

# Chapter 17

## Concluding Remarks: Towards a New Conceptualisation of Similarities and Differences in European Migration Controls



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### 17.1 From the North-South Divide to Blurring Boundaries

This volume challenges the idea that the North-South divide is the deepest cleavage in the way European countries manage migration flows, and, with that, contests the dichotomous thinking that pervades the literature on migration control. By analysing cases from both geographical areas – particularly Germany and the Netherlands, on one hand, and Italy and Spain, on the other – each section has revealed the *shared* logics of action, strategies and practices on the ground pointing to unexpected similarities and blurred boundaries among European migration regimes.

Relevant similarities also emerge in areas where we would expect the difference between the two blocs to be larger in light of structural constraints and the low level of Europeanisation. Labour-market policies and internal controls are the primary examples of this. Jan Schneider and Holger Kolb, for instance, showed how Germany’s labour policies have come back to target the origin of immigrants as a selection criterion after 20 years, during which time they had been driven by the guiding principle of individual qualifications. As the authors noted, distinctive traits of Italian and Spanish labour migration policies such as “source-country particularism” and “preferential bilateralism” as well as the coexistence of universalistic (i.e. country-blind) and particularistic principles, have taken on increasing importance in Germany. At the same time, Camilla Devitt demonstrated how Italian labour migration policy has shown growing similarities with Northern European states: the country is increasingly reliant on the free movement of workers from Romania and non-EU family migrants for low-medium skilled labour needs, while adopting a

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more restrictive approach to inflows of non-seasonal workers from outside the European Union. Similarly, Jeroen Doomernik, Blanca Garcés-Mascareñas and Berta Güell showed that both in the Netherlands and in Spain, the seasonal labour demand in agriculture has increasingly been met by migrants already living in the respective country and circulating Eastern European workers, against a background of increasing deregulation of the sector. Overall, the boundaries between labour migration policy of Northern and Southern European countries appear more blurred than expected.

Other chapters highlight similarities regarding the management of irregular residence. Gabriel Echeverría, while acknowledging the substantial differences between Spain and the Netherlands due to deep-rooted political, cultural and historical dynamics as well as different underlying policy objectives, showed how policies towards irregular migrants in both countries have been driven by societal demands. Indeed, the shift in the Netherlands from a more relaxed to a stricter enforcement of internal migration controls during the late 1990s should not be attributed to a greater generic propensity to stick to the rules, but rather to a long-term process of deteriorating social and political acceptance of migrants as well as a slow transformation towards a more skilled and more formal labour market. Similarly, Jorge Malheiros and João Peixoto argued that in Portugal, the changing approaches and declining consensus regarding regularisations have been driven by changing societal demands. Moreover, they demonstrate how the so-called Southern European migration regime is both less exceptional and less homogeneous than it is generally presented. First, Malheiros and Peixoto pointed out that the principle of general mass regularisations was also adopted in the 1990s and 2000s by Northern European countries such as France, Austria, Luxembourg and Netherlands, albeit in a more limited way. Second, the system in Portugal and Spain – as well as in France and Switzerland – evolved towards a case-by-case approach to regularisation during the 2000s, while this did not happen in Italy and Greece undermining the idea of a common Southern European model.

Other similarities emerge in the welfare-migration nexus, driven by social expectations regarding equal access to welfare. Welfare scroungers coming from other EU countries are perceived as a problem in both Northern and Southern countries, though this problem takes diverse forms at different latitudes. South-North migration, especially of young people, has resumed as a consequence of the Great Recession and has contributed to the overall growth of intra-EU migration statistics. This has helped to sustain anti-EU concerns, as witnessed in the UK (see Alessio D'Angelo). On the other hand, the healthcare costs generated by Northern European retirees moving to Southern Europe has contributed to a redefining of healthcare access among non-labour-motivated intra-EU migrants, as the case of EU retirees in Spain shows (see Claudia Finotelli). In both cases, the hostility towards intra-European migration was not so much framed in terms of generic xenophobia, but rather as welfare chauvinism; this has led to efforts to redefine the migration-welfare nexus in exclusionary terms. Overall, the stratification of welfare rights has materialised as a mechanism to regulate the entry and settlement of EU migrants in an increasing number of national migration regimes. However, the actual effects were

far more extreme in the United Kingdom, where the stratification of welfare rights became a deeply rooted political project that ultimately led to the country's exit from the EU.

