DIFFERENTIATED RIGHTS FOR IMMIGRANTS: ANALYSIS OF COMMON EUROPEAN IMMIGRATION POLICY

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ANALYSIS OF COMMON EUROPEAN IMMIGRATION POLICY

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ABSTRACT

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This study is on the common European immigration policy and specifically on the rights of resident third country nationals, illegal immigrants and asylum seekers. This study examines a puzzle: despite the rights of legally resident third country nationals have expanded considerably those of the illegal immigrants and asylum seekers have diminished in the course of the European integration process. This study highlights the role played by the securitization process in explaining such puzzle.

The research reached the following findings: first, the rights of TCNs are expanding since their integration into the societies started to handled in the realm of social and economic integration and second the illegal immigrants and asylum seekers rights are decreasing as they have become a part of the security policies in the EU level as a consequence of being presented as threat. This study reached a conclusion that policies concerning integration of third country nationals and the policies on preventing illegal immigration despite seemingly contradictory are indeed integral parts. In other words, the securitization process during which a subject/issue is transformed into the realm of security policy through the discourse of the securitizing actor, is an all-inclusive process, though the legally resident immigrants are not presented as threat as opposed to the criminalization of the illegal immigrants and asylum seekers. Therefore, the extraordinary measures in protecting borders -legimized on the grounds of criminilized illegal immigrants and fake asylum seekers- and the recognition of the TCNs as equal members rather than vulnerable internal others can not be sustained simultaneously.

ÖZET

GÖÇMENLERİN FARKLILAŞTIRILMIŞ HAKLARI AVRUPA ORTAK GÖÇ POLİTİKASI ANALİZİ

BURCU ATALAY

Avrupa Çalışmaları Yüksek Lisans Programı, Tez 2009

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Bu çalışma Avrupa ortak göç politikası ve özellikle Avrupa'da yaşayan üçüncü ülke vatandaşlarının, kaçak göçmenlerin ve mültecilerin hakları üzerinedir. Bu çalışmada, Avrupa entegrasyon sürecinde, yasal göçmenlerin haklarının genişletilmesine karşın, kaçak göçmenlerin ve mültecilerin haklarının azalması incelenmiş ve göç politikasının güvenlik sorunu haline getirilmesinin bu iki süreçteki etkisi üzerinde durulmuştur.

Araştırma Avrupa'da yasal göçmenlerin haklarının genişletilmesinin bu göçmenlerin topluma entegrasyonunun sosyal ve ekonomik entegrasyon çerçevesinde ele alınıyor olmasına; bununla birlikte kaçak göçmenlerin ve mültecilerin haklarının azalıyor olması ise bu göçmenlerle ilgili politikaların güvenlik politikaları çerçevesine alınmış olmasına ilişkin olduğu sonucuna ulaşmıştır. Bu çalışma, yasal üçüncü ülke vatandaşlarının entegrasyon politikalarının ve kaçak göçmenleri engellemeye dair alanın politik kararların her ne kadar zıt görünse de birbirini tamamlayan politikalar olduğu sonucuna varmıştır. Başka bir ifadeyle, yasal olan göçmenler, kaçak göçmenlerin ve mültecilerin tersine, güvenlik sorunu olarak gösterilmese de, güvenlik sorunu haline getirme sürecinin göçmenlere ilişkin politikaların tamamını kapsayan bir süreç olduğudur. Bu sebeple, sınırları korumak üzere alınan olağanüstü tedbirler ve üçüncü ülke vatandaşlarının toplumun eşit bireyleri olarak kabul edilmesi aynı anda gerçekleşmesi mümkün değildir.

to my family

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CHAPTER 1

INTRODUCTION

The Single European Act (SEA) of 1986 was a turning point in terms of cooperation in immigration policies between the member states of the then European Community. Simultaneous to the launching the SEA, cooperation in immigration policies was considered necessary in connection with the contemplated gradual abolition of the internal borders. Consequently, the cooperation between the member states mainly concentrated on controlling immigration. Later, starting from the 1992 Maastricht Treaty, member states decided to harmonize their policies concerning the integration of the third country nationals as a result of the increasing awareness of the necessity in common action. This process of harmonization of immigration policies yielded varying results for illegal immigrants, asylum seekers and legally resident third country nationals and this study explores such variation as well as its causes.

Basically, migrants are the "persons who are outside the territory of which their are nationals or citizens, are not subject to its legal protection and are in the territory of another State."[1] As asserted by Soysal, "the concept and category of international migrant is a product of the nation-state system and its ideologies of national membership".[2] This constructed concept of immigrant legal definition of which varies one country to another, can be categorized in two groups as illegal and legal. Status of illegality is determined by the patterns of entry and residence. An immigrant would be illegal on the grounds of illegal border crossing or usage of false or forged documents at border posts. Though a person enters legally

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1 Gabriela Rodríguez Pizarro, Special Rapporteur of the Commission on Human rights in A/57/292, Human rights of migrants, Note by the Secretary-General. 9 August 2002, Available at: http://www.unhchr.ch/Huridocda/Huridoca.nsf/TestFrame/ee8cd3573f96c740c1256c4d0038539a?Opendocument

2 Soysal Y. *Limits of Citizenship, Migrants and Postnational Membership in Europe* (London: The University of Chicago Press, 1994) p.14

to one of the member states, his or her presence become illegal when they stay longer than they were permitted or when the relevant person engages in unauthorized employment or any other activity in violation of the residence requirements.[3] In this context, legal TCNs from a non-EU member states are the immigrants who entered EU through legal means with the necessary documents like visas and residing lawfully, without violating the residence requirements. Asylum seeker, different than migrants, is a person who left his or her country of origin on the grounds of "fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion" and has applied for protection as refugee other than his/her country.[4] These concepts are controversial besides there are no clear cut differences between these groups. It is also important to acknowledge that illegality -irregularity- of the immigrants is constructed by the legislation. In this sense, the stricter immigration policies would eventually lead to more illegal migrants who could be legal under different immigration policies.

According to the statistics, member states decide annually on the return of the 660.000 persons, whose presence are claimed to be illegal. Between the years 2002 and 2004, 701.097 persons were expelled from the European Union. Additionally, between the years of 2002 and 2005, 4.140.644 persons were refused at the borders and 192.266 persons were apprehended on the grounds of illegal presence within the borders of the EU.[5] Other than the illegal immigrants, according to the statistics there are about 18.5 million, which is 3,8% of the total population, TCNs legally residing in the EU in 2006.[6] Moreover, in 2006, 192.765 people

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3 European Commission "Communication from the Commission to the Council and the European Parliament on a Common Policy on Illegal Immigration" Brussels 15.11.2001, COM (2001) 672 final, p.7 Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52001DC0672:EN:HTM

4"Convention relating to the Status of Refugees Adopted on 28 July 1951 by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons convened under General Assembly resolution 429 (V) of 14 December 1950" Article 1A (2) Available at:http://www.unhchr.ch/html/menu3/b/o_c_ref.htm

5 European Commission "Commission staff working document Accompanying the Communication from the Commission on the Policy Priorities in the fight against illegal immigration of third-country nationals, Second annual report on the development of a common policy on illegal immigration smuggling and trafficking of human beings, external border controls and the return of illegal residents" SEC (2006) 1010, 19.7.2006 pp. 16-34 Available at "http://ec.europa.eu/justice_home/doc_centre/immigration/illegal/doc/sec_2006_1010_en.pdf

6 European Commission "Communication from the Commission to the Council, the European Parliament, the European Economic and Social committee and the Committee of

seek refugee and %57,8 percent of them was rejected.[7]

There is a clear difference in discourse and policy frameworks concerning the two aspects of the immigration policy at the European Union level, namely integration of legally resident TCNs into the societies and controlling immigration. Legally resident TCNs are not presented as existential threats though illegal immigrants and fake asylum seekers are. In the same context, the integration of TCNs has become the subject of the overall economic and social integration while controlling immigration included in the realm of security policies, border controls in particular. The cooperation in these two aspects of the immigration policies resulted in expansion of rights for the legally resident TCNs, while diminishing the rights of illegal immigrants and the asylum seekers. In this context, this study examines the policies concerning the integration of TCNs and prevention of illegal immigration to explain the negative correlation between the expanding rights of third country nationals as opposed to diminishing rights of illegal immigrants and asylum seekers during the course of European integration.

There is a broad literature on the European immigration policy. Soysal (1994) argues that post-national membership is evolving in the Europe and people are granted rights on the basis of personhood rather than nationhood which as a consequence diminish the importance of the national citizenship. On the contrary, Feldman (2006) argues that the policies of the European Union reinforce the nation-state policies on citizenship and integration policies rather than transcending them. One other vein of the European immigration policy is based on the securitization theory according to which the securitization is a process of transforming a subject/policy issue into the realm of security policies through securitizing discourse which declares the relevant issue an existential treat to a referent object which has a legitimate claim to survival like the state itself. The one of the prominent scholars studying securitization of European immigration policy, Jef Huysmans (2000, 2002, 2006) in line with the securitization theory focuses on how the immigration policy has become a part of security policy in the European Union, in other words how the European immigration policy is securitized. In this context this study is situated on this vein of the literature on the European immigration policy.

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the Regions Third Annual Report on Migration and Integration" Brussels 11.9.2007, COM(2007) 512 final p.3 Available at: http://ec.europa.eu/justice_home/fsj/immigration/docs/com_2007_512_en.pdf

7 Eurostat yearbook 2008, Eurostat Statistical Books (Office for Official Publications of the European Communities, 2008) pp. 72, 74 Available at: http://epp.eurostat.ec.europa.eu/portal/page?_pageid=2693,70381876,2693_70592044&_dad=portal&_schema=PORTAL#YB2

I will examine the securitization of European immigration policy in two dimensions in line with the two aspects of the immigration policy.

Securitization of immigration policies in Europe firstly initiated in the individual European states. The main international events that provided pretext for securitization were the 1973 Oil Crisis and later the end of the Cold War. Basically, following the 1973 oil crisis immigrants were started to hold responsible for the unemployment *inter alia* and after the end of the Cold War the immigrants declared to be the new "others" in defining "we" instead of communism. Nevertheless, the national immigration policies of individual member states are out of the scope of this study. I will focus on the European Union level policies, discourses and mainly on policy outcomes concerning the immigration policies. I will examine the European Council presidency conclusions, communications published by the European Commission, the conclusions of the Justice and Home Affairs Council meetings as well as the legislations adopted following these policy documents. My main objective is to illustrate that policies concerning the integration of the third country nationals and the policies on preventing illegal immigration despite seemingly contradictory are integral parts. In this context, I suggest that the extraordinary measures in protecting borders -legitimized on the grounds of criminalized illegal immigrants and asylum seekers- and the recognition of the TCNs as equal members rather than vulnerable internal "others" can not be sustained simultaneously. The previous studies on the securitization of European immigration policy, mostly focus on the discourses and policy that are designed to prevent immigration and do not investigate the connection between these two simultaneously evolving policies at the EU level. Therefore this study hopes to make a contribution to the literature on the securitization of the European immigration policy by illustrating the link between the European common policies on the integration of TCNs and controlling immigration, preventing illegal immigration.

This thesis is composed of five chapters including this chapter as the introduction. The second chapter provides an overview of the theoretical discussion on the securitization theory, securitization of the immigration policy and securitization of the European immigration policy. Following the theoretical discussion based on the existing literature, I will offer my own framework for this study in the rest of the second chapter. In the third and the forth chapters, I will examine the integration of the third country nationals in the EU and the common policies on illegal immigration and asylum policies. The last chapter will be conclusion where I will summarize and discuss the main findings of this study as well as the main result.

CHAPTER 2

THEORETICAL DISCUSSIONS ON SECURITIZATION OF IMMIGRATION POLICY

End of the Cold War has transformed the study of International Relations. One of the greatest structural transformations has been in security studies, a sub-field of International Relations. Indeed, major changes regarding the research agenda in security studies preceded the end of the Cold War. The exclusive focus of the security studies on the threats that are militaristic in nature faded away since the communism started to lose its eminent role as the dangerous other in the world politics. Scholars like Ulman (1983), Mathews (1989), Lynn-Jones and Miller (1995) adopted a wider concept of security that could also involve the non-military threats. On the other hand, scholars like Walt (1991: 231) objects adopting wider definition of security by arguing that such a broad interpretation of security, "undermines the intellectual coherence and make it more difficult to devise solutions to problems" such as environment, diseases, economic recessions. Lipschutz (1995) suggests that since these scholars who adopt wider definition of security did not define what security is and when a threat to security occurs, they consider it as "self-evident" as if there are objective threats that are defined as such after the rational assessments done by the analysts.[8] The concept security is adopted as a self-referential practice by many scholars like Waever, Buzan (1998). Rather than considering security threats as granted, these scholars questioned how a policy issue is transformed into a security policy. Waever (1989) and Buzan (1998) explained this transformation process with securitization theory as they named it. Securitization, as they define, is a process during which a policy issue/subject is being transformed into a security issue by the securitizing actor through a securitizing discourse which presents the policy issue/subject as an existential threat to the referent object that has a legitimate claim to survival.

In this chapter I will first examine the current theories on securitization and the securitization of immigration policy as a sub-field of securitization theories. Secondly, I will

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[8] Lipschutz R.D. "On Security" in *On Security* Lipschutz D. R. (ed) (New York: Colombia University Press, 1995) pp.5-6

examine the securitization of European immigration policy. Then, I will offer my own framework on securitization, built upon the existing theories on securitization of immigration policy, which I will be using in the following chapters.

2.1. Securitization Theory

Buzan and Weaver (1998) adopt the term security as a "self-referential practice", rather than taking security as a self-evident concept. According to Buzan, Waever and also de Wilde, the issue does not need to be an existential threat to become a security issue rather it is enough for it to be presented as such.[9] They termed this presentation process as "securitization" during which a successful "speech act" labels an issue a security issue – an existential threat-, which was used to be handled under non-security policy areas, and thereby justifying the usage of extraordinary measures as a means of self-defense.[10]

Austin (1962), who had a major influence on Waever's works, classifies "speech act" in three categories: locutionary act, illocutionary act and perlocutionary act. [11] Locutionary act refers to an act of forming meaningful sentences, while the illocutionary act is the speech act which for instance includes an advice, a warning; perlocutionary act is the speech act which have an effect on the audience like frightening.[12] Inspired by Austin's categorization, Waever adopts the second category as the speech act that leads to securitization since he argues that "by saying something, something is done", Balzacq (2005), on the other hand, argues that perlocutionary act explains the securitization process better, because securitization is an "inter-subjective" and two-way process between the securitizing actor and the audience.

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9 Buzan, Waever, de Wilde *Security: A New Framework for Analysis* (Boulder, CO: Lynne Rienner, 1998) pp.23,24

10 C.A.S.E.Collective "Critical Approaches to Security in Europe: A Network Manifesto" *Security Dialogue* Vol. 37 (4) (2006) p.453 as well as Kostakopoulou T. "The 'Protective Union': Change and Continuity in Migration Law and Policy in Post-Amsterdam Europe" *Journal of Common Market Studies* Vol. 38 (3) (2000) p.506

11 Austin J.L. *How to do Things with words?* (Oxford: Clarendon, 1962) p. 101 as cited in Taureck R. "Securitisation Theory – The Story so far: Theoretical inheritance and what it means to be a post-structural realist" (2006) Paper for presentation at the 4th annual CEEISA convention Univertiy of Tartu 25-27 June 2006 p.6 as well as Waever O. "Political Role of Analyst & Ethics of Desecuritization" Seminar om Sikkerhedsteori 10 Maj 2007 Available at: http://isis.ku.dk/kurser/blob.aspx?feltid=170139

12 Waever (2007)

Buzan, Waever and de Wilde (1998) remarked that not every securitizing move is successful and defined conditions that need to be materialized for a successful securitizing speech act. These conditions are classified as the internal and external conditions. Internal conditions refer to the linguistic features of the speech act in other words demand of moving an issue from the realm of normal day-to-day policy to security policy internal to the speech act of following claim of an existential threat. External conditions refer to particular persons and circumstances i.e., contextual and social conditions should be appropriate for the speech act to be performed.[13] The latter addresses the relation between the securitizing actor and the audience, and the feature of the issue that is being presented as a threat.[14] In this context, acceptance of the authority of the speaker by the audience increases the likelihood of the audience accepting the claims and the features of the so-called threats that either facilitate or impede securitization.[15] An issue can only be securitized if and when the audience accepts the issue as such thus without an acceptance one can only talk about a securitization move not a successful securitization.[16] Main consequence of the acceptance by the audience is that it makes the audience tolerate the violation of the rules that would otherwise have to be obeyed since when an issue is presented as an existential threat any extreme measure to prevent it is then justified.[17]

The actors in this process, as adduced by Waever, Buzan and de Wilde (1998), are the referent objects, securitizing actors and the functional actors. Referent object of a speech act, should have a legitimate claim to survival like the state itself. Securitizing actors are the ones who perform the speech act by claiming that a relevant referent object is existentially threatened. These actors can be the political leaders, bureaucracies, governments, lobbyists and pressure groups who generally claim that the security of the state, nation and civilization is being threatened.[18] Though there are many securitizing actors, state is the dominant actor due to its all along role to protect its inhabitants with the strongest institutional structure

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13 Buzan, Waever, de Wilde p. 25

14 *Ibid* p.33

15 *Ibid*

16 *Ibid* p.25

17 Stritzel, H. "Towards a Theory of Securitization: Copenhagen and Beyond" *European Journal of International Relations* .13 (3) (2007) p. 361

18 Buzan, Waever, de Wilde p.40

designed to do so and thereby having the power to define security.[19] Lastly, the functional actor is the actor that has a power to influence the decisions taken regarding security policy.[20]

To sum up, as argued by Stritzel (2007) Copenhagen School's securitization theory rests on two central concepts: 1. a trilogy of the speech act, the securitizing actor and the audience; 2. on facilitating conditions that influence the success of a securitizing move.[21] Though their focus on the external conditions of successful securitization reminds one a constructivist approach they call themselves as the "post-structural realist".[22]

2.1.1. Securitization of Immigration Policy

Buzan and Waever (1993) associated the securitization of immigration policy with the societal sector definition of which was modified in their collective work. They argued that societal security is different from the other sectors because in the other four sectors (political, economic, environmental and military) the referent object is the state, on the other hand the referent object of societal security is the society itself.[23] In other words, society is a distinct referent object than the state.[24]

The threats to society are the ones that put the "we" identity into jeopardy, which, consequently, makes it difficult to give any objective definition of a threat to societal security, thereby giving the securitizing actor high level of maneuverability to securitize an issue from a wide range of issues.[25] This is also because the identities are not stable rather dynamic therefore the threat conception depends on the time period since societal identities can adjust

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19 *Ibid* pp. 31;37

20 *Ibid* p. 36

21 Stritzel p.358

22 For broader discussion on the meaning of the term see ; Taureck R. "Securitisation Theory – The Story so far: Theoretical inheritance and what it means to be a post-structural realist" (2006) Paper for presentation at the 4th annual CEEISA convention University of Tartu 25-27 June 2006 p.6

23 Waever O. "Societal Security: the concept" in Waever O., Buzan B. Kelstrup M. and Lemaitre P. (eds.) *Identity, Migration and the New Security Agenda in Europe* (London: Pinter Publishers Ltd, 1993) pp25-26.

24 *Ibid* p. 27

25 *Ibid* pp. 27;41

to some changes but not to some others.[26] For instance, as argued by Heisler and Layton-Henry (1993), over the decades specifically in the European countries the welfare state internalized into the national identity.[27]

Bigo (2002), similar to Buzan and Waever, argues that construction of immigration as a threat is based on the conception of the state as the container for the polity whereupon national identity is justified by the existence of the state -as the only possible political order to ensure peace and security- with the territorial limits of its orders by demarcation of boundaries which is an indispensable practice for the definition of identity.[28] From this perspective, migration is seen as a problem because it challenges the premises of both polity and the state and thereby challenging the existential power relations.[29]

The way Weaver and Buzan define identity of a society was criticized by McSweeney.[30] He argues that identity is a "storytelling" and an "active" process which can only be comprehended as a process or an act rather than as an object or a "thing" that is fixed.[31] Accordingly, he criticized them for taking societal identity as an "unproblematic, objective fact".[32] To McSweenly, they should analyze the implications of construction of an identity formation process.[33] In their response to McSweeney, Buzan and Waever (1997) stated that the approach that they have adopted requires grasping an identity as a label which can be securitized. Though they do accept that the society is not a stable unit, it is "thingish"

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26 *Ibid* p.42

27 Heisler M., and Layton-Henry Z. "Migration and the links between social and societal security" Waever O., Buzan B. Kelstrup M. and Lemaitre P. (eds.) in *Identity, Migration and the New Security Agenda in Europe* (London: Pinter Publishers Ltd, 1993) p.149

28 Bigo D., "Security and Immigration: Toward a Critique of the Governmentality of Unease" *Alternatives* , Special Issues Vol. 27 (2002) p.65 as well as Bounfino A. "Between Unity and Plurality: The Politicization and Securitization of the Discourse of Immigration in Europe" *New Political Science* Vol. 26 (1) (2004) p.27

29 *Ibid* p. 67

30 McSweeney B. "Durkheim and the Copenhagen School: a response to Buzan and Waever" *Review of International Studies* Vol. 24 (1998) pp.137-140

31 *Ibid* p.138

32 *Ibid*

33 *Ibid*

enough to mobilize security policy to defend it.[34] Within the context of their argument, for the threat perception to arise, national identity should have been constructed accordingly.

