Negotiating Third Country National Rights in the European Union

Emek M. Uçarer
International Relations Program
Bucknell University
Lewisburg, PA 17837

Phone: 570-577-1498; Fax: 570-577-3536
ucarer@bucknell.edu

Paper prepared for the 11th Biennial International Conference of the European Union Studies Association, Marina del Rey, CA, April 23-26, 2009

Draft: please do not cite without the permission of the author.
Comments and suggestions welcome.

Abstract

The early phases of the European integration process that spanned the 1950s to 1980s predominantly emphasized unity. Recently conversations on diversity have gained in salience as sub-national groups of various stripes have started asserting various rights of being different. Despite this, the theoretical literature on the European Union has lagged behind in focusing on issues of diversity, and an investigation of identity politics as a strategy for minorities to achieve rights in integration process that is in continual flux has not yet made inroads into the literature. Furthermore, from a substantive standpoint, exploring the attainment of rights for aliens is urgent in light of a perceived decline in the toleration of difference in an expanding European Union. During the last ten years, policymaking targeting third country nationals (TCNs) has been introduced into the joint policy domain of the European Union (EU). Starting with the Amsterdam Treaty, gathering steam at the Tampere European Council, and receiving another mandate with the Hague Program, this dossier is not yet as developed as some of the other dossiers in the joint governance of immigration and asylum. Nonetheless, the Brussels debates on the rights of TCNs continue to gain momentum, pushed by certain services of the Commission, (Brussels-based) nongovernmental organizations (NGOs), and certain Presidencies of the EU. The modest policy output that has been frequently criticized as the result of a minimalist approach can partially be attributed to divergent national practices which member states are hesitant to harmonize, differing organization cultures within the different Directorates General of the Commission, and the relative constraints places on successful NGO advocacy in the Justice and Home Affairs field. This paper tracks the ascent of policies that relate to TCNs in the EU policy discourse, identifies the key actors in pushing for the mainstreaming of this portfolio, and reviews and assesses the policy output to date. Using policy tracing as a method, the paper chronicles the efforts to frame of TCN policies with the discourse of (human) rights (of minorities) relative to European Union citizens. Using the Race, Long Terms Residents, and Family Reunification Directives as case studies, and employing an analysis of Political Opportunity Structures in demonstrating the construction of the argument for rights for TCNs, the paper seeks to explain why the negotiation and mainstreaming of TCN integration generally demonstrates a minimalist trend.

Introduction[1]

During the last ten years, integration of third country nationals (TCNs) has been introduced into the joint policy domain of the European Union. Starting with the Amsterdam Treaty, gathering steam at the Tampere European Council, and receiving another mandate with the Hague Program, the integration dossier is not yet as developed as some of the other dossiers in the joint governance of immigration and asylum. Nonetheless, the Brussels debates on integration of TCNs continue to gain momentum, pushed by certain services of the Commission, (Brussels-based) nongovernmental organizations (NGOs), and certain Presidencies of the EU. The modest policy output that has been frequently criticized for taking a minimalist approach can partially be attributed to divergent national practices which member states are hesitant to harmonize, differing organization cultures within the different Directorates General of the Commission, and the relative constraints placed on successful NGO advocacy in the Justice and Home Affairs field. This paper seeks to track the EU-wide policy initiatives to TCNs, singling out those initiatives that would appear to have closest links to their integration. Using the Race Directive, the Long Term Residents Directive, and the Family Reunification Directive as case studies, the paper demonstrates variance in the decision-making process and output on a spectrum ranging from consensus to contention.

Immigration, which continues to be a hot-button issue in Europe, accounts for the growing presence of TCNs in the EU territory. Although Europe was predominantly a continent of emigration until the early 20th century, post-World War II economic recovery and the guestworker programs of the 1960 began to transform it into an immigration continent. European economies were revitalized as a result of bilateral labor agreements reached by a number of countries which brought the early waves of migrant workers. When the guestworker programs were halted in the aftermath of the recession occasioned by the oil crisis of the early 1970s, migration nonetheless continued in the form of family reunification programs. Incentive programs to encourage the return of labor migrants were of limited success, adding to a growing pool of TCNs (Geddes, 2000). In the 1980s, family reunification migration continued (indeed increasingly became the only remaining legal admission mechanism into many Western European countries) and there was also a marked increase in asylum applications, accompanied by increasing efforts to curb the influx of asylum seekers.

This period also witnessed the transformation of classic emigration countries such as Spain, Italy, and Ireland into countries of destination. The end of the Cold War and the fall of the Berlin Wall created further migration flows towards Western Europe. Within a few short decades, Europe became a prime example of what Castles and Miller have called the “acceleration” and “differentiation” of migration (Castles and Miller, 2003: 8): not only were there more TCNs in EC/EU member states, but they were increasingly more diverse in both the reasons that prompted their migration and diverse in their countries of origin. These trends resulted in the creation of migrant enclaves in various member states and presented challenges to the functioning of representative democracy, especially in those recipient countries with stringent naturalization requirements (Hammar, 1985a, Koslowski, 1997). This state of affairs resulted in the policy dilemma of excluding or minimizing less desirable flows of migration while

[1] A version of this paper is forthcoming in Elisabeth Pruegl and Markus Thiel (eds), *Diversity in the European Union*, Palgrave 2009.

maintaining policies flexible to address labor market needs. Along with the implementation of increasingly restrictive immigration policies in many member states came the additional challenge of integrating existing migrants into their respective countries of destination (Castles and Miller, 2003: Chapter 4, Geddes, 2000, Lavenex, 2001, Schneider, 2005).

"The Rights of Others": Migrants' Rights in the European Union

The Universal Declaration of Human Rights proclaims "the right to leave any country, including [one's] own, and to return to [one's] country" to be a fundamental human right [UDHR, Art. 13(2)]. With its designation as a human *right*, freedom of movement is thus acknowledged as fundamental and essential, recognizing "justified and urgent claims to certain types of urgent treatment." (Nussbaum, 2006: 36). Nonetheless, there exists no corresponding right to enter a country other than the one of one's own nationality. Hence, legal migration and the integration and rights of TCNs continue to be hotly debated subjects in the European Union. Most member states, including those who have recently joined the EU, continue to be destination countries for migrants and, as such, are faced with integration challenges. The European Commission estimates that "[t]he total number of third country nationals legally residing in the EU 25 (*sic*)is currently double the number of the EU citizens having chosen to exercise their right to reside in another Member State" (European Commission, 2005a). It is, then, not surprising that current debates on how to "manage" migration occur synchronously with a reflection on the proper set of rights and responsibilities such migrants ought to have. Arguing that a cosmopolitan theory of justice ought also "incorporate a vision of *just membership*" (Benhabib, 2004: 3, emphasis original), Benhabib stresses the need to consider the "rights of others" and asserts that "permanent alienage is not only incompatible with a liberal-democratic understanding of human community; it is also a violation of fundamental human rights" (Benhabib, 2004: 3-4). The current debate on the integration of TCNs is premised on this notion.