Alongside accusations of being the origin of welfare scroungers, Southern countries have periodically been blamed for being Europe's "soft underbelly" for immigrants. This is hardly true nowadays. Irene Landini and Giuseppe Sciortino's chapter highlighted how Southern European countries have been progressively incorporated into control mechanisms shaped by the control objectives of Northern European countries, which are mainly aimed at preventing the transit of unwanted inflows of asylum seekers from Southern European borders to Northern European countries where they could apply for asylum. Against this backdrop, Southern European countries ended up imposing visa obligations to former colonies even (see Lorenzo Gabrielli) and countries with privileged tourism and foreign policy relations (see Federica Infantino). Infantino also noted that Italian consulate officials have increasingly understood migration control as a key mission, and have adopted restrictive practices that frame migration as a "risk", just like their Northern European peers. Interestingly, as Landini and Sciortino highlighted, convergence dynamics can be observed not only in the case of a relatively successful harmonisation area (such as visa policy), but also in areas with very low harmonisation (such as the enforcement of returns). In such cases, however, convergence does not indicate increasingly similar policies, but similar policy outcomes. The difficult implementation of readmission agreements, the stagnating cooperation with countries of origin and transit, administrative difficulties and liberal constraints keep return rates low in all European countries.

Moreover, some Southern countries have gone beyond the mere convergence towards the policy objectives and practices of the Northern ones: they have developed some of the strictest asylum and border control management procedures in Europe. This is the case in Greece, where newcomers arriving since 2016 have been kept in conditions similar to detention and cannot leave northern Aegean islands until their asylum application has been processed (see Angeliki Dimitriadi), not to mention violence, including rape, taking place in the overcrowded reception camps. Spain, with its wall at the border of Ceuta and Melilla as well as the externalisation of border controls (often entailing violent control practices) to Morocco, acts as an equally draconian guard of European borders (see Gabrielli).

The so-called European refugee crisis revealed further unexpected dynamics. Since then, Italy has changed how it frames migration and has started to perceive itself as a main destination for refugees. As a result, the country abandoned its traditional approach based on *ad hoc* emergency solutions, instead developing structural measures so that nowadays all people claiming protection go through the ordinary asylum procedures and reception in public facilities, irregular migrants and asylum seekers are systematically fingerprinted, and the country has fully joined Northern European countries' call for greater responsibility-sharing (see Irene Ponzio). At the same time, the German asylum system managed inflows far less efficiently than expected in 2015–2016. Newcomers were housed in tents, and the Federal Office for Migration and Refugees (BAMF) was exposed to harsh criticism

for long delays in applicants' registration and the poor management of asylum decisions that were largely reversed by courts (see Dietrich Thränhardt).

Next, since the establishment of the EU Trust Fund for Africa in 2015 Valletta Summit, Northern European countries, which had traditionally been marginal actors in border externalisation projects leaving the stage to Southern European states, have become more active in the African context (see Lorena Gazzotti, Mercedes Jiménez Álvarez & Keina Espiñeira). Moreover, the principles guiding relations with third countries in the field of migration are becoming increasingly homogeneous across Europe (see Gazzotti, Jiménez Álvarez & Espiñeira; Gabrielli). These principles include effective control over the arrival of irregular migrants through cooperation with origin and transit countries; economic development in origin and transit regions to deter (irregular) emigration; and development cooperation and trade preferences serving as the main levers to secure third-country commitments in the field of return and readmission.

In light of such complexity, chapters in this book point to the emergence of a surprising trend, with some migration control approaches developed by Southern European countries actually inspiring the rest of the EU. One case in point is Spain's approach to the external dimension of migration policies. As Gabrielli explained in Chap. 5, during the 1980s and 1990s, the Iberian country adopted its first immigration law, introducing visa requirements for the countries of Maghreb and starting fortifying Ceuta e Melilla in order to meet EU requests and join the Schengen Area. Nowadays, Spain has instead become a model, inspiring the EU in various ways, such as by introducing "migration conditionality" in its relations with third countries, linking development aid, foreign direct investment and trade, etc. with cooperation in migration issues.

Similarly, Greece, the once worst example of asylum practices in Europe, clearly served as a model for the New Pact on Migration and Asylum presented by the European Commission in 2020, as Dimitriadi illustrated in Chap. 16. As a matter of fact, several elements from the Greek practice have been incorporated into the Pact, such as the hotspot approach to carrying out pre-entry screening, accelerated border procedures as the standard procedure rather than an exceptional one, and the simultaneous issuing of application rejection and return decisions with no suspended effect of appeal. More generally, the Pact considers asylum applicants during the screening and accelerated border procedure as if they had not entered the territory, similarly to what happened in Greece after the signing of the EU-Turkey Statement in 2016 that blocked thousands of people on the islands, preventing them from "entering" the mainland. Moreover, the Pact allows for a derogation from the ordinary rules due to *force majeure*; Greece did precisely this in February 2020, when thousands of migrants moved towards the Greek-Turkish border of Evros; the derogation was then proposed by the Hellenic country in a non-paper circulated during the Pact's negotiations.

With less success, Italy has been trying to shape EU migration policies as well, especially with regard to joint management of mixed inflows. As Ponzio explained, the *Mare Nostrum* Search and Rescue operation started by Italy in 2013 was the forerunner of the subsequent EU's *Triton*, *Themis* and *Sophia* operations.