In a similar way, Lipschuts argues that "conceptualizations of security are to be found in discourses of security".[35] To him, these discourses are not the products of objective assessments of threat but rather they are "the products of historical structures and processes, of struggle for power within the state, of conflicts between the societal groupings that inhabit states and the interests that besiege them."[36] Likewise, according to Bounfino, one discourse type is chosen over another so as to preserve the existing power relations within the society.[37] These suggest that the prevailing ideology brings forth a particular type of discourse that will first lead to the construction and then inevitably to the reproduction of the existing power relations in the society and in this case the one between citizens and immigrants.[38] This argument was also raised by Ole Waever to whom the speech act to securitize performed by the elites to reproduce the hierarchical conditions that characterize security practices.[39]

Bigo (2002) argues that security professionals have a crucial position in the securitization process. According to Bigo, focusing only on the role of political discourse in the securitization process is to underestimate the role of the "bureaucratic professionalization of the management of the unease".[40] Thereby, he argues that "securitization of immigration emerges from the correlation between some successful speech acts of political leaders, the mobilization they create for and against some groups and the specific field of security professionals" who can claim to know things that are unknown by others through the "authority of the statistics" by the virtue of their position and the required professionalism.[41]

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34 Buzan B., Waever O., "Slippery? contradictory? Sociologically untenable? The Copenhagen School Replies" *Review of International Studies* Vol. 23 (1997) p.244 p.243

35 Lipschutz R.D. (1995) p.8

36 *Ibid*

37 Buonfino p.26

38 *Ibid* p.25

39 Waever O. "Securitization and Desecuritization" in Lipschutz D. R. (ed) *On Security* (New York: Colombia University Press, 1995) pp. 54-57 as well as Lipschuts p.10

40 Bigo (2002) p.74

41 *Ibid* pp. 65-66 as well as Bigo D. "Globalized in-security: the Field and the Ban-opticon" in "Translation, Philosophy and Colonial Difference" Solomon J and Sakai N (eds.) No.4 (2005) p.2

Thus, their power to securitize is grounded on their structural position which is the foremost reason by the audience to accept their claims.[42] Furthermore, these agencies, security professionals aim to expand their influence by the way of exporting their technologies and practices into other policy areas. As argued by Balzacq (2008: 75) the surveillance and control technologies are by their "very nature or by its very functioning, transforms the entity (i.e. subject of object) it process into a threat". This leads us to the fact that development of the surveillance and the control technologies, whose architects are security professionals, accelerated or even lead to securitization of immigration not the *vice versa*.

2.1.2. Securitization of European Immigration Policy

As the integration process deepens, the EU has begun to adopt more restrictive immigration and asylum policies as a result of the ongoing securitization process. Consequently the question of how the immigration, asylum and refuge policies have been interpreted as a security issue during the European integration process is answered in different ways by different scholars.

First of, Huysmans (2006), argues that securitization of immigration policies in the European Union cannot be reduced to political construction of migration as a threat to societal security as the cultural self-definition of the people in the member states. Instead he asserts that, the path of construction of immigrants, asylum seekers and refugees into sources of societal fear, is a multidimensional process in which immigration and asylum are connected to important political debates covering three themes: internal security, cultural identity and welfare which facilitates the creation of migration as destabilizing or dangerous challenge to west European societies.[43] Firstly, the formation of the internal market created incentives to cooperate in the security issues particularly on border control and surveillance measures. The basis of legitimization of such an articulation was the so-called gap raised due the abolition of internal border. As a consequence, member states tried to close this gap, in parallel to neo-functionalist understanding of spillover, by the strengthening of the external borders based on the assumption that the illegal movement of goods and persons happens at border due to the

42 *Ibid* pp. 73-74

43 Huysmans J. "European Integration and Societal Insecurity" in *The Politics of Insecurity : Fear, Migration and Asylum in the EU* (London and Network: Routledge, 2006) pp.63-114 also see Huysmans J. "The European Union and the Securitization of Migration" *Journal of Common Market Studies* Vol. 38 (5) (2000) pp.751-777

security deficit in line with the interests of the member states.[44] However, as argued by Norman, spill-over of one policy area to another cannot be taken as a neutral description of the process of European integration.[45] Likewise, Huysmans argues that the link between the increasing freedom and the necessity to increase security measures is socially constructed through successful speech act which is a consequence of 'technique of government' which defined freedom and security as competing and complementary concepts.[46] Therefore the nature of the spill-over can only be understood by analyzing the embedded political speech acts. This view is also shared by Boer who argues that "internal security-gap" discourse even without knowledge on the effectiveness of the prior border controls, leads to a misperception that illegal immigration and transnational crime are new and reinforced by the abolition of internal border controls.[47] Furthermore, the internal security-gap discourse with institutionalization of police and customs co-operation articulated the issues of border control, terrorism, international crime and migration to each other.[48]

Secondly, to Huysmans, the cultural identity theme covers the homogeneity of the nation states in particular and the protection of Western civilization in general.[49] In this context, formation of the European Identity in an "us" versus "them" manner have rendered the securitization of immigration policy possible. Bigo (2002) made an important remark concerning the otherness of the immigrants that migrants' social construction is often the adverse of what the citizen of a state is. Therefore when the security services of EU states began to work together -like common databases for visa- each country started to sell its fear to

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44 *Ibid* p.69-72; Huysmans J. "A Foucautian view on spill-over: freedom and security in the EU" *Journal of International Relations and Development* Vol.7 (2004) pp.296;300 also see Bigo D. "Frontiers and Security in European Union : The Illusion of Migration Control" in Anderson M. and Bort E. (eds.) *The Frontiers of Europe* (Washington DC.: Pinter 1998) p. 149

45 Norman L. "Asylum and Immigration in an Area of Freedom, Security and Justice. EU policy and the Logic of Securitization" (2008) Available at: http://www.diva-portal.org/diva/getDocument?urn_nbn_se_sh_diva-886-1__fulltext.pdf

46 Huysmans (2004) p.295

47 den Boer M. " Moving between Bogus and Bona Fide: The Policing of Inclusion and Exclusion in Europe" in Miles R. and Thranhardt D. eds. *Migration and European Integration the Dynamics of Inclusion and Exclusion* (London: Pinter, 1995) p.97

48 Huysmans (2000) p.760

49 Huysmans (2006) pp.72,77

the other countries thereby creating a wider security definition.[50]

Thirdly, due to the scare sources, the immigrants started to be seen as having no legitimate right to claim economic and social rights. As argued by Huysmans, the supporters of such a view are then transformed the problems in the welfare state in to the fear of immigrants and asylum-seekers. Therefore their existence was then defined as threat to the continuation of the welfare state.[51]

Nonetheless, as remarked by Huysmans, immigration asylum and refugee issues do not need to be defined as an existential threat by itself to be securitized.[52] Their securitization may progress by being included in wider policy developments that interconnect a range of policy issues. Huysmans argues that speaking or writing about an issue in security language has an "integrative capacity" which enables connecting isolated issues such as asylum, migration, terrorism, Islamic fundamentalism, drugs and the European internal market into a meaningful whole.[53] From this point of view even without a substantial analysis, the asylum system is illustrated as if terrorists are abusing it. In this context, the restrictive asylum policies aim to prevent the terrorists to mobilize freely within the Union not to deprive the "real" asylum seekers from their right to seek refuge.[54] Discourses on terrorism brought in another dimension to the securitization process and many asylum seekers and immigrants who are in search for a better life in Europe have started to be labeled as potential terrorists who pose an existential threat to the state and society.

European studies, mainly focus on the key developments in the European Union such as the introduction of Justice and Home Affairs pillar in the Maastricht Treaty, incorporation of Schengen agreements in the *acquis communautaire* after the treaty of Amsterdam Treaty. From this point of view, the security framing of migration and asylum took place long before these events and the measures taken were already contemplated before the 9/11 terrorist attacks. Therefore the changing discourses, newly taken policy decisions and introduced legislation did not seem to change the way of framing migration and asylum contexts in the

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50 Bigo (2002) p.71

51 Huysmans (2006) p.79

52 Huysmans "Defining Social Constructivism in Security Studies: The Normative Dilemma of Writing Security" *Alternatives*, Special Issue Vol. 27 (2002) pp.41, 44

53 *Ibid*

54 *Ibid* p.63

European Union.[55] Nevertheless, these two approaches are not contradictory in the sense that terrorism is not a new threat that evolved instantly after the 9/11 terrorist attacks on United States of America. Terrorism has long been in the agenda of the member states.

Another path of explanation was adopted by Bounfino who rather than analyzing the political debates in the EU level, focuses on the reasons behind the repetition of the securitization of national immigration policies in the EU level. [56] He asserts that due to the requirements of formation of an identity, demarcation of borders and legitimacy in the EU level like in the member state level the discourses that preserves the existing power relations were inevitably adopted in the EU level though with some minor differences.[57] The refection of member states discourses on the EU level might well be interpreted as an endeavor to gain legitimacy -as a way of illustrating that their concerns are taken into consideration in the EU level- at the expense of imitating the politics of the "protective state".[58] Secondly, to him, this repetition was eventuated due to the nature of the decision making mechanism which generally requires unanimity voting in immigration and asylum policies and sometimes brought away the co-decision procedure in the EU.[59] Likewise, Kostakopoluo asserts that without an active intervention of the European Commission and the European Court of Justice, the member states feel free to adopt restrictive approach to migration in the EU level.[60] Guiraudon, remarks that security agencies aims power maximization and avoiding parliamentary scrutiny and judicial accountability. They chose the European level as the most appropriate arena whereupon they escape from the requirement of public legitimization. He conceptualized the process of preferring European level to national level as the "venue shopping".[61]

Overall, despite the variety of the explanations on the securitization of European immigration policy these approaches are not necessarily conflicting with one another; indeed

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55 Huysmans (2006) p.63

56 Bounfino (2004) p.23

57 *Ibid* p.45

58 *Ibid* p.47

59 *Ibid* p.46

60 Kostakopoluo T. (2000) pp.504-505

61 Guiraudon J. "European Integration and Migration Policy: Vertical Policy Making as Venue Shopping" *Journal of Common Market Studies* Vol. 38 (2) (2000) pp. 257-261

they are complementary and provide an insight into the process as a whole. Therefore, I also will apply these tools to explain European securitization process.

2.2. Integration of Third Country Nationals and Controlling Immigration

Different then the literature on securitization of common European immigration policy, I will scrutinize the securitization of European immigration policy in two dimensions in line with the two aspects of the immigration policy. These aspects are controlling -preventing illegal immigration- and integration of the third country nationals into the societies that they are living in.[62] I believe that this framework would illustrate the interdependent nature of these two aspects which are seemingly contradictory.

Integration of third country nationals is in the realm of normal politics like economic and social integration while controlling immigration has become a part of security policies, border controls in particular. Immigrants once they are given permission to reside have ceased to be the subject of security policies unless they violate their terms of residence which would automatically make their statutes illegal.

Orcalli argues that the securitization of immigration policy makes the inclusion of immigrants more difficult.[63] Basically, this scholar argue that the securitization process hampers the integration of the third country nationals. On the other hand, though policies concerning the integration of third country nationals and the controlling immigration seem to be contradictory, they are not detached but they are indeed interdependent in nature. Once the immigrants accepted by a member state, they are not classified as the dangerous others in the EU level but they do not become the equal members of the relevant society either. Their rights are increasingly recognized in the EU level though they are nearly always inferior to that of the citizens and they continue to be defined as the culturally others. As Stritzel (2007) argues that securitization is related to the broader discursive contexts which is the otherness of the immigrants in this case. Likewise, Huysmans (2000: 751) argues that "supporting the political construction of migration as a security issue impinges on and is embedded in the politics of belonging in Western Europe". In this sense, I suggest that, it is the integration policies that make the societal identity "thingish" enough to be the referent object of the securitization

62 Apap and Carrera "Towards a Proactive Immigration Policy for the EU?"*CEPS Working Document* No.198 (2003) p.1

63 Orcalli G. "Constitutional choice and European immigration policy" *Constitutional Political Economy* Vol. 18 (1) (2007) p14

policies. In this context, formation of the European Identity in an "us" versus "them" manner has rendered the securitization of immigration policy possible. Though Soysal (1994) argues that "limit of nationness or of national citizenship become inventively irrelevant" and post-national membership is evolving, given the persisting hierarchy between the TCNs and European citizens, the nationhood seems to continue to be relevant within the framework of the securitization process. Therefore, securitization process does not only account for the increasing border controls and decreasing asylum opportunities but also could explain the expanding rights of the TCNs who are long term residents given the context of the rights. In this context, the securitization of immigration policy is rendered possible not only with the discourses and policies concerning entry of immigrants but also with the policies adapted as regards to resident migrants. I suggest that integration policy is a part of the securitization process since it is the immigrants otherness that the securitizing actor and securitization discourse gains its' power and it is the discourse that preserves the existing power relations within the society.[64]

Constructed otherness of the third country nationals in the EU should not be interpreted simply as the negative or unexpected effect of the securitization process. In other words integration of third country nationals is not as a distinct process than securitization just because the integration policies are not extraordinary in nature and are not encapsulated in security issues because it is this European identity formation that makes the securitization possible. In other words securitization of European immigration policies is the implication of the first the national and second European identity formation processes.[65] The implemented vulnerability model which treats TCNs living in the EU as the vulnerable group rather than recognizing them as the equal members of the society in the EU,[66] goes in parallel to the ongoing securitization process. In this sense, narration of the securitization process only through the policies and discourses concerning the restriction of the entries would be incomplete. It should include the policies concerning the integration of third country nationals.

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64 Waever O. "Securitization and Desecuritization" in Lipschutz D. R. (ed) *On Security* (New York: Colombia University Press, 1995) pp. 54-57 as well as Lipschuts p.10

65 McSweenly, B. "Durkheim and the Copenhagen School: a response to Buzan and Waever" *Review of International Studies* Vol. 24 (1998) p.137-140

66 Kostakopoulou T. "Long-term Resident Third-country Nationals in the European Union: Normative Expectations and Institutional Openings" *Journal of Ethnic and Migration Studies* . 28 (3) (2002) p.446

CHAPTER 3

INTEGRATION OF THIRD COUNTRY NATIONALS

3.1. Introduction

Rights of third country nationals (TCNs) have been gradually expanding since the Amsterdam Treaty. Though Maastricht Treaty was an initial step in their recognition, prior to the adoption of the Amsterdam Treaty, only certain categories of TCNs' rights were covered by the Community law. These groups of TCNs were members of the family of a Community national[67], nationals of third countries that have had an association or cooperation agreement with the European Community[68] and lastly the TCNs as the workers of a company on whose behalf they carry out services in another member state. Other than these privileged groups, TCN's rights were not under the competence of the Community.[69] Rather than the rights of these privileged groups, the rights of "unprivileged" TCNs, who are already residents in the EU, is the focus of this chapter.

Since the Amsterdam Treaty, relevant TCNs rights' are being increasingly recognized and secured in the European Community (EC). TCNs now have direct rights rather than only derivative ones. They are no longer neither invisible nor completely excluded from the European integration process. On the contrary their integration into the society has become an issue in the EU level. As argued by Geddes (2000), the patterns of exclusion in the

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67 European Council of Ministers "Regulation of the Council of 15 October 1968 on freedom of movement for workers within the Community" III Workers' families *Official Journal* (EEC) No 1612/68, 19/10/1968, P. 0002 - 0012 Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31968R1612:EN:HTML

68 Geddes A., *Immigration and European Integration towards Fortress Europe?* (Manchester: Manchester University Press, 2000) pp.51-54

69 Groenendijk K., Guild E. Barzilay R. *The Legal Status of Third Country Nationals Who are Long-Term Residents in a Member State of the European Union* (Nijmegen: University of Mijmegen Center for Migration Law, 2000) p.5 as well as Apap J. and Carrera S. "Towards a Proactive Immigration Policy for the EU" *CEPS Working Document* No.198 (2003) p.2

immigration policy are not uniform and therefore the term "Fortress Europe", which connotes to "the tight border controls and internal exclusion based on the social marginalization of immigrant newcomers"[70], does not depict the whole picture in immigration policies. What can be observed from the general path of policies is the repositioning of TCNs' integration, outside the framework of general immigration policy and more of part of European integration process, free movement of workers and anti-discrimination measures in particular which are less controversial core policy areas.[71] In this context, the gradual inclusion of the TCNs into the *acquis communiautre* can be explained by this reframing in the integration policies towards TCNs rather than the discourses on the universal personhood as argued by Soysal (1998).

Nevertheless, despite such gradual expansion, TCNs rights have not been equalized with those of the European citizens rights. As a consequence TCNs still constitute the largest share of the marginalized groups. Though Soysal argues that "limit of nationness or of national citizenship become inventively irrelevant"[72] the gap between the TCNs and the European citizens as regards to the rights clearly illustrates the relevance of the nationhood. For instance, the acquisition of European citizenship is bound to the acquisition of a nationality of one of the member states and some specific rights, like the right to vote in the EP, were only reserved for the European citizens and the voting in the national elections are the sole right of the nationals of the relevant member states. The distinction between these two groups, the power structures and the hierarchy have not been and also can not be altered but rather can only be reproduced through the implemented "vulnerability model" which treated TCNs as the vulnerable group rather then recognizing them as the equal members of the society.[73]

The expansion in the rights of TCNs at the EC/EU level has occurred as a consequence of the repositioning of TCNs' integration. It rather renders them "vulnerable others". Under the following subheadings, I will go through adopted integration policies within the framework of European integration.

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70 Geddes A. "International Migration and State Sovereignty in an Integrating Europe" *International Migration* Vol.39 (6) (2001) p.34

71 Lavanex S. "Towards the Constitutionalization of Aliens' Rights in The European Union?" *Journal of European Public Policy* Vol.13 (8) (2006) p.1289

72 Soysal, p.162

73 Kostakopoulou T. (2002) p.446

3.2. European Citizens and "Others": Maastricht Treaty

The Maastricht Treaty, signed in 1992, has established the European Union as a three pillared structure third one of which is the Justice and Home Affairs (JHA) (later renamed as Police and Judicial Cooperation in Criminal Matters). The policy areas concerning TCNs (conditions of entry and residence in the territory of the member states, family reunion, access to employment and the combating of unauthorized immigration) have been transformed to this pillar which is intergovernmental in design. Despite the remaining intergovernmental structure of the policy coordination, migration issues were moved closer to the European institutions and the immigration was defined as an 'issue of common interest' though not issue of "common policy".[74] Though no binding decision has been adopted concerning the rights of TCNs who are long term residents, European Citizenship was adopted as opposed to the Resolution on the status of the TCNs.