Although the distinction initially appears to be semantic, it is important to distinguish between migrants' and immigrants' rights. Hammar (1985b) refers to migrants' rights as those that accrue to resident aliens who are already in the territory of the host states. By contrast, the term immigrants' rights is reserved for those who are in the process admission. In the following, both sets of rights will be tied to the various EU policy instruments that have been recently adopted. But who are the "others"? Noncitizens do not represent a homogenous category. They are, by definition, a diverse group. Some of these "others" are citizens of EU member states and hence are not TCNs. TCNs, citizens of non-EU countries, are also not a homogenous group and their standing (and resulting rights) partially varies with their country of origin. For example, a TCN who is the spouse or minor child of an EU citizen has a certain set of rights that might differ from the rights of a long-term resident TCN, which differs yet again from a TCN who is not (yet) a long-term resident, or not a resident at all. Complicating the matter further is the fluid nature of the concept of TCNs in the context of the European integration: TCNs coming from countries which have special agreements with the EU (such as those in the accession process) might be subject to a different set of rights than those who do not come from countries with such arrangements.[2] And finally, one might vanish from the ranks of a TCN altogether through, most obviously, naturalization in an EU member state but also through the accession of one's country of origin to the European Union. One might, of course, imagine a number of (familial) scenarios

[2] For a discussion on the rights of Turkish workers, which could themselves be a yardstick for comparison for other TCNs, see Theele, 2005.

which combine some of the scenarios briefly highlighted here which create complex permutations. In most member states, the duration and categorization of one's residence determines the level of rights that the individual can claim. It was not until relatively recently that the EU began to take on this issue seriously. In fact, as Halleskov argues, "(c)ommunity law has for a long period of time served to legitimate unequal treatment of EU nationals and third country nationals." (Halleskov, 2005: 181) With the exception of potential derivative rights a TCN might enjoy by virtue of being a family member of an EU citizen, the EC treaty did not make rights-based references to TCNs.

As a starting point, the founding treaties did not contain any provisions for fundamental rights for noncitizens, although ex-Art. 6 of the EC Treaty (Art. 12 Amsterdam Treaty) prohibited discrimination on nationality grounds (presumably to protect other EC nationals) and ex-Art. 119 (Art 141 Amsterdam Treaty) related to non-discrimination between men and women in matters of equal pay. These articles reflect two fundamental principles on which the notion of freedom of movement in the European Union is premised: nondiscrimination and the equality of treatment for EU nationals. As we'll see in the discussion that follows, the policy choices to be made vis-à-vis TCNs center on extending these two principles to (certain kinds of) TCNs. This, in essence, is an exercise in mainstreaming, one that focuses on integrating the TCN debate into ongoing policy conversations in the EU and approximating their rights with those of EU citizens. In order to track this development, we need to take first a brief look at how the TCN portfolio unfolded from the early 1990s.

Maastricht and Amsterdam Treaties. With the 1993 Maastricht Treaty, the European Union received a mandate to cooperate on immigration matters, which would be the first step to develop EU-wide instruments to apply to the admission and residence of TCNs. Immediately after Maastricht, the Commission issued a Communication on Immigration and Asylum Policies in 1994, in which it advocated for a comprehensive approach to migration, enhanced integration policies for legal migrants and rights comparable to those of nationals (European Commission, 1994). With the Amsterdam Treaty, the EU acquired the competence to develop instruments on:

- The conditions of entry and residence for third country nationals [Art. 63(3)(a) EC];
- The rights and conditions under which nationals of third countries, who are legally resident in a Member State, may reside in other Member States [Art. 63(4) EC]; and
- The conditions of employment for third country nationals legally resident in the Community territory [Art. 137(3) EC].

In 1996, member states adopted a (nonbinding) resolution on the status of TCNs legally resident in the Union territory on a long-term basis. This resolution, an initiative of the French Presidency did not propose to grant any general rights to TCNs. In 1999, the Commission drafted a proposal for a Convention concerning the admission of TCNs into the EU territory which foresaw a right to employment and equal treatment with EU citizens for particular TCNs, namely long-term TCN residents in an EU member state (Peers, 1999). This draft proposal drew invitations from officials in member states as well as academics to reinforce the status of TCNs, in particular with respect to expulsion, and to establish equality of treatment with other EU nationals. Drawing a parallel with citizens who are generally protected from expulsion, "[n]ationals of third countries

born or raised in a Member State," opined the experts, "should never be subject to expulsion" (quoted in Groenendijk and Guild, 2001: 50). After the Amsterdam Treaty and the creation of a Directorate General on Justice and Home Affairs (currently named DG Justice, Liberty, and Security), the migrant integration portfolio was transferred from DG Employment and Social Affairs (formerly DG V) to the new DG which now also had a mandate to initiate policies for TCNs already in the EU territory and those seeking entry. As a starting point, the 1990s therefore saw efforts to develop EU-wide policies for long-term resident TCNs that sought to approximate their status with that of EU citizens resident in an EU member state other than that of his/her state of origin. Admission-related policies would prove more difficult for joint decision-making.

During this period, work also concentrated on bringing the language of migrants' rights in line with EU's priorities in nondiscrimination. The new Art. 13 of the Amsterdam Treaty now embodied the anti-discrimination norm and introduces an "individually enforceable right to nondiscrimination"(Lavenex, 2006: 1288) and went further by enabling the Council, pursuant to a unanimous decision, to take action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation (European Union, 1997).