Overall, Southern European countries have changed their policy frames and accepted their geopolitical fate as the guards of Europe's external borders. Obviously, this shift has deeply affected their strategies, policies and practices, and turned them from recalcitrant recipients of EU norms to active shapers of the EU migration regime, suggesting that a "Southernisation" of models of action may be at work in certain fields.

To conclude, the empirical evidence provided in this book challenges the classic North-South divide, and shows how European boundaries are blurrier than expected. This is the outcome of two combined dynamics: the converging composition of migration inflows and Europeanisation, as Sects. 17.2 and 17.3 illustrate below.

## 17.2 The Converging Composition of Migration Inflows

With globalisation, the number of countries of origin of non-European flows has been increasing while migrants have started to concentrate in a reduced number of destination hubs (Czaika & de Haas, 2014). In such a context, Europe has turned into an immigration magnet where, despite the diversity of individual EU Member States, migration flows have been increasingly converging in terms of the composition and types. This is largely due to exogenous factors that do not concern migration regimes specifically, but have changed the composition of the migrant population over time, with a significant impact on migration policies.

First, the immigrant population in both Northern and Southern Europe has become more and more European in the last 30 years. In fact, Europeans accounted for more than half of the immigrant population in Europe in 2017 (UN, 2017). Eastern European Union enlargement and the remarkably Eurocentric orientation of the European Neighbourhood Policy, with its visa facilitation for non-EU Eastern European countries, certainly had a major impact on migration flows and their composition, turning Eastern Europe into the main source of foreign labour for almost all Southern as well as Northern EU countries.

This has affected both labour migration policies and the management of irregular migration. Specifically, those processes have led migrants to exploit EU internal mobility and easier circulation paths for Eastern non-EU countries; as a result, the need for non-European immigrants declined and recruitment rules for them became stricter. Those trends ended up producing a sort of "ethnic turn" in labour migration policies in both Southern and Northern Europe that clearly looked East (see Devitt; Schneider and Kolb; Doomernik, Garcés-Mascareñas & Güell). At the same time, the relaxation of visa rules for Eastern Europeans promoted by the German Federal Foreign Office at the beginning of the new century as part of the European Neighbourhood Policy facilitated irregular circular migration systems from Eastern European countries, especially Ukraine and Moldova (see Malheiros & Peixoto). Although this system is different from that of Southern Europe where Eastern Europeans usually overstay their visa and then wait for the next regularisation (see Finotelli; Malheiros and Peixoto), the logics according to which Northern and

Southern Europe have exploited irregular movement from Eastern Europe are similar.

The economic crisis that erupted in 2008 was another turning point in the shifting composition of migration inflows, as it curbed the huge appetite for newcomers in Southern European countries. In the 2010s, Italy and Spain (together with New Labour's UK) had been the top importers of immigrant labour in Europe. With the Great Recession and public debt crises, the GDP of Spain, Italy, Portugal and Greece fell; labour demand followed, leading to a drastic growth of migrant unemployment in all Southern European countries (Ponzio et al., 2015; Finotelli & Ponzio, 2018). As Devitt's analysis of the Italian case study showed, the economic crisis allowed Italy to fulfil the bulk of its reduced foreign labour needs through a set of functional equivalents, including immigrants already living in the country, intra-EU mobility, family and forcibly displaced migrants. Hence, the decrease in the demand for foreign workers allowed for restrictions in labour recruitment policies towards third-country nationals (TCNs).

The same happened for agricultural seasonal workers in Spain, as the chapter by Doornik, Garcés-Masareñas and Güell makes clear. With unemployment rising quickly, the Spanish government decided to freeze circular migration programmes such as the GECCO in order to promote employment of those workers already in the country. In truth, arrivals from third countries did not stop completely, but indeed decreased, partially compensated by migrant workers who were already resident in Spain but had been made unemployed by the economic crisis, together with EU migrants coming from the new Member States such as Romania and Bulgaria.

The Great Recession might even have contributed to closing the gap between Northern and Southern European countries in terms of irregular migration. As Echeverría showed for the case of Spain, employment opportunities for irregular migrants became very limited during the economic crisis; this caused many of them to leave the country and thus reduced the labour supply, so that irregular migration finally appeared to be contained. This change also opened up opportunities for tougher policies against irregular migrants: the rightist government that came into power concomitantly with the abrupt collapse of the economy exploited rhetoric against irregular migration and started a sensationalist yet ineffectual policy of identity controls, selling these as a migration control success when, in fact, it was the result of self-regulating socioeconomic dynamics. Portugal followed a similar path, as highlighted by Malheiros and Peixoto: the shrinking of the Portuguese economy, especially between 2011 and 2014, led to a substantial reduction in the supply and arrival of irregular immigrants. The political dynamics of the Lusophone country followed those of Spain: once the socioeconomic decline became severe, the prevailing dominant logic of consensus around migration and regularisations gave way to more Left-Right polarisation in policy discourse and in Parliamentary voting. This confirms the hypothesis formulated by Malheiros and Peixoto that irregular migration levels depend on economic cycles and the type of economic demand, rather than on the implementation of policy mechanisms facilitating regularisation.

