

Geddes, A. and Niemann, A. (2015)

„Introduction: conceptualising EU policy on labour migration”

In: *Cambridge Review of International Affairs*, Vol. 28, No. 4, pp. 523-535.

This is a preliminary version of an article whose final and definitive form was published in *Cambridge Review of International Affairs* © Copyright Centre of International Studies, *Cambridge Review of International Affairs* is available online at <https://www.tandfonline.com/loi/ccam20>.

Introduction: conceptualising EU policy on labour migration

Andrew Geddes, Department of Politics, University of Sheffield, Elmfield, Northumberland Road, Sheffield, S10 2TU, UK. Phone + 44 114 222 1703; email: a.geddes@shef.ac.uk

Arne Niemann*, Institut für Politikwissenschaft, Johannes Gutenberg-Universität Mainz, 55099 Mainz, Germany. Phone: 0049-6131-39-25486; email: arne.niemann@uni-mainz.de

* corresponding author

Introduction: conceptualising EU policy on labour migration

This introduction sets the scene for the articles in this themed section. The starting point is the relatively recent but important developments that have occurred in the area of EU labour migration such as the 2009 ‘Blue Card’ directive covering highly qualified migrants, the 2011 single permit directive covering residence and work, and a 2013 directive on seasonal workers. The article specifies the legal, policy and institutional developments in this area and discusses their significance. To facilitate reflection on the effects of these developments, the introduction focuses on underlying behavioural logics, i.e. modes of action, that could account for the development of EU competencies and that then emerge as themes within the papers in this themed section. The first is an instrumental logic that focuses on the ways in which key actors pursue their interests. The key actors *were* almost exclusively the member states working with the Commission, but since the Lisbon Treaty came into force in 2009, the European Parliament (EP) and Court of Justice of the European Union (CJEU) have also become key players (Acosta and Geddes 2013; cf. Roos, this themed section). The second is a social logic linked to the effects of routinized interaction and the potential for such interactions to re-shape the preferences and identities of the actors that populate this EU policy field. Is there evidence that the fundamental orientations that underpin approaches to labour migration have in any way been re-made by EU co-operation? The third is a communicative logic that is linked to the effects of routinised interaction, but that emphasises the need for member states to justify their own approaches and be confronted by other, sometimes alternative, approaches adopted by other member states. Similar to the social logic identified above, a communicative logic would emphasise the potential for debate and argument about policy and their potential effects on the underlying preferences and identities of actors, such as member state governments. Once again, the question that arises is whether there is evidence of these more constitutive and ‘constructive’ effects of European integration, compared to a ‘thinner’, more rational and instrumental logic that was also sketched above (cf. Börzel and Risse, 2012).

We suggest that consideration of the effects and interplay between instrumental, social and communicative logics can cast useful light on the underlying dynamics of EU action in this area and facilitate understanding of how EU-level action on labour migration developed, the effects of this action and its future potential. From a theoretical perspective, this constitutes a particularly interesting policy area. While intergovernmental approaches that tend to accord with the instrumental rationality have been highly influential in migration policy (cf. Guiraudon 2000; Luedtke 2011), there has been increased contestation of such approaches recently (cf. e.g. Kaunert and Léonard 2012; Thielemann and El- Enany 2011; Guild 2011).

The meaning of migration

Labour migration is at the heart of migration policy, and is related to the regulation of borders, the pursuit of economic growth, the effects of demographic change and the quest for social cohesion. Recent developments suggest an increased EU dimension to labour migration, albeit currently falling short of a common policy. The issue is timely not only because the EU is flexing its policy and institutional muscles in this area, but also because labour migration cannot be detached from important questions about sustainable economic growth in the post-crisis EU.

While this introduction highlights the continued centrality of member states’ approaches to labour migration, it also looks at the developing effects of European integration and interdependence. We seek to explain the effects of Lisbon’s application of ‘normal’ institutional procedures (co-decision, qualified majority voting, jurisdiction for the CJEU), and analyse the policy outputs, including three directives identified at the start of this paper, looking closely at the scope and content of this legislation. To what extent is it merely a reflection of member state policies with significant derogation for them to maintain their own national approaches? It is also important to probe the content of these measures and the effects (both actual and potential) of intensified interactions, information exchange and sharing of knowledge across the EU. These may be tentative steps towards deeper

integration, a form of ‘transgovernmentalism’ within which regular interactions at political and official level involving a range of actors (such as supranational institutions, governments, international organisations and NGOs) have blurred the distinctions between domestic and international politics and policy-making (Slaughter 2004). We do identify important developments, but do not contend that these necessarily mean that a common EU policy will flow from these interactions. Even if it did, the content and ambition of this policy would be equally, if not more, relevant than the fact that this was a ‘European’ approach. It does seem unlikely given the existing constellations of institutional power and associated meanings that a common approach to admissions will be developed any time soon. However, it is also very clearly the case that labour migration has acquired an EU dimension, that there are EU directives that relate to specific forms of labour migration and that there is now routinised interaction around these issues at EU level. These developments merit close attention because of their importance to debates about migration, but also more generally in the context of the EU’s expansion into areas of policy that impinge on understandings of sovereign authority and capacity (Hoffmann 1966).