Tampere European Council and the Hague Program. Following the signing of the Amsterdam Treaty and its relatively rapid entry into force in 1999, progress in JHA cooperation accelerated substantially, aided by a special European Council dedicated exclusively to JHA. The goal of this summit, which was convened in Tampere, Finland in October 1999, was to take stock of developments to date, evaluate the impact of Amsterdam, and discuss the future direction of JHA cooperation. There, policy steps were outlined towards creating an Area of Freedom, Security, and Justice (AFSJ). Included in the "Tampere milestones" were enhanced efforts to integrate TCNs. Presidency conclusions at Tampere proclaimed that "[t]he European Union must ensure fair treatment of third-country nationals who reside legally on the territory of its Member States. A more vigorous integration policy should aim at granting these individuals rights and obligations comparable to those of EU citizens. It should also enhance non-discrimination in economic, social and cultural life and develop measures against racism and xenophobia." (Council of the European Union, 1999: Paragraph 18). Reiterating the proclamations uttered since the mid-1990s, it further declared that "the legal status of third country nationals should be approximated to that of Member States' nationals… [and that they] should be granted in that Member State a set of uniform rights which are *as near as possible* to those enjoyed by EU citizens." (Council of the European Union, 1999: Paragraph 21, emphasis added).

In some ways, this was old wine in new bottles. Groenendijk notes that equal treatment provisions for TCNs were foreseen as early as 1976 by the Council of Ministers, an aim that remained elusive at the time of the Amsterdam Treaty some 25 years later (Groenendijk, 2001: 226-27). A notable exception to the unequal status was the ability of the TCN to claim derivative status, either as a family member of an EC citizen exercising their right to freedom of movement, or as a citizen of a country with existing Association or Cooperation agreements with the EC/EU within the context of Art. 130 EC (Halleskov, 2005: 181, Theele, 2005). With the Single European Act of 1986, EU nationals exercising their right to freedom of movement for employment were secured a right to equality of treatment with nationals of their host state. However, member states were reluctant to extend such a right to TCNs, essentially due to their unwillingness to create new obligations towards and new stocks of TCNs by developing

Community-wide policies in what they continued to consider a sensitive issue area with respect to sovereignty.

Amsterdam and Tampere signaled a potential shift in attitude. With the new near-equality[3] mandates in hand, the Commission soon produced draft initiatives, starting with the right of family reunification. In November 2004, a few months after the May 2004 deadline for the transitional five-year period that was specified in the Amsterdam Treaty for the introduction of measures to create a common European immigration and asylum system, the Brussels European Council adopted the so-called "Hague Programme" to set the parameters for policy initiatives for the following five years. Since the Amsterdam Treaty, Tampere European Council, and the adoption of the Hague Programme, three new instruments relating to TCNs legally resident in the EU territory have been proposed and adopted: the Race Directive, the Directive on the Rights of Long-term Residents and the Family Reunification Directive.

Work in this policy domain proceeded in fits and starts. At the insistence of migrants' rights NGOs, debates on appropriate integration of migrants ran alongside policy debates pertaining to migrants' rights. After 2001, when the Commission tabled its initial proposals on the rights of long-term resident TCNs and on family reunification, contentious debates ensued between member states, threatening the timely adoption of measures. Perhaps additionally sidelined in the aftermath of the 9/11 attacks in the United States and also the London and Madrid bombings which shifted the focus of the Justice and Home Affairs ministers to security and terrorism-related matters, the TCN portfolio made little visible progress until 2003. The Greek Presidency, which took the EU helm during that year, can be credited with resurrecting TCN issues, especially those relating to family reunification and the status of long term residents (Peers, 2004). For its part, the Thessaloniki Presidency Conclusions reiterated the Tampere commitment to approximate the rights of long-term resident TCNs with those of EU nationals (Council of the European Union, 2003c: 8)

On 29 April 2004, the European Union adopted Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States. This instrument amended Regulation (EEC) 1612/68 and repealed several other Directives to merge the various instruments affecting the freedom of movement of EU citizens into a single document. The Directive was adopted to regulate the conditions under which Union citizens and their families could exercise their right to move and reside freely within the Member States, their right of permanent residence, and specified derogations from these rights on public policy, public security or public health grounds, exempting them from visa requirements. The Directive affords family members of EU nationals who do not have the nationality of a Member State and are therefore TCNs the same rights as the citizen whom they have accompanied, but leaves open the possibility of visa requirements for such individuals (Council of the European Union, 2004). In essence, this Directive has limited application to TCNs but excludes the bulk of TCNs in EU territory. In the following, EU policy initiatives that applicable to a somewhat wider pool of TCNs will be discussed in more detail. The analysis highlights the Commission and Brussels-based migrants' rights NGOs as proponents of more inclusive instruments infused with

[3] Halleskov (2005: 182) observes that "no independent definition of 'near-equality' exists in European law," making it difficult to discern what exactly is meant by this. The obvious default standard could be the rights accorded to EU citizens who have exercised their right to move to another member state.

rights-based language and member states and the Justice and Home Affairs Council as cautious actors seeking to minimize responsibilities arising from such rights-based language.

Race Directive

Brussels-based NGOs and think tanks, working in coalition wit each other under the umbrella of the Starting Line Group (SLG) had been pressing the EU on developing EU legal instruments against all forms of racial discrimination since the early 1990s, even before the EU officially received its mandate in the field of immigration and asylum. The SLG was initiated in 1991 and came to represent some 400 NGOs working against discrimination and xenophobia and was disbanded after it succeeded in its goal to bring about an EU instrument (Geddes and Guiraudon, 2004, Tyson, 2001). Among the initial successes of the SLG was the role it played in the adoption of the Declaration on Racism and Xenophobia at the 1992 Edinburgh Summit, one that pressed the need to develop EU-wide instruments (Chopin, 1999, Niessen, 2000). This rhetorical commitment might have resulted in a degree of path dependence (Pierson, 2004) as a result of which member states were compelled into further action based on their initial rhetorical commitment. Tyson (2001)and Lavenex (2006) identify the principal proponents of the anti-racism directive as the Commission's DG Social Affairs and Employment and the European Parliament. In fact, it would be this directorate that would come up with the draft in conjunction with the DGs Internal Market and Justice, Freedom, and Security (Guiraudon, 2003). It is important to note that this DG, tasked with the human aspects of the completion of the common market, is significantly different in institutional character than DG JFS, with the latter falling much closer in line with the generally restrictionist tenor of the member states. After the Commission tabled its proposal, pursuant to the new Art. 13 of the Amsterdam Treaty, the Council adopted a directive to this effect in June 2000 which implemented the principle of equal treatment irrespective of racial and ethnic origin, religion or belief, disability, age or sexual orientation.[4]