3.2.1. European Citizenship

In the Intergovernmental Conference on Political Union 1990, the debate on citizenship was initiated principally by a letter from Spanish Prime Minister Felipe Gonzalez.[75] In the letter, the main condition to become a European Citizen was proposed as to have the nationality of one of the member states.[76] The Maastricht Treaty, in parallel with the Spanish proposal, introduced European citizenship and the European Citizens were then defined as the "every person holding the nationality of a member state".[77] European Citizenship in design does not replace but complement the national citizenship. In this context, European Citizens' don't have

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74 *Ibid* p.444 , as well as Geddes A. "International Migration and State Sovereignty in an Integration Europe" *International Migration* .39 (6) (2001) p.25

75 Wiener A. (1997) "Making Sense of the New Geography of Citizenship: Fragmented Citizenship in the European Union" *Theory and Society* Vol. 26 (1997) p.545

76 Martiniello M. " Citizenship in the European Union" in Aleinikoff T. A. and Klusmeyer D. B. (eds.) *From Migrants to Citizens; Membership in a Changing World*, (Washington: Carnegie Endowment for International Peace, 2000) p. 354

77 "Treaty on the European Union together with the complete text on Treaty Establishing the European Community", Part Two: Citizenship of the Union, Article 8 *Official Journal* C224 31/8/1992, Available at: http://eur-lex.europa.eu/en/treaties/dat/11992E/tif/JOC_1992_224__1_EN_0001.pdf

uniform rights but rather they enjoy a first circle of nationality rights within a member states and a second circle of new rights enjoyed in any Member State of the EU.[78] The second circle of rights constitutes simply the existing EU acquis on the rights of community nationals.[79] Maastricht Treaty introduced the electoral rights at local and European Parliament -but not at the national elections of the place of residence-[80] and the right to diplomatic and consular protection when traveling abroad.[81]

Initiation of the EU citizenship as an exclusive statue for the nationals of member states created an additional distinction between the EU citizens and TCNs who are long term residents.[82] Formation of EU Citizenship has resulted in the relegation of long-term resident nationals of third countries to the periphery of the emerging European society, despite the fact that they contribute to the societies by paying taxes and thereby enabling the maintenance of the social security systems.[83]

Furthermore, as a direct consequence of conditioning acquisition of EU citizenship on

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78 Editorial "Dynamics of European and National Citizenship: Inclusive or Exclusive?" *European Constitutional Law Review* Vol. 3 (1-4) (2007) p.1

79 Guild, E. "The legal framework of citizenship of the European Union", In D. Cesarani & M. Fulbrook (eds.), *Citizenship, nationality and migration in Europe* (London: Routledge ,1996) p.31

80 Kostakopoulou D. "European Union Citizenship: Writing the Future" *European Law Journa*l, Vol. 13 (5) (2007) p.625 as well as Besson S. and Utzinger A. "Toward European Citizenship" *Journal of Social Philosophy* Vol. 39 (2) (2008) p.579

81 "Treaty on the European Union together with the complete text on Treaty Establishing the European Community", Part Two: Citizenship of The European Union Article 8b, Article 8c Article 8d Official Journal C224 31/8/1992 Available at:http://eur-lex.europa.eu/en/treaties/dat/11992E/tif/JOC_1992_224__1_EN_0001.pdf

82 Guiraudon, V. "Third country nationals and European law: obstacles to rights' expansion" *Journal of Ethnic and Migration Studies* Vol. 24 (1998) p. 657.as well as Becker M. "Managing Diversity in the European Union: Inclusive European Citizenship and Third-Country Nationals" *Yale Human Rights and Development Law Journal* . 7 No. 132 (2007) p.138

83 Kostakopoulu T. (2002) p.444, Kofman, E. 'Citizenship for some but not for others: spaces of citizenship in contemporary Europe', *Political Geography*, 14.2 (1995); Hansen, R. "A European citizenship or a Europe of citizens? Third country nationals in the EU", *Journal of Ethnic and Migration Studies*, Vol. 24 (4) (1998) pp.751-68; Martiniello, M. 'European citizenship, European identity and migrants: towards the post-national state?', in Miles, Robert and Dietrich Thränhardt (eds.) *Migration and European Integration: The Dynamics of Inclusion and Exclusion*, (London: Pinter, 1995)

the acquisition of national citizenship of a member state, member states remain the only authorities to decide who can become a European citizen via their naturalization policies which is yet not harmonized.[84] Consequently, TCNs, even if legally resident in the Community for a long time, had no chance of directly acquiring EU citizenship.[85] This difference between the naturalization policies results in unequal access to EU citizenship since some member states might have easier procedures and requirements though some other might subject the TCNs to harsh test.[86] In this context, it is argued that as long as the Member States continue to be the gatekeepers of access to EU citizenship by holding the sole right to regulate acquisition and loss of EU citizenship, they can even undermine EC policies with regard to the integration of immigrants by setting strict standards for naturalization and thereby enhancing the differences between the legal position of TCNs and their own nationals.[87]

The central difference between the TCNs and the European citizens is the political rights. Though TCNs are given right to vote in the local elections by individual member states like Republic of Ireland, Netherlands, Estonia, Hungary, Lithuania, Slovakia Slovenia Belgium and Luxembourg,[88] there is yet no binding EC legislation on the subject matter. Third country nationals pay taxes and contribute to the social security systems of the member states in the same way as member states nationals. Nevertheless in return, the only rights that can be enjoyed both by the TCNs and EU citizens are the right of petition to the European Parliament and right to appeal to European Ombudsman.[89] The problem is that these rights are not substantive but rather procedural in the sense that they allow third country nationals only to seek protection and promotion of their substantive rights, they don't have a right to vote in

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84 Kostakapouluo D. (2006) p. 626 as well as Atıkcan E.Ö. "Citizenship or Denizenship: The Treatment of Third Country Nationals in the European Union" *Sussex European Institute Working Paper* No 85 (2006) p.13-14

85 Apap J. "The Development of European Citizenship and It's Relevance to the Integration of Refugees" *CEPS Working Document* No.180 (2002) p. 7

86 Kostakopouluo T. (2002) p.444

87 Perchinig B., "Union Citizenship and the Status of Third Country Nationals" *EIF Working Paper Series* Working Paper No12 (2005) p.5

88 Bauböck R. "Expansive Citizenship – Voting beyond Territory and Membership" *Political Science and Politics*, Vol. 38 (4) (2005) p.685

89 Kostakopoulou T. " "Integrating" Non-EU Migrants in the European Union: Ambivalent Legacies and Mutating Paradigms" *Columbia Journal of European Law* Vol. 8 (2002b) p.181

EU parliamentary elections that they can't be a part of the decision making process despite having affected by those decisions.[90] Given that the elections are the main tools obligating the politicians to be responsive to the demands of their constituencies, TCNs rights are hardly a matter of concern in the national level.

3.2.2. Council Resolution on the Status of Third Country Nationals

Resolution adopted in 1996 on the basis of Article K.1 (3) (b) of the Maastricht Treaty, where it is stated that the "conditions of residence by nationals of third countries on the territory of Member States are regarded as a matter of common interest", recognizes the need to facilitate the integration of TCNs into the host society.[91] Despite the non-binding nature of it, the rights granted in the Resolution were very limited. Nevertheless, it was the first step concerning evolution of the TCNs rights in the EU/EC *acquis*.

Under the provisions of the resolution, only after uninterrupted ten years of residence, TCNs could be recognized as long-term residents. After ten years, TCNs residence permit can be renewed for another ten years, they could be granted an unlimited one or they could be rejected on basis of public policy or public security considerations. Though the long-term resident TCNs would enjoy unlimited travel in the territory of that member state and the same rights as nationals of the host state with regard to working conditions, trade union membership, housing, social security, emergency health care and compulsory schooling, they could not enjoy free movement rights in the EU and would have no protection against discrimination as regards access to employment, enjoyment of the same social and tax advantages as national workers, and access to training in vocational schools and retraining centers.[92]

To sum up, despite the expanding rights of member states nationals who are European citizens, the TCNs', who are excluded from the definition of European citizens, rights were only be started to be included into the EU law through non-binding legislation.

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90 Atıkcan pp.20-21 as well as Besson S. and Utzinger A. (2008) p.580

91 European Council of Ministers "Council Resolution of 4 March 1996 on the status of third-country nationals residing on long-term basis in the territory of the member states 96/C 80/02" Official Journal C080 18/03/1996 P. 0002 - 0004 Available at:http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31996Y0318(02):EN:HTML

92 *Ibid* III (1), III (2), IV (1), VI, V(2) as well as Kostakopoulou (2002a) T. p.448

3.3. Fair Treatment of TCNs in an Area of Freedom Security and Justice: Amsterdam Treaty and the Tampere Presidency Conclusions

Amsterdam Treaty, signed in 1996, transformed the some of the policy areas covered under the third-pillar issues visas, asylum, immigration and other policies related to the free movement of persons to the community pillar to make the decision-making more efficient and ensure the implementation of the adopted policies. Hence, development of a comprehensive, legally binding EC framework concerning the rights of long-term resident TCNs became possible.[93] Despite the communitarization of the relevant policy areas, the decision making process remained largely different than the community method, the Commission's and the European Parliaments' powers were significantly limited.[94] Nevertheless, European Community with the Amsterdam Treaty, was granted the power to adopt measures -within five years-[95] inter alia on the conditions of entry and residence for TCNs [96], the rights and conditions under which TCNs, who are legally resident in a Member State, may reside in other Member States[97], and the conditions of employment for TCNs legally resident in the Community territory[98] [99].

Though the Commission, before the adoption of the Amsterdam Treaty, drawing on the Article 21 of the 1990 Schengen Implementing convention proposed a directive concerning the free circulation right of TCNs who are lawfully present in the territory of one member states for short stays not exceeding three months, it was not adopted.[100]

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93 Apap and Carrera (2003) p.1 as well as Perchining (2005) p.8

94 Geddes (2001) p.22

95 Kostakopoulou T. p.449 as well as Guild E. and Groenedijk K. "Converging Criteria: Creating an Area of Security of Residence for Europe's Third Country Nationals" *European Journal of Migration and Law* Vol. 3 (2001) p.38

96 "Treaty of Amsterdam amending the Treaty on European Union, the Treaties Establishing the European Communities and Related Acts" Article 63 (3)(a) Official Journal C340 Vol. 35 10/11/1997. Available at: http://eur-lex.europa.eu/en/treaties/dat/11997E/htm/11997E.html#0173010078

97 *Ibid* Article 63(4)

98 *Ibid* Article 137(3)

99 *Ibid* Article 63(4) , Hansen R. (1998) p.6, Guild and Groenedijk (2001) p.38

100 Kostakopoulou T. (2002a) pp. 447-448

Nevertheless, with the Amsterdam Treaty, the provisions of the Schengen Agreement regarding the circulation of TCNs within the Schengen territory for short-term stays not exceeding three months have been incorporated to the EU *acquis*.[101] Thereby the Council was obliged to adopt measures setting out the conditions under which nationals of third countries shall have the right of intra-EU movement for short stays.[102] This instance illustrates the effect of Amsterdam Treaty in the evolution of TCNs rights in the EC *acquis*. Furthermore, by introducing a new Article[103] into the TEC, the Treaty of Amsterdam has extended the EC competence to the field of non-discrimination based on 'race' and ethnic origin.[104] This was a crucial step since the relevant article constitutes the first individually enforceable right applying to TCN included in the TEC.[105]

Following the adoption of the Amsterdam Treaty, in the Tampere summit, held in October 1999, the need for approximation of the member states legislation concerning TCNs. Importance of the Tampere summit emanates from the fact that it was for the first time publicly recognized that the EU has become an area of immigration and there is a need for a common approach for the integration of third country nationals who are lawfully resident in the Union".[106] Besides, Tampere presents a milestone in the sense that fair treatment of TCNs was defined as an essential ingredient in an area of freedom, security and justice.[107] In the following years Tampere principle - "... integration policy should aim at granting legally resident third country nationals rights and obligations comparable to those of EU citizens"- has became the basis of all the proposals adopted concerning the TCNs by the European Commission.[108] Granting TCNs rights that are comparable to EU citizens was defined as the

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101 *Ibid* p.445

102 *Ibid* p.449

103 Treaty of Amsterdam amending the Treaty on European Union, Article 13

104 Perchining p.11

105 Lavenex S., "Towards the Constitutionalization of Alien's Rights in the European Union?" *Journal of European Public Policy* Vol.13 (8) (2006) p.1287

106 Guild and Groenedijk (2001) p.37

107 Carrera S., "'Integration' as a Process of Inclusion for Migrants" *CEPS Working Document* No.219 (2005) p.2

108 Hansen p.9

main element in integrating immigrants in to the societies that they are living.[109] In line with the Tampere summit presidency conclusions, in the subsequent years, the Council agreed upon four directives which are the main binding tools for integration of TCNs. There directives are Racial Equality Directive[110] and the Employment Equality Directive[111], the directive on the status of the long-term residents[112] and family reunification directive[113] [114]. These directives then became the essential instruments for the integration of TCNs.

3.3.1. Non-Discrimination Directives

In the EC level two directives have been adopted that prohibits discrimination. These directives are the Directive implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (Racial Equality Directive) and the Council Directive establishing a general framework for equal treatment in employment and occupation.

Racial Equality Directive, that is the first binding EC legislation targeted combating racial discrimination, adopted with regard to the Article 13 of TEU in 2000, aims to lay down

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109 Kostakopoulou T. (2006) p.445, as well as Tampere European Council, 15-16 October 1999, Presidency Conclusions, A Common EU Asylum and Migration Policy, III Fair Treatment of Third Country Nationals para.18. Available at: http://ue.eu.int/ueDocs/cms_Data/docs/pressdata/en/ec/00200-r1.en9.htm

110 European Council of Ministers "Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial and ethnic origin" Official Journal L180, 19/07/2000 P. 0022 - 0026 Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0043:EN:HTML

111European Council of Ministers "Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation" *Official Journal* L 303, 02/12/2000, P 0016 - 0022 Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0078:EN:HTML

112 European Council of Ministers "Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents" *Official Journal* L16/44, /01/2004 P. 0044 - 0053 Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0109:EN:HTML

113 European Council of Ministers "Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification" *Official Journal* L 251/12, /10/2003 P. 0012 - 0018 Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0086:EN:HTML

114 Lavenex p.1287 as well as Perchining p.11

a framework for combating discrimination on grounds of racial or ethnic origin.[115] The scope of the directive goes beyond employment and covers social protection including social security and health care, social advantages, education, access to and supply of goods and services available to the public including housing, matters.[116] Employment Equality Directive was adopted five months after the Racial Equality Directive. The scope of the directive is limited compared to the Racial Equality Directive with its' scope covering only employment and occupation. On the other hand, these two directives can be considered to be complementary since Employment Equality Directive also includes requirement to adopt anti-discrimination measures against discrimination on the grounds of religion and belief *inter alia*.

Despite covering a wide range of discrimination included into the scopes of these two directives,[117] they do not cover difference of treatment based on nationality. So far, discrimination on the basis of nationality is prohibited only concerning the European citizens.[118] It is clearly stated in both of the directives that they do not affect the provisions and conditions relating to the entry into and residence of third country nationals and stateless persons as well as the legislation under which the treatment to TCNs are determined.[119] In this context, despite being important steps in the fight against discrimination on the basis of race or ethnic origin and thereby preventing TCNs to be employed in certain kinds of jobs with the worst working conditions and wages, exclusion of discrimination on the basis of nationality leaves a gap regarding the treatment of third country nationals. Thus, these directives provide TCNs with only with partial protection from discrimination.[120]

All in all, compared to the first Resolution on the statues of the TCNs, scope of which

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115 European Council of Ministers (2000a) Article 1; Bell M., "Beyond European Labour Law? Reflections on the EU Racial Equality Directive" *European Law Journal* Vol.8 (3) (2002) p.384

116 Lavenex p.1288 , Hepple B. "Race and Law in Fortress Europe" *Modern Law Review* Vol.67 (1) (2004) p.3, Council Directive 2000/43/EC Chapter 1 Article 3 (1)

117 European Council of Ministers (2000a), Article 2; European Council of Ministers (2000/b), Article 2

118 Shaw J., "E.U. Citizenship and Political Rights in an Evolving European Union" *Fordham Law Review* Vol. 75 (2006) p.2551

119 European Council of Ministers (2000a), Article 3 (2)

120 Fredman S., "Equality: A New Generation?" *Industrial Law Journal* Vol. 30 (2) (2001) p.145

excluded discrimination in employment and training, these directives clearly illustrate the expanding rights of TCNs under the EC law. Another important point to be emphasized is that despite the trend of including TCNs, the exclusion on the basis of nationality clearly illustrates that the TCNs are still the "others". These directives do not challenge the existing hierarchy between the European citizens and the TCNs or power structures in the society. In other words, they did not radically alter the position of the TCNs as the dependents to the good will of the European citizens.

3.3.2. Family Reunification Directive

The 2003 directive on the right to family reunification (2003/86/EC), which is the first legal instrument adopted by the Community in the area of legal immigration,[121] is one of the most significant steps taken in the fulfillment of the objective stated in the Tampere Summit.[122]

The aim of this directive is not only to establish common rules of Community law relating to the right to family reunification of third country nationals residing lawfully on the territory of the Member States but also to facilitate the integration of the third country nationals since the presence of a family enables a TCN to lead a normal life.[123] The directive allows the family members of third-country nationals in possession of a residence permit in a member state for at least after a year of lawful residence to apply for family reunification and to submit an application for family reunification it has to be proved that the TCN -living in one of the member states- has an accommodation, sickness insurance, stable and regular resources which are sufficient to maintain himself/herself and the members of the family.[124]

Though a narrow definition (nuclear family – spouse and the minor children) [125] of what constitutes the family was made under the Article 4 of the relevant directive, it is left to the discretion of the member states to accept applications of the first degree relatives in the direct ascending line of the TCN or his or her spouse, the adult unmarried children of the

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121 Justice and Home Affairs Council 2489th Meeting, Brussels, 27-28 February 2003 Press:42 Nr: 6162/03 Rights to Family Reunification, p.6 Available at: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/jha/74719.pdf

122 Bertozzi S., "Integration: An Ever-Closer Challenge" *Center for European Policy Studies* Working Document No.258 (2007) p.5.

123 European Council of Minister (2003a), Article 1 and 4

124 *Ibid* Article 3 (1), Article 7 (1)

125 *Ibid* Article 4 (1)

TCN or his or her spouse and the TCNs' unmarried partner for family reunification.[126] On the other hand, these provisions has been applied in a restrictive manner in European states through a narrow definition of what constitutes the family and conditions which must be fulfilled to be qualified for the right.

Under this directive, the member states are allowed to subject TCNs to integration measures which are determined in accordance with the national law.[127] Besides, concerning the minor children, it is stated that the "minor children" should apply before the age of 15, otherwise his/her application could be rejected on the grounds that s/he might have a difficulty in integrating into the receiving society.[128] Consequently, a member state might consider knowledge of language sufficient though some others might demand stricter requirements such as knowledge in the history, political structure of the receiving society.[129] More importantly, this directive, despite recognizing the right to family reunification and thereby constituting an other step in inclusion of the TCNs in the EC *acquis*, due to the above mentioned "integration measures" it reproduces and emphasizes the "otherness" of TCNs.

3.3.3. Directive on the Status of the Long Term Residents

The Directive on the status of long-term residents, adopted in 2003, aims to harmonize the national laws regarding the acquisition and the withdrawal of the long-term resident status granted by Member states to TCNs and thus to ensure equal treatment at least to all TCNs throughout the Union. The principle underpinning this directive is that "domicile generates entitlements": equality of treatment of long-term resident TCNs with nationals of the receiving state in the socio-economic sphere and enhanced protection against expulsion as well as rights of mobility within the Union.[130]

In particular, long-term residents, under this directive, are entitled to equal treatment with nationals as regards to access to employment (except for the ones that are reserved to nationals, European citizens) and self-employed activity, recognition of professional

126 *Ibid* Article 4 (2)

127 *Ibid* Article 7 (2)

128 *Ibid* Article 4 (6)

129 Kostakopouluo T. (2006) p. 450 as well as Bertozzi p.6

130 Carrera (2005) p.2

diplomas, certificates, and access to the entire territory of the member state concerned.[131] Though TCNs should also enjoy equal treatment with nationals concerning some other social and economic rights[132], equal treatment regarding these rights can be restricted by the member state concerned.[133]

Other than the equal treatment with the nationals of a particular member states, TCNs rights were tried to be approximated with EU citizens' rights concerning the free movement.[134] Although the Treaty of Rome granted the free movement right to the workers without specific reference to the community national workers, subsequently adopted legislation by the Council specified that the right to free movement can only be exercised by the workers who are also nationals of the member states. Though what was aimed during the codification of the Rome Treaty was to set lawful domicile to be the only condition for the exercise of the free movement right, the end result favored Community nationals against TCNs.[135] Under this directive, TCNs have gained the right to reside in another member state for long stays in order to pursue an economic activity as employed or self-employed persons, for study or vocational training purposes or for all other purposes provided that they are self-sufficient and have sickness insurance.[136] Despite the inclusiveness of the free movement right, it was mainly granted to TCNs to provide a solution to the labor shortages in growth industries and other labor market distortions across the Union.[137] On the other hand, there are some exceptions and limitations.

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131 European Council of Ministers (2003b) Article 11.1 (a), (c) (h)

132 These areas are; education and vocational training, social security, social assistance and social protection, tax benefits, access to goods and services and the supply of goods and services made available to public and to procedures for obtaining house, and lastly freedom of association and affiliation and membership of an organization whose members are engaged in a specific occupation

133 European Council of Ministers (2003b) Article 11(2)

134 Joppke C. "Transformation of Immigrant Integration Civic Integration and Antidiscrimination in the Netherlands, France and Germany" *World Politics* . 59 (2007) p.247

135 Kostakopoulou T. (2006) p.445, Geddes (2000) p.46

136 European Council of Ministers (2003b) Article 14(2) and Article 15(2)

137 Hansen p.13 as well as Justice, Home Affairs and Civil Protection Council 2455th Meeting, Luxembourg 14-15 October 2002 Press 208 no.12894/02 Family Reunification para. 13 Available at: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/jha/72751.pdf

Though in principle TCNs were enabled to work in other member state, the member states might limit the total number of persons to be granted right of residence.[138] Besides, the granted long-term status is only valid in the first member state. They have to apply for the same status in the second member state within a period of three months. Meaning that third country nationals only have statue in the country in which they are residing.[139] Though some scholars argue that with the adoption of the relevant directive the "European denizenship"[140] is thereby established, unlike EU citizenship there is no other legal classification as such in the EU level.[141] The TCNs who are long-term residents are not yet denizens of the EU but of the member states.[142] On the other hand, their status are secured since long term residents living in the second member state will retain their status in the first member state until they have acquired the same status in the second member state.