Making sense of labour migration

Generally speaking, EU policymaking on labour migration has been constrained by EU treaties. An EU approach would impinge upon labour market regulations and welfare rules that are embedded in differing national systems. In addition, there is a high level of politicisation of labour migration with its costs and benefits unevenly distributed across the economies and societies of the member states. EU membership has itself shaped policy and institutional responses to migration in new member states as part of the requirements laid down by the EU *acquis* for membership. Politicians and experts seem unable to agree on whether or not labour migration is actually a good thing, although there is evidence that such migration is a net benefit. As a result of these variations, there is significant interest heterogeneity among member states while national governments remain firmly in charge of the admission of non-EU labour migrants. Decision rules have tended to favour deadlock with some tendency towards the lowest common denominator (Héritier 1999).¹ However, since the Lisbon Treaty came into force in 2009, migration policy has been subject to the EU’s Ordinary Legislative Procedure (OLP) meaning qualified majority voting in the Council of Ministers and co-decision on legislation between the Council and the EP (Geddes 2008; Boswell and Geddes 2011; Niemann 2008, 2012). While the Lisbon Treaty (Art. 79.5) does state that measures on migration ‘shall not affect the right of Member States to determine volumes of admission of third-country nationals coming from third countries to their territory in order to seek work [...]’, scope is created for measures relating to conditions affecting the entry, residence and rights of third country national migrant workers. Grander ambitions also underlie this area of policy. For example, there is the aspiration to develop a common framework for an EU admissions system in the Stockholm Programme that has elaborated the EU’s migration and asylum agenda until 2014.

There are of course issues other than the EU’s own institutional setting at stake when labour migration is discussed and it is highly pertinent to identify these. This section identifies some of these issues. It distinguishes labour migration from other forms of migration, explores the ‘embeddedness’ at member state level of admissions policies and then assesses in more detail the rationale informing this themed section analysing institutional and policy responses at EU level to labour migration.

A perennial feature of much public debate about ‘immigration’ is a failure to distinguish between various types of migration. In itself, the term ‘immigration’ has limited analytical utility as a data

¹ Another, related, obstacle to a common approach has been that most member states have their own sets of legislation and admission schemes for foreign employees.

container because it comprises highly diverse categories of movement by people across state borders. This is also complicated in the EU by the Treaty's free movement provisions that extend rights to work across the EU to nationals of all member states. Thus, each EU member state has ceded significant authority to the EU regarding the regulation of admission to their territory of nationals of the other 27 member states (with time-limited transitional arrangements applied to newer member states). This creates a basic and important distinction between, on the one hand, EU citizens with a right to free movement and, on the other, third country nationals TCNs for whom the EU and its legal provisions have acquired some importance, but for whom the point of reference for admissions policy remains the member states. While the focus of this introduction and themed section is on TCNs, there are important connections between the two issues because of the increased scale and political salience of intra-EU mobility following the 2004, 2007 and 2013 enlargements.

In addition to the distinction between EU citizens and third country nationals, it is necessary to distinguish labour migration from other forms of migration and to note that labour migration comes in many forms. First, movement for the purposes of employment is but one motive – albeit an important one – for migration. There are other important motives for movement across international borders. Chief amongst these are movement for family reasons (reunification, formation or new family creation), to seek refuge or to study. These are not disconnected because, for example, someone may move to an EU state to study, stay on to work and then may seek to be joined by his or her family members. These different forms of migration are governed by different legal and policy frameworks with different interests at stake. Of particular importance is a distinction made by policies between migration assumed in law and policy to be 'voluntary', such as labour migration, and those understood as 'forced', such as asylum-seeking. Labour migration is assumed to be voluntary, although it is, of course, embedded in international economic inequalities that provide a powerful impetus to movement. There is no substantive international framework that protects the rights of such 'voluntary' migrants compared to the provisions for protection of the stateless and refugees in the Geneva Convention of 1951.²