Along with the SLG representing various NGOs, a Commission official chronicling the adoption of this instrument credits the European Parliament and the Commission with its relatively quick conclusion (Tyson, 2001: 200). Unlike the rather long delay between the introduction of Commission proposals and the adoption of a final draft by the Council that is characteristic of decision-making in the Justice and Home Affairs field, the Race Directive was adopted at record speed. The Commission's initial proposals of November 1999 resulted in the Council's June 2000 adoption of the text and its entry into force in July 2000. This can be partly attributed to what the Commission argued was a permissive political consensus amongst member states to combat racial and ethnic discrimination and also to the fact that the Commission's proposal for a directive was based significantly on legislation that was already in place at the EU level on gender equality in the common market (Tyson, 2001: 200). It also included references to existing international instruments to which EU member states were party as well as legislation already in place in some member states (Tyson, 2001:200). In essence, the proposal was modeling that which already was agreed upon in an adjacent issue area, something that probably contained divergent national opinions that would come to haunt the LTRD and the Family Reunification Directives discussed below. Furthermore, as Lavenex observes, it was linked closely to existing

[4] Absent, however, from this list was an explicit reference to nationality, which was rejected during the negotiations (see Lavenex, 2001, 1299, note 2).

ECJ jurisprudence on freedom of movement for EU member nationals and particularly to the case law that prohibited racial discrimination. Here was an instance of framing what is essentially a migrants' rights issue as one of lifting obstacles to common market integration which "as well as [the Directive's] packaging together with other discrimination grounds such as religion, sex or disability in Art. 13 TEC, weakened their links with the broader immigration discourse and moved them closer to less disputed core areas of European integration" (Lavenex, 2006: 1289). Adding to this set of fortuitous circumstances was the election victory of Jörg Haider's xenophobic Freedom Party in Austria which further expedited the process. All of these factors coalesced to build and sustain consensus and resulted in a decision-making process that was unusually expeditious.

Thus was born the Directive on Racial Discrimination the negotiation context of which would prove impossible to replicate in subsequent policy instruments (Tyson, 2001). The Directive gives important rights to those arriving in the EU territory and those who are already residing there, and bans racial and ethnic discrimination, direct and indirect, in the areas of employment, self-employment, education and vocational training, working conditions, social security, healthcare, access to goods and services, and housing (Council of the European Union, 2000: Art. 3). Even though the Directive does not specifically name national origin as particular grounds for discrimination, it applies to all residing in EU territory, including all TCNs. As such, it is perhaps the widest reaching instrument that is applicable to TCNs. The negotiation context of the other two instruments, namely the Long-term Residents Directive and the Family Reunification Directive, and the reach of the resulting documents were a far cry from that of the Race Directive for which the stars seemed to have aligned just right. It is to those instruments that we now turn.

Long-term Residents Directive (LTRD)

In accordance with Benhabib's call to specify and strengthen the "rights of others" to avoid permanent alienage and the exclusionary consequences of one's immigrant status, considering the rights and duties of those TCNs who have been living in EU territory for extended periods of time is a logical place to start. In an effort to delineate such rights and responsibilities, in March 2001, the Commission introduced its proposal for a Directive on the status of TCNs who are long term residents (European Commission, 2001). Unlike the Race Directive which was launched by DG Social Affairs and Employment, this Directive was developed by DG JFS. Article 1 outlines the dual goals of this directive: to approximate national legislation in the granting of long-term resident status to legal-resident TCNs so that "third-country nationals enjoy long-term status on equivalent terms" in all member states, and to determine the conditions under which such persons could exercise a right to freedom of movement to a member state other than the one that granted them long-term resident status (European Commission, 2001: Art. 1). Seeking to approximate the standing of long term resident TNCs with that of EU citizens, the LTRD provides a long-term resident status to TCNs after five years of legal residence in the EU territory and affords equal treatment rights on education, employment, and social security. Prior to the adoption of this directive, only family members of EU citizens were able to benefit from the freedom of movement rules (Barret, 2003).

Even though it was penned by DG JFS which is generally regarded as a relatively conservative DG that resists liberal instruments which could create a "pull factor" for migration, the draft was still quite a bit more liberal and inclusive than what was ultimately adopted. When political

agreement was finally reached by the Justice and Home Affairs Council in June 2003, resulting in the November 2003 adoption of the Directive, the Commission's original proposal was watered down by several rounds of changes. Importantly, while the 2001 Commission proposal was fashioned after existing EC rules on freedom of movement for workers and thus offered an instrument that sought to afford TCNs maximum legal certainty, the version that was adopted by the Council took its inspiration from existing *national* legislation which resulted in a number of limiting amendments to the original text evidently at the insistence of several member states (spearheaded by Germany and Austria) to retain their national policy prerogatives (Halleskov, 2005). In essence, the strategy that seemed to have worked for the Race Directive, that of anchoring the new instrument in already-existing nondiscrimination measures for the common market, did not work. Furthermore, Carrera observes (2005: 125) that the 2001 Commission proposal had a broader scope of potential beneficiaries of the instrument, with the final text ultimately excluding such TCNs as students and individuals undertaking vocational training, beneficiaries of temporary protection, refugees, and individuals with diplomatic or consular protection. So the draft was clipped significantly in terms of its scope as well. In some limited cases, primarily linked to family ties to an EU-citizen, the Directive also provided for freedom of movement for TCNs to another member state and allowed them to take up employment there (Bendel, 2005, Kostakopoulou, 2002, Lavenex, 2006).

While the initial Commission draft, with its rights maximizing provisions, was received relatively positively by Brussels-based migrants' rights organizations such as the European Committee on Refugees and Exiles (ECRE), Churches Commission on Migrants in Europe (CCME) and Caritas. Nonetheless, recurring criticism with each new draft did not seem to have the desired effect; member states were successful in securing the insertion of limiting language into the new versions. The policy cycle which yielded increasingly restrictive iterations of policy proposals which drew increasing criticism from NGOs was not peculiar to this instrument alone. The Family Reunification Directive as well as the Asylum Procedures Directive (Ackers, 2005, Uçarer, 2006) which were making their debut at about the same time were all examples of this dynamic.

