

University of Alberta

**The European Union's Migration Co-operation with Its Eastern Neighbours:
The Art of EU Governance beyond its Borders**

by

Lyubov Zhyznomirska

A thesis submitted to the Faculty of Graduate Studies and Research
in partial fulfillment of the requirements for the degree of

Doctor of Philosophy

Department of Political Science

©Lyubov Zhyznomirska

Spring 2013
Edmonton, Alberta

Permission is hereby granted to the University of Alberta Libraries to reproduce single copies of this thesis and to lend or sell such copies for private, scholarly or scientific research purposes only. Where the thesis is converted to, or otherwise made available in digital form, the University of Alberta will advise potential users of the thesis of these terms.

The author reserves all other publication and other rights in association with the copyright in the thesis and, except as herein before provided, neither the thesis nor any substantial portion thereof may be printed or otherwise reproduced in any material form whatsoever without the author's prior written permission.

ABSTRACT

The dissertation explores the European Union's (EU) migration relations with Ukraine and Russia since the break-up of the Soviet Union, up until 2011. Utilizing a comparative research design and discursive analytical approach, it critically examines the external dimension of the EU's immigration policies in order to understand how the EU's "migration diplomacy" affects the cooperating countries' politics and policies on migration. The research evaluates the EU's impact by analyzing the EU-Ukraine and EU-Russia co-operation on irregular migration and the mobility of their citizens through the prism of the domestic discourses and policies on international migration. Personal interviews with government officials, official documents and media analysis uncovered the discourses in the EU and the cases under study. Both Ukraine and Russia have securitized immigration into and through their territories. They are characterized by unique discourses but share similar exclusions of foreigners. The EU's impact is evident not only in the case studies' normative (i.e., laws and bureaucratic procedures and rules) and material (i.e., physical infrastructure of the border or construction of detention centres) adjustments to the EU's demands and policy conditionalities, but also in their discursive negotiations of their own status in the international hierarchy of states concerning international migration. The researcher observes the processes of the Europeanization of migration politics and policies in both countries.

What such migration co-operation does for inter-state relations in Europe comprises a second research focus of the thesis. The dissertation documents how the EU conducts its migration diplomacy and analyzes what kind of international migration governance the EU produces by seeking migration partnerships with non-EU countries. Drawing on critical security studies and the governmentality literature, the dissertation advances an argument that the

external dimension of the EU's "comprehensive migration management" – consolidated under the framework of the EU's Global Approach to Migration (GAM) – informs and represents the EU's ambitions to increase its international influence on internal security. The GAM emerges as a political rationality that allows a reordering of the EU's relations with non-EU countries, specifically those in close vicinity.

Acknowledgement

There are people whom I would like to thank for helping me to persevere and make this dissertation happen.

My supervisors, Dr. Yasmeeen Abu-Laban and Dr. Laurie E. Adkin, supported me every step of the way in my journey. Their advice was valuable and insightful, and I always appreciate their mentorship. They both supported my numerous applications for scholarships with their reference letters, for which I am very grateful. In my first publication efforts, Dr. Abu-Laban and Dr. Adkin were there for me with constructive and much needed feedback and guidance.

I thank Dr. Rob Aitken for multiple conversations about my research and for those eureka moments that I needed to get this thesis to completion. His mentorship and intellectual guidance through the richness of the International Relations field is also very much appreciated.

Dr. David Marples and Dr. Lois Harder – each at different stages in my research project – provided me with much needed place of refuge for a graduate student in need of a comfortable place to think and write. My summers on campus would have been much lonelier if not for my office neighbour Dr. Judith Garber. I also thank Dr. Joan DeBardeleben, who, as chair or discussant, commented on the various pieces of this dissertation at conferences.

I am grateful to my fellow graduate students with whom I shared many joys and frustrations in these years: Nisha Nath, JD Crookshanks, Geert Decock, Daniel Preece, Maya Seisha, Megan Mackenzie, Stephanie Martens, Kyla Sentes, and Jurgita Kornijenko.

I am grateful to all my interviewees and to those who housed, fed and comforted me during the field research stretching to three countries. To the leaders and participants of the ECPR IR Summer School in Tartu, Estonia, in August 2009, I also extend my thanks.

My research had been generously funded by: the Social Sciences and Humanities Research Council of Canada, the U of A Faculty of Graduate Studies and Research, the University of Alberta, the Department of Political Science at the U of A, the Province of Alberta, the Council for European Studies, the Edmonton Consular Corps, and the U of A International.

I am also thankful to a wide community of professionals who are in the business of assisting ABDs in becoming PhDs. The procrastination moments felt so much more productive when I was reading various “how-to” online resources and productivity blogs prepared by these people.

My deepest gratitude goes to my husband, Sergiy Zhyznomirskyy. His encouragement, support, love, and caring heart were essential in finishing this PhD, as well as was his tolerance for many late nights, missed parties and weekends filled with my work. I dedicate this work to you, Sergiy.

TABLE OF CONTENTS

Abstract	
Acknowledgement	
Table of Contents	
List of Tables and Figures	
List of Abbreviations	
Introduction	1-16
0.1 Statement of the Problem.....	1
0.2 Main Research Questions, Focus and Core Argument of the Dissertation.....	3
0.3 Purpose and Scope of the Research and Case Selection.....	7
0.4 Significance of the Research.....	12
0.5 Outline of the Dissertation.....	15
Chapter 1: Theoretical Issues and Research Methodology.....	17-59
Introduction.....	17
1.1 Literature Review.....	18
1.1.1. Immigration Research in the EU Studies Literature.....	18
1.1.2. Immigration Research in Critical Security Studies.....	38
1.1.3. The EU as an International Actor.....	41
1.2 Conceptual Framework.....	47
1.3 Research Methodology.....	52
Chapter 2. The EU as an Area of Freedom, Security and Justice: The	
Construction of the EU’s Internal Security Model, 1985 – 2010.....	60-91
Introduction.....	60
2.1 Theorizing the External Dimension of the EU’s JHA Policies.....	61
2.2 The Formation of the ED-JHA Policy Domain: From Tampere to Stockholm...	66
2.2.1 The Significance of the Intra-EU Internal Security Co-operation.....	67
2.2.2. The ED-JHA and the Construction of a “Home” Security Model.....	71
2.3 The European Neighbourhood Policy (ENP) and the EU as the Area of	
Freedom, Security and Justice.....	84

Conclusions.....	88
Chapter 3. The Changing Landscape of Migration Management in Europe, 1991-2010: In Search of Common Interests and Willing Partners.....	92-150
Introduction.....	92
3.1 Harmonization of the European Immigration Policies: Delegating the Control Functions to the EU Level.....	96
3.2. A Genealogy of the EU’s “Migration Diplomacy”.....	102
3.3. The EU’s versus Third Countries’ Interests in International Migration Regulation: Inventing Tools, Rationalities and Techniques.....	110
3.3.1. Readmission Agreements as a Foreign Policy Tool.....	112
3.3.2. Security Paradigm versus Development Paradigm in the EU’s External Migration Relations: The Post-Hague Developments.....	127
3.3.3. The Global Approach to Migration: the EU’s Toolbox of Influence?	133
3.3.4. Migration Partnerships: Shared Responsibility and Solidarity?	140
3.4 Population, Territory, Sovereignty.....	143
Conclusions.....	147
Chapter 4. Migration Policy and Politics in Ukraine and Russia, 1991-2011.....	151-210
Introduction.....	151
4.1 Ukraine: Entering the World Map of Contemporary International Migration....	153
4.1.1 Ukraine – a Country of Emigration, Transit Migration, and Immigration	154
4.1.2. Migration Flows and Politics of the 1990s-early 2000s.....	159
4.2 Understanding the Migration Situation in Post-Soviet Russia.....	171
4.2.1. Post-Soviet Russia and Migration Flows: The Migration Politics of the ex-Empire.....	172
4.2.2. Migration Politics and Policy: 1991-2010.....	179
4.2.3. Russia’s Regional Role in the Pan-European Migration Regime.....	202
4.3 “Transit” as a Category of Governance.....	204
Conclusions.....	208
Chapter 5. Ukraine: Europe’s “Courtyard with a Through Passage”?	
Europeanization of Migration Control.....	211-275

Introduction.....	211
5.1. European Integration and Irregular Migration: Engaging the “Transit” Country in Readmission and Migration Policy Reform.....	212
5.1.1 EU-Ukraine Political Co-operation.....	215
5.1.2 The 1990s: Setting the Stage for Irregular Migration Co-operation.....	217
5.2. Readmission: Institutionalizing the Mechanism of Return in Europe.....	233
5.2.1. The EU-Ukraine Negotiation of the Readmission Agreement.....	234
5.2.2. The Effects of the Readmission Agreement.....	247
5.3. “Towards an Orderly Mobility in a Secured Environment:” Facilitating the Mobility of Bona Fide Travelers.....	252
5.3.1. Visa Discussions between the EU and Ukraine.....	255
5.3.2. “Visa Dialogue” versus “Visa-Free Dialogue:” What’s in a Name?	259
5.3.3. Formalities of the Visa Dialogue: 2008-2010.....	262
5.3.4. Incentivized Reforms.....	266
Conclusions.....	269
Chapter 6. The EU and the Russian Federation: Negotiating Citizens’ Mobility in Times of (In)Security.....	276-327
Introduction	276
6.1 EU-Russia Co-operation on Internal Security, 1994-2010: Towards a Common Space of Freedom, Security and Justice?	279
6.2 EU-Russia Co-operation on Irregular Migration.....	286
6.2.1. Irregular Immigration and Kaliningrad Transit.....	288
6.2.2. Negotiation of the EU-wide Readmission Agreement.....	293
6.2.3. Modernizing the “Bridges:” Co-operation on Border Management.....	305
6.3. EU-Russia Visa Dialogue: “How Long is Long?”.....	309
6.3.1. The EU’s Eastern Enlargement and the Visa Question.....	312
6.3.2. Getting Formal: Introducing a Visa Dialogue, 2007-2010.....	318
Conclusions.....	325
Chapter 7. Research Findings and Theoretical Implications.....	328-376
Introduction.....	328
7.1 Evaluating the EU’s Externalized Management of Migration.....	330

7.2 The EU’s Governing of Immigration “at a Distance”	335
7.3 Factors Determining EU/Third Country Migration Co-operation.....	345
7.4 The Consequences of the EU’s migration diplomacy for Ukraine and Russia...	349
7.5 The Possibilities for Future Research.....	357
Conclusions.....	360
Bibliography.....	363
Appendix I. List of Interviewees.....	392

List of Tables and Figures

Figure 1.1, p. 54	The Research Components
Figure 1.2, p. 57	The Research Design
Table 4.1, p. 154	Central Executive Bodies Involved in Migration Issues and Their Responsibilities
Table 5.1, p. 225	Projects Financed by the European Commission in Ukraine, millions EUR
Table 5.2, p. 235	The Timeline of the Readmission and Visa Facilitation Negotiations
Table 6.1, p. 311	The Negotiation of the Visa Regime between the EU and Russia
Table 7.1, p. 351	EUrope's Impact on Ukraine and Russia