While it is important to distinguish labour migration from other migration types, it is also necessary to recognise the diversity of labour migration. For example, a basic distinction can be made between migration into higher and lower skilled employment. EU member states have sought through their policies to target migration into higher skilled employment in what is sometimes referred to as a 'global competition for talent'. However, migration into lower skilled employment remains a key, structural component of labour migration to Europe. In some EU states and, more specifically, in certain employment sectors this can create a powerful migration-irregularity-informality nexus as migrants without the appropriate permission to work (irregularity) find employment in sectors that can be more difficult to regulate (with tendencies to informality). This can also lead to abuse and exploitation of vulnerable migrant workers. In addition to skill level, there are also differences between the duration of migration. This has become particularly relevant given increased attention at EU and member state level to temporary migration schemes (that are time limited) and circular migration (that creates the possibility of entry and re-entry). Labour migration can thus be for shorter periods of time, such as seasonal work in agriculture or for longer periods leading to permanent residence. Again this poses different policy and regulatory challenges. At EU level, temporary and circular migration as migration policy are seen as 'solutions' because they offer scope for migration without opening debates about migrant integration linked to permanent settlement (CEC 2011).

² The United Nations Convention on the Protection of the Right of All Migrants Workers and their Family Members has not been signed by a single EU member state.

Labour migration is thus a highly diverse phenomenon and is also highly specific in spatial, economic and social terms. Labour migrants tend to move into particular places to undertake particular types of employment. There are also gendered distinctions as male migrants undertake certain forms of employment, such as in agriculture or construction while female migrants are more likely to find work in sectors such as the care sector. To this can be added, that labour migration is closely related to key functional variables such as the organisation of labour markets and of welfare states; both of which have powerful national dimensions. This is most clearly the case for welfare states that deliberately construct a boundary between insiders and outsiders. This does not preclude migrants from welfare state membership. In fact, migrant inclusion is a structural imperative linked to the idea and practice of the modern welfare state as a community of welfare state contributors rather than one of co-nationals (Bommes and Geddes 2000). There are powerful economic, social and demographic arguments for the inclusion of migrants in welfare states; but the point is that they remain largely national welfare states with a very limited EU dimension that is mainly related to the portability between member states of welfare entitlements, such as pensions.

The European transformation of labour migration?

A key reason for the relative absence of discussion of EU labour migration policy is that there has been relatively little to explain. Until 2009 when the 'Blue Card' directive on highly qualified migrants came into force, the EU was strongly focused on reinforcing the regulation by member states of those forms of migration defined as 'unwanted' by their laws and policies, such as asylum and irregular migration, and on exporting restrictive frameworks to new member states. This is consistent with theoretical approaches to multilateral co-operation that see limits to such co-operation when it encounters areas that combine a close link to national sovereignty with high domestic political salience, such as the admission of migrants (Keohane et al 2009). In addition, as Meyers (2002) points out, why would states seek multilateral cooperation affecting their capacity to admit migrants when there is strong evidence of an excess supply of international labour migrants? Cooperation could also potentially risk binding the hands of participants in unwelcome ways. Yet, there is now a situation where there is evidence of EU action on labour migration with the three directives referred to above. Developments have been slow, but the point is that they have occurred.

Approaches to European and EU labour migration have tended to focus on the national embeddedness of approaches with an attendant tendency to highlight the importance of historical and institutional processes in the member states. Excepting work on intra-EU mobility by EU citizens, there has been relatively little space for labour migration within theoretical approaches to EU integration. Those accounts that have sought to explore the relationship between national and EU approaches to migration have tended to strongly focus on instrumental logics of state behaviour that informed 'a choice for Europe' as a way of resolving issues and challenges in domestic politics. In the 1990s when these accounts emerged, the EU venue was relatively 'thin' as an institutional setting and largely intergovernmental. The result was an executive-dominated EU institutional level that was mainly focused on restriction and control. 'Venue-shopping' approaches emphasise the autonomy-generating impact of European integration. For example, Guiraudon (2000) argued that national policy-makers decided to move migration policy to the EU venue after facing increased obstacles – particularly from courts – at the domestic level to their restrictive policies. In order to rid themselves of such domestic constraints and pursue restrictive policies, they began to cooperate more intensely at EU level during the 1990s. As a result, national governments and especially ministries of the interior sought to free themselves from the parliamentary, judicial or public controls encountered at domestic level and to thus strengthen their control over the migration policy agenda. Maurer and Parkes (2007) contend that even after the nominal creation of a common migration and asylum policy by the Amsterdam Treaty (1999), the EU still allowed interior ministries and JHA officials to mobilise substantial political resources and strengthen their relative influence and autonomy *vis-à-vis* a range of competing actors. Lavenex (2006) has emphasized another