For example, during the negotiations after the initial proposal from the Commission, a new paragraph was inserted into the draft at the initiative of Austria, Germany, and the Netherlands, requiring compliance with integration "conditions" of the recipient state. This new language, Groenendijk argues (2004), enables EU members to insist that immigrants cover the financial costs of integration measures rather than allowing them to attend public courses offered by the receiving country. Art. 4 obliges the migrant to provide evidence of sufficient resources for themselves and their dependents, including possession of health insurance and access to appropriate accommodations so that they do not present a financial burden to the state. Furthermore, Art. 6 of the LTRD enables member states to refuse long-term resident status to individuals on public policy or security grounds, allowing member states individual discretion in determining what constitutes such grounds. As for rights, those meeting all of the criteria listed in the Directive secure the right to residence in the member state in which the long-term resident application is launched. They also secure the right to equal treatment with nationals of the receiving state for certain dimensions, among others access to employment and self-employed activity, tax benefits, education and vocational training, and freedom of association (Council of the European Union, 2003b). A desire to move to yet another EU member state results in the

necessity to relaunch the process in the new destination country. Despite this declaration of equality in Art. 11, however, member states still retain the right to restrict equality in treatment, including in instances in which access to employment is contingent on citizen or EU-citizen status. Even the freedom of association appears to be liable to restriction where the place of residence of the person to whom this right accrues is in the territory of the member state—hardly intelligible as grounds for restriction.

The final text of the LTRD is thus widely criticized as falling short of providing for overall equality between TCNs and EU nationals and merely affording them a status that is somewhat more privileged than that of ordinary migrants but less than that of EU citizen migrants (Kostakopoulou, 2002). Among these criticisms is the lack of transportability of the status (and its attendant rights) to another EU member state, the lack of a comparable EU status for the individuals concerned as member states are allowed significant discretion, the legal safeguards that are available to long-term TCNs for appealing a decision for expulsion that appear inferior compared to what is afforded an EU citizen, and the wide discretion that remains with member states in determining sufficient compliance with mandatory integration conditions (Carrera, 2005: 129-31). The use of obligatory integration tests in some member states to measure compliance with the integration conditions requirement and refusal of status based on their outcome has received particularly strong criticism as disadvantaging the poorer migrants, or serving as a tool for exclusion for TCNs that are regarded as "different" from the Anglosaxon Christian blueprint. As such, the instrument leaves the impression that the "migrant is seen as an alien who needs to become normalized" (Carrera, 2005: 132). As Groenendijk observes, the ratcheting down of safeguards and rights as this instrument evolved from the 2001 Commission proposal to the document that was finally adopted in 2003 can be explained by that final modeling EU instruments after the relevant (restrictive) national immigration rules of the member states which has been the norm in the Third Pillar after Maastricht and Amsterdam (Groenendijk, 2001: 230), especially because of the unanimity rule that not only made decision-making difficult but also predisposed to producing lowest common denominator outcomes (Lavenex and Wallace, 2005, Uçarer, 2007). The LTRD thus exemplifies a moderate degree of contention, with the Commission and NGOs unhappy to varying degrees with the final instrument.

Family Reunification Directive

Protection of the family unit is a universal human right incorporated into Art. 16(3) of the United Nations Universal Declaration of Human Rights, as well as in Art 23(1) of the 1966 International Covenants on Civil and Political Rights and Art. 10(1) of the International Covenant on Economic, Social and Cultural Rights. The 1989 Convention on the Rights of the Child likewise refers to the protection of the family unit as a fundamental right and calls on states parties to prevent the separation of children from their parents. Finally, Art. 44 of the United Nations Convention on the Protection of All Migrant Workers and Members of their Families likewise recognizes the protection of the family unit as a fundamental duty of the states parties to the convention. Highlighting also the link between admission policies and migrant integration, the International Labor Organization has argued that maintaining the togetherness of the family unit is "essential for the migrants' well being and their *social adaptation in the host country*" (ILO quoted in Cholewinski, 2002: 274, emphasis added) As such, and similar to the asylum norm

with is also protected by regional and international law, any attempt to regulate the entry of certain family members of migrants has to be tempered by obligations arising from human rights commitments, essentially acting as a potential constraint on recipient states. The 1968 Council Regulation 1612/68/EEC, already gave family members of EU workers, irrespective of their nationality,[5] the "right to install themselves with the worker" provided that the worker had accommodations considered normal for national standards (Council of the European Union, 1968: Art. 10).[6]

While the rights of EU nationals to maintain their family's unity were thus protected, no such right was extended to TCNs until the EU began working on an instrument that would outline the parameters for family reunification (Van Der Velde, 2003). On December 1, 1999, the European Commission issued its draft for a Council Directive on the right of family reunification which would become the starting point of such an instrument (European Commission, 1999). This would ultimately result in the adoption of the only EU legislative proposal dealing with legal immigration and the first of a set of measures arising from Art 63.3(a) EC Treaty on TCNs. This first draft would also straddle immigrants' rights and migrants' rights, and provide strong references to the existing regional human rights instruments protecting the family unit. It was additionally presented by the Commission as an important tool for integration (Carrera, 2005). The adopted text of the Directive maintains this rhetoric and posits that "[f]amily unification … helps to create sociocultural stability facilitating the integration of third country nationals in the Member State, which also serves to promote economic and social cohesion" (European Commission, 1999: 23).

As Brinkmann observes (2001: 243), family reunification can be seen "on the one had, as a humanitarian or human rights issue, and, on the other as an immigration matter which might place a strain on the labour market and social facilities, such as housing, education and medical facilities." As it turned out, the lens through which one observed family reunification as a right would prove important: leaning towards the human rights frame, one that emphasized family unity as an internationally protected human right and insisted on highlighting the obligations of the receiving states to develop instruments that would be consistent with their obligations, would likely produce a generous instrument, and leaning towards the security frame, one that reflected post 9/11 preoccupations that highlighted migrants as potential security threats (Bigo, 2002, Ceyhan and Tsoukala, 2002, Huysmans and Buonfino, 2006), would produce an instrument that would confer a restricted set of rights to restricted sets of family members. Although the Directive was initially thought to be relatively noncontroversial, and perhaps because it involved immigrants' rights relating to admission (a domain that continued to be controversial), negotiations were difficult and protracted. The original Commission draft met with resistance from Member States. The Commission subsequently tabled two revised drafts in October 2000 and May 2002 (European Commission, 2000, 2002). At each turn, the Commission's original proposal was watered down further.