List of Abbreviations

AFSJ	Area of Freedom, Security and Justice
AP	Action Plan
CARDS	Community Assistance for Reconstruction, Development and Stabilisation
CEECs	Central and Eastern European Countries
CFSP	Common Foreign and Security Policy
CIS	Commonwealth of Independent States
CSFSJ	Common Space of Freedom, Security and Justice
CSP	Country Strategy Paper
DCI	Development Co-operation Instrument
DG	Directorate-General
DG HA	Directorate-General Home Affairs
DG JLS	Directorate-General Justice, Liberty and Security
DG RELEX	Directorate-General External Relations
EaP	Eastern Partnership
ED-JHA	External Dimension of Justice and Home Affairs
EISS	European Internal Security Strategy
ENP	European Neighbourhood Policy
ENPI	European Neighbourhood Policy Instrument
ESDP	European Security and Defence Policy
ESS	European Security Strategy
EU	European Union
EUBAM	European Union Border Assistance Mission to Ukraine and Moldova
FMS	Federal Migration Service of Russia

FRONTEX	The European Agency for the Management of Operational Co-operation at the External Borders of EU MSs
GAM	Global Approach to Migration
GAMM	Global Approach to Migration and Mobility
HLWG	High Level Working Group on Asylum and Migration
JHA	Justice and Home Affairs
IBM	Integrated Border Management
ICMPD	International Centre for Migration Policy Development
IGO	Intergovernmental Organization
ILO	Immigration Liaison Officers
IOM	International Organization for Migration
ISS	Internal Security Strategy
KO	Kaliningrad Oblast ⁷
MEDA	Financial and Technical Measures to Accompany the Euro-Mediterranean Partnership
MIA	Ministry of Internal Affairs of Ukraine
MS	Member State
MVD	Ministry of Internal Affairs of Russia
NGO	Non-governmental Organization
NIP	National Indicative Programme
NIS	Newly Independent States (i.e., ex-Soviet republics)
NPE	Normative Power Europe
PCA	Partnership and Co-operation Agreement
PHARE	Poland and Hungary: Assistance for Restructuring their Economies

RABIT	Rapid Border Intervention Teams
RF	The Russian Federation
SIS	Schengen Information System
SU	The Soviet Union
TACIS	Technical Assistance to the Commonwealth of Independent States
TCN	Third-Country Nationals
TP	Thematic Programme
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
VIS	Visa Information System

INTRODUCTION

0.1 Statement of the Problem

From the Treaty of Maastricht (1992) to the Treaty of Lisbon (2009), European Union (EU) member states (MSs) have increased the EU competence on immigration, asylum, and external borders. The enlargement and ever-deeper integration of the EU have gradually led to a common migration regime, created through the harmonization of immigration and asylum policies within EU MSs. This regime can be understood as an “entirety of formal and informal directives, regulations, practices, and conventions adopted at the level of EU institutions that regulate the movement of persons across borders and the entry and stay of non-EU nationals in the common territory” (Lavenex and Uçarer 2003, 3). It contributes to the development of an exclusive “area of freedom, security and justice” for European citizens where free movement of persons is assured by taking necessary steps with regard to external border controls, asylum, immigration and crime prevention.

In parallel to internal developments of the EU Justice and Home Affairs (JHA) laws and institutions (where migration, asylum and external border issues belong), the EU has pursued close co-operation with non-EU countries by integrating immigration and asylum objectives into its external policy. Since the 1990s, the Union and its MSs have gradually been transferring the burden of securing their internal order from irregular migrants, terrorists, criminal groups and other “threats” to neighbouring countries, using policy transfers and foreign relations mechanisms (Lavenex 2004; Grabbe 2000, 2006; Boswell 2003a, 2003b). Central and Eastern European countries had to adopt these and other justice and home affairs norms, policies and practices as part of the requirements for EU membership (Vachudova 2000; Grabbe 2003). With the next circle of neighbouring countries in the east, the EU included readmission clauses into its

Partnership and Co-operation Agreements (PCAs) with them. With the EU's southern neighbours, irregular migration co-operation was institutionalized through association agreements and the launch of an intergovernmental forum, the so-called Barcelona Process, in 1995. As a result, the EU migration regime was extended to the countries that bordered EU territory, with the EU using the instruments at its disposal (i.e., political/diplomatic relations, economic instruments and development aid) to reach its internal and external policy goals.

Clearly, the EU's political pressure on the neighbouring countries that are part of the enlargement process can be justified and these countries' compliance can be explained by the EU's "transformative power" of conditionality (Grabbe 2006) but it is less clear why countries without membership promise or membership aspiration coordinate their migration and border policies – the policy areas deemed to be sovereignty-sensitive ones – with the European Union and comply – or do not comply – with EU demands.¹ It is not clear whether EU demands to non-member countries with no membership prospect are similar to or different from what has been demanded from the accession countries regarding migration and border controls. In addition, from the foreign policy perspective, it is unclear what impact the EU's pressure produces on domestic politics and what responses it triggers in non-EU countries. It is worth examining how the EU's representation of its migration regulation correlates with its actions in order to better understand the EU's "normative power" in the migration policy area.

The EU, seeking to secure itself and to project its power and influence in the world, has innovatively approached migration problems by trying to incorporate the countries of origin and transit into its own regime of migration regulation. Such policies and practices of the European Union arguably shift the burden of migration management away from the European core closer

¹ The questions about compliance and international norm adoption have been asked mainly within the international organizations literature that focuses on the effect of international organizations on norm compliance by states.

to the territories of the sending countries that have varying capacities to ensure the protection and welfare of immigrants and asylum seekers. Identifying the patterns of inter-state co-operation being established requires careful exploration because the changes in the regional governance of international migration apply to the area where states used to claim exclusive sovereign right to control of respective territories and populations.

0.2 Main Research Questions, Focus and Core Argument of the Dissertation

This study was undertaken in order to provide a contextualized analysis of the inter-state regime of migration management that is being established in Europe and to account for the place of migration issues in current international relations. “Migration management” has been used to refer to at least three trends (Geiger and Pécoud 2010). First of all, “it is a notion that is mobilized by *actors* to conceptualize and justify their increasing interventions in the migration field.” Secondly, it “refers to a range of practices that are now part of migration policies, and that are often performed by the institutions that promote the notion” (e.g., counter-trafficking, capacity-building activities). Thirdly, it “relies on a set of discourses and on new narratives regarding what migration is and how it should be addressed” (Geiger and Pécoud 2010, 1-2, original italics). This dissertation focuses on the official state discourses and practices on “migration management” in Europe. It examines them as a particular case of developing inter-state migration relations by documenting how the EU shapes migration governance in Europe through promotion and “normalization” of “comprehensive migration management” and with what consequences for eastern neighbouring countries. Since the EU presents migration co-operation as an important part of its relations with non-EU countries, it is worth investigating whether and how the European Union’s “comprehensive approach to migration,” which includes

the offer of “migration partnership” and joint migration management initiatives with third countries, shape migration policies and politics of the cooperating countries. The dissertation hence asks the following key questions:

- *How does the EU conduct its “migration diplomacy” and what are the consequences for non-EU Eastern European countries?*

It also asks a secondary question: *what kind of international migration governance does the European Union help to produce by seeking co-operation on migration with non-EU countries?*

My analysis is mainly situated at the level of inter-state relations, and I focus on discourses and practices of state actors and inter-state formations in order to capture any shifts in sovereignties and territorial controls exercised by the state regarding human mobility. I examine how state authorities seek to regulate the movement of *the foreigner*, as it is the foreigner – presumably mobile and crossing the national borders – who is of interest to states when targeting mobility and (migratory) movement (Guild 2009). The foreigner, unless s/he is stateless, is a citizen of some country or even countries (in cases of individuals possessing multiple citizenships). It is the treatment and mobility of non-nationals that governments target when they co-operate on migration. In the currently promoted regime of *global* migration regulation, states negotiate their responsibility for accepting a foreigner that, both legally and illegally, seeks access to a territory other than his country of birth or residence. Hence, the citizen-foreigner binary is at the core of inter-state co-operation and negotiations.

In the thesis, I argue that the EU directly or indirectly acts beyond its territorial jurisdiction and directs resources and technologies to shape institutional capacities, approaches and activities of the governments in non-member states so that they may deal with immigration potentially destined into EU territory. Non-governmental and intergovernmental organizations

are actively involved in normalizing and popularizing norms of migration regulation in the countries considered – from the EU’s point of view – to have inadequate systems of migration management. I further argue that cooperating governments of third countries have their own interests and play their roles in establishing a repressive and control-oriented regime of migration management towards Europe (in the broader sense of understanding of Europe). The model that is being presented as “global” is shaped by concerted government actions on both sides of the borders, and the actions are first of all deployed in regards to the mobility of citizens of third countries, rather than to that of their own nationals.

My usage of the concept the “EU’s migration diplomacy” reveals an assumption that the European methods and practices of regulating migration towards its territory have become deeply intertwined with the EU’s external relations. Moreover, as this thesis shows, securitization of migration and the externalization of migration controls are part of the threat construction that is characteristic of foreign policy discourses; the latter discourses construct the difference between “us” and “them” (Campbell 1998). Following post-structuralist foreign policy analysis, I show that migration and internal security discourse is one of the domains informing the EU’s foreign policy. Asylum and immigration issues have been embedded in a security problematique, rather than explicitly asserted as threats (Huysmans 2006, 3). As immigration policy has shifted from being a purely national domain to an inter-state domain of policy and action, immigration in inter-state relations is no longer purely interpreted in its traditional understanding through the lens of the nation-state’s sovereignty (e.g., territorial expansion through migration). Concerns about migration are increasingly expressed in terms of a more humanistic and co-operative governance of migration through bilateral and multilateral agreements and “shared responsibility” between sending, receiving and transit countries. Despite

the rhetoric, the migration regime being established reflects the hierarchical positioning of sending and receiving countries that perpetuates the privileged position of “western” knowledge, expertise, experiences and concerns. What such co-operation on migration management does for states co-operating with the EU comprises a second research focus of this project.

By interrogating the governance of migration on the European continent, I also aim to contribute to the debates about the EU’s external relations. By denaturalizing the taken for granted – and expected – increasing influence of the Union in internal security matters, I explore what openings and closures a growing “mainstreaming” of migration into the EU’s policies and, for that matter, into MSs’ bilateral policies with third countries, creates for the Union when it pursues “migration partnerships” with countries of origin and of transit for migrants in an attempt to establish a “global” approach to international migration management.² Population management is arguably at the centre of various modes of governance, and interrogating international migration management in Europe provides insights into the modes of governance that transcend states’ territorial borders. Under the currently dominant neoliberal model of international governance, international migration management has become an additional policy space through which the world populations are governed, with intervention into and steering of so-called developing and badly governed states. States are intrinsic actors in the construction of migration and the constitution of migration flows (Zolberg 1994; Joppke 1998). Inter-state relations have an impact on migration as a phenomenon and on individual migrants as agents moving across state borders. In the case of the European Union’s co-operation with non-EU

² I acknowledge the politically loaded connotations of the terms “countries of origin” and “transit countries” (see also Düvell (2008)). The concept of “transit” country clearly denotes the impermanent nature and ambiguous status of these countries in the international migration system. As it points to the temporality of one’s presence in a given country, it implicitly assumes migrants’ choice (i.e., transit to the EU territory) and disguises the reasons for someone’s temporal presence in the “transit country.” The value and welfare hierarchy then, becomes fixated through such assumptions.

states, I argue that a particular discourse about the “global migration challenges” functions as a governmentality that opens up additional avenues for beyond-the-borders state regulation over mobile individuals and engenders the governance of populations beyond the territorial jurisdiction of the nation-state.

0.3 Purpose and Scope of the Research and Case Selection

Why the *European Union*?