Finally, the Arab Spring and the Syrian civil war triggered other remarkable changes. The increase of asylum seekers in Southern Europe due to the geopolitical

instability in Mediterranean third countries since 2011 and the halt to secondary movements as a result of the Schengen's suspension in several Member States at the end of 2015, has made the composition of inflows more similar to that of Northern countries. This in turn has affected how Southern European countries perceive and frame themselves, i.e., from transit contexts to refugees' final destinations (see Ponzio). At the same time, turning a blind eye to asylum seekers is not always a viable option: their management requires greater state intervention (from initial screenings to the processing of claims, to reception) than that needed for labour and family migration. Because of this, a *laissez-faire* approach becomes almost unfeasible, especially when arrivals suddenly spike, as happened in 2014, and the Common European Asylum System (CEAS) came into force. Mediterranean countries ended up adopting some of the solutions already implemented in older asylum countries, while developing fresh strategies to deal with the challenge posed by an increasingly complex external blue border (see Ponzio; Dimitriadi).

In sum, factors exogenous to migration policies – such as the Eastern Enlargement, the European Neighbourhood Policy, the Great Recession and the Arab Spring – changed the composition of migration flows, and consequently contributed to further blurring the boundaries between Northern and Southern European migration regimes. The liberalisation or facilitation of circulation for Eastern Europeans (EU and non-EU alike) made them the main source of foreign labour, with corresponding restrictions for less-needed non-European TCNs in both Northern and Southern European countries. Then, the 2008 economic crisis substantially reduced the demand for foreign workers, allowing for further curbs in TCN recruitment. More recently, the growth of asylum flows towards Southern Europe has inevitably triggered new ways by state and non-state actors to observe and act upon migration flows. Finally, the war between Russia and Ukraine could presumably become another external factor affecting inflows and fostering convergence of immigration policies.

### 17.3 Europeanisation as Hybridisation

Another explanation of the blurring of boundaries between North and South has to do with Europeanisation. If we conceive of the European migration regime as a space of negotiation where several actors as well as practices – formal and informal – are involved (Klepp, 2010), we can bring together elements that are generally analysed separately: on one hand, the formal and informal negotiation processes between Member States; on the other hand, a sort of “Europeanisation by practice” or “ways of doing things” (Radaelli, 2004; Schmidt & Radaelli, 2004; Musliu, 2021) taking place at the implementation stage.

As for the first type of dynamics, the most well-known process is that by which Northern countries have pushed their practices upon Southern countries through political pressure and by “uploading” their policy preferences at the EU level (Boswell & Geddes, 2011). Against this backdrop, the incentive to join the Schengen Area has apparently played a greater role than legal harmonisation *per se*. Especially

in the 1990s, Southern European countries, as the new “border guards”, were well aware of the European need to balance free internal circulation through stricter external controls (see Gabrielli; Ponzio). Concerns related to the enforcement of the Schengen Agreement led Northern European countries to impose their preferences on their Southern European counterparts through the formulation of common lists of countries whose nationals required a visa and the approval of a common visa code that defined procedures and conditions for issuing short-term visas.

Surprisingly, Schengen membership has remained a key priority even today. In 2011, immediately after the increase in the secondary movements that followed the Arab Spring, the EU DG for Justice and Home Affairs explicitly accused Italy of violating the “Schengen spirit” and opened up a debate on the revision of Schengen governance as well as at the end of 2015 several European countries has restored border controls (see Ponzio).

However, Southern European countries should not be viewed as passive recipients of pressure from the North and the EU. For instance, despite the pressure from Northern European countries, Italy left substantial components of the Common European Asylum System, such as the Dublin and EURODAC Regulations, on paper until their implementation became a currency of exchange to obtain asylum seekers’ relocation in 2015 (see Ponzio). Similarly, Spain has engaged Europeanisation in a way consistent with and functional for its own interests. In the 1990s, it took symbolic measures to meet the requests of European partners by starting, with significant EU funding, the erection of border fences around Ceuta and Melilla, while in more recent years it has exploited the EU’s growing emphasis on externalisation, leveraging its established experience in this field (see Gabrielli).