---

[5] In the event that these were TCNs, they would as a consequence of the right provided for in the Directive, have acquired a right that might not have been available to other non-EU-relative TCNs.
[6] This right extends to spouses and descendants under 21 or dependent relatives in the ascending line of the worker and spouse.

The Council finally adopted the directive on September 22, 2003 (Council of the European Union, 2003a).[7] It is important as it recognizes for the first time that TCNs also have a right to family reunification (Boeles, 2001), extending such a right beyond that which was traditionally understood to be a right that accrued only to EU nationals (Cholewinski, 2002: 273). That said, the Directive was designed to determine the circumstances under which such a right could be enjoyed, essentially establishing conditions for this right.

In parallel to the critique levied against the LTRD discussed above, Cholewinski (2002: 273) argues that the "right to family reunification for third-country nationals is in danger of being effectively rendered redundant by the conditions imposed upon this right." He even argues that such stipulations bring the instrument very close to EU's 1993 Resolution on the harmonization of national policies on family reunification, adopted by the JHA Council in Copenhagen, which did not explicitly recognize a right to family reunification. Whereas the Commission's original draft was strongly consistent with the relevant human rights instruments such as the European Convention on Human Rights and Fundamental Freedoms (Art. 8) and the UN Convention on the Rights of the Child, the Directive in its final state dealt "as little as possible with legal obligations and, where necessary, [introduced] minimum standards below those existing in national legislation…" (Lavenex, 2006: 1291). Effectively, this suggests that during the course of negotiations, the scale tipped away from human rights and humanitarian prerogatives, allowing family reunification to be cast strongly as an instrument of admission and migration control as opposed to one of human rights. While the Family Reunification Directive creates rights for immediate family members, it also makes it possible for individual Member States to implement or maintain policies that would allow other groups of related individuals (such as first-degree ascendants, unmarried children, and unmarried partners) to claim family reunification benefits as well. As with the LTRD, certain categories of TCNs, most notably refugees and beneficiaries of temporary protection schemes, are excluded from the scope of the Directive.

The JHA ministers were instrumental, over time, in negotiating a document that frequently represented standards that were below those applicable in individual member states. Complaints about the process came from a variety of corners: NGOs warned of yet another lowest common denominator outcome that threatened to fall below the human rights obligations of member states (Churches Committee for Migrants in Europe, 2003, ECRE, 2003), and the European Parliament was angered because the Council, so the Parliament argued in the annulment procedure it eventually initiated, failed to meet even the most minimal consultations with the Parliament legally necessary in the decision-making terrain of this policy field.

The instrument was criticized widely for its limited scope, its very narrow definition of a family member, its exclusion of certain categories of non-citizens, the increasingly restrictive extension to the minor children of the applicant, and the removal of a standstill clause from the final text which would have prevented member states with national standards that were more favorable to the applicant than those provided in the final document from lowering those to the level of the directive (ECRE, 2003). Speaking to the issue of denials of family reunification applications on the grounds of public policy, security, and health, the director of the United Nations High Commissioner for Refugees' Brussels bureau lamented such language and observed that "'public

[7] The Directive does not apply in the United Kingdom, Ireland, and Denmark.

policy', in particular, is a very vague term that could be easily used to keep families apart without any real justification" (UNHCR, 2003). Echoing some of these criticisms, the European Parliament brought an action for annulment of certain provisions of the Directive to the European Court of Justice on December 22, 2003, based on Article 230 EC Treaty on procedural grounds, arguing that the Council adopted the Directive without consulting the Parliament as it should have pursuant to Article 67 EC Treaty. It further sought the annulment of the Directive's derogations and exceptions provided for in Article 4(1) on the integration conditionality for children over 12 years, Article 4(6) on applications submitted for children over 15 years, and Article 8 on waiting periods of up to three years in cases where reception capacities are exceeded, arguing in particular that these provisions infringed on fundamental rights protected. The Parliament raised substantive objections about the requirement for children aged over twelve years pass an integration test before being able to rejoin the applicant's family. It further objected to the requirement that applications for minors be submitted before they turned 15. Finally, it balked at the requirement that the applicant must have resided in the country in which the application was being made before they could be joined by members of their own family. These requirements, argued the Parliament, were incompatible with rights established by "the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 ('the ECHR') and as they result from the constitutional traditions common to the Member States of the European Union, as general principles of Community law; the Union has a duty to respect them pursuant to Article 6(2) EU, to which Article 46(d) EU refers with regard to the actions of institutions" (European Court of Justice, 2006: para. 30).

The Grand Chamber of the ECJ rendered its judgment on 27 June 2006 in which it dismissed the Parliament's action for annulment. The Court rejected the EP's arguments, stating that "the various texts dealing with fundamental rights do not give the members of a family the subjective right to be admitted into the territory of a Member State; [that] compulsory integration tests are not illegal…; and [that] the Directive authorizes Member States to refuse reunification to children failing to apply before they turn fifteen, but in no way forbids them to consider applications from children over fifteen"(European Union, 2007). With this decision, the Directive stands as adopted, retaining the elements that were the subject of great criticism and controversy. As with the LTRD, but perhaps to an even greater extent, the Family Unification Directive was resisted by not only NGOs but critiqued also by the United Nations High Commissioner for Refugees, to no avail. NGOs interviewed expressed frustration with the course the document took, judging themselves as having been "relatively unsuccessful" in influencing the final text. A decision-making climate that emphasized caution based on security concerns appeared to trump whatever human rights based rhetoric that was being advanced by NGOs and despite their best efforts to mobilize against the restrictive elements that surfaced in the various drafts, even the more sophisticated Brussels-based NGOs and NGO coalitions came up short (Uçarer, 2008). In fact, the Family Reunification Directive was the most contentious of the policy initiatives highlighted here.