form of venue-shopping by suggesting that there is not only an ‘upward’ shift to the EU venue, but also an ‘outward’ shift towards migration as a foreign policy issue. This outward shift allows national ministries with responsibility for migration - typically interior ministries - to enhance their autonomy even in the face of the post-Amsterdam ‘communitarisation’ of migration policy. An example would be the Mobility Partnerships agreed with non-EU states such as Armenia, Georgia, Moldova and Cape Verde. These are intergovernmental agreements that do not create a right to enter an EU state for the purpose of work. Any decision about admission remains a matter for the member states. There is thus a plausible argument that a bilateral agreement between a non-EU state and a member state that actually relates to entry for work (seasonal employment, for example) would offer, as things stand, more to the non-member state and its citizens than a Mobility Partnership.

There is little to suggest that this instrumental logic would create scope for new or more ambitious approaches that could challenge these national approaches or for the expansion of policy into new areas such as admissions. However, a key feature of much of this influential work on venue shopping was that it emerged at the end of the 1990s when the EU was a very different beast. There have since been highly significant developments in terms of laws, institutions and policies that reshape the context within which EU action occurs. There are, for example, new actors populating this EU level venue: the Commission’s role has developed and changed, the EP is now a co-decision-maker, the CJEU has full competence in this area including the power to issue preliminary rulings. In short, things have changed and it is important and timely to consider the effects of these changes. For example, the role of the CJEU has been examined in relation to issues such as asylum, expulsion, family migration and integration conditions for new migrants (Acosta and Geddes, 2013). The conclusions emerging from this work suggest the need to rethink the characteristics of the EU as a ‘venue’.

This raises the question of the EU’s institutional ‘thickness’ as a venue. Is it a place where more than strategic interaction occurs? Can the EU venue affect the preferences and identities of actors who participate in this relatively new policy field with the potential to reshape migration policy in some kind of ‘European’ direction? In contrast to the consequential institutional logic sketched above, this social logic would accord with an institutional logic of appropriateness with scope for ‘constructive’ effects. Positing the potential social effects of co-operation on labour migration prompts different research questions. Instead of a focus on legal and policy outputs, we could direct attention to the forms of routinised interaction between a variety of actors such as national governments, supranational institution and a range of other actors including international organisations, think tanks, NGOs and civil society organisations. These interactions have been strongly influenced by EU enlargement as the EU has sought to ‘export’ measures on migration and asylum to new member states. The EU has provided a forum for policy learning, although for new member states the experience was more akin to instruction. These interactions could facilitate or promote common or shared understandings that are ‘European’ both in focus and content. Such interactions could also be seen as indicative of a transgovernmental dynamic as routinised interaction blurs the boundaries between domestic and EU policy-making.

To this social effect can be added a third behavioural logic linked to communicative rationality that also accords with an institutional logic of appropriateness. This involves not only the sharing of information and ideas, but also to the ways in which ideas need to be presented, defended and may actually change as a result of interaction. Central to the functioning of this communicative logic would be giving reasons for actions or behaviour and seeking to justify them (Börzel and Risse, 2012). For example, it is not clearly established that a common EU labour migration policy is required. However, there is a discursive representation of migration as a European issue with the intention in some quarters that this be used as the basis for policy development by, for example, creating a linkage to EU economic objectives. For example, future labour market needs

are central to the 'Europe 2020' strategy for the EU economy (CEC 2010).³ While a third of the world's nearly 90 million migrant workers reside in Europe, the majority of them work in lower-skilled forms of employment, but, consistent with the orientation of EU approaches to economic policy and their relationship to globalisation, there has been an increased effort by many member states to attract more highly qualified migrants to equip the EU for this 'global competition'. This has also led to the discursive representation of a competition for talent with the EU competing with countries such as Australia, Canada and the US. However, a counter-narrative could point to the more immediate conditions of financial and economic crisis in Europe. Such economic environments tend to have a negative impact on labour migration flows, due, not least, to labour market pressures (Galgoczi et al 2012, 6).⁴ The broader point is that social and communicative logics can be understood as the basis for, and effect of, routinized transgovernmental co-interactions.

Moving towards a common policy?

This section specifies in more detail the content of EU action on labour migration. Objectives relevant to labour migration at the European level date back to the 1970s. However, it was not until the Amsterdam Treaty (1999) and the Tampere European Council (1999) that scope was created for binding EU law in the area of migration policy. While it was made very clear – and was affirmed by the Lisbon Treaty – that the numbers of migrants to be admitted would remain a national prerogative, there is space for EU measures related to entry, residence and employment conditions, as has been the case with the directives on the highly qualified, the single permit and seasonal workers. Labour migration has been seen as 'the missing element in the establishment of a truly common EU immigration policy' (Carrera and Formisano 2005, 1). A more comprehensive EU migration policy would necessitate common rules on the admission and residence of non-EU workers as constitutive elements.