Alongside EU directives and regulations, Europeanisation also develops via “soft” tools, e.g. non-legally-binding guidelines, such as handbooks and instructions for processing visa applications at consulates which enter into the realm of national sovereignty (see Infantino), as well as the 2015 European Agenda on Migration that introduced the “hotspot” approach in Italy and Greece (see Dimitriadi; Ponzio). Similarly, the Global Approach to Migration (GAM) adopted in 2005, renamed the Global Approach to Migration and Mobility (GAMM) in 2011, as well as the 2015 EU Trust Fund for Africa (EUTF) established at the Valletta Summit, have been key tools of the EU migration containment strategy (see Gazzotti, Jiménez Álvarez & Espiñeira; Gabrielli). Those soft instruments, often regarded as second-order tools of Europeanisation, might matter more than legally binding EU directives, and allow the Union to introduce regulations where it would be otherwise impossible, expanding Europeanisation beyond the scope laid down in the Treaties (Cini, 2001; Ponzio, 2022; Roman, 2020).

That said, Europeanisation happens to a large extent at the implementation stage, where logics of action and practices are constantly hybridised. Here, the role of street-level bureaucrats and NGOs in the development of the European migration regime is significant, and triggers dynamics that go beyond Member States’ centralised strategies and control. For instance, growing similarities in implementing visa policies have derived from recurring formal and informal exchanges between street-level bureaucracies of Northern and Southern European countries’ consulates.

These have led to the sharing of narratives, frames, meanings and practical knowledge, and have triggered policy change from below (see Infantino).

Another transformative dynamic originates from the role of international organisations that have compensated for the weak state capacity in Italy and Greece at the onset of the European refugee crisis. In Greece, UNHCR and IOM became implementing partners of the EU relocation programme in 2016 without the direct involvement of the national government, with UNHCR setting up the ESTIA programme – initially designed to provide housing and cash assistance to beneficiaries of the relocation programme and then expanded to include Dublin family-reunification candidates and vulnerable applicants (see Dimitriadi). Similarly, in Italy, UNHCR has played a significant, though declining role in raising standards and filling the gap with the rest of Europe by participating in almost all asylum phases, from disembarkation to the examination of asylum applications, from refugee integration to assistance in the drafting of codes, handbooks and national plans (see Ponzio).

In this “Europeanisation by practice”, while international organisations act somewhat like state entities, some state entities increasingly resemble non-governmental organisations in their logics of action. With regard to the external dimension of migration policies, we have observed a sort of NGO-isation: the tendency of Member States’ agencies to act like NGOs insofar as they become the implementing actors of EU development funding (see Gazzotti, Jiménez Alvaréz & Espiñeira). For instance, EUTF-funded projects are implemented through a “delegated cooperation” whereby public development cooperation agencies belonging to individual Member States bid on and act as contractors for large-scale EU-funded projects, just as NGOs generally do, following EU’s rationales and guidelines instead of those of Member States. Hence, this kind of Europeanisation has emerged as an unintended consequence of the EU principle of transparency and fair competition rather than a planned outcome of overarching strategies concerning migration controls. Overall, practices on the ground do not appear to simply be the outputs of clear-cut EU or national strategies: instead, practices and strategies interact in complex cycles of recursive interactions where established routines, a variety of rules, and the actors’ diverse capacity may undermine or reinforce any intended Europeanisation.

All in all, Europeanisation appears to be more similar to a hybridisation of strategies, logics of action and practices, rather than to a top-down adoption of common regulations issued by EU-level entities or to horizontal convergence among clear-cut national approaches. The Europeanisation of migration control analysed from a regime-analytical perspective appears more complex than the rational efforts of Member States to upload and download their policy preferences to and from EU policies, and more multifaceted than a mere convergence between different national models driven by the necessity to answer similar challenges or to implement common EU rules; it cannot be reduced to the response to deterministic impulses. Rather, the adoption of rules from above goes hand in hand with the institutionalisation of practices from below. Actually, Europeanisation appears rather fuzzy and partially incoherent, a multiactor, multilayered process where states are not

commanders in chief, a sidwinding process which blurs the boundaries that are supposed to divide migration regimes in Europe.

## **17.4 Framing Difference: Competing Interests and Internal Constraints**

The European migration system is clearly a complex, ambiguous reality, where convergence dynamics must come to terms with persisting variance. The way nation-states deal with migration is highly dependent on the different geopolitical, economic and institutional constellations they are embedded in and the structural limitations they entail. Such embeddedness is key to understanding the functioning of migration control and to framing divergence beyond the traditional opposition of “weak” versus “strong” control capacity. On the one hand, nation-states are not isolated units, but interconnected political organisations that often need to negotiate their migration control goals with a variety of interests and social actors, depending on the migration systems in which they are involved. On the other hand, nation-states observe and act upon international migration differently, depending on “the design of these states, their way of reproducing sovereignty, and the related conceptualisation of loyalty and power relations” (Bommes & Thränhardt, 2010: 210). Hence, nation-states’ migration-control goals are shaped by different nation-building histories, interests and structural designs (e.g. the dimension of the informal economy or different types of institutional traditions) that might at least partially offset the power of convergence processes based on changes of inflows and Europeanisation. Against this backdrop, another contribution of this book is to show that the mechanisms of migration control can be only understood by taking into account the connections of nation-states with other types of systems (e.g., international relations or the economic system) and the power of internal constraints.