Conclusions

EU's TCN portfolio has been evolving since the Union received a mandate with the Maastricht and Amsterdam Treaties. While there has been considerable output when it comes to

immigration policies that regulate admission of TCNs into EU territory, progress on EU-wide migrant policies is much more modest. Even more modest yet is the work on integration of TCNs. Nonetheless, there is a clear articulation of the need to pay more attention to the rights of TCNs within the context of the liberal democracies in which TCNs live. It is not accidental that proponents of better articulation of TCN rights consciously link their arguments to the Union's well-established norms of nondiscrimination and equality of treatment. While these norms are most frequently applied to employment in the context of the common market and its attendant freedom of movement provisions, the evolving discourse stresses the incompatibility of rights-deprived TCNs with the principles of democratic inclusion, especially in an era where many EU member states have long-standing stocks of TCNs. The Commission, the Parliament, and Brussels-based NGOs have been pushing for social and legal inclusion of TCNs in a terrain that is increasingly diverse, pushing for appropriate measures in the spheres of migrant and immigrant policies. The particular cases highlighted above suggest that instruments that proved not particularly contentious, such as the Race Directive, were drafted and shepherded through the decision-making process by tying them to established and noncontroversial principles of the Union, particularly those principles that underscored long-standing commitments to nondiscrimination. The more contested instruments, on the other hand, such as the LTRD and the Family Unification Directive were those that were eventually cast as policies having to do with admission of migrants which allowed for restrictionist and ultimately exclusionary logics to prevail.

Although efforts to spell out some rights for certain kinds of TCNs have born some fruit, the policy-making process demonstrates significant contention among the stakeholders in the policy-making process. The policy tracing exercise presented above suggests that migrants' rights advocates have found this a frustrating environment in which to work. Despite the emergence of a professional cadre of NGO entrepreneurs in Brussels which attempts to engage their dossier at multiple levels (national, regional, and international), in multiple settings (EU institutions and regional/national media), at various points in the policy cycle (conceptualization, formulation, adoption, and implementation), and through multiple strategies (agenda setting, solution development, networking, framing, and accountability seeking), the impact of civil society organizations have been frustrated by the closed nature of the Council. The recent securitization of the immigration portfolio has also hampered efforts to develop instruments that would be regarded as appropriately inclusive and protective when scrutinized from a human rights perspective. The result has been the frequent display of contentious engagements between NGOs and the EU decision-making apparatus and the not-too-infrequent disagreements amongst the EU institutions themselves. Furthermore, the frequently divergent national perspectives on appropriate common policies, and a decision-making environment that has generated initiatives at a minimalist level have made managing the Union's migration-enhanced diversity a significant challenge. As a result, the current policy output is long on restrictions and exclusions and modest on rights and protections for the majority of TCNs.

Bibliography

Ackers, Doede. 2005. The Negotiations on the Asylum Procedures Directive. *European Journal of Migration and Law* 7 (1): 1-34.

Barret, Gavin. 2003. Family Matters: European Community Law and Third-Country Family Members. *Common Market Law Review* 40 (2): 369-421.

Bendel, Petra. 2005. Immigration Policy in the European Union: Still Bringing up the Walls for Fortress Europe? *Migration Letters* 2 (1): 20-31.

Benhabib, Seyla. 2004. *The Rights of Others: Aliens, Residents and Citizens*. Cambridge: Cambridge University Press.

Bigo, Didier. 2002. Security and Immigration: Toward a Critique of the Governmentality of Unease. *Alternatives* 27 (SUPP/1): 63-92.

Boeles, Pieter. 2001. Directive on Family Reunification: Are the Dilemmas Resolved? *European Journal of Migration and Law* 3 (1): 61-71.

Brinkmann, Gisbert. 2001. Family Reunion, Third Country Nationals and the Community's New Powers. In *Implementing Amsterdam: Immigration Ans Asylum Rigts in Ec Law*, edited by Elspeth Guild and Carol Harlow, 241-66. Oxford: Hart Publishing, 2001.

Carrera, Sergio. 2005. 'Integration' as a Process of Inclusion for Migrants? The Case of Long-Term Residents in the EU. In *Migration, Integration and Citizenship: A Challenge for Europe's Future*, edited by Hildegard Schneider, 109-37. Maastricht: Forum Maastricht, 2005.

Castles, Stephen, and Mark J. Miller. 2003. *The Age of Migration: International Population Movements in the Modern World*. 3rd ed. New York: The Guilford Press.

Ceyhan, Ayse, and Anastassia Tsoukala. 2002. The Securitization of Migration in Western Societies: Ambivalent Discourses and Policies. *Alternatives* 27: 21-41.

Cholewinski, Ryszard. 2002. Family Reunification and Conditions Placed on Family Members: Dismantling a Fundamental Human Right. *European Journal of Migration and Law* 4 (3): 271-90.

Chopin, Isabel. 1999. *The Starting Line Group: A Harmonised Approach to Fight Racism and to Promote Equal Treatment*: Kluwer Law International.

Churches Committee for Migrants in Europe. The New EU Directive on Family Reunification: Right for Families to Live Together or Right for EU Member States to Derogate from Human Rights? Brussels, 2003.

Council of the European Union. 1968. Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on Freedom of Movement for Workers within the Community. *Official Journal of the European Communities* L 257 (19.10.): 2-12.

———. Presidency Conclusions: Tampere European Council, 15 and 16 October 1999. 1999.

———. 2000. Council Directive 2000/43/Ec of 29 June 2000 Implementing the Principle of Equal Treatment between Persons Irrespective of Racial or Ethnic Origin. *Official Journal of the European Communities* L180: 22.

———. 2003a. Council Directive 2003/86/Ec of 22 September 2003 on the Right to Family Reunification. *Official Journal of the European Communities* L251: 12.

———. 2003b. Council Directive 2003/109/Ec of 25 November 2003 Concerning the Status of Third-Country Nationals Who Are Long-Term Residents. *Official Journal of the European Communities* L16 (44).

———. Thessaloniki European Council Presidency Conclusions, 19 and 20 June 2003. 2003c.

———. 2004. Directive 2004/38/Ec of the European Parliament and of the Council of 29 April 2004 on the Right of Citizens of the Union and Their Family Members to Move and Reside Freely within the Territory of the Member States Amending Regulation (EEC) No 1612/68 and Repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC. *Official Journal of the European Communities* L 158 (77).

ECRE. Ecre Information Note on the Council Directive 2003/86/Ec of 22 September 2003 on the Right to Family Reunification. Brussels, 2003.

European Commission. Communication from the Commission to the Council and the European Parliament on Immigration and Asylum Policies. Brussels: European Commission, 1994.

———. Proposal for a Council Directive on the Right to Family Reunification. Brussels: European Commission, 1999.