First, due to the communitarization of migration and asylum law and policy-making, the EU is the most advanced case of an inter-state regime of migration management. Moreover, it has actively pursued relations with third countries on migration and asylum since the 1990s. Indeed, by now we can talk about *European* migration policy, rather than migration policies of the European countries; the supranationalism and the transformations within the EU MSs are significant enough to allow discussion of the *Europeanization* of the migration and asylum policy-making in the EU (i.e., the development of EU policy and law limiting and extending powers of MSs regarding migration and border control) (e.g., Guiraudon and Joppke 2001, Geddes 1999, 2003, 2008; Faist and Ette 2007; Boswell and Geddes 2011). It has also become transnational (e.g., various legal instruments have been adopted at the EU level prescribing the mutual recognition of national decisions, like the Schengen Information System (SIS), Return Directive, or Visa Code). Finally, immigration controls have been “extraterritorialized,” that is, transferred beyond the external borders of the European Union through such measures as visa policies, readmission agreements with third states, and development and sharing of databases (e.g., Eurodac, SIS, and Visa Information System (VIS)). These processes of migration and border management have become part and parcel of the European integration project, especially

since the Treaty of Amsterdam (1997) proclaimed the EU's goal of constructing the "area of freedom, security and justice."

However, there is no agreement among migration specialists about the significance and importance of the migration policy-making at the EU level for member-states' policy-making and implementation (to a large extent because MSs maintain their sovereignty over implementation of the EU level policies). I suggest that it is worth differentiating between the relations, the role and the impact of EU institutions vis-à-vis MSs, on the one hand, and vis-à-vis non-member states, on the other hand. Arguably, the tensions between supranational law and policy-making, and their domestic implementation in EU MSs have little effect upon the external image of the Union. The impact of EU-level policy making beyond its territory is underestimated by those who see the lack of internal consensus concerning harmonization of immigration and asylum policies as impeding the EU's impact externally. The term "EU's migration diplomacy" signifies a scope of formal and informal rules, practices and procedures that have consequences for the management of migration to the EU territory and are implicitly or explicitly directed at third states. I focus only on *beyond-the EU borders* co-operation, rather than internal integration processes in the EU, and present a detailed account of the processes that have been taking place in the neighbouring countries of the European Union and that, explicitly or implicitly, have to do with the EU's external relations in the field of justice and home affairs, particularly, on migration and border management (as the latter relates to migration management).

While acknowledging the complicated nature of inter-institutional competition, the complicated nature of the division of competences between MSs and EU institutions, and inter-state pressures and interests, I studied the compound effect of the European Union on third countries. In the dissertation, inter-state and inter-institutional politics of migration law and

policy-making in the EU are not discussed, unless pertinent to the arguments made or the information provided.³ Similarly, no general analysis of the role of different EU policy actors was undertaken, as it is beyond the scope of the dissertation. Instead, I treated official discourses emanating from any EU body as representative of the *EU* policy discourse.

Why the EU's *eastern neighbouring countries*?

When I embarked on this project in 2005, some work had been done on the accession countries, but little on Eastern Europe – specifically, the post-soviet region. Having had the area knowledge and the knowledge of Russian and Ukrainian languages, I was interested in doing research on Eastern Europe. After the eastern enlargement, thanks to the new members' foreign policy orientations, the EU's attention to the east had increased, with an emphasis on the urgency of redefining relations with Russia. As in 2005, the EU started implementing its new foreign policy initiative towards its neighbours (i.e., the European Neighbourhood Policy, or ENP), Eastern Europe looked rather attractive as a research focus.

Evidently, Eastern Europe presents some dilemmas for the EU, including the thorny question of the definition of “Europe” and how to relate, diplomatically, to countries that are highly sensitive to this question. Unlike the southern neighbours, some of the eastern neighbours may, one day, apply for EU membership and may play a role in the European integration process. Thus, Eastern Europe provides an opportunity to analyze what role, if any, identity politics and the membership aspiration of a country play in the Europeanization of Europe and in the current European integration processes.

Why *Russia* and why *Ukraine*?

³ For more detailed accounts, consult, for example, Papagianni (2006) and Boswell (2008).

In order to understand the consequences of the externalization of the EU immigration policies and border management practices for EU neighbours (the second component of the dissertation), I designed a comparative study involving two case studies – specifically, the Russian Federation (RF) and Ukraine. There was no aim to produce a general theory applicable to all non-member states dealing with the EU; rather, the goal was to look for explanations that would be “internally” valid for each case, but also instructive for countries similarly positioned to the EU. The same factors were examined in two cases with the goal of preserving the complexity and the in-depth understanding of the cases. However, the case studies were not used as an empirical test for theoretical propositions arrived at earlier. Rather, they were used “as a medium for continued theoretical and methodological discussions” (Hansen 2006, 11).

The cases were selected in accordance with the different cases comparative method in order to consider how differently positioned countries (geopolitically, economically, and culturally) respond to EU border and migration prevention pressures. Both Ukraine and Russia are countries that face migratory pressures and are countries of origin, transit and destination for migrants. They both border the “Schengenland” and co-operate with the EU on migration and border management. Nevertheless, these two countries have different approaches to EU enlargement, and this difference allows weighing in the importance of membership aspiration as a driver of policy approximation in the field of migration.

As far as immigration is concerned, these countries have some differences, but also share some similarities. For both Ukrainian and Russian societies and governments, the phenomenon of asylum seeking in, and transit through, their territories, was a new reality to deal with at the end of the Cold War. The Soviet Union (SU) was not a signatory party to the international agreements on the protection of refugees and asylum seekers that developed post-World War II largely in response to the Cold War. Consequently, these new states had no legislative framework or institutional, technical or financial capacities to deal with humanitarian migration

flows. As far as migration policy was concerned, the Russian Federation inherited the migration policy from its Soviet republic predecessor. Ukraine, however, was part of the SU and did not have a migration policy to inherit since all republics had what was called “inter-republication migration” of a command style. Therefore, first steps taken by these countries were the adoption of the relevant norms on humanitarian migration and the status of foreigners, as well as revisions of their citizenship laws. Currently, a shrinking population and labour shortage places the Russian Federation into a group of countries competing for immigrant labour, which is not yet the case for Ukraine. The latter continues to experience labour *emigration*. Chapter 4 further elaborates the specifics of the migration situation in the two case studies.

For both Ukraine and Russia, migration and border management are salient matters in their co-operation with the European Union. Emphasis is placed on a common “combat” against illegal migration, human smuggling and trafficking, and on return and readmission of nationals and of third-country nationals transiting through their territories to the EU. During 2006-2007, both governments finalized readmission agreements (these stipulate the conditions for return of citizens and third-country nationals illegally present in the EU territory) and visa facilitation agreements for their nationals, and entered into cooperative relations with Frontex, the EU’s Agency for the Management of Operational Co-operation at the External Borders of EU MSs. Both governments aspire to have a visa-free regime with the EU.

While there has been some research done on the irregular migration situation in Ukraine (Uehling 2004; Düvell 2008; Pylynskyi 2008; Düvell and Volmer 2009), it has mainly focused on the implications for EU countries of the Ukrainian authorities’ (in)action to control migration flows through its territory effectively. In addition, our attention has been brought to the situation of asylum seekers and the human rights record of the Ukrainian governments. There has been no attention paid to the inter-state dynamic of migration co-operation between Ukraine and the EU.

Similarly, Russia has not typically been included in analyses of the EU's external relations on migration, even though Russia formally features on the EU's agenda of co-operation with third states on migration since at least 1994 when the clause about "illegal immigration" was included in the EU-Russia PCA (ratified in 1997). Russia was among the first four countries that the Council mandated the Commission to negotiate an EU-wide readmission agreement with. It has been viewed as one of the countries on the Eastern and South-eastern migration routes to the EU territory, and it has been featured in this capacity in the EU's GAM (Commission 2007). The EU-Russia dynamic offers some interesting insights into the EU's role in the institutionalization and promotion of an international migration management regime.

The cases selected allow me to examine the consequences of the EU's migration diplomacy for the EU's partners in migration management, including their migration situation and relevant policies. My goal is not only to show how the EU uses its power in relations with third states, but to also show how both the EU and third states discursively construct the sovereign limits and boundaries of their power and rule over territories, populations, goods, and things, and how they construct their place in the international system of migration regulation. This approach allows moving away from the evaluational framework of "failure or success" of the EU's policies towards third countries and instead provides thick descriptions of the interactions of the two sides involved in order to illuminate additional spaces where the power dynamics in their relationship are being formed. Such an approach broadens the analysis of the EU's impact and allows a more balanced understanding of these relationships – one in which the normative superiority of the European Union is not taken for granted.

0.4 Significance of the Research

Why should this study of immigration be of interest to those who study politics? In short, this study raises questions about the changing meaning of sovereignty and about the relationships between states. As Geddes succinctly writes, international migration should be of interest to students of politics and International Relations because:

international migration is about the social and political relations that constitute the borders of states, about the type and meaning of these borders, about changes in social and political relations between states (and their effects on migration) and about changes in relations between states (and their effects on migration). It would be a mistake to imagine that it is migration which drives these debates about the social and political relations that constitute borders. Migration is better understood as nested within a much broader and bigger debate about the future of the nation state, the meaning of territory and sovereignty and the relationship between international standards and state power (2006, 619-20).

This study responds to the need to gain knowledge of the multifaceted global role of the EU, and suggests that the EU's approach to regulating real or perceived migration challenges has both direct and indirect, both intended and unintended consequences (as argued by Lavenex and Uçarer 2004) for its relations with other states, and on international relations in general. An increased securitization of immigration has created an environment of policing, surveillance and control as the main measures to stop and siphon the movement of people. As the management of migration progressively becomes one of the top concerns in inter-state affairs, it is important to understand how the security concerns of migrant-receiving states affect the domestic politics and international positioning of transit and immigrant-sending countries.

As they evolve, the justice and home affairs policies in the EU testify to the blurring lines between domestic and international policy-making in the area that used to be viewed through the "sensitive" lens of sovereign rights and claims by the nation-state. The external dimension of the JHA seems to provide the Union with mechanisms that are used as leverage in its external relations. Moreover, we can observe that the achievement of the objectives of the internal policy of the EU (i.e. JHA) is made dependent on the EU's efficiency in dealing with third countries

and in transferring good practices of governance, respect of human rights, and the rule of law to non-EU countries (discussed in Chapter 2). Migration regulation is an area where western practices, tools and mechanisms of population stock-taking have been made dominant through co-operation on “illegal” immigration, as the countries of origin and transit have been deemed “incapable” or not “up to the level” of properly filtering and stopping “unwanted” flows towards the west. This study sought to understand what kind of changes in sovereignties and knowledge/power dynamics current students of politics are witnessing.

From the empirical point of view, this study contributes to our understanding of the consequences of the externalization of EU migration policies and of the EU’s border management practices for countries bordering the Union in the east. It interrogates the practices and processes of the EU-third states co-operation on migration and border management, aiming to discern possible changes in the modes of governance of population and in the meaning of sovereignty as a result of the European integration and the EU migration diplomacy. To accomplish this, the author investigated the impact of the European Union immigration policies on the abilities of the EU neighbours to determine their own immigration policies, and traced the domestic and foreign policy responses that the EU policies have evoked in its neighbours.

In addition, my research explores the role of identity in the EU’s interaction with non-EU states. Border and immigration are the realms through which the EU identity and its global presence and influence have been constructed. That the EU’s approach to the regulation of immigration into the EU territory went “global” in the year 2005, when the GAM was approved by the European Council, deserves a thorough empirical investigation and theoretical explanation, which has yet to be done. How the “global” is being constituted and governed, as well as what practices in inter-state relations and domestic policies become normalized, are

questions that need to be explored. The EU has been inventing language, techniques and strategies to make its neighbourhood “governable;” migration and internal security co-operation are those areas through which the EU has attempted to make the neighbourhood governable and governed.