Furthermore, under the provisions of long term residents directive, member states can demand migrants to comply with "mandatory integration requirements", which constitute one of the crucial difference between the EU citizens and TCNs given that in the EC law on free movement the right of European citizens has never been made conditional on previous integration or even knowledge of the language of the host Member State.[143] Accordingly, unlike EU citizens, the 'others' will first need to pass a forced integration test and cover the financial costs of it before having secure access to the benefits and rights conferred by the status of long-term resident. Besides absence of a common integration requirement in the EU level might lead to different treatment to different TCNs. Depending on the severity, mandatory integration requirements might intimidate a TCN to apply that specific country for long term residence status.

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138 European Council of Ministers (2003b), Article 14(4)

139 Carrera (2005) p.2

140 Atıkcan p.7; As it is defined by Hammar, denizens are not regular foreign citizens anymore but also not naturalized citizens of the host state. The term stands for foreign citizens with a legal and permanent resident status in the host state. Denizens enjoy almost full social, economic and civil citizenship rights whereas they only have limited access to political rights.

141 Carrera (2005) p.2 as well as Atıkcan p.7

142 Justice and Home Affairs Council 2504th Meeting, Brussels 8 May 2003 Press:111 Nr: 8278/03 Status of Third Country Nationals p.7 Available at: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/jha/75692.pdf

143 Groenendijk K. "Legal Concepts of Integration in EU Migration Law" *European Journal of Migration and Law* Vol. 6 (2004) p.116

All in all, the long term residents are now granted partial free movement right, and they are now to some extent secured in the EU level against expulsion (public security and public health can be only grounds for such an act), they are provided with a legal right to challenge the jurisdiction of the member state in the EC level. Therefore, although the directive does not grant long-term resident TCNs full and equal membership in the European polity, it was an important step in the path to their full inclusion given the driving force of the free movement right as well as the protection from expulsion on the grounds of economic reasons.

The aforementioned directives (family reunification, non-discrimination and the status of the long-term residents) concerning the integration of immigrants, though being important steps in integrating TCNs, leaves many issues to the discretion of the member states, yet they are not sufficient to equalize the TCNs' and European citizens' rights. Specifically, in the long-term residents and family reunification directives TCNs are treated as others who need to be subjected to mandatory integration requirements.

3.4. Co-decision Procedure: Nice Treaty

In the Intergovernmental Conference on the Nice Treaty held in 2000 it was agreed to decide by unanimity to adopt qualified majority voting as the decision making procedure for asylum and immigration policies in the Council until 2004.[144] Co-decision procedure was extended to the conditions of employment for the legally residing TCNs. These have eliminated the restrains of intergovernmental decision making and the EP attain power *vis-a-vis* the Council. On the other hand, the subsidiarity principle emphasized on the Thessaloniki Council Summit and the common basic principles on immigration integration policy adopted in line with the Hague Programme reflected the preference of the member states for the national policies rather over binding EC legislation. As a consequence, the change in the decision making procedure has not yield to policies on integration of TCNs that could recognize them as the equal members in line with the member states' preferences.

3.4.1. Lisbon Summit: Lisbon strategic goal and third country nationals

In the Lisbon summit held in 2000 prior to the Nice Summit, European Council defined the

144 Wessels W. “Nice Results: The Millennium IGC in the EU's Evolution” J*ournal of Common Market Studies* Vol. 39 (2) (2001) p.204

strategic goal for the next ten years as "to become the most competitive and dynamic knowledge-based economy in the world, capable of sustained economic growth with more and better jobs and greater social cohesion".[145] In 2003, measures against discrimination of the TCNs were contemplated within the framework of the Lisbon strategic goal, Employment Guidelines and the project within the ESF-funded programme, 'EQUAL' that dealt with issues of anti-discrimination in working life.[146] Later the Commission in its communication stated that the effective integration of immigrants in the labor market is defined as an important contribution to reaching the Lisbon targets which basically aims 70% employment rate in the year 2010.[147] European Social Agenda which was prepared by the Commission and approved in the Nice Summit, defined specific areas of action to ensure the realization of strategic guidelines in all social policy areas in line with the Lisbon strategic goal.[148] In the European Social Agenda, satisfactory integration of the legally resident TCNs was defined as one of the paths to reach Lisbon Targets.[149] Prior to the adoption the European Social Agenda and the Lisbon strategic goal, starting from the mid 1980s, measures for the integration of all TCNs were already included into the framework of general labor market programmes. These programmes funded by the European Social Fund (ESF), aims to integrate the unemployed and disadvantaged sections of the population into working life, such as 'Integra' that aims to promote opportunities for marginalized groups and 'Adapt' which addresses the issue of adaptation by workers to industrial change.[150] Later in the mid 1990s the integration of immigrants has became an element in programmes of the Regional Funds, which provides

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145 Lisbon European Council 23-24 March 2000, Presidency Conclusions, I. Employment, Economic Reform and Social Cohesion A Strategic Goal for the Next Decade, The Way Forward para.5. Available at: http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/00100-r1.en0.htm

146 Perchining p.12

147 European Commission "Communication from the Commission to the Council, The European Parliament, the European Economic and Social committee and the committee of the Regions, A Common Agenda for Integration Framework for the Integration of Third-Country Nationals in the European Union" Brussels, 1.9.2005, COM(2005) 389 final,p.3 Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52005DC0389:EN:HTML

148 Nice European Council 7-9 December 2000, Presidency Conclusions, Annex I European Social Agenda, 1. Policy guidelines laid down by the European Council para.1. Available at: http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/00400-r1.%20ann.en0.htm

149 *Ibid* para. 3. Common Challenges Strengthen social cohesion para.23

150 Perchining p.6-7

support for the creation of infrastructure and productive job-creating investment, like 'URBAN' or 'INTERREG'.[151]

Participation of TCNs in the labor market is important for the integration of TCNs into the societies given the fact that it will help them to obtain a status, to be accepted by the society. In this sense, unemployment aggravates the already vulnerable position of the TCNs.[152] On the other hand, vulnerability can not be defeated by employment. The above mentioned initiatives equated the integration of immigrants with 'their integration into the labor market'.[153] Clearly, neither the participation in the labor market nor "satisfactory integration" as defined by the European Council means equal membership whereby the TCNs would continue to be vulnerable "others". They can incontestably facilitate the TCNs' living standards but they can not pave the way for equal membership whereupon the TCNs would be included into the definition of "we" rather then "them".

3.4.2. Thessaloniki Summit: Principle of subsidiarity

In the Thessaloniki European Council of 2003, as opposed to the security centered immigration and asylum programs of the Leaken and Seville Summits,[154] integration of immigrants was again included in to the field of action.[155] Though in Thessaloniki Summit, European Council stressed the need for an EU framework on integration of immigrants and recognized that the primary responsibility for the implementation of integration strategies remains within the member states. This view is also reflected in the position of the Justice and Home Affairs Council in the primacy of principle of subsidiarity concerning the integration of immigrants on the reasoning that member states have different histories, legal frameworks and

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151 Ibid p.7

152 Liegl B., Perching B. and Weyss B. "Combating Religious and Ethnic Discrimination in Employment form the EU and International Perspective" European Network Against Racism (2004) p.4 Available at: http://cms.horus.be/files/99935/MediaArchive/pdf/discrim_employ_04_en.pdf

153 Hansen P.15

154 Ibid pp.8-9

155 Thessaloniki European Council, 19-20 June 2003 Presidency Conclusions, The development of a policy at European Union level on the integration of third-country nationals legally residing in the territory of the European Union, paras. 28;35 Available at: http://ue.eu.int/ueDocs/cms_Data/docs/pressdata/en/ec/76279.pdf

economic, social and cultural needs.[156] As the failure of one member state can have negative implications for other Member States and the European Union as a whole, the need for effective integration strategies in the EU level was acknowledged in the Justice and Home Affairs Council.[157] Following the request of the Justice and Home Affairs Council in October 2002 to establish National Contact points on Integration[158], the Thessaloniki European Council of June 2003 invited the Commission to present Annual Reports on Migration and Integration.[159]

Furthermore, according to the Thessaloniki summit conclusions, the integration "policy should cover factors such as employment, economic participation, education and language training, health and social services, housing and urban issues, as well as culture and participation in social life".[160] However, there is no reference to the political rights which could alter the TCNs position as the dependent "others".

3.4.3. Brussels Summit: Hague Programme and Common Basic Principles

Hague Programme of 2004, parallel to the Thessaloniki presidency conclusions, illustrated the further advancement of the vulnerability model. It was adopted following the deadline of the Tampere program of 1999, by the European Council in Brussels for Justice and Home Affairs, defined the integration of immigrants one of the most relevant policy areas to be developed in the next five years.[161] The Programme associates stability and cohesion of

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156 Integration of third-country nationals MEMO/05/290 Brussels, 1 September 2005 p.1 Available at: http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/05/290&format=HTML&aged=0&language=EN&guiLanguage=en

157 Ibid

158 Justice, Home Affairs and Civil Protection 2455th Council Meeting, Luxembourg 14-15 October 2002 Press 208 no.12894/02 Status of Third Country Nationals Who are Long Term Residents para.11 Available at: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/jha/72751.pdf

159 Thessaloniki European Council 19-20 June 2003, Presidency Conclusions, The development of a policy at European Union level on the integration of third-country nationals legally residing in the territory of the European Union, para. 33. Available at: http://ue.eu.int/ueDocs/cms_Data/docs/pressdata/en/ec/76279.pdf

160 *Ibid* para. 28

161 Brussels European Council 4-5 November 2004 Presidency Conclusions, Annex I; the

the societies with the successful integration of legally resident TCNs. In this document European Council emphasized on the importance of prevention of TCNs isolation, creation of equal opportunities as well as the elimination of obstacles to integration.[162]

Justice and Home Affairs Council, based on the Hague Programme adopted Common Basic Principles for Immigrant Integration Policy "which intended to assist Member States in formulation integration policies for immigrants by offering a non-binding guide on the basis of which they can assess their own projects" *inter alia.*[163] These principles are;

> "1. Integration is a dynamic, two-way process of mutual accommodation by all immigrants and residents of Member States.
> 2. Integration implies respect for the basic values of the European Union.
> 3. Employment is a key part of the integration process and is central to the participation of immigrants, to the contributions immigrants make to the host society, and to making such contributions visible.
> 4. Basic knowledge of the host society's language, history, and institutions is indispensable to integration; enabling immigrants to acquire this basic knowledge is essential to successful integration.
> 5. Efforts in education are critical to preparing immigrants, and particularly their descendants, to be more successful and more active participants in society.
> 6. Access for immigrants to institutions, as well as to public and private goods and services, on a basis equal to national citizens and in a non-discriminatory way is a critical foundation for better integration.
> 7. Frequent interaction between immigrants and Member State citizens is a fundamental mechanism for integration. Shared forums, inter-cultural dialogue, education about immigrants and immigrant cultures, and stimulating living conditions in urban environments enhance the interactions between immigrants and Member State citizens.
> 8. The practice of diverse cultures and religions is guaranteed under the Charter of Fundamental Rights and must be safeguarded, unless practices conflict with other inviolable European rights or with national law.
> 9. The participation of immigrants in the democratic process and in the formulation of integration policies and measures, especially at the local level, supports their integration.
> 10. Mainstreaming integration policies and measures in all relevant policy portfolios and levels of government and public services is an important consideration in public-policy formation and implementation.
> 11. Developing clear goals, indicators and evaluation mechanisms are necessary to adjust policy, evaluate progress on integration and to make the exchange of information more effective."

The principles as being agreed upon by the justice and home affairs ministers of the member states of the European Union, reflect national policy preferences.[164] Though these principles are non-binding, they are not completely of no significance since the member states have

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Hague Programme: Strengthening Freedom, Security and Justice in the European Union, point 1.5. Available at: http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/82534.pdf

162 *Ibid*

163 Justice and Home Affairs Council 2618th Meeting, 19 November 2004 Annex: Common Basic Principles on Immigrants Integration, 14615/04 Press 321 Available at: http://www.consilium.europa.eu/Applications/newsRoom/LoadDocument.asp?directory=en/jha/&filename=82745.pdf

164 Joppke C. "Beyond National Models : Civic Integration Policies for Immigrants in Western Europe" *West European Politics* 30.1 (2007) p.3

clearly acknowledged their responsibility as regards the integration of the TCNs to create the opportunities for the immigrants.[165] On the other hand, these principles could not have gone beyond the already adopted legislation or published policy documents and maintained the vulnerability as the integration model. There is no mention of equal membership or granting rights *via* which the TCNs could advance their substantial rights except voting in the local elections. It is the still the Member states or the EC that could do this on behalf of them.

3.5. Concluding Remarks

TCNs rights are increasingly secured at the EC level since the Amsterdam Treaty. In addition to the adopted binding legislations like non-discrimination directives, family reunification directive and the directive on the status of the long term residents, they have been incorporated to the general economic and social policies as necessitated by the European integration process. On the other hand, they are still considered the "others" since the context of the granted rights do not go beyond treating the TCNs as the vulnerable dependents. In other words, they can only have rights when the members states consider appropriate, otherwise they can not demand such an expansion. Additionally, the TCNs are treated as the culturally different others as evidenced in the mandatory integration requirement provisions included in the family reunification directive and the directive on the long term residents. In this context, enduring vulnerability model and the perception of the TCNs as the culturally others, who are incapable of integrating into the societies that they are living, ensures the continuation and reproduction of the existing power structures and the hierarchy between the European citizens and the TCNs. The currently existing policies towards the TCNs illustrates the member states preferences, thus the European integration process despite forcing member states to harmonize their policies and grant rights, it did not challenge the constructed "otherness" of the TCNs in the individual member states. Instead TCNs have become others in the EU level either.

165 *Ibid*

CHAPTER 4

COMMON POLICY ON ILLEGAL IMMIGRATION AND ASYLUM

4.1. Introduction

In the 1950s and 1960s there had been transfer of labor from poorer countries of the periphery such as Southern Europe, North Africa to the Europe.[166] These immigration waves to Europe were mostly the result of "guest-worker policies" which were adopted due to increasing demand for additional workers as a consequence of the rapid reconstruction of Europe.[167] The relevant policies were initially implemented as an efficient transfer of labor from poorer countries of the South to North but as economic growth rates in the European countries slowed in the aftermath of the first big postwar recession of 1974 politicians have started to present immigration a problem which disturbs the harmony of the receiving societies and the functioning of the labor market.[168] As a consequence, major policy shifts were initiated in Europe to prevent immigration.[169] Since these policies have rendered illegal entry the only possible channel to arrive Europe, the number of the illegal entries increased which as consequence was used as a pretext by reversing the casual relation.

Over the course of the European integration process, the formation of the internal market which necessitated the gradual abolition of the internal borders in the EU, created

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166 Hollifield J.F. "The Immigration and Integration in Western Europe: a Comparative analysis" in Uçarer E. M. and J Puchala J. D. (eds.) *Immigration into Western Societies: Problems and Policies* (London, Washington: Pinter, 1997) p.31

167 Stalker P. "Migration Trends and Migration Policy in Europe" *International Migration* 40.5 (2002) p.153,

168 Ceyhan A. "Policing by Dossier: Identification and Surveillance in an Era of Uncertainty and Fear" in Bigo D. and Guild E. (eds.) *Controlling Frontiers Free Movement into and Within Europe* (Aldershot; Burlington: Ashgate, 2005) p.216

169 Hollifield, (1997) p.36 as well as Joppke C., 'European Immigration Policies at the Crossroads', in Heywood P., Jones E., Rhodes M. (eds.), *Developments in West European Politics* (London: Palgrave, 2002) p.260

pressure on the member states to harmonize asylum and immigration policies. Nevertheless, the spill-over effect is not sufficient to explain the developments in these policy areas. With the gradual harmonization, asylum and immigration has started to be framed by the external and internal security issues and detracted from human rights. Restrictive measures, which are extraordinary in nature, adopted in order to prevent illegal immigration was further legitimized when illegal immigration was categorized in the same group as the international crimes like terror and drug trafficking.

4.2. Different Approach to Illegal Immigration: Developments before the Contemplation of the Internal Market

The first response to the illegal immigration in the course of European Integration was the European Commission's Action Programme in Favour of Migrant Workers and their Families adopted in 1974 by the European Council which adopted a resolution on the Action plan.[170] This document emphasized the urgency of the adoption of a common approach as regards to the deterrent measures by the member states. Within the context of this programme, the urgency was grounded in the risk of failure in efforts to improve the social situation of the rest of the immigrant population.[171] Subsequently as contemplated in the Action Plan, Commission proposed a directive to combat illegal migration and illegal employment. Though the directive was not adopted, it is useful tool in explaining the then approach to illegal immigration. The proposed directive aimed to provide protection for the illegal migrant workers who were defined as the "victims of unscrupulous individuals" by the means of sanctions imposed on the persons who organize aid or participate in illegal immigration and illegal employment as stipulated in the directive.[172] Thus the directive did not only the aim to prevent and combat illegal immigration and employment, it was also designed to protect the

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170 Cholewinski, R., "The EU Acquis on Irregular Migration: Reinforcing Security at the Expense of Rights" *European Journal of Migration and Law* 2 (2000) p.363

171 European Commission "Commission of the European Communities, Bulletin of the European Communities "Action Programme in Favour of Migrant Workers and Their Families" 14 December 1974 *Official Journal* COM(74) 2250 p.21. Available at: http://aei.pitt.edu/1278/01/action_migrant_workers_COM_74_2250.pdf

172 European Commission "Proposal for a Council Directive concerning the approximation of the legislation of the Member States, in order to combat illegal migration and illegal employment" *Official Journal* Supplement 3/76 COM(78) 86 Final, Brussels, 3 April 1978, Article (4) (a) Available at: http://aei.pitt.edu/3788/01/001266.pdf

human rights of illegal migrants.[173] On the other hand, despite the intentions, the increase in illegal immigration was viewed by the Commission as a growing problem that could have disruptive effects for the member states. The problem posed by illegal immigration was illustrated as a health risk owing to the fact that the illegal immigrants can not be subjected to any medical control.

Overall, the conclusion can be made that in the 1970s the discourse of the Commission already contained a security logic, because illegal immigration was seen as an social threat (the health of the population is threatened), which asked for restrictive and controlling measures. Though they are securitizing immigration policy, they are very different than the subsequent securitizing speech acts. There is a difference in the referent objects which are specified as the public health, social improvement of the rest of the immigrants in these documents. More importantly the Action plan was focusing more on the root causes of the problem rather punishing only illegal immigrants and illustrating border controls as a solution.

4.3. "Internal Security Gap Ideology": Single European Act

SEA formally contemplated the formation of a single European market which foresees gradual abolition of the internal frontiers. Member states in parallel with discussions on the removal of internal frontier controls at borders raised the question of the protection of the external frontiers.[174] These arguments, framed by the "internal security gap ideology", as called by Boer, without knowledge on the effectiveness of the prior border controls, lead to a misperception that illegal immigration and transnational crimes are new and reinforced by the abolition of internal border controls.[175] As a consequence, cooperation in security issues, border control and surveillance measures, in particular, focused on the tools to restrict the entry of so called illegal immigrants and asylum seekers to the single market.

Border controls started to be strengthened prior to the contemplation of internal market by the member states as a reaction to the globalization whereupon the people increasingly become mobile around the world. Immigrants, illegal or not, were blamed for abusing the

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173 Cholewinski (2000) p.364

174 Huysmans (2000) p.759

175 den Boer M. " Moving between Bogus and Bona Fide: The Policing of Inclusion and Exclusion in Europe" in Miles R. and Thranhardt D. (eds) *Migration and European Integration the Dynamics of Inclusion and Exclusion* .(London: Pinter 1995) p.97

welfare provisions, social services and undercutting the domestic labor force either by the politicians or the public who were directed by politicians.[176] Police officials, further iterated this trend and blamed resident immigrant groups for the occurrence of crime.[177] These utterances and crime profiling illustrated immigrants specifically the illegal ones, as a security threat from outside and inside. In the light of these developments governments of some member states pointed to the border controls as a solution to these problems rather than dealing with the root causes of such as unemployment, discrimination, prejudice.[178]

The emergence of the so-called internal security gap, grounded on the perception of immigrant in the individual member states and the previous assumption that the border controls are a way to prevent illegal immigration, that is said to be occurred with the abolishment of internal borders, provided a legitimate basis for further restrictive immigration and asylum policies.[179]

The cooperation on immigration and asylum policies were enabled with the formation of the Ad hoc group on Immigration in 1986 and Schengen Agreement signed between France, Germany and Benelux countries in 1985. Due to the unwillingness of the member states to give up their monopolized power in regulating the means of circulation within their territory, cooperation on immigration and asylum policies remained outside the Treaty framework.[180] The intergovernmental framework ensured that the newly initiated cooperation forms are free from European Parliament (EP) and the European Court of Justice (ECJ) and thus unaccountable.[181] Neither the EP nor the ECJ had the power to challenge the outcomes.[182] As asserted by Guiraudon (2000), member states have chosen the

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176 Boswell C. "Migration Control in Europe After 9/11: Explaining the Absence of Securitization" *Journal of Common Market Studies* Vol. 45 (2007) p.595

177 den Boer (1995) p.103

178 *Ibid* p.104

179 Bigo (1994) p.165 as well as den Boer "The Quest for European Policing: Rhetoric and Justification in a Disorderly Debate" in Anderson M. and den Boer M. (eds.) *Policing Across National Boundaries* (London: Pinter, 1994) p.174

180 Ceyhan (2005) p.217

181 Guiraudon J. "European Integration and Migration Policy: Vertical Policy Making as Venue Shopping" *Journal of Common Market Studies* Vol. 38 (2000) pp. 257-261, Geddes A. Immigration and European Integration Towards Fortress Europe (Manchester:Manchester University Press, 2000) pp.69-72

182 den Boer (1995) p.93

intergovernmental cooperation to be unaccountable either to domestic or EC institutions.