### ***17.4.1 The Role of Competing State Interests***

Nation-states as crucial engines of complex migration regimes are not impermeable units, but political organisations with different types of (often contradictory) interests that must deal with different social organisations. Such interests vary not only from state to state, but also within individual states and are key when shaping the strategies and logics of various migration controls and therefore contributing to the configuration and functioning of migration regimes.

As various chapters of this book have shown, migration control measures have been clearly affected by geopolitical interests in several ways. Infantino’s chapter pointed out that countries such as France were initially reluctant to introduce restrictive visa regulations fearing a negative impact on their bilateral relations. In fact, it was not irregular migration but a series of terrorist attacks carried out in the 1980s

that provided a “policy window” to introduce visa restrictions. Nonetheless, current trends show that geopolitical interests still play a very important role in visa-policy implementation; pre-existing bilateral relationships clearly had an influence on Schengen visa application trends. As the data presented in the chapter by Landini and Sciortino showed, differences in visa rejection rates do not seem to reflect different attitudes to migration control, but rather different types of geopolitical and historical considerations. According to the authors, this turns visa policy into a particularly suitable example to show that states are not independent but interdependent units whose control policies do not depend on more or less effective implementation, but rather on the role played by each nation-state in the control system in which it is involved. This variety of migration systems also has implications for the implementation of enforced returns. In fact, as Landini and Sciortino argued, differences in return rates have more to do with the composition of the undocumented immigrant population in a given country than with the institutional capacity to return migrants – nationals from some countries are easier to return than others, depending on the existence or not of bilateral agreements between immigrants’ countries of destination and their countries of origin.

The close connection between the struggle against irregular migration and other (mainly geopolitical) interests is particularly evident in the case of the complex negotiations on migration cooperation among the EU, Spain and Morocco (Carrera et al., 2016). Successive Spanish governments have had to combine their negotiations on border controls at the EU level with issues such as trade agreements or questions regarding Western Sahara, which are both very important for Morocco’s geopolitical agenda in Northern Africa, as the text by Gabrielli noted. And as Gazzotti, Jiménez Álvarez and Espiñeira showed, European efforts to protect its external borders have thus become deeply intertwined with Morocco’s attempts to increase its geopolitical influence through cooperation with the EU on migration issues; this has turned Morocco’s “migration diplomacy” into a crucial element in the construction of the European border regime.

Of course, geopolitical interests did not only influence the negotiation of migration issues with third countries but also shaped intra-European migration policies as well. As D’Angelo pointedly argued in his chapter, welfare chauvinism directed against European citizens and the related restrictions and oversight of intra-EU migrants became useful instruments for the UK to “repudiate” its role as a major node of the EU regional system. Geopolitical interests, such as the need to compensate certain countries for asylum restrictions or to foster cooperation on migration issues with new transit countries, as it occurred for the Balkans or Georgia in the case of Germany, have also affected the implementation of labour migration recruitment schemes by opening the way to “ethnic preference” at the expense of personal qualifications (see Kolb & Schneider).

Finally, it should be noted that geopolitical interests have been frequently complemented by economic interests in the design and implementation of migration control. As Malheiros and Peixoto emphasised in their chapter, regularisations probably represent the most evident example of how state control imperatives conflict with pressure from employers to open (even though *a posteriori*) admission

channels to employ migrant workers, thus guaranteeing the functioning of labour-intensive economic sectors. Infantino's chapter furthermore reminds us that Italy's pre-Schengen visa policy was shaped not only by foreign policy interests, but also tourism. Indeed, the relevance of tourism and economic interests for visa policy can still be observed in the designation of visa-exempt countries and visa rejection rates, which are lower for countries that generate large flows of tourism and business, such as China and Russia before the pandemic and Ukraine-war (Finotelli & Sciortino, 2013). Likewise, tourism and other economic interests probably had a role in limiting control ambitions on intra-European flows. For instance, the relevance of tourism for the Spanish economy helps to explain the government's inertia in discussing the compensation system for healthcare services provided to Northern EU and UK citizens on the Spanish territory. As Finotelli suggested, nobody seems to have a real interest in provoking a debate that could negatively affect Spain's attractiveness to tourists and "lifestyle migrants" from other EU countries. In this case, accumulation logics embedded in the economic and tourism sector seem to be more relevant than the "protection" of the public healthcare sector within the EU citizenship regime.