Labour migration has received relatively little attention in the broader literatures on both European integration and migration (although see Cerna 2013). Most of the literature on labour migration in Europe focuses on domestic approaches in member states and other countries (e.g. Balch 2010; Chaloff and Lemaitre 2009). This contrasts with the more substantial body of literature conceptualising the more control-oriented aspects of EU migration policy (e.g. Guiraudon 2000; Lavenex 2001; Geddes 2008; Boswell and Geddes 2011; Kaunert and Leonard 2012).

It was not until the late 1990s that labour migration began to feature seriously on the EU agenda. Only with the entry into force of the Amsterdam Treaty in 1999 did labour migration become a shared competence of the EU. Subsequently, legislative initiatives were put forward, following the Tampere European Council of 1999 that included labour migration within the Union's Justice and Home Affairs (JHA) work programme.

EU labour migration policy has been characterised by a substantial degree of fragmentation and lack of coherence. An early indication of resistance was the highly negative reaction by member states to a proposal by the European Commission (CEC 2001) for a directive on the conditions of entry and residence for the purpose of paid employment and self-employment. This directive

³ One of the priorities of the 2020 strategy is inclusive growth that is to be achieved through a 'forward-looking and comprehensive labour migration policy which would respond in flexible ways to the priorities of labour markets' (Commission 2010, 21).

⁴ Early on the European Integration Consortium (2009, 53) argued that the current economic and financial crisis is likely to reduce short-term labour migration because migrants tend to be disproportionately affected by economic downturns. Also cf. Galgoczi et al 2012,6.

was supposed to regulate 'horizontally' across the member states the conditions regulating the entry and residence for all TCN migrants undertaking paid and self-employed activities. The Commission withdrew the proposal in view of strong opposition from a number of member states with regard to such proposals for substantial integration in this policy area (Carrera et al 2011, 3).

This was followed by a period of public and political consultation. In its Green Paper on an EU approach to managing economic migration, the European Commission (CEC 2004) set out several options for further discussion, including a horizontal approach on the conditions of entry and residence, or less ambitiously, a series of sectoral regulations focusing on different types of labour migrants. The Commission's Green Paper triggered over 160 responses from various interest groups, governments and think tanks, and also included a public hearing in June 2005. Eventually, the Commission decided on a sectoral approach.⁵ It thus embarked on a 'partitioning strategy' and split-up its initial proposal into various drafts on particular labour migration categories with an overarching framework directive on migrant workers' rights. The resultant Policy Plan on Legal Migration that was eventually put forward by the European Commission (CEC 2005) foresaw a proposal for a directive on a single application procedure for a single work and residence permit and a common set of rights for TCNs legally residing in an EU member state. In addition, it envisaged four separate proposals for specific categories of migrant workers. This approach has been criticized for leading to 'the emergence of a hierarchical, differentiated and obscure European legal regime on labour immigration which accords different rights, standards and conditions for entry and stay to different groups and countries of origin of TCNs' (Carrera et al., 2011, 4). In these inconsistencies, the proposals for a European framework mimic similar situations at national level where labour migration frameworks are highly differentiated, particularly in relation to skills and qualifications. In the face of opposition by key member states to a comprehensive framework, it would seem to have been politically impossible to move beyond this sectoral approach. One problem that the Commission encountered was that it was difficult to demonstrate the 'added value' of an EU approach. In short, what would member states gain from a common EU approach that they could not gain as a result of national level approaches to labour migration?

There have, however, been some concrete results of the Commission's 2005 Policy Plan. The first was the adoption of the 'Blue Card' directive in 2009, although this is essentially a relatively weak vehicle for the approximation of national systems and rules governing conditions of entry and residence for highly qualified migrants with no implications for numbers to be admitted (Official Journal of the EU 2009). Most assessments of the directive suggest that it was essentially a lowest common denominator approach that confirms member states' control over admissions. Moreover, the directive leaves significant room for manoeuvre in terms of implementation with derogations that hinder harmonization and allow member states to run the EU scheme parallel to national admission systems for the highly qualified (Caviedes 2010). However, flexible implementation does not mean that member states do not have to adapt their national legislation to this EU model (Roos 2013). Although this is only a limited step, the Commission has attained the power to oversee and coordinate member states' approaches to aspects of their approach to labour migration. Therefore, the Blue Card directive 'may represent the thin edge of a harmonization wedge, with further measures gradually rolled out over the coming decade' (Boswell and Geddes 2011, 102).