Regarding migration studies, this study enriches our understanding of migration phenomena by studying the experiences of non-western countries. Specifically, my research opens the way to an assessment of the impact of international “migration management” discourses on the domestic migration policy choices of countries for which international migration is a recent phenomenon.

0.5 Outline of the Dissertation

Overall, two main lines of foreign policy interactions between the EU and the two countries under study are analyzed in this dissertation:

- EU / case studies co-operation on regulation of international migration flows, with focus on irregular migration. It is a new and dynamic area of intergovernmental co-operation since the 1990s, and its analysis covers how states regulate access to their territories and, presumably, political membership in the nation through policies directed at foreigners.
- EU / case studies co-operation concerning the regime of travel for their nationals, with particular attention paid to Ukraine’s and Russia’s respective foreign policy stances regarding the visa regime with the EU.

The dissertation has seven main chapters. *Chapter 1* reviews the existing literature on the topic and outlines the research methodology. *Chapter 2* situates the external dimension of the EU’s immigration policies in the context of the EU’s internal security concerns. It discusses how

the EU's identity as the "area of freedom, security and justice" is reflected in the EU's foreign policy and its relations with the neighbours. *Chapter 3* presents a review and an analysis of what has been driving the external dimension of EU policy on immigration. It explores the changing landscape of migration and border management in the European Union from the 1990s to 2011. This chapter also situates the European migration management regime and discourses in the wider international discourses on migration management. The regional dynamic of migration management in Europe is analyzed in light of the international governance of migration that has been evolving since the 1990s.

Whereas *Chapter 4* provides background information on the migration situation and policies in the cases under study, *Chapter 5* and *Chapter 6* document and analyze co-operation between the EU and Ukraine, and the EU and Russia respectively. The case studies chapters explore what challenges and opportunities confront the non-EU members cooperating with the EU on migration, as a consequence of the EU's immigration management approaches. These chapters analyze how the co-operation takes place and what pressures the eastern neighbours face.

Finally, *Chapter 7* presents the comparative analysis of the case studies and the theoretical implications of this study. In addition, it sums up the research findings and provides the answers to the questions posed in this dissertation: how does the EU conduct its migration diplomacy and to what effect for the EU's Eastern European neighbouring countries?

CHAPTER 1. THEORETICAL ISSUES AND RESEARCH METHODOLOGY

Introduction

This chapter reviews the literature that has directly dealt with the externalization of the EU's immigration and asylum policies or the EU's external relations on migration. It surveys the literature that has made distinctive contributions to the debate about the external dimension of the EU's immigration and asylum policies. These are the literatures in: 1) migration studies; 2) European integration; 3) European governance; 4) European foreign policy; and 5) critical security studies. In terms of the type of work considered, I chose to focus on the literature that develops theoretical analysis of the external dimension and/or studies the policy development. There is also a number of works that have situated more recent and formal policy development within the larger historical trajectory of European integration and the development of the JHA field (e.g. Balzacq 2009a; Walters and Haahr 2005).

The review outlines important research trends, assessing strengths and weaknesses of the existing research and pointing out the the limitations of the existing academic discussions on the topic. It also covers the literature that provides relevant theoretical tools to account for the EU's migration relations with its eastern neighbouring countries, as well as the one that helps answering the question about the kind of migration governance that the EU promotes. The chapter concludes with the theoretical propositions and research methodology of this study.

This chapter advances an argument that the EU's external migration relations can be better understood if we approach the EU's migration governance "as an eminently practical activity that can be studied, historicized and specified at the level of the rationalities, programmes, techniques and subjectivities which underpin it and give it form and effect" (Walters 2012, 2). I propose to approach the EU's migration governance as an "event" and

analyze it as a multiplicity of processes that constitute it (Foucault 1991). Deploying the governmentality analytical tool box in combination with the Europeanization research tools allows us to account for the effects of the EU's governance on non-EU countries while paying attention to the continuity of influences between those who seek to shape one's conduct and those whose conduct is being shaped. Such undertaking is possible by paying attention to how "political rationalities" of "global" migration management are subjected to refinements and critical reflections that enable the governance of the world populations to take place, when "political rationalities" are understood as a "wider discursive field in which conceptions of the proper ends and means of government are articulated" (Miller and Rose 2008, 30).

1.1. Literature Review

1.1.1 Immigration Research in EU Studies Literature

There is an agreement among scholars that, within the EU studies, the "theoretical division of labour is now between theories of European integration as theories of institutional change and theories of European governance as theories of politics, decision-making and policy-making within a given institutional framework" (Schimmelfennig 2010, 37). Within these two "camps," the literature on enlargement, the EU's external governance literature and the Europeanization literature have given the most attention to the external dimension of EU immigration and asylum policies.

The Externalities of the European Integration Project

Harmonization of immigration and asylum policies has been a latecomer in the European integration project because of its sovereignty-sensitive nature. We have two major streams of

research: one seeks to explain the supranationalisation of immigration and asylum policy-making in the EU, and another one focuses on the consequences of this supranationalisation for EU MSs. The research so far has largely addressed the institutional dynamics of decision-making on migration, the tensions between national and supranational institutions and decision-makers, and the impact of institutional arrangements on the politics of NGO activities at the EU level. One cluster of research answers the broad question of why supranational tendencies have emerged in the EU in the sovereignty-sensitive area of migration. According to intergovernmental accounts, harmonisation of immigration and asylum policies in Europe has been caused by the political-strategic choices of national executives seeking to escape the constraints of domestic policy-making on migration, and hence increase their control over decision-making in this area (Guiraudon 2003b, 2006; Geddes 2005; Lavenex 2006). Guiraudon (2003b) has dubbed this strategy vertical “venue-shopping.” In line with the argument about the EU having an “added value” to MSs’ actions and policies, Boswell (2003a) argues that, through international co-operation on immigration, European governments pursue three types of policy goals: 1) control of illegal entry and human trafficking, 2) “burden-sharing,” and, 3) migration prevention.

In comparison, neo-functionalists view integration on immigration matters as a result of a “functional spill-over” from the Single Market policies and/or “unintended consequences” from other policy areas, such as internal security policies. According to neo-functionalist explanations, increased co-operation on migration control among MSs was a result of the creation of the common border-free Schengen area, and the consequent need to tighten the external borders and to regulate the movement of foreign labour and refugees and asylum seekers. Aiming to address the security concerns that arose in relation to the functioning of a common, border-free market space, the European Commission and MSs have focused on the development of EU policies to

halt unauthorized immigration (i.e., internal security) and to eliminate the root causes of both legal and illegal immigration through policies of development assistance and humanitarian aid (i.e., external security) (Lindstrøm 2005). Finally, according to supranationalists, the European institutions, created by MSs to steer or implement the policies at the level of the supranational community, acquire a life of their own, causing or pushing for further integration and changing the power balance between MSs and the supranational institutions. Within this literature, scholars have studied the impact and the role of the European Commission, European Parliament, and the European Court of Justice in advancing the integration agenda.

It has also been argued that European states seek co-operation on immigration matters because of their incapacity to control immigration due to increased migratory flows, international human rights norms and economic constraints (Sassen 1996; Soysal 1994). Inhibited from pursuing stringent forms of migration control internally, western governments “escape” to the inter-governmental level within the EU, where they are able to formulate and implement externalization practices of migration and border controls. There is agreement that prevention and migration control have become the two guiding principles of migration regulation in the EU. Whereas the former covers “measures designed to change the factors which influence people’s decision to move, or their chosen destinations,” the latter involves “forms of co-operation that essentially externalize traditional tools of domestic or EU migration control” (Boswell 2003b, 619-20). By pursuing the externalisation practices of migration and border controls, liberal governments tend to transfer stringent policies to third countries and thus avoid the constraints of domestic liberal politics (see Lavenex 2007; Basaran 2008).

With a few exceptions (for example, Lavenex 1999; Lavenex and Uçarer 2003, 2004; Geddes 2008; Boswell 2003b), migration policy-focused literature has long paid little or no

attention to the external impact of the EU's immigration and asylum policy harmonization; it has been primarily EU-centred. Considering the MSs' reluctance to release full control over immigration policy-making to the EU level, the Commission's or EU-level impact on MSs in the migration policy field has frequently been questioned and viewed as insignificant and the external dimension was perceived as mainly declaratory policy or simply rhetoric. However, as some migration scholars (e.g., Geddes 2008) have argued, the EU's external impact cannot be ignored; as well, its internal, long-term impact on MSs should not be underestimated. His calls were answered; from the vantage point of 2012, we can observe a shift from ignoring the topic of the external impact of the EU's immigration policy to studying the EU's policy impact with great interest. With the introduction of the GAM in 2005 as an overarching framework for the EU's relations with non-EU countries on migration, interest in the topic has grown among migration specialists (see Ryan and Mitsilegas 2010; Geddes 2008; Kunz, Lavenex and Panizzon 2011).

A particularly relevant insight from the migration studies literature (with its primary focus on migration policy and politics) for the current study is its exposure of a degree of transnationalization in the governance of migration in the EU and the acceptance by EU MSs of migration regulation policies created at the supranational level. Although migration continues to be presented as a matter of national concern, a large part of the migration policy formulation has already shifted to the supranational level. The case of non-EU countries co-operating with the Union on migration regulation is even more significant. These countries incorporate some, if not all, the EU's rules and norms into their domestic policy realms, and implicitly (e.g., common border operations) or explicitly (e.g., reception facilities for irregular migrants) provide their territories and borders to meet the EU's internal security interests, turning these sites into the sites of governance by the EU. From the sovereignty perspective, such EU impact on non-

members is even more significant because these countries do not participate in its governance institutions and have no input into the policy-making process while migration remains conceptualized mainly as a matter of national concern.

Enlargement Literature

The initial “push” to consider the external impact of the EU’s internal policies was made by scholars studying the eastern EU enlargement and by those systematically observing a growing significance of intergovernmental co-operation on justice and home affairs in the EU since the 1980s (Mitsilegas, Monar and Rees 2003; Grabbe 2000; Guiraudon 2003b; Apap 2004; Lavenex 2001). They analyzed political and institutional factors contributing to or influencing the emergence of the external dimension of EU immigration and asylum policies (see Boswell 2003b; Sterkx 2008). There has been agreement that European countries’ concerns with irregular migration and their proclaimed inability to regulate migration inflows through domestic migration control policies caused them to adopt a logic of engaging “sending and transit countries in strengthening border controls, combatting illegal entry, migrant smuggling and trafficking, or readmitting migrants who have crossed into the EU illegally” (Boswell 2003b, 619).⁴ Some accounts have linked the internal changes related to the creation of a Single Market (1986) and a Schengen border-free zone to the further “internationalization” of co-operation on justice and home affairs conducted by EU MSs and aimed at reaching the EU’s internal security

⁴ It should be acknowledged that the concern with irregular immigration – not just in Europe but in other parts of the worlds as well – has spurred an active research agenda in migration studies. The literature on irregular migration in Europe usually focuses on the conditions of irregular migrants within European countries. Generally, these studies tend to focus on: 1) the social profiles and nationalities of migrants illegally present in the EU; 2) how they enter the territory; 3) how they adapt and find work while in irregular status; and, finally, 4) their relationships with law enforcement bodies (see Düvell 2006). Migration studies tend to be biased towards the problematique of (usually western) immigrant-receiving states (Favell 2007). An outgrowth of this research agenda has been a separate interest in detention/deportation and return migration as the instruments used by receiving states to deter irregular arrivals. Forced removal, or deportation, of illegally residing foreigners is one of the most problematic and controversial measures that liberal democracies use to expel foreigners.

goals. For example, Boswell has suggested that the externalization of migration control (composed of “the exportation of classical migration control instruments to sending or transit countries outside of the EU” and of “a series of provisions for facilitating the return of asylum seekers and illegal immigrants” (through readmission agreements)) was “a logical extension” of the EU’s internal approach of intergovernmental co-operation on migration management (2003b, 622-23).