4.3.1. Ad Hoc Group on Immigration

Ad hoc group on Immigration was composed of high level immigration policy officials charged with a duty to ensure closer cooperation in asylum, external frontiers, forged papers, admissions, deportations and information exchange.[183] One other organization was Trevi, which was initiated as part of European Political Cooperation in 1976 by the then EC member states following the United Kingdom's proposal in Council of Ministers meeting. It was a loose form of intergovernmental co-operation and it was not based on any formal treaty provision.[184] Trevi was initiated, mainly out of the concerns on increasing terrorist activity in the Middle East and in parts of Europe, formed to counter terrorism and to coordinate policing in the EC.[185] Though European Council did not entrust Trevi with a task to ensure cooperation in the immigration and asylum policies, with the initiation of Group of Coordinators which sought to coordinate Trevi and Ad hoc Group on Immigration,[186] their tasks are presented to be in close relation whereby the first step was taken to associate terrorism with immigration long before the 9/11 terrorist attacks.

4.3.2. Schengen *Acquis*

Meanwhile, in 1985, Schengen agreement was signed among the five member states which are Belgium, France and Germany, Luxembourg and the Netherlands, so as to move more quickly towards the formation of internal market in its full terms. It aimed to ensure free movement for people and the abolition of internal border controls between their territories.[187] The illegal immigration was presented as a cross-border threat in conjunction with the

183 Geddes (2000) p.75

184 Monar J. "The Dynamics of Justice and Home Affairs: Laboratories, Driving Factors and Costs" *Journal of Common Market Studies* . 39 (4) (2001) p.750

185 Bunyan, T., "Trevi, Europol and the New European State", in T. Bunyan (ed.) *State-Watching the New Europe A Handbook on the European State (*Nottingham: Russell Press. 1993) pp.27-33.

186 Geddes (2000) P.76

187 Ibid p.81

abolishment of internal borders, which would set the border open for illegal immigrants, criminals and organized crime, in the Schengen Agreement. Thereby Schengen agreement contributed to the criminalization of the illegal immigrant, as the illegal immigration was laid together with transnational crimes.[188] In other words, the regulation of migration was located in an institutional framework of the protection of internal security.[189] As a result it provided member states with a fertile ground to restrict migration towards the EU and to disassociate the immigration and asylum policies from human rights.

Member states not to completely lose their power to control the entry into their territory included compensatory measures into the Schengen Agreement.[190] These measures were designed to harmonize the visa policies and conditions for entry as well as the asylum laws.[191] A common visa was introduced to avoid applicant whose visa application is refused by one EU country applies to another one and gets authorization to enter the union.[192] Additionally, a list comprised of countries names whose nationals must be in possession of visa (black list) and whose nationals are exempt from this requirement (white list) when crossing external frontiers of the Schengen area, was incorporated into the Schengen.[193] Bigo and Guild (2005) argues that visa obligation is required by the member states due to their lack of confidence in the countries of origin which are referred as risky. This in return "denotes a suspicion towards a country or a nationality as a whole" and thus towards the immigrant.[194]

These measures were supported by the Schengen Information System (SIS), which is the oldest EU internal security database. It is a computerized resource shared by participating

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188 'The Schengen acquis - Agreement between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders' *Official Journal* L 239, 22/09/2000 P. 0013 - 0018 Article 9 Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:42000X0922(01):EN:HTML

189 Huysmans (2000) p.757

190 The Schengen acquis, Article 7

191 Geddes (2000) p.81

192 Ceyhan (2005) p.219

193 Ibid

194 Bigo D., Guild E. "Policing at a Distance: Schengen VisaPolicies" in Bigo D. and Guild E. (eds) *Controlling Frontiers Free Movement Into and Within Europe* (Aldershot:Asgate, 2005) p.236

states to support their cooperation in border controls.[195] It is made up of a central database (C-SIS) and a network of national databases (N-SIS), through which the member states transmit data on persons and objects that should be apprehended to the central database.[196] Bigo asserts that, when the common databases, like SIS, are formed to enable security services of EU states to work together, "each country started to sell its fear" to the other countries thereby creating a wider security definition.[197] Thus a person who is defined as a "threat" to one country would be banned from all of the Europe Union member states.

Member states key in information to the SIS on five categories of persons one of which is third country nationals to be refused entry.[198] Though SIS was originally designed to maintain 'order and security', it's operations have mainly focused on the illegal immigration given the fact that a very large amount of the entries on persons are on the unwanted aliens who has to be refused entry to Schengen countries.[199] Besides, many of the TCNs whose information are entered in SIS as TCNs to be refused entry, haven't yet committed any crime but nevertheless they could be banned from Europe.[200] In other words, they are being punished for a crime that they have not committed yet.

Within the framework of Ad hoc group on immigration and Schengen, illegal immigration and asylum were not differentiated from terrorism, drugs, crime rather the connections between them were started to be emphasized. These "amalgamation" then resulted in "equivocal construction of the problems" which as a consequence provided an opportunity for the formation of coalitions like in the case of Ad hoc Group on Immigration and Trevi.[201] Hence, immigration and asylum policies were moved away from the traditional

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195 Geddes (2000) p.81

196 Broeder D. "The New Digital Borders of Europe, EU Databases and the Surveillance of Irregular Migrants" *International Sociology* Vol.22 (1) (2007) p.80 as well as Balzacq T. "The Policy Tools of Securitization: Information Exchange, EU Foreign and Interior Policies" *Journal of Common Market Studies* Vol. 46 (1) (2008):p.84

197 Bigo (2002) p.71

198 The Schengen acquis, Articles 95; 99

199 Broeder (2007) p.80

200 State Watch, State Watch Analysis "SIS II: fait accompli? Construction of EU's Big Brother database underway" 2005 Available at: :http://www.statewatch.org/news/2005/may/sisII-analysis-may05.pdf

201 Ceyhan (2005) p.217

human rights framework towards the realm of internal and external security policy.[202] Nevertheless, more importantly, as also argued by Bigo, initiation of cooperation in these areas were not actually necessitated by the real threat emanating from the terrorism, drug traffic or cross-border crime, these threats were exacerbated by the member states to justify the cooperation outcomes of which aggravated the position of the illegal immigrants and asylum seekers.[203]

4.4. Ongoing Intergovernmental Cooperation: Maastricht Treaty

Maastricht Treaty, signed in 1992, facilitated the cooperation on immigration and asylum policy within the framework of EU. The cooperation remained intergovernmental in nature since they were included to the new third pillar, Justice and Home Affairs (JHA) which as a result, excluded the relevant policy areas from the institutional and jurisdictional framework of the Community institutions.

In the Title VI of the Treaty immigration was introduced as a 'matter of common interest' together with the fight against drugs and fraud, judicial cooperation in civil and criminal matters, customs cooperation and police in the fight against terrorism drugs and trafficking and other serious forms of international crime.[204] Hence, once more, immigration and asylum were equated with other forms of criminal behavior. This in return facilitated the securitization of immigration policy.[205]

Meanwhile, in 1999, the Convention Determining the State Responsibility for Examining Applications for Asylum Lodge in one of the Member States for the European Communities (Dublin Convention) came into force. The Convention does not include provisions harmonizing the asylum procedures in members states, rather the main aim of the convention was only to eliminate “asylum shopping” which refers to the asylum-seekers making applications in more than one member state until they are granted the statue.[206] Under

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202 Huysmans (2000) p.760

203 Bigo (1994) p.162

204 “Treaty on European Union” Title VI Provisions on Cooperation in the Fields of Justice and Home Affairs, *Official Journal* C 191 29/12/1992 Article K (1) Available at: http://eur-lex.europa.eu/en/treaties/dat/11992M/htm/11992M.html

205 Huysmans (2000) p.760

206 Geddes (2000) p.77

the Convention, application for asylum would be made in the member states that the applicant had arrived -unless he or she joining a spouse or dependent in another member state. Thereby the convention pushed the problems of asylum to member states bordering third countries. Besides the convention also off-loaded the responsibility for asylum to non-EC 'third countries' which can be defined as safe countries under the Geneva Convention, used as a pretext to move asylum-seekers out of the Union.[207] Therefore, though the Convention anticipated providing quicker procedure for the examination of the applications and hence reducing the duration of detention by an asylum seeker, in reality, as asserted by Huysmans, it was designed to decrease the number of applicants.[208] This is actually the end result of the illustration of asylum as an alternative channel for economic migration. In the context of these arguments, the "bogus" asylum seekers who are also named as "luxury refugees" "economic migrant",[209] are claimed to threaten the Europe's asylum system. In other words, the asylum seekers are considered illegal immigrants who are abusing the asylum system. As a consequence, this argument, which equates asylum seekers to illegal immigrants, legitimized all kinds of restrictions in asylum policy.

Maastricht Treaty also laid down the foundations of European Police Office (Europol) with in the third pillar. Its origin dates back to the European Council meeting in Luxembourg on June 28-29, 1991. Later, in the European Council meeting on December, 1991 creation of Europol as part of Title VI was agreed and later included into the Maastricht treaty.[210] The initiation of Europol was justified on the grounds of gradual abolishment of border controls and the increasing numbers of immigration.[211]Europol was designed, in line with the constructed equation between illegal immigration and international crimes, as a system to ensure information exchange in the areas of preventing and combating terrorism, drug trafficking and illegal immigration as well as to provide co-operation in criminal investigations and analyses.[212]

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207 *Ibid*

208 Huysmans (2000) p.755

209 Webber F. "Crimes of Arrival: Immigrants and Asylum-seekers in the New Europe" Statewatch publication (2000) Available at: http://www.statewatch.org/news/2005/aug/crimes-of-arrival.pdf

210 Bunyan (1993) p.6

211 den Boer (1994) p.185

212 Walker N. "The New Frontiers of European Policing" in Anderson M. and Bort E. (eds.)

4.5. Tighten Border Controls in an Area of Freedom Justice and Security: Amsterdam Treaty

Amsterdam Treaty, introduced a new objective which is to build an "area of freedom security and justice in which the free movement of persons is assured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime".[213] In this context, illegal immigration like international crimes was illustrated as a stumbling block to the aim of creating an area of freedom, security and justice. Furthermore, illustration of Europe as an area reinforced the utterance of "us" and "them" which as a result legitimate the exclusionary mechanisms for "others" who are in this case illegal immigrants and asylum seekers.

Amsterdam Treaty transformed the immigration and asylum policies were transformed to the first, Community pillar. Though for the decision making, rather than the community method, unanimity was adopted. The European Commission shared its power to initiate with members states, EP was only given a consultative role and the ECJ was only allowed to consider preliminary references from the national court of tribunal of final instance -rather than any national court of tribunal-. As a consequence, Council of Ministers had the decision making monopoly.[214] The decision making procedure is important since it illustrates which actor's discourse has the greatest possibility of becoming hegemonic. Hence, it is clear that it was the Council of Ministers as well as the European Council and thus the Member States whose discourse can become hegemonic. As argued by Kostakopoulou, "states continue to be the chief interpreters of security" and "still remain in control of this discourse".[215]

The Amsterdam Treaty incorporated the Schengen acquis (Schengen Agreement and Schengen Implementing Agreement) partially into the EC by protocol attached to the Treaty.[216] Although, the provisions concerning the border control and visa were incorporated

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The Frontiers of Europe (Washington DC: Pinter, 1998) p.167 as well as "The Europol Convention" *Official Journal* SN 3549/95 18/7/1995 Articles 1, 2 Available at: http://www.europol.europa.eu/legal/Europol_Convention_Consolidated_version.pdf

213 Amsterdam Treaty, Article 2 B

214 Geddes (2000) p.111

215 Kostakopoulou T. (2000) p.511

216 Treaty of Amsterdam Amending the Treaty on European Union, The Treaties

into the community pillar, the police and judicial cooperation as well as SIS remained under the third pillar.[217] Nevertheless, the community pillar gained competence in illegal immigration inter alia and the securitizing discourse embedded in the Schengen *acquis* transferred to the community pillar.

After the adoption of the Amsterdam Treaty, in the European Council meeting held in Tampere, the heads of states and the governments defined the path for the creation of area of freedom, security and justice. In the second paragraph of the Tampere conclusions it is stated that "it is a project which responds to the frequently expressed concerns of citizens and has a direct bearing on their daily lives"[218]. This statement not only ignored immigrants and asylum seekers but also constituted the citizens as the only subjects of this project. Nevertheless, the following paragraph partially included immigrants in this process. It is as the following;

> "This freedom should not, however, be regarded as the exclusive preserve of the Union's own citizens. It would be in contradiction with Europe's traditions to deny such freedom to those whose circumstances lead them justifiably to seek access to our territory. This in turn requires the Union to develop common policies on asylum and immigration, while taking into account the need for a consistent control of external borders to stop illegal immigration and to combat those who organize it and commit related international crimes. These common policies must be based on principles which are both clear to our own citizens and also offer guarantees to those who seek protection in or access to the European Union.".[219]

The immigrants and asylum seekers are only of secondary concern which legitimizes the restriction in their rights to ensure freedom and security for the citizens. Within this context, although the TCNs should be welcomed in accordance with the humanitarian tradition of the Europe, many asylum seekers can not even reach Europe, many so-called illegal immigrants die on their way to Europe due to the principle of "consistent control of the external borders", as I will discuss in the following sections. Furthermore, in the Tampere meeting, the heads of states and governments acknowledged the inadequacy of only strengthening border controls and made commitment to address the root causes of migration, which requires incorporation

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Establishing the European Communities and Related Acts, Protocol integrating the Schengen acquis into the framework of the European Union Official Journal C 340, 10/11/1997 Available at: http://eur-lex.europa.eu/en/treaties/dat/11997D/htm/11997D.html#0140040061

217 Cholewinski R. "No Right of Entry: The Legal Regime on Crossing the EU External Border" in Groenendijk K. Guild E. and Minderhoud P. (eds.) *In Search of Europe's Borders* (Hague: Kluwer Law International, 2003) p.110

218 Tampere European Council 15 and 16 October 1999, Presidency Conclusions, "Towards a Union of Freedom, Security and Justice: The Tampere Milestones" para. 1. Available at: http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/83201.pdf

of immigration measures into the external relations since it requires allocation of development aid to the countries of origin. Kostakopoulou argues, despite seemingly, initiated with a good faith, rationale of the root causes approach is 'keeping the migrant out'.[220]

Following the Tampere summit, two legislation were adopted as regards to border controls, which are Regulation concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention (Eurodac Regulation) and directive on supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985 (Directive on Carrier Sanctions).

4.5.1. Eurodac Regulation

Shortly after the Tampere Summit, in 2000 Eurodac Regulation, which is the first measure adopted under the newly introduced Title IV, was adopted.[221] Its formation aims to enable the implementation of the Article 15 of the Dublin Convention under which the members states should communicate with each other.[222] It consists of a central unit, a computerized central database and means of data transmission between the member states and the central database.[223] These data that has to be collected and has to be recorded in the central database includes fingerprints of three categories of people which are the third country nationals who apply for asylum, third country nationals found illegally residing in a country of a member state and third country nationals apprehended while illegally crossing a member states' border. Although, inclusion of the illegal immigrants in these groups aims to identify the state where the asylum seeker initially entered the community, this inclusion at the same time explicitly

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219 Ibid, para. 2

220 Kostakopoulou T. (2000) p.512

221 European Council of Ministers "Council Regulation No 2725/2000 of 11 December 2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention" *Official Journal* L316/1 Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:316:0001:0001:EN:PDF

222 'Convention Determining the State Responsible for Examining Applications for Asylum Lodged in one of the Member States of the European Communities' Article 15 *Official Journal* C 254, 19.8.1997, p. 1–12 Available at: http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=41997A0819(01)&model=guichett

223 European Council of Ministers (2001b), Article 1 also see Brouder D. (2003) p.83

formed a link between illegal immigrants and asylum seekers.[224] As Kostakopoulou suggests, Eurodac further legitimizes labeling asylum seekers as well as illegal immigrants as the potential criminals by subjecting asylum seekers to a type of supervision, to which only serious criminals can be subject to.[225]

4.5.2. Directive on Carrier Sanctions

In the following year, in 2001, French proposed council directive on supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985 was adopted. This directive imposes financial penalties on carriers transporting TCNs who lacks documents, into the territory of the member states if the carrier refuses to return the relevant person back to his or her country of origin.[226] These penalties were considered a way to combat illegal immigration by holding carriers responsible for the return of the TCNs who was transported by them. Hence it is the responsibility of the carriers to be sure that TCN passengers have the necessary travel documents: visas. Thereby with this directive, border control measures went beyond the territory of the state and it partially became the responsibility of the carriers to control. Carrier sanction measure is a 'remote control', as Guiraudon and Lahav suggest, since the border control measures have gone beyond to territory of the state.[227] Thus there is a desegregation of border functions away from the border.[228] Weinzierl and Lisson call the carrier sanctions are “non-arrival measures” since they render it impossible for either an asylum seeker or irregular immigrant to reach the

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224 Huysmans (2000) p.755

225 Hansen P., “A Superabundance of Contradictions. The European Union's Post-Amsterdam Policies on Migrant 'Integration', Labour Immigration, Asylum and Illegal Immigration” *Center for Ethnic and Urban Studies Occasional Papers and Reprints on Ethnic Studies* No. 28 (2005) p.36

226 European Council of Ministers “Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985” *Official Journal* L187/45 Articles 2, 3. Available at: *http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001L0051:EN:HTML*

227 Guiraudon V. and Lahav G. “A Reappraisal of the State Sovereignty Debate The Case of Migration Control” *Comparative Political Studies* Vol. 33 (2) (2000) p.185

228 Walters W., “'Border/Control' European” *Journal of Social Theory* Vol. 9 (2) (2006) p. 193 also see Bigo D. 'Security and Immigration: Toward a Critique of the Governmentality of Unease' *Alternatives* Vol. 27 (2002) p.77

borders.[229] By means of this remote control mechanism, it has became impossible for an asylum seeker or even an illegal immigrant to arrive Europe, at least through safe channel since no carrier would allow such persons to use their services under these circumstances and thereby forcing them to resort to human smugglers.[230] A part from preventing asylum seekers to reach the EU, it reinforces the presentation of asylum seekers along with illegal immigrants as the "dangerous other".

4.6. Common Response to Terror: Impetus in Policy Making

Illegal immigration and asylum policies were already associated with the terrorism, drug trafficking before the 9/11 terrorist attacks. As consequence legislation (like SIS, Eurodac, Carrier Sanctions, Schengen, Dublin Convention) concerning the illegal immigration and asylum policies were designed accordingly. 9/11 terrorist attacks, 2004 Madrid bombings and terrorist attacks on London in 2005 though they did not alter the context of the policies, they gave an impetus to the decision-making. Besides, the constructed link between illegal immigration and terror articulated more explicitly after the 9/11 terrorist attacks.