#### ***17.4.2 Different Types of Internal Constraints***

The previous section shows that nation-states are interdependent units where migration control policies are deeply interconnected with other types of state interests and policy fields. Yet migration control logics and practices are not only shaped by different types of state interests, but also by different types of state designs. In fact, the functioning of migration control cannot be adequately understood without taking into account the fact that nation-states are political organisations with different characteristics that often act as structural constraints on similar imperatives. It is against this backdrop that the chapters presented in this book provide some insights on how national constraints such as nation-states' geographical position, the political-institutional capacity and their labour-market structures can shape different migration control strategies.

Geographical position and the evolution of migration routes were obviously key factors behind Italy's and Greece's exposure to refugee flows during the migration crisis in 2015 (see Dimitriadi; Ponzio). On the other side of the Mediterranean, the Spanish border regime has obviously been influenced by its land and maritime border with Morocco, while geography has kept Portugal fairly isolated from all major European migration crises (see Gabrielli; Gazzotti, Jiménez Álvarez & Espiñeira).

Besides geographical position, other types of structural determinants inevitably have an influence on the regulation of wanted and unwanted migration flows. For instance, the design and implementation of labour migration policies clearly depend on the type of labour demand. Different types of labour demand inevitably determine different types of labour recruitment. This is, for instance, the case of Southern European countries such as Italy, where recruitment schemes for highly skilled

foreign workers have been rather unsuccessful due to the reduced demand for high-skilled labour in the country (see Devitt; Doornik, Garcés-Masareñas & Güell).

Labour recruitment policies in Southern Europe have also been affected by a weak political-institutional capacity that has prevented the efficient match between labour demand and supply, as the case of Italy demonstrates (see Devitt); this was not the case in Spain, due to its more coordinated bureaucracy and its lower level of political instability (Finotelli & Echeverría, 2017). The same seems to apply to the field of asylum, where states' political-institutional capacity has clearly influenced the way in which they have dealt with unwanted migrants such as refugees and other irregular migrants. A weak political-institutional capacity has limited improvements to the Italian and Greek asylum procedures (see Ponzio; Dimitriadi). As already noted, Germany experienced cumbersome asylum procedures and difficulties in managing asylum flows, similar to its Southern counterparts. However, Germany's troubles seemed to be more related, at least in later phases of the asylum crisis, to a political desire to reduce Germany's attractiveness to new asylum seekers than with weak institutional capacity (see Thränhardt). In light of this, the new government coalition led by Olaf Scholz has called for "a paradigm shift". The approved coalition agreement states that one of the goals of the German government in the field of migration and asylum will be to turn over a new leaf with "fair, fast and legally secure" asylum procedures (Coalition Agreement 2021, 139–140.); this should take place by taking pressure off the Federal Office for Migration and Refugees (BAMF) and introducing a new countrywide, independent asylum counselling system (*ibid.*).

The interrelation between institutional capacity and social expectations regarding the state's control capacity or the legitimacy of policy options such as amnesties represents a further important aspect to understand the way regimes observe and act upon irregular migrants. German governments have been traditionally reluctant to immigrant regularisation, since this would undermine the traditionally high expectations from society about the state's control capacity. That is why *ex-post* regularisations in Germany are primarily embedded in the functioning of the asylum system and do not have an economic but rather a "humanitarian" background in the form of "exceptional leave to remain (*Duldungen*)" and "old-case regulations" (see Finotelli). In contrast, regularisations are less controversial measures in Italy and other Southern European countries since their public acceptance is deeply embedded in the traditionally modest expectations concerning the state's institutional capacity (see Finotelli; Malheiros and Peixoto). Against this backdrop, regularisations and amnesties have been carried out not only to reduce the number of irregular migrants, but also to legalise formerly illegal buildings, rectify tax evasion or even address the illegal possession of archaeological artifacts and exotic animals. Similarly, Echeverría showed that the different approaches to internal control in Spain and the Netherlands also depended on historically different modes of state penetration in society. In the Netherlands, this has resulted in systematically higher levels of ambition concerning the state capacity to control irregular migration than in Spain. At the same time, he showed that political resistance to internal identity checks, higher in the Netherlands and Germany than in Spain, may be related to different perceptions of institutional legitimisation when interfering with personal freedoms.

Nevertheless, the fact that Southern and Northern European countries deal with undocumented migration differently does not mean that they actually achieve different results. Policies designed to produce and manage knowledge on irregular migration are examples of this. For instance, regularisations of labour migrants in Italy and *ex post* regulations of rejected asylum seekers in Germany have allowed these states to recover control of irregular migration, showing that different ways of handling state ignorance of unauthorised residence follow similar regime logics (see Finotelli). The comparison of the German and Italian cases suggests that functional equivalence rather than divergence may represent a more useful analytical tool for understanding the way nation-states with different histories and internal designs handle the presence of undocumented migrants.