Within the literature that theorizes the impact of European integration on candidate countries, the majority of works has focused on the EU’s capacity to extract compliance, transfer its rules, and bring about legal, political, and socio-economic transformations in the accession countries of Central and Eastern Europe. Two lines of theorization have been pursued to explain why accession countries adopt EU norms and rules: (1) the rationalist perspective, which uses the *conditionality* and the *external incentives* model and the domestic *lesson-drawing* model (e.g. Schimmelfennig and Sedelmeier 2004, 2005a; Grabbe 2006; Vachudova 2005), and; (2) the constructivist perspective, according to which *rule legitimacy* and *normative persuasion* are crucial for changing the beliefs and values of target leaders and target societies (Checkel 1999). The constructivists have argued that socialization, norm diffusion and collective preference formation in the EU have been primary factors explaining the process of reshaping European identities and preference formations among national European elites. In the rationalist-constructivist debate, the former have been on a winning side: there is weak evidence that proves socialization in Europe; rather, “EU conditionality” and “external incentives” are believed to provide the strongest explanations for accession states’, or at least, their elites’, behaviour (Schimmelfennig and Sedelmeier 2005). Zürn and Checkel (2005, 1047) similarly concluded that “while there are good conceptual reasons for expecting a predominance of international

socialization in Europe, the empirical cases instead suggest that effects of socialization are often weak and secondary to dynamics at the national level.”

The issues of migration and border security have occupied a significant place in the negotiations between the EU and the accession countries. The EU’s initial attempts to impose the internally expanding JHA and Schengen norms on the countries in Central and Eastern Europe were highly criticized for creating numerous economic, political, social, legal, and security problems for these countries (see Lavenex 1999; Mitsilegas 2002; Jileva 2003; Grabbe 2000, 2006; Smith and Jenkins 2003; Byrne et al. 2002; DeBardeleben 2005). The transfer of migration control from the EU to these countries (through readmission agreements, “safe third country” of origin and transit provision, and requirements to impose stringent border controls on their eastern neighbours) turned them into “buffer zones” intended to stop or siphon unwanted migration flows to the EU. Influenced by the EU’s control-oriented policies and lacking a tradition of receiving humanitarian migration, these countries have ended up with more control-oriented migration policies than the “old” EU countries (Lavenex 1999). They have also been more affected by EU level policy-making on migration than have the existing MSs (see Faist and Ette 2007). Although students of European integration still debate whether the formal adoption of rules has led to their effective implementation by the new MSs, the degree of policy transfer intended by the EU and formally adopted by the accession countries is not in doubt. EU conditionality played a primary role in the Europeanization of the mobility and migration policies in Central and Eastern Europe (Grabbe 2006).

Consequently, the logic of EU enlargement compliance with rule transfer has been applied to explain the (non) compliance of non-members with whom the EU co-operates. Such rationalist institutionalist accounts mainly cover the questions of the EU’s efficiency in transferring its

norms, rules and values to non-members of the Union. Their analysis generally confirms that an international organization – and the EU being one, even if non-traditional – is able to influence domestic policies and politics in nation-states if strong and credible incentives are present, and when the costs of adaptation are low (Schimmelfennig and Sedelmeier 2004).

Since the ENP has been modeled on the EU's enlargement policy (Kelly 2006), we can expect to observe "bufferization" of the next circle of the EU's neighbours. We may also expect the EU's migration-control-oriented policy to have an effect on these countries' foreign relations and security policies – specifically, a move towards restrictive visa and migration rules towards the countries of origin of migrants to these countries.

The Europeanization Literature

Unlike the earlier theories of European integration which offered bottom-up explanations of inter-state integration in Europe, the "Europeanization" literature proposes a top-down look at the impact of EU institutions on policy-making and politics at the level of nation-states (see Featherstone and Radaelli 2003). "Europeanization" refers to the process of influence of the EU institutions and policies on national institutions and policies of EU MSs. Moreover, some scholars have convincingly argued that, with the Copenhagen criteria in place, the accession countries have been experiencing the same pressures of policy adaptation as the existing EU MSs (see Schimmelfennig and Sedelmeier 2004; Vachudova 2005; Grabbe 2006), and they have used the Europeanization toolbox to explain policy changes in non-EU countries (see Lavenex and Uçarer 2004; Kruse 2007). The Europeanization research now studies three categories: membership, accession, and neighbourhood countries (Gawrich et al. 2010).

In about three decades of its usage, the concept of Europeanization has become loaded with different connotations, spurring scholarly debates about “modes,” domains, and multiplicities of Europeanization. (For a brief review of the historical usage of the concept, see Featherstone (2003) and Conway (2010).) Rieker (2005) succinctly summarizes five connotations of the Europeanization concept as used by scholars:

The first group sees Europeanization as the export of cultural norms from Europe to other parts of the world. The second group uses the term as a synonym for the integration process as such, or for development towards a unified and politically stronger Europe. The third views Europeanization as the development of a special system of governance on the EU level. A fourth focuses on the development of a collective European identity. And finally there is a large group which takes Europeanization to mean the adaptation of domestic political structures (institutions, public administrations, intergovernmental relations, the legal structure, structures of representation, cognitive and normative structures) to European pressure (2005, 12).

Besides different definitions and usages of the concept, the debate about mechanisms of “Europeanization” takes place between rationalist and constructivist accounts. Whereas the former pay attention to the impact of European institutions and policies on domestic policy choices in terms of adaptational pressures and domestic intervening variables (Cowles, Caporaso and Risse 2001), the latter emphasizes the importance of infusion of new norms and of reshaping national identities and preferences (Börzel and Risse 2007). Some scholars have argued that the Europeanization literature needs to consider the dimensions of both *policy* and *politics* when studying domestic change, the extent of Europeanization, and modes of Europeanization, in order to capture the various patterns of Europeanization (see Faist and Ette 2007).

As far as studies of EU immigration and asylum policies are concerned, the primary focus in the Europeanization literature has been on the *policy* aspect. The Europeanization framework has been utilized to account for the European impact on national migration reforms in EU MSs and the nature of that influence, as well as for the possible convergence or divergence of national

policies among EU MSs (Lavenex 2001; Faist and Ette 2007; Geddes 2003, 2005). It has also been shown that the EU's impact on MSs' migration politics and policy differs, and it depends on domestic tradition, organizational culture, previous experiences with immigration and immigration policies, as well as on the compatibility between national and European structures of policy-making (Faist and Ette 2007). The emerging consensus is that the transfer of common EU norms is more successful in the MSs where no effective migration and asylum regime existed before, or where the price of adaptation is lower than the price of non-adaptation.

Lavenex and Uçarer (2003, 2004) were first to argue that European internal co-operation on migration was having an impact on non-EU states and international relations. They theorized the externalities of the EU migration regime as “the positive or negative, intended or unintended external effects of common European policies on third countries, international organizations, and adjacent policy fields” (2003, 8). Their theoretical model utilizes the notions of “Europeanization” and “policy transfer.” The former is conceptualized in a narrow sense as the impact of European integration at the national level, with the EU's impact on non-EU states viewed as the “export” of European policies outside the EU. It covers both formal obligations and informal dynamics between the EU and a given non-EU country. The policy transfer notion is used to define the meaning of the EU's external impact, and it refers to “a process in which knowledge about policies, administrative arrangements, institutions, etc. in one time and/or place is used in the development of policies, administrative arrangements and institutions in another time and/or place” (Dolowitz and Marsch 1996, 344, quoted in Lavenex and Uçarer 2004, 419).

According to Lavenex and Uçarer (2004, 418), the external effects of EU immigration policies can be: (1) intentional or unintentional, (2) direct or indirect, and (3) institutionalized or more ad hoc by design. EU policies can be designed intentionally to have external effects on

third countries (i.e., to purposefully export common policies through bilateral or multilateral agreements). They may also reflect “unintended consequences of other intentional activities” and cause the extension of EU policies to the countries with which the Union co-operates (Lavenex and Uçarer 2004, 420). Another important dimension is whether the effects in third countries occur because of states’ voluntary actions or as a result of coerced adaptation and change.

Lavenex and Uçarer suggest, from an institutionalist perspective, that non-EU states’ established institutional linkages with the EU “indicate the content and scope of [policy] transfer intended on the part of the EU” (2004, 423). These linkages correspond to the geographic proximity of a country to the EU and determine the scope of externalities felt by each country. The authors suggest that external impact takes the form of “unilateral emulation, adaptation through externalities, and two forms of policy transfer through conditionality, one where the changes fit the domestic interests, and one when the latter occur under pressure” (Ibid., 420). The policy transfer that takes place in a non-EU country may range from a lack of adaptation to voluntary policy emulation to coerced adaptation (through conditionality). The full transfer of policy principles, instruments, programmes and institutional structures “Europeanizes” the non-EU country.⁵

As this study analyzes the impact of the EU policies and politics on non-EU countries, the Europeanization literature appears relevant. However, this thesis combines the study of Europeanization with a discourse-analytical framework. The foreign and security policies of the state belong to the realm of practices and policies that reproduce state identity. A similar place in the reproduction of state identity can be claimed by migration policies; they define and prescribe who may or may not belong to the political community. This link is reinforced in the EU, where migration policies involve external relations. As states’ foreign and security policies are

⁵ For more details, see Figure 1 in Lavenex and Uçarer (2004, 426).

boundary-producing political practices (Campbell 1998), I turn to discourse analysis in order to understand the creation, reproduction and maintenance of state identities in the cases under investigation. This combination of theoretical and methodological approaches allows me to provide a more nuanced and context-specific understanding of the impact of European integration on neighbouring countries and to evaluate whether and how Europeanization has occurred in these two non-EU countries.

The classical rationalist understanding of “Europeanization” requires the states to be under the influence of the same “independent variable” – that is, the EU *acquis communautaire*, – for the “hard transfer” of formal and informal rules to occur; otherwise the theoretical approach should not be applied. Unlike accession countries, Russia and Ukraine have experienced “soft” rather than “hard” adaptational pressure from the EU with regard to the *acquis*. Although it has been suggested that the ENP amounts to a policy of “conditionality-lite” for non-candidate countries (Kelly 2006; Sasse 2008), non-candidate countries’ approximation to the EU standards lacks the same reinforcement and leverage mechanisms, or conditionality. Such instruments as access to the internal EU market and co-operation on justice and home affairs were dubbed “conditionality-inspired policy instruments” (Wichmann 2007). Other scholars have used the Europeanization toolkit to analyze the ENP (see Gawrich et al. 2010).⁶ Despite a lack of “hard transfer” requirements, the scope of “soft transfer” – of “ways of doing things,” of styles, of policy paradigms and problem interpretation – as will be shown in this dissertation, has been significant.

⁶ Gawrich et al (2010, 1215) theorize the EU’s neighbourhood Europeanization by focusing on the external influence by the EU (as reflected in the EU’s content and clarity of demands, incentives and rewards, financial support, forms and degree of linkage) and internal support (“i.e., positive local perception of the external influence by domestic actors”) (2010, 1215-6). Having utilized the case study of Ukraine, they analyzed the success of the country’s Europeanization in such areas as democracy promotion, economic co-operation, and justice and home affairs. They conclude that rewards and local perception appear to be the most significant variables affecting the neighbourhood Europeanization in Ukraine’s case.