4.6.1. 9/11 Terrorist attacks on United States of America

In JHA council special meeting on fight against terror, held in 2001 after the 9/11 terrorist attacks, an anti-terrorism program, which covers cooperation between police and intelligence services, financing of terrorism and measures at the border *inter alia*, was developed. Subsequently adopted Action Plan to Combat Terrorism by the European Council, called upon the JHA to develop measures to identify presumed terrorists in Europe inter alia and to implement the Tampere Programme which included anti-terrorism measures.[231] In the Common Position on combating terrorism adopted by the European Council, the "effective border controls and controls on the issuing of identity papers and travel documents" was defined as an effective way to prevent terrorists from entering and gaining free movement in

229 German Institute for Human Rights, Weinzierl R. and Lisson U. *Border Management and Human Rights. A Study of EU Law and the Law of the Sea*, December 2007. Online. UNHCR Refworld, Available at: http://www.unhcr.org/refworld/docid/47b1b0212.html

230 Cholewinski (2003) p.111

231 *Ibid*

the Community.[232] The previously adopted measures to prevent illegal immigration were started to be employed in the fight against terror. This denotes more about the nature of the previously adopted measures than the effect of 9/11 terrorist attacks on the immigration policy. This easy adoption of the mechanisms that are genuinely designed to prevent illegal immigration in the fight against terror proves that the immigrants were already treated as suspected terrorists. From the very beginning of the terrorist attacks, EU paid considerable attention to the necessity of strengthening the border controls as in the case of fight against illegal immigration. For instance, in the Laeken Summit, the control of the external borders was again defined as a mean to fight against terrorism as well as illegal immigration and trafficking in human beings.[233] Furthermore, in the above mentioned 20 September 2001 JHA council meeting, the Commission was requested to prepare a proposal for establishing a network for information exchange concerning the visas issued by Member States. Commission as a response published the Communication on border control on 7 May 2002 the some of the proposals of which were already presented in a previously published Communication on illegal immigration.[234]In this Communication, the Commission made an explicit link between criminal activities and irregular migration flows by stating that "Criminal activities, which are regularly connected with irregular migration flows, are a major common concern in all Member States.".[235] This kind of statements removes the necessity of presenting illegal immigration as a threat on its own by making the illegal immigration a part of a some other policy area, fight against terror.[236]

Member states' proposals after 9/11 terrorist attacks, were mainly on the extension of functions of the existing databases such as SIS, Eurodac as means in fight against terrorism. One of the proposals was that of Germany on allowing Europol, national public prosecutor's

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232 *Ibid* p. 403; European Council of Ministers "Council Common Position of 27 December 2001 on combating terrorism (2001/930/CFSP)" *Official Journal* L 344/90 Article 10 Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:344:0090:0092:EN:PDF

233 Laeken European Council 14-15 December 2001 Presidency Conclusions, A. A Common EU Asylum and Migration Policy, More Effective Control of External Borders para.42. Available at: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/68827.pdf

234 Brouwer (2003) p.415

235 European Commission (2001)

236 Huysmans (2000) p.760

offices and immigration and asylum authorities on-line access to the databases of the SIS.[237] Another one was the Austrian proposal to upgrade SIS to combat terrorism by including new information like fingerprints and biometric data.[238] In February 2002, JHA Council agreed upon the necessity of including biometric data to the visa documents and the introduction of Visa Information System (VIS).[239] VIS, designed as a system for the exchange of visa data between Member States, basically stores information on visas issued to foreign nationals, as well as information on decisions to refuse, revoke or prolong visas.[240] Under the VIS, information on visa applicants (including biometric photographs and finger prints) are collected by consulates outside the EU and transferred to a central EU database. The SIS II, adopted to allow new Member States' integration into the system, replaced the SIS.[241]SIS II contains biometric data on TCNs who are to be refused entry to the EU *inter alia*. Later Europol is given access to SIS II but the usage was restricted to fulfillment of its police tasks.[242] As argued by Balzacq (2008: 75) these are the securitizing tools, instruments "which, by its very nature or by its very functioning, transforms the entity (i.e. subject of object) it process into a threat". In this context a part from the discourses that initiated them, these databases have a distinct effect on the securitization process by enabling continuation of the process even without further securitizing speech act.

In 2002, the JHA Council adopted a Comprehensive Plan to combat illegal immigration and human trafficking, developed on the basis of Commission communication on illegal immigration and trafficking in human beings. This communication emphasized that the border management alone would not be sufficient to address the problem of illegal

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237 Brouwer (2003) p.415

238 Boswell (2007) p. 602

239 Brouwer (2003) p.415

240 Council of the European Union Conclusions on the development of the Visa Information System, 20 February 2004, *Official Journal* 6535/04 Available at: http://ec.europa.eu/justice_home/news/consulting_public/consultation_visa/council_conclusions_final_200204_en.pdf

241 European Council of Ministers "Regulation (EC) No 2424/2001 of 6 December 2001 on the development of the second generation Schengen Information System (SIS II)", 13.12.2001, P.000 4–0006 Article 1 Available at: http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=Regulation&an_doc=2001&nu_doc=2424

242 Boswell C. (2007) p.602

immigration. Hence, action in seven areas were considered necessary: visa policy, the exchange and analysis of information, readmission and repatriation policies, pre-frontiers measures, measures relating to border management, Europol and penalties.[243] Concerning the border management measures, the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex) which aims support to member states in the national border management systems by supporting their cooperation and by providing intelligence was established in 2005.[244] Later to stop the immigration flows from the southern borders of Europe, an amendment was made to the Frontex. With the amendment, rapid border intervention teams, deployed following the member states' request, were formed within the framework of Frontex with the aim of developing adequate surveillance capacities at the sea borders and to put an end to the arrival of boat refugees.[245] Frontex was initiated as a reaction to the unfortunate incidents resulted in death of the people who are trying to reach Europe.[246] Lutterbeck (2006) argues that these surveillance measures and semi-militarized responses had a reverse effect and actually forced the illegal immigrants and the asylum seekers to choose more dangerous routes across the Mediterranean sea to reach Europe which lead to more casualties.

4.6.2. 2004 Madrid bombings

Discussions on the development and usage of the Eurodac, SIS II and VIS gained impetus after the March 2004 bombings in Madrid. In the Extraordinary Council Meeting of 19 March

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243 Justice, Home Affairs and Civil Protection 2411th Council Meeting Brussels 28, February 2002 Comprehensive Plan to Combat Illegal Immigration and Trafficking in Human Beings in the European Union Available at: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/jha/69610.pdf

244 Frontex, 'European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union' Legal Basis Available at: http://www.frontex.europa.eu/legal_basis/

245European Council of Ministers "Regulation (EC) No 863/2007 of the European Parliament and of the Council of 11 July 2007 establishing a mechanism for the creation of Rapid Border Intervention Teams and amending Council Regulation (EC) No 2007/2004 as regards that mechanism and regulating the tasks and powers of guest officers" *Official Journal* L199 /30, 31.7.2007 Article 1 Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:199:0030:0039:EN:PDF

246 Monar J. "Justice and Home Affairs" *Journal of Common Market Studies* Vol. 45 (Annual Review) p.107

2004, held following the March 2004 bombings in Madrid, importance of European databases in the fight against terror was stressed. Furthermore, 'interoperability' between SIS II, VIS and Eurodac was argued to facilitate the fight against terrorism. The advantages in this interoperability between databases were later issued in the Hague Programme.[247]

In the Hague Programme, it is stated that,

> "The security of the European Union and its Member States has acquired a new urgency, especially in the light of the terrorist attacks in the United States on 11 September 2001 and in Madrid on 11 March 2004. The citizens of Europe rightly expect the European Union, while guaranteeing respect for fundamental freedoms and rights, to take a more effective, joint approach to cross-border problems such as illegal immigration and trafficking and smuggling of human beings as well as to terrorism and organized crime as well as the prevention thereof. Notably in the field of security, the coordination and coherence between the internal and the external dimension has been growing in importance and needs to continue to be vigorously pursued." [248]

Illegal immigration was once again defined as a cross-border problem and illegal immigration was listed a long with terrorism, thereby European Council presented illegal immigration as equally threatening as organized crime and terrorism.

4.6.3. 7/7 London bombings on 2005

Following the London bombings and in line with the Hague Programme, the Commission published a communication on enhanced interaction between the VIS, SIS II and Eurodac. This communication argued that the 'absence of access by internal security authorities' to VIS, SIS II and Eurodac represented 'a serious gap in the identification of suspected perpetrators of a serious crime' and proposed a new system in for the joint management of these databases.[249] By opening these databases to the access of intelligence services, main concern of which is to arrest presumed terrorists, the databases, which had previously been used as control schemes, were transformed into investigation tools. As Balzacq (2005) argues, asylum, illegal migration and terrorist offenses then become somewhat 'logically related' items.[250] This trend has been further facilitated with the recently approved directive of the

247 Boswell C. (2007) p.603

248 Brussels European Council 4-5 November 2004 Presidency Conclusions, Annex I; the Hague Programme: Strengthening Freedom, Security and Justice in the European Union. Available at: http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/82534.pdf

249 Boswell C. (2007) p.603

250 Balzacq (2005) p.88, Boswell (2007) p.601

European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals by the European Parliament which foresees duration of detention up to 6 months as if they are criminals. [251]

4.7. Concluding Remarks

Member states in parallel with the contemplation of the internal market, intensified cooperation in illegal immigration and asylum policies. The intergovernmental nature of the cooperation until the Amsterdam Treaty ensured member states to be unaccountable in the relevant policy areas. Consequently, the end result of this cooperation was adoption of restrictive immigration and asylum policies as a direct reflection of the member states preferences and their perception of illegal-legal immigrants, asylum seekers. In the course of the harmonization, the illegal immigration was equated to international crimes like terrorism drug trafficking. Illegal Immigration has been presented as a threat to the European citizens and a stumbling block to first to the internal market and then to the formation of area of freedom, security and justice. Subsequent to these arguments, illegal immigrants and the asylum seekers rights started to diminish along with their opportunity to reach Europe. They are even prevented to physically appear in the territory of the member states since the cooperation in the relevant policy areas focused mainly on the border control mechanisms which are dislocated from the territorial borders and moved even to the countries of origin. These remote control mechanisms are carrier sanctions and visa policies. Besides, Frontex after given operational tasks made it impossible for the illegal immigrants and asylum seekers to reach Europe alive. In addition, the increasing identification systems/common databases which are Eurodac, SIS II, VIS further enhanced the border control measures. With the inclusion of the fingerprints and biometric data into these databases, the illegal immigrants and asylum seekers started to be subjected to same treatment as criminals. Though these common databases either formed or upgraded after the 9/11 terrorist attacks they were already contemplated in the published policy documents.

The illegal immigration and asylum policies are now framed by the security issues like border control, as a result of the securitizing discourses they are detracted from the human rights perspective.

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251 Euroactiv “Fighting illegal immigration: The Return Directive” Available at: http://www.euractiv.com/en/socialeurope/fighting-illegal-immigration-return-directive/article-174876

CHAPTER 5

CONCLUSION

Harmonization of immigration policies in the EU, yielded varying results for legally resident TCNs, illegal immigrants and asylum seekers. Such variation emanates from the difference in discourses and policy frameworks adopted concerning these groups of immigrants. The integration of TCNs has become the subject economic and social policies while controlling immigration was included in the realm of security , border controls in particular within the framework of the European integration. Likewise, legally resident TCNs are not presented as threats though illegal immigrants and fake asylum seekers are. This is a contradiction because the immigration policies were first restricted in the European states due to the constructed vision of immigrants as the criminals, abusers of the welfares state... etc. In other words, they were first banned from European states based on the alleged "harm" they caused within the borders of the territory. I suggest that resident TCNs ceased to be the threats since they are chosen through a very strictly designed identity and border control policies. Thus the illegal immigrants, who could have been legal under alternative immigration policies, become the "dangerous others". Consequently, the cooperation in these two aspects of the immigration policies leads to expansion of the legally resident TCNs' rights as opposed to diminishing rights of the illegal immigrants and asylum seekers. Nevertheless, the TCNs residents are not recognized as equals to European citizens. Rather, member states treated them as "vulnerable" dependendants on them, on the tolerance of the European citizens, while the asylum seekers and immigants, which are illegal because of the restricted acceptance mechanisms, are treated as "dangerous others", the resident TCNs are presented as internal "others" as well. Given that, the foremost referent object of the securitization of immigration policy is the societal identity, threats to which are the threats to the sustainability of the identity. Thus securitization of immigration policy as a process firstly based on the otherness of the immigrants which is the historically constructed vision of the immigrants. Thus, not only the illegal immigrants and asylum seekers but also the legally resident TCNs are the subjects of the securitization process even without being presented as threat in the EU level.

The cooperation in controlling immigration started simultaneous to the contemplation of the internal market. Member states formed Ad-hoc group on immigration and signed Schengen agreement, whose provisions are supported by Schengen Information System (SIS), to initiate cooperation after the Single European Act. With in the framework of these intergovermental cooperations, illegal immigration was not differentiated from terrorism, drugs, crime rather they were connected. These "amalgamation" then resulted in equivocal construction of the problems. Similarly, the Euopol foundations of which laid down in the Maastricht Treaty, was entrusted with task to ensure information exchange in the areas of preventing and combating not only terrorism and drug trafficking but also illegal immigration. Meanwhile, the Dublin Convention singed by the Member states in 1999 diminished the opportunuity of the asylum seekers to be accepted as a result of the illustration of asylum as an alternative channel for economic migration. Maastricht Treaty also introduced European citizenship as an exclusive statutes for the nationals of the member states, in other words it excluded the legally resident immigrants from its scope. On the other hand, an initial step was taken for the inclusion of third country nationals with the adoption of the Council Resolution on the Status of the Third Country Nationals. But the resolution, apart from being non-binding, was very limited on scope which did not even provide protection against discrimination . Overall, until the Amsterdam Treaty, the initial step was taken for the recognition of the TCNs -as "others"- as opposed to the criminalized illegal immigrants.

Amsterdam Treaty aimed formation of an area of freedom, justice and security. Such objective not only yielded tightened border controls against illegal immigration *inter alia*, but also binding legislation which expanded the rights of the TCNs. In the context of the area of freedom and security, illegal immigration like international crimes was illustrated as a stumbling block to the aim of creating an area of freedom, security and justice. On the other hand, granting legally resident third country nationals rights and obligations comparable to those of EU citizens was defined by the European Council as a path to integrate TCNs. regulation and directive on carrier sanctions were adopted to tighten the border controls Eurodac regulation legitimized labeling asylum seekers as well as illegal immigrants as the potential criminals by subjecting asylum seekers to a type of supervision, to which only serious criminals could be subject to. Directive on carrier sanctions which is a remote control mechanism made it impossible for illegal immigrants as well as asylum seekers to arrive Europe, entirely preventing them from physically appearing in the territory of the member states since the border control mechanisms were dislocated from the territorial borders and moved even to the countries of origin. Given the fact that the illegal immigrants and asylum

seekers can not use a safe channel since no carrier would allow such persons to use their services due to the sanctions imposed and they were forced to resort to human smugglers. as regards to TCNs family reunification directive, non-discrimination directives and the directive on status of the long-term residents were adopted. Under the long-term residents and family reunification directives TCNs are treated as "others" subjected to mandatory integration requirements. Furthermore, under the non-discrimination directives, the discrimination on the basis of nationality was excluded which illustrates that the TCNs are still the "others" on the grounds of their nationality. In short, following the Amsterdam Treaty, policies on the illegal immigrants and asylum seekers, who were criminalized further, were detached from the human rights perspective though TCNs who are residents' rights were increasingly recognized in the EC law as the "others".

The content of the securitizing discourses on immigration policy, other than the developments internal to the EU or member states, may change in accordance with the international factors. In this context, after the 9/11 terrorist attacks on United States of America, not only the policy making in the border controls to prevent illegal immigration gained a momentum but also the constructed link between illegal immigration and terror was articulated more explicitly after the 9/11 terrorist attacks in the European Council meetings and in the Justice and Home Affairs council meetings. Based on the previous legislation and policy documents, illegal immigration and asylum policies were already linked to terrorism, drug trafficking before the 9/11 terrorist attacks. This articulation, as in the earlier cases, removed the necessity of presenting illegal immigration as a threat on its own by making the illegal immigration a part of a some other policy area, fight against terror. As an anti-terror measure, fingerprints and biometric data on the every people applying for visa were included into the newly formed (VIS) and already existing (SIS II) databases. The point is that, though these measures were taken to prevent illegal immigration, the information they contain do not only on the illegal immigrants or fake asylum seekers, all the immigrants are subject to these measures. Thus, not only the illegal immigrants and asylum seekers the legal immigrants are subject to criminalization by the way of the functioning of these databases. These databases, VIS, SIS II and Eurodac apart from the discourses that initiated them, have a distinct effect on the securitization process by enabling continuation of the process even without further securitizing speech act. Besides, they are by their nature or by their functioning can transform the entity it process into a threat. Thus, I argue that despite the lack of an explicit discourse presenting legal immigrants as threats, they are treated as such in practice. Later 'interoperability' between SIS II, VIS and Eurodac was argued to facilitate the fight against

terrorism in the Justice and Home Affairs Council. Meanwhile, Frontex, which aims to support member states' cooperation in border management systems by providing intelligence, was formed. Rapid border intervention teams were included within the framework of Frontex, with the aim of developing surveillance capacities at the sea borders and to put an end to the arrival of boat refugees. Meanwhile, TCNs integration was included within the framework of Lisbon strategic goal, Employment Guidelines and the project funded by the European Social Fund. This framing is important because unemployment only aggravates the already vulnerable position of the TCNs but it equates the integration of immigrants with 'their integration into the labor market. Participation in the labour market does not connote to equal membership whereby the TCNs would continue to be vulnerable internal "others". Additionally, Justice and Home Affairs Council adopted common basic principles for immigrant integration policy. But these principles, which are not-binding, could not go beyond the already adopted legislation or published policy documents and maintained the vulnerability as the integration model.

This study examines a puzzle: despite the rights of legally resident third country nationals have expanded considerably those of the illegal immigrants and asylum seekers have diminished in the course of the European integration process. It explained this puzzle by conceptualizing securitization process as "all-inclusive" but not because all the immigrants are presented as criminals and "dangerous others" but because the legally resident TCNs as vulnerable culturally internal others as opposed to dangerous otherness of the illegal immigrants and asylum seekers. In this context, my humble contribution to the existing literature on the securitization of immigration, based on the aformentioned facts on the harmonization process of the European common immmigration policy is to illustrate that the policies on the integration of third country nationals and controlling immigration/preventing illegal immigration in the EU level are integral parts. In otherwords, the rights granted to the legally resident TCNs are not sufficient to reverse the securitization process and lead to the desecuritization of the immigration policies. In this context, I would also suggest that the once the immigration policies are restricted to the level of zero immigration -like in the EU- which renders the all unwanted immigrants as illegal, then there would be no further discourse which presents the legally resident TCNs as the criminals or dangerous others but only internal "others".

In case the securitization process continues as it currently is, then the future of the EU regarding immigration, internationally recognized rights of the asylum seekers, illegal immigrants would continue to be violated likewise the vulnerable and culturally otherness of

the legally resident TCNs. Besides, the extraordinary measures in protecting borders -legimized on the grounds of criminilized illegal immigrants and fake asylum seekers- and the recognition of the TCNs as equal members rather than vulnerable internal others can not be sustained simultaneously.