The single permit directive establishes a common set of rights for TCN workers and establishes administrative procedures that oblige member states to process labour migrants' residence and work permits together (Official Journal of the EU 2011). Holders of the single permit enjoy the

⁵ In the meantime, legislation was agreed on the uncontroversial labour migration categories of studies, pupil exchange, unremunerated training or voluntary service (Official Journal of the EU 2004), and scientific research (Official Journal of the EU 2005).

right to equal treatment in key areas. Common to all EU legislation in this area is that member states maintain discretion in implementation (Pascouau and McLoughlin 2012). In 2013, agreement was reached on a directive for seasonal workers. Again, the focus was on rights related to this status as a seasonal worker with no implications for the numbers of seasonal workers that would be recruited. A directive on intra-corporate transferees is still subject to negotiation in the EU decision-making process.

Institutional developments

There has been a gradual process of ‘communitarization’ marked by institutional developments. Together with visas, asylum and other areas of migration policy, labour migration was moved from what was called the Maastricht Treaty’s ‘third’ (intergovernmental) pillar to the first (‘Community’) pillar by the Treaty of Amsterdam (Title IV) in 1999. In the early years, post-1999, substantial derogations from the Community method applied during an initial five-year transitional period until 2004. During this time, decisions in the Council were taken by unanimity, the EP was merely involved through the consultation procedure, the Commission shared the right of initiative with member states, and the CJEU’s jurisdiction was limited (Niemann 2008, 565). The Treaty of Nice brought about only limited changes in the area of migration policy and none of these affected the field of labour migration. In December 2004 the Council decided to move most of Title IV to QMV and co-decision. However, labour migration was exempted from this switch.

Through the Treaty of Lisbon the Community method has been extended to labour migration, as a result of which, most importantly, the EP has become co-legislator with the power to veto legislation, decisions in the Council are taken by QMV, and the jurisdiction of the CJEU has been broadened to review migration law (Acosta and Geddes 2013). The binding nature of the EU Charter of Fundamental Rights and the Union’s accession to the European Convention of Human Rights are likely to further facilitate the CJEU’s scrutiny of migration law, policy and practice. While member states rule out harmonisation with regard to numbers, there is a legal basis for the EU to legislate on other important issues of labour migration related to residence and rights (Carrera et al, 2011, 6). More generally, it can be concluded that the EU as an institutional venue has become ‘thicker’ over time, especially following the Lisbon Treaty. A preliminary illustration of this may be the EP’s rejection of the Council’s version of the directive on the single permit and common set of rights in 2010 through which the Parliament it eventually attained more ambitious provisions in the final directive agreed in 2011 (Official Journal of the EU 2011; cf. Roos in this issue).

Focus and overview of contributions to this themed section

The papers of this thematic section are tied together by their concern with conceptualising EU policy on labour migration. There are several gaps in the literature that the contributions to the thematic section seek to address through three sets of questions: (1) Why do EU member states attempt to cooperate at the supranational level when they clearly diverge in their migration and labour needs? (2) How was the Commission able to secure support for some of its policy proposals? (3) Does venue shopping adequately capture the dynamics of EU policy-making as regards labour migration? (4) Do we need alternative concepts/theories to understand the dynamics in this issue area? (5) Do the institutional changes arising from Treaty development alter the dynamics of policy-making in the area of EU labour migration and, if so, in which ways?

Christof Roos suggests in his contribution that EU approaches to labour migration vary between inclusivity (in terms of access to rights) and openness (in terms of access to admission). The article indicates that rights-inclusiveness rather than expansion in numbers lies at the heart of the EU’s approach to labour migration. This pattern is revealed by his comparison of the negotiations that led to the 2009 ‘Blue Card’ directive and the ‘single permit’ directive of 2011. To explain varying outcomes Roos draws from actor-centred institutionalism, thus assuming that institutions, such as

decision making rules, have a decisive effect in defining EU policy output. The two directives analyzed by Roos were negotiated using different sets of decision-making rules, which Roos sees as decisively affecting variance. During negotiations in the post-Lisbon EU on the single permit the decision-making rules covering the relationship between the EP and Council switched from consultation to co-decision and qualified majority. By contrast, the Blue Card was negotiated under the old system of unanimity in the Council and the consultation procedure, which only minimally involved the EP. Roos concludes that member states have lost their exclusive authority over determining outputs in the area of EU immigration policy. Qualified majority voting and co-decision prevent individual member states from maintaining absolute positions, as a result of which lowest common denominator decisions become less likely. The article also indicated that many member states still prefer to deal with labour migration at the domestic level and have sought to impede the evolution of EU policy. That said, some member states go beyond an approach that rejects a common EU policy and have used the EU to seek lock-in of their own recruitment schemes. As for venue shopping, Roos found some, albeit limited, evidence of this practice in the negotiation of both directives.