The notion of “Europeanization” as understood in this thesis combines the understanding of the term as used in the public policy literature and in the international relations literature. The former conceptualizes “Europeanization” as the impact of the EU on politics and policies of a particular state and hence shows a state’s reaction and adaptation to the EU’s political pressure (which includes both formal and informal interactions, rules and practices). In IR literature, “Europeanization” is understood as the transformation of sovereign states through *integration* into a new kind of polity (Cowles et al. 2001). Non-members do not experience integration per se but they are affected by European integration processes. For the purposes of this study, I adopt the following conceptualization of “Europeanization:”

Processes of (a) construction, (b) diffusion, and (c) institutionalization of formal and informal rules, procedures, policy paradigms, styles, ‘ways of doing things’, and shared beliefs and norms which are first defined and consolidated in the making of EU public policy and politics and then incorporated in the logic of domestic discourse, identities, political structures, and public policies (Radaelli 2003, 30).

Whereas EU MSs may participate in each stage of these processes, non-members primarily undergo a process of institutionalization of formal and informal rules that are transposed top-down from the EU. My analysis is mainly situated at the level of cognitive and normative structures that include discourses, norms and values, political legitimacy, identities, state governance traditions, and policy paradigms, frames and narratives (see Radaelli 2003, 36, Figure 2.1).⁷ I also use Lavenex and Uçarer’s framework (2004) because it allows accommodation of the intentionality of the EU’s actions, the institutional proximity, as well as the voluntarism or coercion of the policy adaptation as explanatory factors.

The External Governance Literature

⁷ I do acknowledge that Claudio Radaelli proposed this definition of Europeanization in the context of research on public policy only. His definition, however, suits the dimension of foreign relations and public policy change taking place under the influence of European integration.

The EU's external impact and its international role have also been studied through the lens of the "external governance" concept. The external governance approach, with its focus on rules and institutionalized forms of interactions, claims to provide conceptual tools to adequately assess the variations in the EU's governance beyond its borders (Lavenex and Schimmelfennig 2009). Whereas for internal EU politics the concept of "governance" has been applied to account for emerging multiple layers of governance (e.g., "network governance" or "multi-level governance"), externally it has been used to conceptualize expanding EU external relations that are based on the widening of the prescriptive scope of EU policies and rules beyond formal membership (Friis and Murphy 1999; Lavenex 2004, 2008; Weber et al. 2007; Lavenex and Schimmelfennig 2009). It has been conceived as "a form of governance beyond the borders of the EU where third countries become linked to internal policy goals without having the prospect of full membership" (Lavenex 2005, 129; Lavenex 2004), and its application has been particularly prominent in accounting for the EU's relations with neighbouring countries, especially in the expanding external agendas of the EU's internal policies.

The external governance has been also perceived as the EU's response to complex interdependencies of the post-Cold War international relations and to dynamics of regional integration (Lavenex 2004; Lavenex and Schimmelfennig 2009). Scholars working with this concept have puzzled themselves with inventing new modes of engagement with neighbouring countries in order to increase the EU's effectiveness in spurring transformations and increasing the EU's "soft power" in the neighbourhood (for example, see Weber et al. 2007). With the enlargement depleting its potential as the EU's mode of external governance, the EU has been searching for new leverages, institutional set-ups and tools in its relations with non-EU countries. One of such emerging incentives and new conditionalities has been the EU's interest in JHA

policy co-operation, and a shift has been observed from a pure accession conditionality to more differentiated forms of policy conditionality, such as, for example, granting of visa facilitation agreements and of visa travel as rewards to partners “willing” to undertake reforms (Trauner 2009a). In search for leverages and alternatives to EU membership incentives, the European Union has refined its pre-accession framework of enticing non-members and has been more supportive of flexible forms of integration in some policy fields (Renner and Trauner 2009). Such models as hierarchy, network and market have been singled out by some scholars (see Lavenex and Schimmelfennig 2009).⁸ It has also been suggested that the EU’s external governance has evolved into four distinct “circles” of governance in its relations with non-member countries (Lavenex 2011).

What does the external governance approach tell us about the external dimensions of the EU’s internal policies and specifically about the JHA policies in the EU’s relations with the ENP countries and Russia? The governance approach is interested “in the effectiveness and legitimacy of European governance and its impact on national political systems (‘Europeanization’)” (Schimmelfennig and Wagner 2004, 657). It has an EU-centred focus and is an approach that first of all is directed at accounting for the EU’s modes of interaction with its members and the countries beyond its borders, rather than on the outcomes produced by these modes of governance for other countries. Application of the governance approach to geographical and policy areas has been extensive but not without limitations. With regard to the cases studied, the concept of external governance became fashionable due to the EU’s innovation in its relations with the neighbouring countries: the EU enlargements of 1995, 2004, and 2007, and the

⁸ Lavenex and Schimmelfennig (2009) provide the following descriptions for these models: 1) hierarchy requires “a formalized relationship of domination and subordination and is based on the production of collectively binding prescriptions and proscriptions;” 2) a network governance “delineates a relationship in which the actors are formally equal;” 3) the market model reflects a model in which “outcomes are the result of competition between formally autonomous actors rather than the result of hierarchical harmonization or networked co-ordination.”

introduction of the “enlargement-lite” policy for the neighbourhood (i.e., ENP). Ukraine’s relations with the EU have been a prominent case to draw on for external governance scholars. Russia, however, has been seen as a case that reveals the limitations of the EU’s external governance in practical terms due to a lack of a unified position and policy among EU MSs, as well as a lack of institutionalization of the Common Foreign and Security Policy (CFSP). In addition, despite the EU’s attempts to tie Russia into selected areas of European integration (e.g. free market area, European Defence and Security Policy), “it fails to make Russia subscribe to the underlying dynamic of EU modes of governance” (Gänzle 2008, 64). While through external governance the EU blurs its institutional/legal, transactional, cultural and geopolitical boundaries, it does not involve non-EU countries as equal shapers of its policies and politics, and this is what Russia rejects. *Chapter 6* speaks more to this issue in the area of immigration co-operation between the EU and Russia.

As far as policy areas under study are concerned, JHA has posed a challenge to the traditional external governance approach as it was the policy area not fully communitarized (i.e., did not belong to the “first pillar” Community policies) and as a result lacked the clear and consolidated rules required by the governance approach (Lavenex and Wichmann 2009). JHA has been known for non-legislative and more operational-oriented modes of governance (Lavenex and Wichmann 2009). This made how the EU’s conditionality should work without complete communitarization and a lack of strong incentives for adaptation unclear (Ibid., 84). Recently, some scholars have shown that the EU has developed a number of institutional linkages with the neighbouring countries and extended its transgovernmental networks as a way to increase its ability to transfer its policies to these countries (Lavenex and Wichmann 2009; Lavenex 2008). In addition to “governance by conditionality,” “network governance” has

become a variation of the EU's external governance as it aims to transfer its rules and regulatory frameworks to third countries through less hierarchical means. Lavenex (2008) has shown that in order to increase the compliance of its partner countries with the EU *acquis* and/or "ways of doing things" in a highly politicised area of JHA, the EU has incited operational co-operation and intense "transgovernmentalism" (Ibid.). Network governance has become the Union's basis for regulatory approximation and organizational inclusion of ENP countries in some policy fields, and it did so as an alternative to a conditionality approach (Lavenex 2008). Rather than causing third countries to adopt EU rules, it has been exerting its influence by "extending integration dynamics in the sense of creating joint regulatory structures" (Lavenex 2008, 943), especially in those policy areas where the EU has faced challenges in enforcing compliance. As a result, we observe functional co-operation between the EU and ENP countries. In the JHA policy field, co-operation takes place at the operational level, with the emphasis on capacity building, policy learning and experience sharing. Despite an absence of "leverages" and modes of hierarchical governance, the EU is still able to exert its influence and affect change in third countries.

Furthermore, Lavenex and Wichmann (2009) show that the EU seeks to maintain its hierarchical modes of policy transfer in JHA issue areas that are more communitarized and where the EU has strong competence to act externally and to monitor compliance (such as asylum and visa policy). In contrast, network governance and intergovernmentalism dominate the issue areas where internally in the EU we observe transgovernmentalism (such as irregular migration and drugs). In addition, a power dynamic and a degree of issue politicization affect the EU's interest to secure compliance by a third country (for example, in the highly politicized and securitized area of irregular migration regulation). The EU's sectoral co-operation with the ENP

countries shows a dynamic of functional regional integration and provides “flexible integration” in some policy fields (i.e., the one that possess inclusive and horizontal modes of policy-making) for non-members of the EU as an alternative to membership and full integration (Lavenex and Wichmann 2009).

Moreover, it has also been argued that the EU’s external governance of sectoral policies resembles its internal governance modes of a particular policy, rather than the overarching foreign policy framework the EU has with a given country. From an institutionalist perspective, Lavenex, Lehmkuhl and Wichmann (2009) have observed that, in expanding its internal policies towards non-EU countries, the Union follows the logic and institutional specifics of its internal sectoral co-operation, rather than the logic of its “macro-structural” foreign policies of association with non-EU countries such as the ENP, European Economic Area (EEA) or the EU-Swiss bilateral framework. According to the authors, there is a functionalist logic of regional co-operation and external governance applied by the EU to various countries, and this makes the overarching foreign policy initiatives of the EU, such as the ENP, less relevant and significant. However, if we consider the scope of incentives that the EU uses in each particular association and the timing in which the EU offers them, we can notice a dependence of these offers on the overall foreign policy of the EU towards a particular country. Take the case of the justice and home affairs – in particular, the case of visa liberalization – and compare, say, Switzerland and Ukraine. The foreign policy context of what can be offered in respect to this sectoral co-operation becomes clear. What is offered is dependent on the foreign policy towards a given country.⁹ Unlike Lavenex et al. (2009), I therefore assume that “macro” policies/foreign policies determine the scope of co-operation in “meso” policies (such as Justice and Home Affairs),

⁹ Lavenex et al. (2009, 821) also conclude that the three neighbourhood policies under review (i.e., EEA, Swiss-EU bilateralism, and ENP) “vary quite strongly with regard to their modes of governance and the degree of hierarchy reflected therein.”

especially if the issue area is politicized in the EU. “Meso” policies are “steerable” by macro structures, like association policies, as the latter reflect more deeply rooted perceptions of the “outsiders” in question. The EU’s foreign policy and sectoral dynamics in JHA should not be treated in isolation from each other, especially if JHA officials influence the EU’s relations with a particular country.

Besides theory-driven, rationalist explanations of rule transfer and policy emulation, no comprehensive account has been offered of the consequences of the external dimension of the EU migration regime for domestic politics in non-EU countries or for the possible diminution in their sovereignties. White (2007), for example, claims that the securitization of immigration in European countries has been pursued as a mode of asserting sovereignty vis-à-vis the EU’s neighbouring countries. The external governance approach takes for granted that EU rules have positive effects and are an acceptable option for reforms, development and transformations for countries in the EU’s vicinity. Even the critical security studies that have exposed the illiberal practices of western governments have ignored studying the “distance” – the geographies to which indirect mechanisms of rule (Miller and Rose 2008, 33) are being applied in order to govern, or indirectly control, the population’s movement, as well as to shape the conduct of local authorities in charge of governing these movements and territories. The EU’s governmental project of migration management, with the externalization of migration controls as one of its technologies, accords a significant role to “mechanisms that promise to shape the conduct of diverse actors without shattering their formally autonomous character” (Miller and Rose 2008, 39). The EU’s “action at the distance” hence needs to be interrogated in order to account for the ways in which the governmental project of migration management has been evolving.