BIBLIOGRAPHY

Primary Resources

"Convention relating to the Status of Refugees Adopted on 28 July 1951 by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons convened under General Assembly resolution 429 (V) of 14 December 1950" Article 1A (2) Available at:http://www.unhchr.ch/html/menu3/b/o_c_ref.htm

"Treaty on European Union" Title VI Provisions on Cooperation in the Fields of Justice and Home Affairs, *Official Journal* C 191 29/12/1992 Article K (1) Available at: http://eur-lex.europa.eu/en/treaties/dat/11992M/htm/11992M.html

"Treaty on the European Union together with the complete text on Treaty Establishing the European Community", Part Two: Citizenship of the Union, Article 8 31/8/1992, Official Journal C224. Available at: http://eur-lex.europa.eu/en/treaties/dat/11992E/tif/JOC_1992_224__1_EN_0001.pdf

"Treaty of Amsterdam amending the Treaty on European Union, the Treaties Establishing the European Communities and Related Acts" Official Journal c340 10/11/1997. Available at: http://eur-lex.europa.eu/en/treaties/dat/11997E/htm/11997E.html#0173010078

Tampere European Council, 15 and 16 October 1999, Presidency Conclusion, Available at: http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/83201.pdf

Lisbon European Council 23 and 24 March 2000, Presidency Conclusions, Available at: http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/00100-r1.en0.htm

Nice European Council 7 and 9 December 2000, Presidency Conclusions, Annex I European Social Agenda. Available at: http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/00400-r1.%20ann.en0.htm

Laeken European Council, 14 and 15 December 2001 Presidency Conclusions Available at: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/68827.pdf

Seville European Council, 21 and 22 June 2002 Presidency Conclusion, Available at: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/72638.pdf

Thessaloniki European Council,19 and 20 June 2003 Presidency Conclusion, Available at: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/76279.pdf

"Council of the European Union Conclusions on the development of the Visa Information System" 20 February 2004, O.J. 6535/04 Available at: http://ec.europa.eu/justice_home/news/consulting_public/consultation_visa/council_conclusions_final_200204_en.pdf

'European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union' Legal Basis http://www.frontex.europa.eu/legal_basis/

'The Schengen acquis - Agreement between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders' *Official Journal* L 239, 22/09/2000 P. 0013 - 0018 Article 9 Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:42000X0922(01):EN:HTML

"The Europol Convention of 18 July 1995" *Official Journal* SN 3549/95 18/7/1995 Articles 1, 2 Available at: http://www.europol.europa.eu/legal/Europol_Convention_Consolidated_version.pdf

"Convention Determining the State Responsible for Examining Applications for Asylum Lodged in one of the Member States of the European Communities" *Official Journal* C 254, 19/8/1997, P.0001–0012 Vol.2144, I-37439 Available at: http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=41997A0819(01)&model=guichett

Integration of third-country nationals MEMO/05/290 Brussels, 1 September 2005 p.1 Available at: http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/05/290&format=HTML&aged=0&language=EN&guiLanguage=en

European Commission (1974) "Commission of the European Communities, Bulletin of the European Communities "Action Programme in Favour of Migrant Workers and Their Families" 14 December 1974 *Official Journal* COM(74)2250 p.21. Available at: http://aei.pitt.edu/1278/01/action_migrant_workers_COM_74_2250.pdf

European Commission (2001) "Communication from the Commission to the Council and the European Parliament on a Common Policy on Illegal Immigration" Brussels 15.11.2001, COM (2001) 672 final, Part II Guidelines, Targets and Requirements 3.1.Understanding the Phenomenon p.7 Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52001DC0672:EN:HTML

European Commission (2005) "Communication from the Commission to the Council, The European Parliament, the European Economic and Social committee and the committee of the Regions, A Common Agenda for Integration Framework for the Integration of Third-Country Nationals in the European Union" Brussels, 1.9.2005, COM(2005) 389 final,p.3 Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52005DC0389:EN:HTML

European Commission (2006) "Commission staff working document Accompanying the Communication from the Commission on the Policy Priorities in the fight against illegal immigration of third-country nationals Second annual report on the development of a common policy on illegal immigration smuggling and trafficking of human beings, external border controls and the return of illegal residents" SEC (2006) 1010, 19.7.2006 pp. 16-34 Available at: http://ec.europa.eu/justice_home/doc_centre/immigration/illegal/doc/sec_2006_1010_en.pdf

European Commission (2007) "Communication from the Commission to the Council, the European Parliament, the European Economic and Social committee and the Committee of the Regions Third Annual Report on Migration and Integration" Brussels 11.9.2007, COM(2007) 512 final p.3 Available at:

http://ec.europa.eu/justice_home/fsj/immigration/docs/com_2007_512_en.pdf

European Council of Ministers (1968) "Regulation of the Council of 15 October 1968 on freedom of movement for workers within the Community" III Workers' families *Official Journal* (EEC) No 1612/68 19/10/1968, P. 0002 – 0012 Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31968R1612:EN:HTML

European Council of Ministers (1996) "Council Resolution of 4 March 1996 on the status of third-country nationals residing on long-term basis in the territory of the member states 96/C 80/02" *Official Journal* C080 18/03/1996 *P. 0002 - 0004* Available at:http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31996Y0318(02):EN:HTML

European Council of Ministers (2000a) "Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial and ethnic origin" *Official Journal* L180 19/07/2000 P. 0022 - 0026 Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0043:EN:HTML

European Council of Ministers (2000b) "Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation" *Official Journal* L 303, 02/12/2000, P 0016 - 0022 Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0078:EN:HTML

European Council of Ministers (2001a) "Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985" *Official Journal* L187 10/07/2001 P. 0045 - 0046 Articles 2, 3. Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001L0051:EN:HTML

European Council of Ministers (2001b) "Council Regulation No 2725/2000 of 11 December 2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention" *Official Journal* L 316/1 1/12/2001 P.0001-0004 Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:316:0001:0001:EN:PDF

European Council of Ministers (2001c) "Council Regulation (EC) No 2424/2001 of 6 December 2001 on the development of the second generation Schengen Information System (SIS II)" *Official Journal* L 328, 13/12/2001, P.0004–0006 Available at: http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=Regulation&an_doc=2001&nu_doc=2424

European Council of Ministers (2001d) "Council Common Position of 27 December 2001 on combating terrorism (2001/930/CFSP)" *Official Journal* L 344, 28/12/2001 P.0093 – 0096 Article 10 Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:344:0090:0092:EN:PDF

European Council of Ministers (2003a) "Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification" Official Journal L 251/12, 03/10/2003 P. 0012 – 0018Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0086:EN:HTML

European Council of Ministers (2003b) "Council Directive 2003/109/EC of 25 November

2003 concerning the status of third-country nationals who are long-term residents" *Official Journal* L16/44, /01/2004 P. 0044 - 0053 Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0109:EN:HTML

European Council of Ministers (2004a) "Council Regulation (EC) No 871/2004 of 29 April 2004 concerning the introduction of some new functions for the Schengen Information System including in the fight against terrorism" *Official Journal L 162,* 30/4/2004, p. 29–31 Available at: http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=Regulation&an_doc=2004&nu_doc=871

European Council of Ministes (2004b) "Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passengers data" *Official Journal* L 261, 6/8/2004, P. 0024–0027 Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0082:EN:HTML

European Council of Ministers (2004c) "Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union" *Official Journal* L 349, 25/11/2004, P. 0001–0011 Available at: http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=Regulation&an_doc=2004&nu_doc=2007

European Council of Ministers (2006a) "Council Regulation (EC) No. 562/2006 of the European Parliament and the of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code)" *Official Journal* L 105 , 13/04/2006, P. 0001 - 0032 Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32006R0562:EN:HTML

European Council of Ministers (2006b) "Council Regulation (EC) No. 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II)" *Official Journal* L 381/4 28/12/2006, P.0004-0023 Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:381:0004:0023:EN:PDF

European Council of Ministers and European Parliament (2007) "Regulation (EC) No 863/2007 of the European Parliament and of the Council of 11 July 2007 establishing a mechanism for the creation of Rapid Border Intervention Teams and amending Council Regulation (EC) No 2007/2004 as regards that mechanism and regulating the tasks and powers of guest officers' *Official Journal* L199 /30, 31.7.2007, P.0030-0039, Article 1 Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:199:0030:0039:EN:PDF

Justice, Home Affairs and Civil Protection Council 2455th Meeting, Luxembourg 14-15 October 2002, Press 208 no.12894/02 Family Reunification para. 13 Available at: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/jha/72751.pdf

Justice, Home Affairs and Civil Protection 2411th Council Meeting Brussels 28, February 2002, Comprehensive Plan to Combat Illegal Immigration and Trafficking in Human Beings in the European Union Available at: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/jha/69610.pdf

Justice and Home Affairs Council 2489th Meeting, Brussels, 27-28 February 2003, Press:42 Nr: 6162/03 Rights to Family Reunification, p.6 Available at: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/jha/74719.pdf

Justice and Home Affairs Council 2504th Meeting, Brussels 8 May 2003, Press:111 Nr: 8278/03 Status of Third Country Nationals p.7 Available at: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/jha/75692.pdf

Justice and Home Affairs Council 2618th Meeting, 19 November 2004, Annex: Common Basic Principles on Immigrants Integration, 14615/04 Press 321 Available at: http://www.consilium.europa.eu/Applications/newsRoom/LoadDocument.asp?directory=en/jha/&filename=82745.pdf

Secondary Resources

Aus, Jonathan P. (2003) "Supranational Governance in an "Area of Freedom, Security and Justice" : Eurodac and the Politics of Biometric Control" Paper Presented at ARENA, University of Oslo November 18, 2003 retrived from <<http://www.arena.uio.no/events/papers/Aus.pdf>> on 23 August 2008

Alker, Hayward (2006) "On Securitization Politics as Contexted Texts and Talk" *Journal of International Relations and Development* Vol.9 pp.70-80

Anderson, M. and den Boer, M. (eds.) (1994) *Policing across National Boundaries* (London: Pinter)

Apap, Joanna (2001) "Extending Citizenship Rights to Third Country Nationals the Correlation between Migration and Integration: A Sample from South Europe" *Center for European Policy Studies Policy Brief* No. 175 October

Apap, Joanna (2002) "The Development of European Citizenship and Its Relevance to the Integration of Refugees"*Center for European Policy Studies Working Document* No. 180 January

Apap, Joanna (2002b) "Shaping Europe's Migration Policy New Regimes for the Employment of Third Country Nationals: A Comparison of Strategies in Germany, Sweden, the Netherlands and the UK" *European Journal of Migration and Law* No:4. pp.309–328

Apap, Joanna and Carrera, Sergio (2003) "Towards A Proactive Immigration Policy for the EU?" *Center for European Policy Studies Working Document* No. 198 December

Aradau, Claudia (2004) "Security and the Democratic Scene: Desecuritization and Emancipation" *Journal of International Relations and Development* Vol.7 pp.388-413

Aradau, Claudia (2006) "Limits of Security, Limits of Politics? A response" Journal of International Relations and Development Vol.9 pp.81-90

Aradau, Claudia (2004) "The Perverse Politics of Four-Letter Words: Risk and Pity in the

Securitisation of Human Trafficking" *Millennium Journal of International Studie*s Vol.33 pp.251-278

Atak, Idil Nakache, Delphine Crépeau François (2007) "International Migration. Security Concerns and Human Rights Standards" *Transcultural Psychiatry* Vol.44 No.3 pp.311-337

Atikcan, Ece Ozlem (2006) "Citizenship or Denizenship: The Treatment of Third Country Nationals in the European Union" *Sussex European Institute Working Paper* No 85

Badar, Mohammed Elewa "Asylum Seekers and the European Union: Past, Present and Future" *International Journal of Human Rights* Vol.8 No.3 pp.159-174

Bade, Klaus (2004) "Legal and illegal Immigration into Europe: Experiences and Challenges" *European Law Review* Vol. 12 No. 3 pp. 339-375

Baldwin, David (1997) "The Concept of Security" *Review of International Studies* Vol.23 pp.5-26

Balzacq, Thierry (2005) "The Three Faces of Securitization: Political Agency, Audience and Context" *European Journal of International Relations* Vol.11 No.2 pp.171-201

Battjes, Hemme (2002) "A Balance Between Fairness and Efficiency? The Directive on International Protection and the Dublin Regulation" *European Journal of Migration and Law* Vol. 4 Issue 2 pp.159-192

Bauböck R. (2005) "Expansive Citizenship – Voting beyond Territory and Membership" *Political Science and Politics*, Vol.38 No.4 pp.683-687

Becker, Michael A. (2004) "Managing Diversity in the European Union: Inclusive European Citizenship and Third-Country Nationals" *Yale Human Rights & Development L.J.* Vol 7. pp.132-183

Behnke, Andreas (2006) "No Way Out: Desecuritization, Emancipation and the Eternal Return of the Political – a Reply to Aradau" *Journal of International Relations and Development* Vol.9 pp.62-69

Behnke, Andreas (2000) "The Message or the Messenger?: Reflections on the Role of Security Experts and the Securitization of Political Issues" *Cooperation and Conflict* Vol.35 pp.89-105s

Bell, Mark. (2002) "Beyond European Labour Law? Reflections on the EU Racial Equality Directive" *European Law Journal* Vol. 8 No.3. pp.384-399

Bendel, Petra (2005) "Immigration Policy in the European Union: Still Bringing up the Walls for Fortress Europe?" *Migration Letters*, Vol.2 No.1 pp.20-31

Beouwer E.R. (2002) "Eurodac: Its Limitations and Temptations" *European Journal of Migration and Law* Vol. 4 Issue 2 pp. 231-247

Bertozzi, Stefano (2007) "Integration: An Ever-Closer Challenge" *Center for European Policy Studies Working Document* No. 258 February

Besson, Samantha and Utzinger, André (2008) “Toward European Citizenship”*Journal of Social Philosophy* Vol. 39 No. 2, pp.185–208

Bigo, Didier. (1994) ‘The European Internal Security Field: Stakes and Rivalries in a Newly Developing Area of Police Intervention’. In Anderson, Malcom and den Boer, Monica (eds), *Policing Across National Boundaries* (London: Pinter) pp. 161–73

Bigo Didier. (1998) “Frontiers and Security in European Union : The Illusion of Migration Control” in Anderson M. and Bort E. (eds.) *The Frontiers of Europe* (Washington DC.: Pinter) pp.148-165

Bigo, Didier (2002) “Security and Immigration: Toward a Critique of the Governmentality of Unease” *Alternatives* Vol. 27 Special Issue pp.63-92

Bigo Didier., Guild Elspeth. “Policing at a Distance: Schengen VisaPolicies” in Bigo D. and Guild E. (eds) *Controlling Frontiers Free Movement Into and Within Europe* (Aldershot:Asgate, 2005) pp.233-264

Bigo, Didier (2005) “Globalized-in-security: the Field and the Ban-opticon” in Solomon, John and Sakai, Naoki “Translation, Philosophy and Colonial Difference” Vol. 4, Traces: a multilingual series of cultural theory

Bigo, Didier (2006) “Internal and External Aspects of Security” *European Security* Vol.15 Issue.4 pp.385-404

Bigo, Didier; Carrera, Sergio; Guild, Elspeth; Walker, R.B.J. (2007) “The Changing Landscape of European Liberty and Security” *Mid-Term Report on the Results of the Challenge Project Research Paper* No. 4 February

Brinkmann, Gisbert (2004) “The Immigration and Asylum Agenda” *European Law Journal* Vol.10 No.2 pp.182-199

Blake, Nicholas (2003) “Exclusion from Refugee Protection: Serious Non Political Crimes after 9/11” *European Journal of Migration and Law* Vol.4 pp.425-447

Boswell, Christina (2007) “Migration Control in Europe After 9/11: Explaining the Absence of Securitization*” *Journal of Common Market Studies* Vol. 45 No.3 pp.589-610

Boswell, Christina (2003) “The 'external dimension' of EU Immigration and Asylum Policy” *International Affairs* Vol. 79 No.3 pp.619-638

Boswell, Christina (2007) “Theorizing Migration Policy: Is There a Third Way?” *International Migration Review* Vol.41 No.1 pp.75-100

Bounfino, Alessandra (2004) “Between Unity and Plurality: The Politicization and Securitization of the Discourse of Immigration in Europe” *New Political Science*, Vol. 26 Number 1 pp.23-49

Broeders, Dennis (2007) “The New Digital Border of Europe – EU Databases and the

Surveillance of Irregular Migrants" *International Sociology* Vol. 22 Issue 1 pp. 71-92

Broeder, Dennis and Engbersen, Godfried (2007) "The Fight Against Illegal Migration: Identication Policies and Immigrants' Counterstrategies" *American Behavioral Scientist* Vol.50 pp.1592-1609

Brouwer, Evelien (2003) "Immigration, Asylum and Terrorism: A Chaning Dynamic Legal and Practical Developments in the EU in Response to the Terrorist Attacks of 11.09" *European Journal of Migration and Law* Vol. 4 pp.399-424

Buzan, Barry (1999) "'Change and Insecurity reconsidered" *Contemporary Security Policy* Vol.20 No.3 pp.1-17

Buzan, Barry and Waever Ole (1997) "Slippery? Contradictory? Sociologically Untenable? The Copenhagen School Replies" *Review of International Studies* Vol.23 pp.241-250

Buzan, Barry., Wæver, Ole. and de Wilde, J. (1998) *Security: A New Framework for Analysis* (Boulder, CO: Lynne Rienner)

Buzan, Barry, Kelstrup, Montent Wæver, Ole. and Lemaitre, Pierre. (1993) *Identity, Migration and the New Security Agenda in Europe* (London: Pinter)

Byers, Micheal (2002) "Terrorism, The Use of Force and International Law After 11 September" *International Comparative Law Quarterly* Vol. 51 Issue.2 pp.401-414

Carl, Levy (2005) "The European Union after 9/11: The Demise of a Liberal Democratic Asylum Regime?" *Government and Opposition* Vol. 40 Issue 1 pp. 26-59

Carrera, Sergio (2005) "'Integration' as a Process of Inclusion for Migrants? The Case of Long-Term Residents in the EU" *Center for European Policy Studies Working Document* No. 219 March

Carrera, Sergio and Formisano, Marco (2005) "An EU Approach to Labour Migration What is the Added Value and the Way Ahead?"*Center for European Policy Studies Working Document* No. 232 October

Carrera, Sergio (2006) "A Comparison of Integration Programmes in the EU Trends and Weaknesses" *The Changing Landscape of European Liberty and Security Challenge Papers* No. 1 March

C.A.S.E Collective (2006) "Critical Approaches to Security in Europe: A Networked Manifesto" Security Dialogue Vol.37 No.4 pp.443-487

Castles, Stephen (2003) "Why Migration Policies Fail" *Ethnic and Racial Studies* Vol.27 No.2 pp.205-227

Castles, Stephen (2004)"The Factors that Make and Unmake Migration Policies" *International Migration Review* Vol.38 No.3 pp.852-884

Caviedes, Alexander (2004) "The Open Method of Co-ordination in Immigration Policy: a Tool for Prying Open Fortress Europe" Vol.11 No.2 pp.289-310

Ceyhan, Ayşe and Tsoukala (2002) “The Securitization of Migration in Western Societies: Ambivalent Discourses and Policies” *Alternatives* Vol.27 Special Issue pp.21-39

Ceyhan, Ayşe (2005) “Policing by Dosier: Identification and Surveillance in an Era of Uncertainty and Fear” in Bigo D. and Guild E. (eds.) Controlling Frontiers Free Movement into and Within Europe (Aldershot; Burlington: Ashgate) pp.209-233

Cholewinski, Ryszard (2000) “The EU Acquis on Irregular Migration: Reinforcing Security at the Expense of Rights” European Journal of Migration and Law Vol. 2 Issue ¾ pp. 361-405

Cholewinski, Ryszard (2002) “Family Reunification and Conditions Placed on Family Members: Dismantling a Fundamental Human Right” *European Journal of Migration and Law* No:4. pp.271–290

Cholewinski Ryszard (2003) “No Right of Entry: The Legal Regime on Crossing the EU External Border” in Groenendijk K. Guild E. and Minderhoud P. (eds.) *In Search of Europe's Borders* (Hague: Kluwer Law International) pp.105-180

Copeland, Dale C. (2000) “The Constructivist Challenge to Structural Realism: A Review Essay” *International Security* Vol.25 No.2 pp.187-212

den Boer, M. (1994) ‘The Quest for European Policing: Rhetoric and Justification in a Disorderly Debate’. In Anderson, Malcom and den Boer, Monica (eds), *Policing Across National Boundaries* pp. 174–196

den Boer, M. (1995) ‘Moving Between Bogus and Bona Fide: The Policing of Inclusion and Exclusion in Europe’. In Miles, Robert and Thranhardt, Dietrich (eds), *Migration and European Integration The Dynamics of Inclusion and Exclusion* (London: Pinter Publisher) pp. 92–111.

den Boer, Monica (1997) “Step by Step Progress. An Update on the Free Movement of Persons and Internal Security” *Eipascope* No.2 pp.8-11

Desch Michael (1998) “Culture Clash: Assesing the Importance of Ideas in Security Studies” *International Security* Vol.23 No.1 pp.141-170

Dijck Van Dominique (2006) “Is the EU policy on illegal immigration securitized? Yes Of Course!” Paper to be presented at the 3rd Pan-European Conference on EU Politics Istanbul 21-23 September 2006 retrived from <<http://www.jhubc.it/ecpr-istanbul/virtualpaperroom/054.pdf>> on 26 August 2008

Dover Robert (2008) “Towards a Common EU Immigration Policy: a Securitization Too Far” *European Integration* Vol.30 No.1 pp.113-130

Dunne, Tim and Wheeler, Nicholas J. (2004) “'We the Peoples': Conntending Discourses of Security in Human Rights Theory and Practice” *International Relations* Vol.18 No.1 pp.9-23

Editorial European Constitutional Law Review (2007) “Dynamics of European and national citizenship: inclusive or exclusive?” *European Constitutional Law Review* No.3. pp.1–4

Eicke, Tim (2003) “Terrorism and Human Rights” *European Journal of Migration and Law* Vol.4 pp.449-467

Eriksson, Johan (1999) “Observers or Advocates?: On the Political Role of Security Analysts” *Cooperation and Conflict* Vol.34 pp.311-330

Eriksson, Johan (1999) “Debating the Politics of Security Studies: Response to Goldmann, Waever and Williams” *Cooperation and Conflict* Vol.34 pp.345-352

Eriksson, Johan (2000) “Machiavelli and Critical Security Studies?” *Cooperation and Conflict* Vol.35 pp.107-108

Euroactiv “Fighting illegal immigration: The Return Directive” available at: http://www.euractiv.com/en/socialeurope/fighting-illegal-immigration-return-directive/article-174876

Eurostat yearbook 2008, Eurostat Statistical Books (Office for Official Publications of the European Communities, 2008) pp. 72, 74 Available at: http://epp.eurostat.ec.europa.eu/portal/page?_pageid=2693,70381876,2693_70592044&_dad=portal&_schema=PORTAL#YB2

Faist, Tomas (2004) “The Migration-Security Nexus. International Migration and Security Before and After 9/11” *Willy Brandt Series of Working Papers in International Migration and Ethnic Relations* 4/03

Favell, Adrian (1998) “The Europeanisation of Immigration Politics” *European Integration online Papers* (EıoP) Vol.2 No.10

Feldman, Gregory (2006) “Neo-Liberal Nationalism: Ethnic Integration and Estonia's Accession to the European Union” in Stacul Jaro, Moutsou Christina, Kopnina Helen (eds.) *Crossing European Boundaries New Directions on Antropology* Vol. 24 pp.41-64

Fredman, Sandra (2001) “Equality: A New Generation” *Industrial Law Journal* Vol. 30, No.2 pp.145-168

Føllesdal, Andreas (1998) “Third Country Nationals as Euro Citizens: The Case Defended” *ARENA Working Papers* No:9

Gabriela Rodríguez Pizarro (2002) Special Rapporteur of the Commission on Human rights in A/57/292, Human rights of migrants, Note by the Secretary-General. 9 August 2002, Available at: http://www.unhchr.ch/Huridocda/Huridoca.nsf/TestFrame/ee8cd3573f96c740c1256c4d0038539a?Opendocument