———. Amended Proposal for a Council Directive on the Right to Family Reunification. Brussels: European Commission, 2000.

———. Proposal for a Council Directive Concerning the Status of Third-Country Nationals Who Are Long-Term Residents. Brussels: European Commission, 2001.

———. Amended Proposal for a Council Directive on the Right to Family Reunification. Brussels: European Commission, 2002.

———. Proposal for a Council Decision Establishing the European Fund for the Integration of Third-Country Nationals for the Period 2007-2013 as Part of the General Programme ‘Solidarity and Management of Migration Flows’. Brussels: European Commission, 2005a.

European Court of Justice. Judgment of the Court (Grand Chamber). 2006.

European Union. 1997. Treaty on European Union (Consolidated Text). *Official Journal of the European Communities* C340.

———. Family Reunification. 2007.

Geddes, Andrew. 2000. *Immigration and European Integration: Towards Fortress Europe?* Manchester: Manchester University Press.

Geddes, Andrew, and Virginie Guiraudon. 2004. Britain, France, and EU Anti-Discrimination Policy: The Emergence of an EU Policy Paradigm. *West European Politics* 27 (2): 334-53.

Groenendijk, Kees. 2001. Security of Residence and Access to Free Movement for Settles Third Country Nationals under Community Law. In *Implementing Amsterdam: Immigration and Asylum Rights in Ec Law*, edited by Elspeth Guild and Carol Harlow, 225-40. Oxford: Hart Publishing, 2001.

———. 2004. Legal Concepts of Integration in EU Migration Law. *European Journal of Migration and Law* 6 (2): 111-26.

Groenendijk, Kees, and Elspeth Guild. 2001. Converging Criteria: Creating an Area of Security of Residence for Europe's Third Country Nationals. *European Journal of Migration and Law* 3: 37-59.

Guiraudon, Virginie. 2003. The Constitution of a European Immigration Policy Domain: A Political Sociology Approach. *Journal of European Public Policy* 10 (2): 263-82.

Halleskov, Louise. 2005. The Long-Term Residents Directive: A Fulfillment of the Tampere Objective of near-Equality? *European Journal of Migration and Law* 7 (2): 181-202.

Hammar, Tomas. 1985a. Dual Citizenship and Political Integration. *International Migration Review* 19: 438-50.

———. 1985b. *European Immigration Policy: A Comparative Study*. Cambridge: Cambridge University Press.

Huysmans, Jef, and Alessandra Buonfino. Politics of Exception & Unease: Immigration, Asylum and Insecurity in Parliamentary Debates on Terrorism in the Uk. In *Annual Convention of the International Studies Association*. San Diego, CA, 2006.

Koslowski, Rey. 1997. Migration and the Demographic Contest of European Political Institutions. In *Immigration into Western Societies*, edited by Emek M. Ucarer and Donald J. Puchale, 70-94. London: Pinter, 1997.

Kostakopoulou, Theodora. 2002. Integration, Non-EU Migrants in the European Union: Ambivalent Legacies and Mutating Paradigms. *Columbia Journal of European Law* 8 (2): 181-201.

Lavenex, Sandra. 2001. *The Europeanisation of Refugee Policies: Between Human Rights and Internal Security*. Aldershot: Ashgate.

———. 2006. Towards the Constitutionalization of Aliens' Rights in the European Union? *Journal of European Public Policy* 13 (8): 1284-301.

Lavenex, Sandra, and William Wallace. 2005. Justice and Home Affairs: Towards a European 'Public Order'? In *Policy-Making in the European Union*, edited by Helen Wallace, William Wallace and Mark Pollack. Oxford: Oxford University Press, 2005.

Niessen, Jan. 2000. The Starting Line and the Promotion of EU Anti-Discrimination Legislation: The Role of Policy Oriented Research *Journal of International Migration and Integration* 1 (4).

Nussbaum, Martha C. 2006. Capabilities, Human Rights, and the Universal Declaration. In *Human Rights in the World Community*, edited by Richard Pierre Claude and Burns H. Weston, 27-39. Philadelphia: University of Pennsylvania Press, 2006.

Peers, Steve. 1999. Raising Minimum Standards or Racing to the Bottom?: The Commission's Proposed Migration Convention. In *The Legal Framework and Social Consequences of Free Movement of Persons in the European Union*, edited by Elspeth Guild. The Hague: Kluwer, 1999.

———. 2004. Key Legislative Developments on Migration in the European Union. *European Journal of Migration and Law* 6 (1): 67-91.

Pierson, Paul. 2004. *Politics in Time*. Princeton: Princeton University Press.

Schneider, Hildegard. 2005. Towards a European Migration Policy: From Maastricht to Amsterdam, from Tampere to the Hague. In *Migration, Integration and Citizenship: A Challenge for Europe's Future*, edited by Hildegard Schneider, 7-33. Maastricht: Forum Maastricht, 2005.

Theele, Tessa. 2005. Rights of Turkish Workers on the Basis of the EEC/Turkey Association Agreement. In *Family Rights and Immigration Law: A European Perspective*, edited by Hildegard Schneider. Maastricht: Forum Maastricht, 2005.

Tyson, Adam. 2001. The Negotiation of the European Community Directive on Racial Discrimination. *European Journal of Migration and Law* 3 (2): 199-229.

Uçarer, Emek M. 2006. Burden-Shirking, Burden-Shifting, and Burden-Sharing in the Emergent European Asylum Regime. *International Politics* 43 (2): 219-40.

———. 2007. Justice and Home Affairs. In *European Union Politics*, edited by Michelle Cini, 304-19. Oxford: Oxford University Press, 2007.

———. 2008. Safeguarding Asylum as a Human Right: NGOs and the European Union. In *Transnational Activism in the UN and EU: A Comparative Study*, edited by Jutta Joachim and Birgit Locher, 121-39. London: Routledge, 2008.

UNHCR. New EU Rules May Keep Refugee Families Apart, Warns UNHCR. Geneva, 2003.

Van Der Velde, Sandrine. 2003. The Development of the EU Right to Family Reunification in the Context of International Human Rights Protection. PhD, European University Institute.

Wiener, Antje, "Constructivism and Sociological Institutionalism", in: Cini, Michelle & Bourne, Angela (eds). Palgrave Advances in European Union Studies, New York: Palgrave, 2006, pp. 35-55.