My analysis focuses on the third-countries' side of things and the impacts produced by the EU's policies. As the cases show, unlike the EU, third countries' governments align their sectoral co-operation with the EU to their foreign policies towards the Union. In other words, sectoral co-operation may become hostage to the foreign policy dynamic between the EU and a third country. In the cases studied, the foreign policy framework is primary. The institutionalist explanations that attribute the shape of the EU's external governance to the workings of the existing EU institutions pay no attention to the possible variations in the foreign policies of the third countries concerned, or to how these affect the implementation of the "meso" policies imposed by the EU on a given third country.

Criticism aside, the governance approach has offered new insights into the workings of the EU's external policies, especially in "non-traditional" external policy areas ignored by traditional foreign policy analysis. In the tradition of institutionalist analysis, the ED-JHA literature contributes to the analysis of internal policy making in the EU and its external strategies by asking questions about the content and scope of the ED-JHA, how it functions, who the main policy actors are, which institutions are involved in policy-making, the source of the policy ideas, and its actors (EU institutions or MSs and in what interaction), as well as about tools and mechanisms of policy-making and implementation (see Special issue of the *Journal of European Integration*, volume 31 (1)). However, studying the ED-JHA should not be limited to studying institutional organization and dominant actors within the EU only. The ED-JHA needs to be studied from non-EU country perspectives in order to capture and question the power dynamics in place.

In the institutionalist analysis, co-operation among the internal security agencies is viewed as a legitimate exchange of expertise, information, and experience aimed at reaching the EU's

internal security goals, and is rarely problematized in political terms. However, this co-operation needs to be problematized because it moves inter-state co-operation on sovereignty-sensitive issues into the realm of operational co-operation that is usually devoid of public scrutiny and political accountability. The changes it produces in the EU-third country relations, as well as in the domestic politics of third countries are typically obscured. What they represent, however, are shifts in negotiations of sovereign rule among states.

A different and interesting application of the external governance concept has been made by Balzacq (2008; 2009), who used the concept to theorize what the ED-JHA does *for* the EU. Balzacq (2008, 1) has argued that “the export of JHA principles and norms informs the geopolitical ambitions of the EU,” when geopolitics is understood as “the use of space for political purposes, that is, the control and management of people, objects and movement.” Having analyzed tools, processes and outcomes in the ED-JHA, Balzacq has concurred with Lavenex (2004) that the EU pursues its external agenda in the issue areas for which third countries are perceived to be sources of EU vulnerability. For Balzacq, then, external governance becomes “a cluster of processes by which an entity A regulates, manages or controls the behaviour and, in certain circumstances, identities and interests of an entity B, in context C” (2008, 2). Additionally, in his interpretation, external governance is “but one specific outcome of internationalization,” with the latter defined as the process that occurs “when the EU acts as a distinctive polity and negotiates with third countries in matters that are traditionally regarded as falling within the precincts of internal politics” (Balzacq 2008, 2). Balzacq treats the ED-JHA as a distinct policy area, with its own tools and rationale.

1.1.2 Immigration Research in Critical Security Studies

A different – and for some time marginalized – discussion about the intersection between migration and international relations has been going on within critical security studies, especially within the French and the Copenhagen security schools. Whereas the former school has contributed to our understanding of changing security relations in the world by revealing how the securitization of migration has multiplied the strategies of extraterritorialization of migration and border controls, the latter school has exposed a growing securitization of immigration in Europe and in the policy discourses of European politicians. According to the securitization literature (Wæver et al. 1993; Wæver 1996; Huysmans 2000, 2006; Guiraudon 2006; Tsoukala 2005), immigration has been placed into a “security continuum” and has been used by governments as a technique of governance that aims to provide executives with more power and control of population. While scholars may disagree on the mechanisms and processes through which immigration has been securitized, they tend to agree that immigration has been politicized as a political, economic and cultural phenomenon and problematized in security terms.¹⁰ In Europe, this has resulted in a highly defensive and exclusionary approach to the management of migration, with an emphasis on border control (both internal and external), policing, surveillance, prevention, and containment.

In addition, critical security studies have exposed how the distinction between internal and external security was blurred by politicians and security professionals as a means of reaching other governance goals after the Cold War ended. By applying the discourse, technologies and practices reserved earlier for military industry and threats, to the new activities (e.g. irregular

¹⁰ There is a difference between North American and European scholars in understanding what moment was the key for immigration turning into a security issue for governments (see Walters 2008). While in the American context and scholars working on the US tend to single out the 9/11 as a rupture moment for the securitization of immigration, in the European context it has been shown that securitization of immigration goes back to the 1980s. Notably and convincingly, William Walters (2008) argues that securitization of immigration is historically specific and depends on the modes of security prevalent at specific moments. Walters (2008, 161-162) convincingly suggests we understand “risk” and “security” as having historically specific interpretations and meanings deployed as a political technology of governance.

immigration), security and intelligence professionals have entered into fields that were previously beyond their intervention and influence. Although immigration has been securitized, but in social security terms, even after the WWII (see Walters 2008), the post-Cold War securitization of immigration has been successful at displacing more traditional socio-economic framing of this policy area into a secondary field, turning the political oversight and accountability subjected to (military) security consideration of secrecy and emergency. In the EU, competition for power and influence over agenda-setting on threat perception has led to a “security continuum” that blurs the distinction between internal (i.e., threats to public order and the state) and external (i.e., threats of external aggression or military occupation) security. Categories such as organized crime, drug trafficking, terrorism, unauthorized immigration, and an influx of asylum seekers have become categorized as “security threats” and placed into a “security continuum.” These changes in the definition and perception of (in)security are accompanied by the change in the roles that the military, police, immigration services, and customs and intelligence services play in ensuring the safety, welfare, and security of citizens.

Unlike the state-centred, mainstream security approaches, critical security studies have raised questions about what (in)security is, who is being threatened and why, what place should be given to the consideration of individual security, as well as about the political manipulations and construction of security concerns. As far as migration is concerned, scholars in the critical camp have attempted to restore the focus on the individual, the migrant. Guild (2009), for example, advocates focusing on migrant’s – rather than states’ – concerns, making them central to studies of security and migration, and in this way challenging states’ national security discourses. She has called to challenge how the subject matter of security is defined (“whose security, who is entitled to determine the politics of security”), as well as what the subject matter

of migration is (i.e., “whose migration, who is entitled to determine the politics of migration”) (Guild 2009).

1.1.3 The EU as an International Actor

Debating Europe’s and/or the EU’s role in international politics has been quite fashionable in the post-Cold War era. The attention to the EU has increased since EU MSs made efforts to formulate and implement a CFSP and European Security and Defence Policy (ESDP). In the 2001 Laeken Declaration, the European Council asked the question of “What is Europe’s role in this changed world?,” making the discussion about the EU’s international role ever more attractive. Traditionally, the foreign policy literature has focused on the CFSP and its effectiveness in comparison – or in contrast – to the foreign policies of states in international relations. In the mainstream foreign policy literature, such issues as immigration and environment are sometimes mentioned as having “foreign dimensions” (see Keukeleire and MacNaughtan 2008). Issues that belong to the “internal security” realm (e.g. terrorism, organized crime) frequently are analyzed as having an external dimension, with the successes of these internal policies viewed as being dependent on the effectiveness of the EU’s external strategy. Rees (2008) has argued that the EU’s strategy has been to impose its internal security model upon its neighbours and to facilitate the creation of international norms aimed to address transnational security challenges. As will be shown in *Chapter 2*, the EU has sought to increase its international norm-setting powers in the internal security field.

Among the diverse European foreign policy literatures that have not yet been reviewed, the literature that debates what kind of international actor and power the EU was and is, is also relevant to the questions examined in this dissertation because it deems the EU an actor in

international relations and studies the areas that are distinctive in the EU's external relations (in contrast to state-centric approaches to IR). The EU has either been criticized for lacking the resources of a "military power" in the world (Bull 1982; Hill 1993), or relegated to a category of its own for being a "civilian power" (Duchêne 1972), resulting in a two-sided debate about successes and failures of the EU in international affairs. The challenge to this debate came from scholars who viewed the EU as a *sui generis* actor in international relations (Bretherton and Vogler 2006; Ginsberg 2001; Manners 2002; Smith 2008). Bretherton and Vogler (2006), for example, have used behavioural criteria to investigate the EU as an "actor" – "an entity capable of formulating purposes and making decisions, and thus engaging in some form of positive action" (2006, 17). Their account covers both capabilities and the nature of the EU as an actor, and it comprises three elements – opportunity (i.e. the external context), presence (i.e. the ability to exert influence by its mere existence) and capability ("the ability to exploit opportunity and capitalize on presence") (Bretherton and Vogler 2006, 2). Smith (2008) has focused on what the EU actually *does* as it promotes the principles of regional co-operation, human rights, democracy and good governance, and seeks to prevent conflicts and fight international organized crime.

Scholars debating the EU's "actorness" analyze often overlooked areas of development, humanitarian aid, social policies, and competition, viewing these as "vital dimensions of Europe's global role" (Orbie 2008, 20). With Duchêne's (1972) concept of the EU as a "civilian power" as a starting point, the EU has been dubbed: a "'civilian' power with 'normative/civilizing' influence" (Smith 2006, 322-23), a "normative power" or "ideological power" (Manners 2002; Whitman 2011), an "empire by example" (Zielonka 2008), or a "quiet superpower" (Moravcsik 2002), to name a few. These "role concepts" suggest the interest scholars have in contemplating what kind of power the Union is in the world and in assessing its

international activities. This literature usually recommends what kind of power the EU *should* be in order to be an effective and influential actor (for a brief review of the concepts, see Orbie 2008). Unlike the enlargement and the neighbourhood literatures that investigate the how and why of the EU's influence on non-EU members and assess the impact of the EU's policies beyond MSs, the EU roles debate centres around the question of how the image of the EU and its identity should be shaped in order for it to be an influential international actor.

Manners' (2002) conceptualization of the EU as a Normative Power Europe (NPE) has become one of the fashionable trends in the foreign policy analysis. Reflecting on the EU's role in the new international relations developing since the early 1990s, Manners dubbed the EU a "normative power," emphasizing the EU's *modus operandi* as a promoter of norms and "the ideational impact of the EU's international identity/role as representing normative power" (Manners 2002, 238). For Manners, the EU is different than any other pre-existing and currently existing powers (due to its historical evolution, hybrid policy, and constitutional configuration), and its normative power is the power to shape what is considered to be "normal" in international relations. Manners argued that the EU should be studied according to "what it is" rather than "what it does or says" (2002, 252). Followers of Manners' work conceptualize Europe's role "through questioning the EU institutions and policies in terms of essence, actions and impacts rather than taking them as granted" (Whitman 2011, 3). Overall, this literature pays attention to the ideational component of EU external action, while assuming that the EU is a 'force for the good' in international relations. One of the conclusions reached is that the EU's normative power and its impact in a globalized era are closely interlinked: "In line with the main policy documents, the EU has been defining its relations with the rest of the world through normative commitments to norms and multilateral frameworks" (Whitman 2011, 10).