Garlick, Madeline (2006) “The EU Discussions on Extraterritorial Processing: Solution or Conundrum” *International Journal of Refugee Law* Vol.18 Issue 3-4 pp. 601-629

Geddes, Andrew (2000) “Lobbying for migrant inclusion in the European Union: new opportunities for transnational advocacy?” *Journal of European Public Policy* No7:4. pp.632-649

Geddes, Andrew (2001) “International Migration and State Sovereignty in an Integrating Europe” *International Migration* Vol. 39, pp.21-42

Gent, Saskia (2002) “The Root Causes of Migration: Criticising the Approach and Finding a Way Forward” *Sussex Migration Working Paper* No. 11

Givens, Terri and Luedtke, Adam (2004) “The Politics of European Union Immigration Policy: Institutions, Salience, and Harmonization” *The Policy Studies Journal*, Vol. 32, No. 1, pp.145-165

Goldmann, Kjell (1999) “Issues, Not Labels, Please!: Reply to Eriksson” *Cooperation and Conflict* Vol.34 pp.331-333

Groenendijk K; Guild E. Barzilay R. *The Legal Status of Third Country Nationals Who are Long Term Residents in a Member State of the European Union* (Nijmegen: University of Mijmegen Center for Migration Law, 2000)

Groenendijk, Kees and Guild, Elspeth (2001) “Converging Criteria: Creating an Area of Security of Residence for Europe’s Third Country Nationals” *European Journal of Migration and Law* No.3. pp. 37–59

Groenendijk, Kees (2004) “Legal Concepts of Integration in EU Migration Law” *European Journal of Migration and Law* No.6, pp.111–126

Guild, Elspeth (1996) “The legal framework of citizenship of the European Union”, In D. Cesarani & M. Fulbrook (eds.), *Citizenship, nationality and migration in Europe* (London: Routledge) pp.30-57

Guild, Elspeth (2006) “The Europeanisation of Europe's Asylum Policy” *International Journal of Refugee Law* Vol. 18 Issue 3-4 pp.630-651

Guild, Elspeth (2003) “International Terrorism and EU Immigration, Asylum and Borders Policy: The Unexpected Victims of 11 September 2001” *European Foreign Affairs Review* Vol.8 pp.331-346

Guiraudon, Virginie. (1998) “Third country nationals and European law: obstacles to rights’ expansion” *Journal of Ethnic and Migration Studies* Vol. 24 pp.657-674

Guiraudon, Virginie (2000) “European Integration and Migration Policy: Vertical Policy-making as Venue Shopping” *Journal of Common Market Studies* Vol. 38 No. 2 pp. 251-271

Guiraudon, Virginie (2003) “The Constitution of a European Immigration Policy Domain: a Political Sociology Approach” *Journal of European Public Policy* Vol.10 No.2 pp.263-282

Hansen, Randall (1999) “Migration, citizenship and race in Europe: Between incorporation and exclusion” *European Journal of Political Research* No.35. pp. 415–444

Hansen, Peo, (2005) “A Superabundance of Contradictions. The European Union's Post-Amsterdam Policies on Migrant 'Integration', Labour Immigration, Asylum and Illegal Immigration” *Center for Ethnic and Urban Studies Occasional Papers and Reprints on Ethnic Studies* Vol. 28

Hatton, J. Timothy (2005) “European Asylum Policy” National Institute Economic Review No.194

Heisler, Martin and Layton-Henry, Zig (1993) “Migration and the links between social and societal security” in Waever Ole., Buzan Barry. Kelstrup Monten. and Lemaitre Pierre. (eds.) I*dentity, Migration and the New Security Agenda in Europe* London:Pinter Publishers Ltd pp.148-167

Hepple, Bob (2004) “Race and Law in Fortress Europe” *The Modern Law Review* Vol. 67 No. 1, pp.1-15

Hollifield, James F. (1997) “The Immigration and Integration in Western Europe: a Comparative analysis” in Uçarer E. M. and J Puchala J. D. (eds.) *Immigration into Western Societies: Problems and Policies* (London, Washington: Pinter) pp.

Huysmans, Jef (1995) “Migrants as a Security Problem: Dangers of 'securitzing' Societal Issues” in Miles, Robert and Thranhardt, Dietrich (eds), *Migration and European Integration The Dynamics of Inclusion and Exclusion* pp. 53–72.

Huysmans, Jef (1998) “Security! What Do You mean? From Concept to Thick Signifier” *European Journal of International Relations* Vol.4 No.2 pp.226-255

Huysmans, Jef (2000) “The European Union and the Securitization of Migration*” *Journal of Common Market Studies* Vol. 38 No.5 pp. 751-77

Huysmans, Jef (2002) “Defining Social Constructivism in Security Studies: The Normative Dillema of Writing Security” *Alternatives* Vol. 27 Special Issue pp.41-62

Huysmans, Jef (2004a) “A Foucaultian view on spill-over: freedom and security in the EU” *Journal of International Relations and Development* Vol.7 pp.294-318

Huysmans, Jef (2004b) “Minding Exceptions: The Politics of Insecurity and Liberal Democracy” *Contemporary Political Theory* Vol.3 pp.321-341

Huysmans, Jef (2006) “European Integration and Societal Insecurity” in *The Politics of Insecurity : Fear, Migration and Asylum in the EU* (London and Network: Routledge) pp.63-114

Huysmans, Jef (2008) “Politics of Exception and Unease: Immigration, Asylum and Terrorism in Parliamentary Debates in the UK” *Political Studies* Vol. 56 pp.766-788

Ireland R. Patrick (1991) “Facing the True Fortress Europe: Immigrant and Politics in the EC” *Journal of Common Market Studies* Vol. 29 No. 5 pp. 457-480

Jackson, Pamela Irving and Parkes, Roderick (2007/2008) “Parallel Societies, Cultural Tolerance and Securitization: Muslims and Anti-Immigrant Sentiment in Western Democracies” *Journal of Social and Ecological Boundaries* Vol.3 No.1 pp.7-42

Jones, Wyn Richard *Security, Strategy, and Critical Theory* London:Lynne Rienner Publishers, 1999

Joppke, Christian (2002) 'European Immigration Policies at the Crossroads', in Heywood P., Jones E., Rhodes M. (eds.), *Developments in West European Politics* (London: Palgrave)

Joppke, Christian (2007) "Beyond national models: Civic integration policies for immigrants in Western Europe" *West European Politics,*Vol. 30, No. 1, pp.1 – 22

Kicinger, Anna (2004) " International Migration As a Non-Traditional Security Threat and the EU Responses to this Phenomenon" *Central European Forum For Migration Research, CEFMR Working Paper* 2/2004

Krause, Keith and Williams, Michael C. (1996) "Broadening the Agence of Security Studies: Politics and Methods" *Mershon International Studies Review* Vol.40 No.2 pp.229-254

Kofman, Eleonore (2005) "Citizenship, Migration and the Reassertion of National Identity" *Citizenship Studies*, Vol. 9, No. 5, pp.453–467

Kostakopoulou, Theodora (2000) "The 'Protective Union': Change and Continuity in Migration Law and Policy in Post-Amsterdam Europe" *Journal of Common Market Studies* Vol.38 No. 3 pp. 497-518

Kostakopoulou, Theodora (2002a) "Long-term resident third-country nationals in the European Union: normative expectations and institutional openings" *Journal of Ethnic and Migration Studies* Vol. 28, No. 3, pp. 443-462

Kostakopoulou T. (2002b)" "Integrating" Non-EU Migrants in the European Union: Ambivalent Legacies and Mutating Paradigms" *Columbia Journal of European Law* 8 pp.181-201

Knudsen, Olav F. (2001) "Post-Copenhagen Security Studies: Desecuritizing Securitization" *Security Dialogue* Vol. 32 Issue.3 pp.355-368

Lahav, Gallya; Messina Messina Anthony M. and Vasquez, Paul Joseph (2007) "The Immigration-Security Nexus: A View From the European Parliament" Paper Prepared for the EUSA Tenth Biennial International Conference, Montreal, Canada

Laustsen, Carsten Bagge and Waever Ole (2000) "In Defence of Religion: Sacred Objects for Securitization" *Millennium Journal of International Studies* Vol.29 pp.705-739

Lavenex, Sandra (2006)"Towards the constitutionalization of aliens' rights in the European Union?" *Journal of European Public Policy* Vol.13 no.8, pp.1284–1301

Levy, Carl (2005) "The European Union after 9/11: The Demise of a Liberal Democratic Asylum Regime?" *Government and Opposition* Vol.40 Issue.1 pp.26-59

Liegl B., Perching B. and Weyss B. (2004) "Combating Religious and Ethnic Discrimination in Employment form the EU and International Perspective" European Network Against Racism Available at: http://cms.horus.be/files/99935/MediaArchive/pdf/discrim_employ_04_en.pdf

Lindstrom, Channe (2005) " European Union Policy on Asylum and Immigration. Addressing the Root Causes of Forced Migration: A Justice and Home Affairs Policy of Freedom, Security annd Justice" *Social Policy & Administration* Vol.6 No.6 pp. 587-605

Lipshutz, R.D. ed. (1995) *On Security* (New York: Columbia University Press)

Lipschutz R.D. (1995) "On Security" in *On Security* Lipschutz D. R. (ed) New York: Colombia University Press pp.1-24

Lodge, Juliet (2002) "Sustaining Freedom, Security and Justice – From Terrorism to Immigration" *Liverpoll Law Review* Vol. 24 No. 1-2 pp. 41-71

McLaren, Lauren M. (2001) "Immigration and the new politics of inclusion and exclusion in the European Union: The effect of elites and the EU on individual-level opinions regarding European and non-European immigrants" *European Journal of Political Research* No.39, pp.81–108

Martiniello, Alexander M. (2000) " Citizenship in the European Union" in Aleinikoff Thomas Aleaxander and Klusmeyer Douglas (eds.) *From Migrants to Citizens; Membership in a Changing World* (Washington: Carnegie Endowment for International Peace) pp.342-383

Mathews, Tuchman Jessica (1989) "Redefining Security" *Foreign Affairs* pp.162-177

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

McDonald, Matt (2002) "Human Security and the Construction of Security" *Global Society* Vol. 16 No.3 pp. 277-295

McSweeney, Bill (1998) "Durkheim and the Copenhagen School: a response to Buzan and Waever" *Review of International Studies* Vol.24 pp.137-140

Miller, Steven E. (2001) "International Security at Twenty-Five: From One World to Another" *International Security* Vol.26 No.1 pp.5-39

Monar, Jörg, (2005) "Justice and Home Affairs" *Journal of Common Market Studies* Vol. 43. pp. 131–46

Morrison, John and Crosland (2001) "The Trafficking and Smuggling of Refugees: The End Game in European Asylum Policy?" *New Issues in Refugee Research Working Paper* No. 39

Munster, Rens Van (2004) "The Desecuritisation of Illegal Migration: The Case for a European Belonging Without Community" *Marie Curie Working Papers* 7. Aberystwth: Department of International Politics, University of Wales

Munster, Rens Van (2005) "The EU and the Management of Immigration Risk in the Area of Freedom, Security and Justice" *Political Science Publications* No.12/2005

Munster, Rens Van (2005) "Logics of Security: The Copenhagen School, Risk Management and the War on Terror" *Political Science Publications* 10/2005

Norman Ludvig (2008) “Asylum and Immigration in an Area of Freedom, Security and Justice. EU policy and the Logic of Securitization” retrived from <<http://www.diva-portal.org/diva/getDocument?urn_nbn_se_sh_diva-886-1__fulltext.pdf>> on 23 August 2008

Orcalli, Gabriele (2007) “Constitutional choice and European immigration policy” *Constitutional Political Economy* Vol.18 No.1 pp.1,20

Palidda, Salvatore (2005) “Migration Between Prohibitionism and the Perpetuation of Illegal Labour” *History and Anthropology* Vol.16 No.1 pp.63-73

Peers, Steve (2002) “Key Legislative Developments on Migration in the European Union” *European Journal of Migration and Law* Vol. 4 Issue.3 pp.339-367

Perchinig, Bernhard (2005) “Union Citizenship and the Status of Third Country Nationals” *EIF Working Paper Series* Nr. 12

Pettiford, Lloyd (2001) “When is a Realist Not a Realist?: Stories Knudsen Doesn't Tell” *Security Dialogue* Vol.32 Issue.3 pp.369-374

Pickering, Sharon (2004) “Border Terror: policing, forced migration and terrorism” *Global Change, Peace & Security* Vol. 16 No.2 pp.211-226

Rasmussen, Vedby Mikkel (2004) “It Sounds Like a Riddle': Security Studies, the War on Terror and Risk” *Millennium -Journal of International Studies* Vol.33 pp.381-396

Rees, Wyn (2008) “Inside Out: the External Face of EU Internal Security Policy” *Journal of European Integration* Vol.30 No.1 pp.97-111

Ross, James (2004) “Securitizing Migration After 11 March” retrived from <<http://www.realinstitutoelcano.org/analisis/460/ARI-56-2004-I.pdf>> on 23 August 2008

Roe, Paul (2004) “Securitization and Minority Rights: Conditions of Desecuritization” *Security Dialogue* Vol.35 pp.279-294

Ruffer, Benarieh Galya (2005) “The Cosmopolitics of Asylum-Seekers in the European Union” *New Political Science* Vol.27 No.3 pp.345-366

Saari, Sinikukku (2006) “Balancing between inclusion and exclusion: the EU's fight against irregular migration and human trafficking from Ukraine, Moldova and Russia” Challenge Working Paper Work Package 2: Securitization beyond borders retrived from <<http://www.lse.ac.uk/Depts/intrel/pdfs/EFPU%20Challenge%20Working%20Paper%203.pdf>> on 26 August 2008

Samers, Michael (1998) “Immigration, ‘Ethnic Minorities’, and ‘Social Exclusion’ in the European Union: a Critical Perspective” *Geoforum* Vol. 29, No. 2, pp. 123-144

Sasse, Gwendolyn (2005) “Securitization or Securing Rights? Exploring the Conceptual Foundations of Policies towards Minorities and Migrants in Europe” *Journal of Common Market Studies* Vol. 43 No. 4 pp.673-93

Saul, Ben (2004) “Exclusion of Suspected Terrorists from Asylum: Trends in International and European Refugee Law” *IIIS Discussion Paper* No.26/July 2004

Shaw, Jo (1998) “The Interpretation of European Union Citizenship” *The Modern Law Review* Vol. 61. No.3, pp.293-317

State Watch, State Watch Analysis “SIS II: fait accompli? Construction of EU’s Big Brother database underway” available at :http://www.statewatch.org/news/2005/may/sisII-analysis-may05.pdf

Soysal, Yasemin (1994) *Limits of Citizenship and Postnational Membership in Europe* (London: The University of Chicago Press)

Stalker, Peter “Migration Trends and Migration Policy in Europe” *International Migration* Vol.40 No.5 (2002) pp.151-179

Stetter, Stephan (2000) “Regulating Migration: Authority Delegation in Justice and Home Affairs” *Journal of European Public Policy* Vol.7 No.1 pp.80-103

Stritzel, Holger (2007) “Towards a Theory of Securitization: Copenhagen and Beyond” *European Journal of International Relations* Vol. 13 Issue.3 pp.537-383

Taureck, Rita (2006) “Securitization theory and securitization studies” *Journal of International Relations and Development* Vol.9 pp.53-61

Taureck, Rita (2006) “Securitisation Theory – The Story so far: Theoretical inheritance and what it means to be a post-structural realist” Paper for presentation at the 4th annual CEEISA convention University of Tartu 26-27 June

Uçarer, Emek (2001) “Managing Asylum and European Integration: Expanding Spheres of Exclusion” *International Studies Perspectives* Vol. 2 pp.288-304

Ugur, Mehmet (1995) “Freedom of Movement vs. Exclusion: A Reinterpretation of the 'Insider'- 'Outsider' Divide in the European Union” *International Migration Review* Vol. 39 No. 4 pp.964-999

Ullman, Richard (1983) “Redefining Security” *International Security* Vol. 8 No. 1 pp.129-153

Van Selm, Joanne (2002) “Immigration and Asylum or Foreign Policy: The EU's Approach to Migrants and Their Countries of Origin” in S. Lavenex and E. Uçarer (eds.) *Externalities of EU Immigration and Asylum Policies* (Washington D.C.: Lexington) pp.143-160

Vayrynen, Raimo (2003) “Illegal Immigration, Human Trafficking and Organized Crime” Discussion Paper 2003/27, WIDER, (Helsinki) Available at: http://www.jhubc.it/ecpr-istanbul/virtualpaperroom/054.pdf

Vucetic, Srdjan (2002) “When Migration is a Security Threat: Europe's War on Human Traffickers/Smugglers and Other Unwanted Migrants” Conference paper prepared for the 6th Young Scholars Conference, The Masatyk Centre, University of Economics, Prague May 30-31

Waever Ole, Buzan Barry, Kelstrup Monten and Lemaitre Pierre (eds.) (1993) *Identity, Migration and the New Security Agenda in Europe* (London:Pinter Publishers Ltd)

Waever, Ole. (1993) "Societal Security: the concept" in Waever Ole., Buzan, Barry Kelstrup, Monten and Lemaitre, Pierre (eds.) *Identity, Migration and the New Security Agenda in Europe* (London: Pinter Publishers Ltd) pp.17-41

Waever, Ole (1995) "Identity, Integration and Security" *Journal of International Affairs* Vol.48 No.2 pp.389-431

Waever Ole. (1995) "Securitization and Desecuritization" in Lipschutz D. R. (ed) *On Security* (New York: Colombia University Press)

Waever, Ole (1996) "European Security Identities" *Journal of Common Market Studies* Vol. 34 No.1 pp.103-132

Waever, Ole (1999) "Securitizing Sectors? : Reply to Eriksson" *Cooepration and Conflict* Vol.34 No.3 pp.334-340

Waever, Ole (2004) "Aberystwyth, Paris, Copenhagen, New 'Schools' in Security Theory and their Origins between Core and Periphery" Paper Presented at the Annual Meeting of the International Studies Association, Montreal March 17-20, 2004

Waever, Ole. (2007)"Political Role of Analyst & Ethics of Desecuritization" Seminar om Sikkerhedsteori 10 Maj 2007 Available at: http://isis.ku.dk/kurser/blob.aspx?feltid=170139

Walker N. (1998) "The New Frontiers of European Policing" in Anderson M. and Bort E. (eds.) *The Frontiers of Europe* (Washington DC: Pinter) pp.165-186

Walt, Stephen M. (1991) "The Renaissance of Security Studies" *International Studies Quarterly* Vol. 35 No.2 pp.211-239

Walters, William (2006) "Border Control" *European Journal of Social Theory* Vol.9 No.187 pp.187-203

Walters, William (2002) "Deportation, Expulsion and the International Police of Aliens" *Citizenship Studies* Vol.6 No.3 pp.265-292

Webber, Frances (2000) "Crimes of Arrival : Immigrants and Asylum-Seekers in the New Europe" Statewatch Publication retrived from <<http://www.statewatch.org/news/2005/aug/crimes-of-arrival.pdf>> on 22 August 2008

Weiner, Myron (1992-1993) "Stability and International Migration" *International Security* Vol. 17 No. 3 pp. 91-126

Weinzierl, Ruth (2007) "The Demands of Human and EU Fundamental Rights for the Protection of the European Union's External Borders" (Berlin: German Institute for Human Rights 2007) Available at: http://www.institut-fuer-menschenrechte.de/sl.php?id=212

Weinzierl, Ruth (2008) "Human Rights at the EU's Common External Maritime Border –

Recommendations to the EU Legislature" Policy Paper, (Berlin: German Institute for Human Rights 2008) Available at: http://files.institut-fuer-menschenrechte.de/488/d82_v1_file_48c8cd96841a3_pp_hr_at_the_eus_common_ext_marit_border.pdf

Weinzierl, Ruth and Lisson, Urszula (2007) "Border Management and Human Rights – A study of EU Law and the Law of the Sea" Study – (Herausgeber: German Institute for Human Rights 2007) Available at: http://www.institut-fuer-menschenrechte.de/webcom/show_shop.php/_c-488/_nr-75/i.html

Wessels, Wolfgang (2001) "Nice Results: The Millennium IGC in the EU's Evolution" J*ournal of Common Market Studies* Vol. 39 No.2 pp.197-219

Wiener, Antje (1997) "Making Sense of the New Geography of Citizenship: Fragmented Citizenship in the European Union" *Theory and Society* 26 (1997)

Williams, Michael (1998) "Modernity, Identity and Security: a Comment on the Copenhagen Controversy" *Review of International Studies* Vol.24 pp.435-439

Williams, Michael (1999) "The Practices of Security: Critical Contributions: Reply to Eriksson" *Cooperation and Conflict* Vol.34 pp.341-344

Williams, Michael (2003) "Words, Images, Enemies: Securitization International Politics" *International Studies Quarterly* Vol.47 pp.511-531