Georg Menz explores the rise of the European Commission as a potential policy entrepreneur and studies the role of discourse and rhetorical hooks in securing political acquiescence to Commission proposals in the area of EU labour migration. He suggests that while member state positions and interests still matter in the Europeanization process of labour migration, an important component of this pattern is the entrepreneurial activity of the Commission which uses ‘discourse structuration’ to help secure consensus for its initiatives. Due to the relative weight that EU institutions command since the Treaty of Lisbon entered into force, member states can no longer decisively set the agenda, easily lock in their own national policy as a blueprint for future European regulation, or ‘venue shop’. In the two level arena of EU politics, deliberations regarding individual directives are thus shaped by the discursive framing of policy problems. This argument is illustrated by exploration of the directives on highly qualified migration and migrant seasonal workers. Menz argues that successful policy proposals have deliberately been framed in a fashion which makes them more politically palatable and less likely to trigger sustained political opposition. In both cases, the Commission cleverly created a discourse that linked labour migration to the Lisbon and the Europe 2020 Agenda respectively and thus associated the issue with economic competitiveness and the particular place of migration within the discursive setting [provided by a ‘pro-growth agenda’. However, rather than relying on merely one discursive claim, the Commission also invoked the fight against illegal immigration as well as reference points with more appeal to the political Left, such as combating exploitation and creating legal channels of migration that might benefit both migrants and sending countries. Such calibration of the discourse is suggested as an important factor in securing policy acceptance in a highly politicized and often contentious domain.

Andrew Geddes explores the scope for social and communicative logics to develop at EU level around information gathering and the development of common knowledge that could potentially change the scope and content of EU action on labour migration. The particular focus is on temporary and circular migration and the role of the European Migration Network (EMN) as a ‘community of practice’ within which shared understandings of common problems can emerge as a result of routinized interactions. He argues that the quest for more information and common knowledge about temporary and circular migration has been subsequent rather than prior to political decisions about the potential utility of such migration. Information gathering and attempts to develop common knowledge contribute to the legitimation of institutional roles and the substantiation of policy choices. Geddes suggests that a lack of information has also created political opportunities for actors such as the European Commission that have sought to recast temporary and circular migration as ‘problems of Europe’ to which closer European integration could be a potential solution. However, there remain significant constraints on action linked to the shadow cast by the varying approaches to labour migration in the member states.

REFERENCES

- Acosta, Diego and Andrew Geddes (2013) 'The development, application and implications of an EU rule of law in the area of migration policy', *Journal of Common Market Studies*, 51:2, 179-193
- Balch, Alex (2010) *Managing Labour Migration in Europe: Ideas, Knowledge and Policy Change* (Manchester: Manchester University Press)
- Bommes, Michael and Andrew Geddes (2000) *Immigration and Welfare: Challenging the Borders of the Welfare State* (London: Routledge)
- Boswell, Christina and Andrew Geddes (2011) *Migration and Mobility in the European Union* (Basingstoke: Palgrave Macmillan)
- Carrera, Sergio and Marco Formisano (2005), 'An EU Approach to Labour Migration: What is the Added Value and the Way Ahead?', *CEPS Working Document*, 232 Centre for European Policy Studies, Brussels
- Carrera, Sergio, Atger, Anaïs Faure, Guild, Elspeth and Theodora Kostakopoulou (2011), 'Labour Immigration Policy in the EU: A Renewed Agenda for Europe 2020', *CEPS Policy Brief*, Brussels: Centre for European Policy Studies.
- Caviedes, Alexander (2010) 'Towards a European Model for High Skilled Labour Migration?' in Adam Luedtke (ed) *Migrants and Minorities: The European Response* (Newcastle upon Tyne: Cambridge Scholars Publishing), 61-81
- Cerna, Lucie (2013), 'Understanding the diversity of EU migration policy in practice: the implementation of the Blue Card initiative', *Policy Studies* 34(2): 180-200.
- Chaloff, Jonathan and Georges Lemaitre (2009) *Managing Highly Skilled Labour Migration: A Comparative Analysis of Migration Policies and Challenges in OECD Countries* (Paris: OECD)
- CEC (Commission of the European Communities) (2001), *Proposal for a Council Directive on the conditions of entry and residence for the purpose of paid employment and self-employment activities*, COM(2001) 0386 final (Brussels) 11.07.2001
- CEC (Commission of the European Communities) (2004) *Green Paper on an EU Approach to Managing Economic Migration*, COM(2004) 811 final, (Brussels), 1.11.2005.
- CEC (Commission of the European Communities) (2005) *Commission Communication, Policy Plan on Legal Migration*, COM(2005) 669, (Brussels), 21.12.2005
- CEC (Commission of the European Communities) (2010) *Europe 2010: A Strategy for Smart, Sustainable and Inclusive Growth*, Brussels, COM(2010), Brussels: 3.3.2010.
- Galgóczi, Béla, Janine Leschke and Andrew Watt (2012) 'EU Labour Migration and Labour Markets in Troubled Times', in Béla Galgóczi, Janine Leschke and Andrew Watt (eds) *Migration and Labour Markets in Troubled Times: Skills Mismatch, Return Migration and Policy Responses* (Aldershot: Ashgate), 1-46
- Geddes, Andrew (2008) *Immigration and European Integration. Beyond Fortress Europe?*