## 17.5 Conclusion and Outlook

The analyses of migration control logics and strategies in this book make it possible to explain migration control outcomes not as the pure, direct products of state control policies, but rather as the intended and unintended consequence of strategies pursued by a wide variety of public and private actors operating on various geographical levels. To this end, the concept of “migration regimes” has proved to be a useful heuristic tool for researching immigration detached from normative assumptions and for understanding how immigration controls actually work. By using the concept of migration regimes, the chapters unravel policy practices and organisational strategies of nation-states, demonstrating that migration controls are not simply a reaction to the social phenomenon of immigration, but also the outcome of a negotiation process where the governments of individual states are only one of the many possible actors involved, ranging from street-level bureaucrats and local governments to Europe-wide policymakers, and from local NGOs and private actors to major international organisations. Against such a backdrop, nation-states do not appear as independent actors, but rather as highly interconnected political organisations, deeply embedded in a dynamic interplay of changing external contexts, different geopolitical and economic interests, and internal constraints.

The use of the regime concept in this book not only empirically challenges the idea of clear-cut national models defined by more or less policy efficacy. It also contributes to questioning the North-South divide as an analytical lens, and helps pave the way for a new conceptualisation of similarities and differences in European migration controls. In fact, the chapters in this book bring to light a multifaceted reality, where convergence dynamics overlap with persisting differences. If, on the one hand, they shed light on the blurring of boundaries between national migration regimes as the result of Europeanisation processes and external dynamics that have made inflows more homogenous, on the other they show that migration controls and their outcomes remain dependent on internal structural designs and the role played by nation-states in the geopolitical or economic systems in which they are involved.

This allows scholars to identify the many patterns of convergence and variance in the European control systems, despite common control imperatives.

Overall, the analyses presented in this volume contribute to overcoming clear-cut and often Manichean representations of the functioning of migration control in Europe. Yet there are still open questions with regard to the dynamics of convergence and divergence observed in the previous pages. One of these points is surely the impact of visa policy on other policy fields. As previously mentioned, the new Visa Code creates a new connection between visa policy and the enforcement of returns, whereby third countries that do not collaborate in readmitting their own citizens may become the object of visa restrictions. It is certainly premature to assess the effectiveness of this “conditionality clause” with regard to readmissions. Nevertheless, linking visa policy (with its high degree of harmonisation) to collaboration on enforced returns (with a very low degree of harmonisation) may represent an important step towards policy convergence.

Another question concerns the “Southernisation” trend observed in some policy fields. *Refoulements* in the East and Central Mediterranean, together with the limitations imposed on NGO interventions, have become quite a frequent (and tacitly accepted) practice – which has been adopted by Eastern countries, e.g., in the *refoulement* of refugees coming from Belarus in 2021 and the establishment of a no-go area for NGOs along the Polish border. Moreover, the European Court of Human Rights in Strasbourg found in *N.D. and N.T. v. Spain* (13, February 2020) that “hot returns” at the Spanish-Moroccan are not equivalent to a violation of collective expulsions under Protocol 4 Article 4 of the European Convention of Human Rights (Carrera, 2020). It therefore remains to be seen how certain types of “dirty” border practices implemented in Southern Europe will become mainstream in the European Union.

Third, it goes without saying that a proper understanding of the functioning of the European migration control system and the related convergence and divergence dynamics will inevitably require looking at Eastern and South-eastern countries, especially taking into account the consequences of the recent war between Russia and Ukraine. This has already started to impact the European asylum regime with the activation, for the first time ever, of the Temporary Protection Directive for Ukraine refugees. The convergence triggered by this momentous decision has been reinforced by what we called “Europeanisation by practice”: Member States have been facilitating Ukrainians’ mobility and settlement by adopting rather swift procedures, while almost everywhere NGOs and civil society have massively complemented the public intervention. The way of handling the Ukrainian crisis was initially regarded as a sort of turning point for the European asylum regime since the rules and practices set up to deal with Ukraine refugees had not been applied to the people crossing the East and Central Mediterranean and the Belarus border.<sup>1</sup> Yet, the smooth reception of Ukrainian refugee flows might also represent a further example

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<sup>1</sup> On the question of the Ukrainian war as a turning point in the European asylum system see also the contributions by Thränhardt (2022); Thym (2022); Benton and Selee (2022).

of “source-country particularism” following a trend that has already been highlighted in this volume with regard to labour migration. This development emphasised how control policies are affected by intervening factors such as policy frames and geopolitical interests. Moreover, in a period in which the European Union reaches one of the lowest unemployment rates ever and the labour demand is skyrocketing, the skilled and socially accepted labour force arriving from the Eastern border is more than welcomed by the economic actors. Indeed, the Ukraine crisis further confirms the heuristic usefulness of the concept of “migration regimes” to read the complex and dynamic scenario of migration controls.

How thoroughly is the EU’s migration regime going to be shaped by Southern, Eastern and South-eastern European priorities, is a fascinating question that will deserve a great deal of research attention in the future.

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