outside the normal bounds of political procedure, whereby action is taken that is outside the normal rules of the game’, is rarely found.

But ‘extraordinary measures’ are difficult to initiate in the highly bureaucratic and democratic EU system, where change does not come about easily.

The introduction of the ‘temporary protection’ regime following the Kosovo crisis, and the extradition measures adopted after 11 September 2001, are nevertheless an indication that immigration control has become a matter of high politics. In my opinion, the emphasis on ‘extraordinary measures’ by the Copenhagen School imply an unnecessary narrowing down of the security concept. Originally intended to prevent everything from becoming security matters, the requirement does not correspond with the understanding of security that has been revealed in EU documents. On the contrary, the criteria of ‘extraordinary measures’ are easily associated with military logic and the use of military instruments as a response to another state’s aggression (Borgen 2001:128). The presentation of asylum and immigration as security challenges is of a non-military nature, and it is presented as such without necessarily moving outside the normal bounds of political procedure.

Regarding the validity and reliability of this analysis, precautions have been made according to the methodological design referred to in chapter two. Discourse analysis has offered a useful way to examine securitisation and political constellations with its emphasis on language that brings social practices into a particular communicative institutional framework. However, discourse analysis does not try to uncover the objective reality, or the real motivation behind human action, and it therefore offers limited insight into social phenomena. These shortcomings, I have argued, are taken into account, and mitigated by limiting the focus of the study: the emphasis of the thesis is rather to examine how we create our reality, so that it becomes a matter of course to us. I have tried to avoid ‘reading too much into texts’, firstly by looking at the context in which speech acts are made, and secondly by examining the policy making that follows political declarations.

Public documents are reliable sources, but do not necessarily capture all relevant representations. This can be the case because real motivations and agendas are hidden behind politically correct language, or because of disagreement between member states on how to approach an issue. One example is the different views of member states regarding eastward enlargement, depending on how exposed they think they are to immigration from the applicant countries. The EU institutions’ discussions on Islam are another. As earlier discussed, the intergovernmental nature of co-operation on asylum and immigration has led to most decision making taking place by the European Council. The consensus requirement in this forum has led to few common positions or actions in controversial cases. This points to a methodological weakness connected to discourse analysis that is based on official documents as a main source. Future studies could for example nuance the findings and discover more variations in representations through performing qualitative interviews in the different institutions. Although I tried to assure triangulation (i.e. relying on mutually independent sources), methodological triangulation could have been improved through performing interviews in addition to textual analysis.

The area of asylum and immigration has recently been promoted as an element of the Union’s external relations. In analysing the functioning of this policy area, it became clear that the instruments developed so far have not adequately met the challenges that were pointed out in chapter four, in

particular in the field of refugee protection. It can be argued that asylum and immigration issues function as a mechanism of internal and external control. The development of asylum and immigration as internal control mechanisms in the Maastricht third pillar framed the issue as an element of a broader security strategy in the safeguarding of the Single Market. The EU is exercising external control of the migration phenomenon when institutionalising structures of co-operation with third countries, and is projected as a hegemonic actor and a role model through a process of adaptation and social learning. The joint declarations following the Seville European summit in June 2002 present co-operation and economic aid as a 'carrot' to countries co-operating adequately in the fight against illegal immigration. In the field of eastward enlargement, predictability and control over migration flows are assured through readmission agreements and pre-accession monitoring.

The last part of the analysis saw that the common EU asylum and immigration policy risks undermining international refugee protection standards. The Union portrays itself as a beacon of democratic principles and human rights values. A better public information campaign on the roots of persecution, and the relative insignificance of overall refugee numbers in the EU compared to world figures could perhaps help contain the reactions of 'mass hysteria' that most of the time characterise political discussions on asylum and immigration. To this end, the EU Charter of Fundamental Rights is a welcome first step, permanently adding a human rights dimension to the traditional economic one of the past. This should be followed by a more general debate about the political nature of the EU and the ethical principles that shape its foundations.





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## **Abstract**

Increased immigration during the last few decades has coincided with increasing unemployment and economic restructuring in Western Europe. The issue of immigration became increasingly sensitive in the late 1980s after the collapse of communism in Central and Eastern Europe, when a tide of illegal immigrants was expected to inundate the West. Today, images of ships loaded with refugees off the shores of Italy, or of trucks filled with illegal immigrants crossing the English Channel, have become disturbing, but no longer rare features of European newspaper headlines. The impression is that of Europe being 'swamped', and unable to deal with the hordes of people standing outside its gates wanting in.

The purpose of this report is to discuss the extent to which immigration has come to be perceived as a security threat by European Union (EU) policy makers. The manner in which immigration issues are presented by policy makers at the European level is assumed to have substantive implications for the choice of instruments in the area. A second purpose is therefore to discuss the extent to which the development towards a common EU asylum and immigration policy could be interpreted as a security policy strategy.

Under the pressure of events since 1989, many scholars argue that the security concept should be widened to encompass new security policy challenges that have arisen. The post-1989 situation has suggested new scenarios, such as the end of bipolarity and the redefinition of borders. The point of departure of the report is the changing perception of what constitutes security threats, unravelled through an analysis of political discourse. Through a division of sectors, the so-called Copenhagen School offers a framework for analysis that structures the security debate, and that includes other referent objects than the state in security analysis. Asylum and immigration is regarded as a societal security issue when it is staged as a threat to a community, and the very identity of that community. As the report will show, most policy initiatives dealing with asylum and immigration at the European level have been control-inspired, and take place within frameworks that link asylum and immigration with the fight against organised crime, human trafficking and drugs control, such as the Schengen and Dublin frameworks. It appears that these aspects have by far prevailed over the need for stronger harmonisation and the creation of minimum protection standards in the common asylum and immigration policy.