(Manchester: Manchester University Press)

Guild, Elspeth (2011) 'Equivocal Claims? Ambivalent Controls? Labour Migration Regimes in the European Union' in Elspeth Guild and Sandra Mantu (eds) *Constructing and Imagining Labour Migration* (Farnham: Ashgate), 207-228

Guiraudon, Virginie (2000) 'European Integration and Migration Policy: Vertical Policy-making as Venue Shopping', *Journal of Common Market Studies*, 38:2, 251-271

Héritier, Adrienne (1999) *Policy-Making and Diversity in Europe. Escape from Deadlock* (Cambridge: Cambridge University Press)

Hoffmann, Stanley (1966) 'Obstinate or Obsolete? The Fate of the Nation-State and the Case of Western Europe', *Daedalus* 95:3, 862-915

Kaunert, Christian and Sarah Léonard (2012) 'The Development of the EU Asylum Policy: Venue-shopping in Perspective', *Journal of European Public Policy*, 19: 9, 1396-1413

Keohane, Robert, Macedo, Stephen, & Moravcsik, Andrew (2009) 'Democracy-enhancing multilateralism', *International Organization*, 63: 1, 1-31.

Lavenex, Sandra (2001) *The Europeanisation of Refugee Policies: Between Human Rights and Internal Security* (Burlington: Ashgate)

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

Luedtke, Adam (2011) 'Uncovering EU Immigration Legislation: Policy Dynamics and Outcomes', *International Migration*, 49:2, 1-27

Maurer, Andreas and Roderick Parkes (2007) 'The Prospects for Policy-Change in EU Asylum Policy: Venue and Image at the European Level', *European Journal of Migration and Law*, 9:2, 173-205

Meyers, E. (2002) *Multilateral Co-operation in International Labour Migration*. San Diego: University of California Center for Comparative Immigration Studies.

Niemann, Arne (2008) 'Dynamics and Countervailing Pressures of Visa, Asylum and Immigration Policy Treaty Revision: Explaining Change and Stagnation from the Amsterdam IGC to the IGC 2003-2004', *Journal of Common Market Studies*, 46:3, 559-591-

Niemann, Arne (2012) 'The Dynamics of EU migration policy: from Maastricht to Lisbon' in Jeremy Richardson(ed) *Constructing a policy-making state? Policy Dynamics in the European Union*(Oxford: Oxford University Press), 209-233

Official Journal of the European Union (2004), Directive 2004/114/EC on the conditions of admission of third country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service, *Official Journal* L 375, 23.12.2004, 12-18.

Official Journal of the European Union (2005), Directive 2005/71/EC on a specific procedure for admitting third-country nationals for purposes of scientific research, *Official Journal* L 289,

3.11.2005, 5-22.

Official Journal of the European Union (2009), Council Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment, *Official Journal* L 155, 17,18.6.2009.

Official Journal of the European Union (2011), Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State, *Official Journal* L 343, 23.12.2011 1-9.

Pascouau, Yves and Sheena McLoughlin (2012) *EU Single Permit Directive: A Small Step forward in EU Migration Policy* (European Policy Centre: Brussels)

Roos, Christof (2013) *The EU and Immigration Policies: Cracks in the Walls of Fortress Europe?* (Basingstoke: Palgrave Macmillan)

Slaughter, Anne-Marie (2004) *A New World Order* (Princeton: Princeton University Press)

Thielemann, Eiko and Nadine El-Enany (2011) 'The Impact of the EU on National Asylum Policies' in Sarah Wolff, Jaap de Zwaan and Flora Goudappel (eds) *The Area of Freedom, Security and Justice: myth or reality? Taking stock of the Lisbon Treaty and the Stockholm Programme* (The Hague: TMC Asser Press), 97-116