Although Manner's NPE concept has been criticized as one that mimics the representation of the EU by European leaders as a force for good in the world (Diez 2005; Sjurson 2006), it has also been welcomed for providing an alternative to the state-like analysis of EU foreign policy. It has been applied to analyze the EU's impact in such policy areas as human rights (Manners 2002), development aid (Scheipers and Sicurelli 2008; Birchfield 2011), and social issues (Orbie 2011). It has also been used to analyze the EU's regional impact in its neighbourhood (see Haukkala 2011; Stewart 2011; Juncos 2011), or to assess the EU's "ideational power" (see Orbie 2008). In his analysis of the EU's comprehensive approach to asylum and migration, Sterkx (2008) has criticized the EU's strategy of externalization as one that shifts responsibilities to countries of origin and transit and that expands the restrictive EU regime beyond its borders. As the EU's external actions progressively restrict access, Sterkx rightly doubts the EU's normative project in migration and asylum management, with its prioritization of capacity building, remote control and remote protection.

This dissertation adopts the critical perspective of the NPE theorists, focusing on the instruments and means through which the EU has been discursively representing itself and acting as a normative power on justice and home affairs as it has tried to establish a "comprehensive migration management" regime. Reforms in the JHA sector in third countries have been linked to such norms as good governance, democracy promotion, and rule of law, as the EU seeks to export its norms beyond its borders. "[T]he power that lies in the representation of the EU as a normative power as such" (Diez 2005, 614) cannot be ignored and left without critical reflection (both in academic discussion and in political debate) because

Not only is the success of this representation a precondition for other actors to agree to the norms set out by the EU; it also constructs an identity of the EU against an image of others in the 'outside world'. This has important implications for the way EU policies treat those others, and for the degree to which its adherence to its own norms is

scrutinised within the EU. In that sense, the discourse of the EU as a normative power constructs a particular self of the EU..., while it attempts to change others through the spread of particular norms (Ibid, 614).

Normative power is not an objective category but rather “is a practice of discursive representation,” and students conducting discourse analysis question how the EU is constructed as a normative power and what power is integral to this representation (Diez 2005, 626). It is important to acknowledge that the political representation of the EU as a normative power represents the Other as being in need of the EU’s civilizing influences, with the EU’s own shortcomings getting silenced in the process (Diez 2005). Here is where poststructural work on self/other identity construction in international politics and a Foucaultian understanding of techniques of government as governmentality come in into my analysis. Foreign policy is not the representation of an objective identity of a nation; rather, it is a construction of the nation at the very moment of its representation (Campbell 1998). That the EU’s norm leadership and persuasion is “a force for good” cannot be taken for granted because the “power of normative power Europe” seeks to construct a European identity that is defined in relation to (or in opposition to) other entities/nations upon which the EU seeks to impose its will and/or secure its interests. Any type of policy transfer or expert knowledge sharing (like in a case of EU twinning programmes) involves sharing what is to be considered “normal,” in the process subordinating local knowledges and interpretations.

Our understanding of the EU’s “normative power” will benefit from analyzing in detail its practical expression at the micro level, with attention paid to the interactions of identities, practices and discourses. By conducting a discourse analysis of the construction of the EU as a norm setter on international migration regulation, I show what kind of normative power the EU actually projects in its neighbourhood and what practices and technologies support it. The EU

acts as a hegemonic power with regards to ENP countries and represents itself as having a civilizing mission in relation to “inferior” neighbouring countries that lack the capacities and institutions to be effective partners in guarding the Union’s security and prosperity.

To sum up the foreign policy debates, we can see that, unlike the older foreign policy interpretation of migration in terms of the state security (i.e., as the state’s survival), contemporary relations among states on migration are seen to be characterized by states’ interests in co-operation in order to meet their domestic political and social goals (such as addressing the issue of irregular migration or labour migration options of one’s nationals) and control human movement. We observe an attempt to create a regime of immigration and human mobility regulation, with the EU acting as a norm-setter and promoter of this regime. As historically, migration between states affects inter-state relations and the foreign policies of states; however, today, migration has been problematized differently by states, and different solutions are proposed to this so-called “migration problem.” Besides directly engaging with third countries to shape their migration regulation capacities and policies, the EU also acts through international organizations to increase its chances of having its norms accepted. Moreover, “expert communities” from EU MSs involve third countries’ officials (not without their interest and support) into their activities and informally communicate and spread information about their policies and activities to the countries they would like to incorporate into the “successful European immigration management policy.” Migration has moved beyond the realm of inter-state politics at the level of the countries’ foreign policies and it now includes functional and operational co-operation between specialized security and internal policy agencies. Moreover, the EU’s activities beyond its borders on internal security are viewed as

legitimate; they are perceived as being integral to the EU's own security. The EU's "migration diplomacy" is believed to be a legitimate route to secure the EU's populations and societies.

1.2 Conceptual Framework

I draw on the works reviewed above and combine the Europeanization, securitization, governmentality, and post-structural foreign policy analyses into a single framework in order to account for the place of migration in the EU's foreign policy towards its immediate European neighbours and for the ways in which the EU conducts its migration diplomacy. Whereas the Europeanization framework is strong in attending to the EU's policy impact, the securitization approach and post-structural foreign policy analysis comprehensively capture non-traditional and discursive practices and techniques of governance, thereby exposing the underlying power dynamic in the EU's relations with its neighbouring countries.

The Europeanization approach allowed me to evaluate the EU's policy impact on Ukraine and Russia. The securitization and foreign policy analysis enabled me to reinterpret the EU's policy towards its neighbours. In addition, the securitization approach has proven useful in identifying the ways in which particular issues come to be framed as security issues (Wæver et al. 1993; Hansen 2006; Campbell 1998). I have used it to account for the ways in which the migration and mobility of certain groups of foreigners are framed in the language of crime, fraud and (in)security and are constructed as threats to political and cultural identity. Such framing has been happening in Ukraine and in Russia, as well as in the EU. Finally, the securitization approach illuminates the spaces and objects of governance that such discourses create. Bigo (2001, 2005) emphasizes the policing logic and security knowledge utilized by government officials in the name of more freedom and security for their citizens, viewing them as

governmental techniques to administer and control populations. Huysmans (2006) treats securitization as a phenomenon that links together discourses of insecurity and unease, bureaucratic and technical practices, and competing interpretations of what constitutes security knowledge and expertise. These theorizations guided my analysis of the immigration-security discourses in the EU and in the Russian and Ukrainian cases.

Critical foreign policy offers tools to interrogate and understand the ED-JHA. As Campbell (1998) convincingly argues, identity and foreign policy are closely interrelated and it is through security discourse that foreign policy priorities are constructed, materialized into actions, and acted upon in the world context. Foreign policy constitutes state identity through the interpretation of danger posed by others. On the example of the US foreign policy, Campbell shows how interpretations of danger have worked to establish the identity of the United States and how various dangers have historically been activated in US foreign policy discourse at the levels of the public and the government. While the EU is not a state *per se*, the common discourse of dangers has been taking place, and has functioned to construct identities in ways that resemble the construction of national identity in the US case. I analyzed the EU's foreign policy through the prism of the threat construction that has been presented to its populations and through which institutional action has been legitimized.

In addition, my work has been influenced by the governmentality literature and the Foucault-inspired analysis of power, knowledge and expertise. Michel Foucault introduced the notion of "governmentality" in his lectures on the genealogy of the modern state. At least three meanings of this term have been in use by researchers: 1) to study the exercise of power in terms of "conduct of conducts," with attention paid to rationalities and techniques that enable governing; 2) to study the "*governance of and by states*" in order to explore "*the conditions of*

possibility of the modern state;” and 3) to study *liberal* governmentality as a particular expression of arts and techniques for governing states and their subjects (Walters 2012, 11-12). Governmentality as “the conduct of conducts” has been used to study the historical expression of government and the processes of making something into a governable object. In its broad sense, “governmentality” has been used to understand the relationship between power and knowledge in the exercise of power (Dean 1999, 19), as well as to consider “how governing involves particular representations, knowledges and often expertise regarding that which is to be governed” (Larner and Walters 2004, 2).¹¹ Knowledge plays an important role in today’s governing of liberal societies in which the power of expertise (i.e., “the social authority ascribed to particular agents and forms of judgment on the basis of their claims to possess specialized truths and rare powers”) plays an important role in developing the self-regulating capacities of subjects (Miller and Rose 2008, 26). For that matter, governmentality is a form of political analysis which goes beyond discourse analysis to analyze the history of governing and thus enables us “to situate the study of European integration in relation to the much broader history of rationalities, arts and techniques of government” (Walters and Haahr 2005, 5). Studies in governmentality pay special attention to how political authorities conceptualize the governing.

The analytical tool box of governmentality is incorporated into my analysis in order to interrogate the techniques and political rationalities that have been deployed: (1) to create and govern spaces for political purposes (i.e., to govern “the neighbourhood”); (2) to maintain power

¹¹ Governmentality has also been understood as the “ensemble formed by the institutions, procedures, analyses, and reflections, the calculations and tactics that allow the exercise of this very specific albeit complex form of power, which has as its target population, as its principal form of knowledge political economy, and as its essential technical means apparatuses of security” (Foucault 2003, 244). Foucault defines modern state as “the state of government, which is no longer essentially defined by its territoriality, by the surface it occupies, but by a mass: the mass of the population, with its volume, its density, with the territory that it covers” (2003, 245). This state of government, defined by its population and with resort to the instrumentality of economic knowledge, corresponds to a society controlled by apparatuses of security. For Foucault, governmentality equals the emergence of “societies of security” when the security of the state becomes constructed in terms of wealth, prosperity and resources, rather than military strength.

relations in the network of subjects (i.e., states, EU institutions, IGOs and NGOs, experts, and migrants) involved with international migration management, and; (3) to govern human mobility, with the regulation of migration in Europe evolving as the project of governmental activity and the EU's "governing at a distance." Two distinct aspects of governmentality have been distinguished – "political rationalities" and "government technologies." "Political rationalities," or "programmes" of government, denote a "wider discursive field in which conceptions of the proper ends and means of government are articulated" (Miller and Rose 2008, 30). Not necessarily homogenous, these discourses, or "styles of thinking, ways of rendering reality thinkable in such a way that it was amenable to calculation and programming" (Miller and Rose 2008, 16), reflect the knowledge of how to govern a particular field and what authorities to use in order to reach specific governmental goals. In turn, "technologies" of governing are "assemblages of persons, techniques, institutions, instruments for the conducting of conduct" (Miller and Rose 2008, 16). Technologies are used to intervene into a particular field and refer to "all those devices, tools, techniques, personnel, materials and apparatuses that enabled authorities to imagine and act upon the conduct of persons individually and collectively" (2008, 16). Governmentalities are thus "both mentalities and technologies, both ways of thinking and tools for intervening" (Miller and Rose 2008, 20).

Interrogation of the construction of the "neighbourhood" and implementation of the European Neighbourhood Policy through the prism of governmentality reveals the political authority that has been extrapolated to the neighbourhood. The technical representation of the neighbourhood through charts, tables, action plans, scoreboards and reports are the technologies through which something is made visible and governable, or requiring governmental regulation. I

pay close attention to the language of the official documents, public statements and speeches by EU institutions and EU officials.

As Miller and Rose (2008, 32) mention, “government” is “not only a matter of representation” but also “a matter of intervention.” In order to comprehend the EU’s “intervention” into non-EU neighbouring states’ governance of migration, it is important to analyze the “indirect” mechanisms of rule that enable government “at the distance.” Such rule is brought about through “the exercise of a form of intellectual mastery made possible by those at a centre having information about persons and events distant from them” (Ibid., 34). Linking of calculations at one place with action at another happens

not through the direct imposition of a form of conduct by force, but through a delicate affiliation of a loose assemblage of agents and agencies into a functioning network. This involves alliances formed not only because one agent is dependent upon another for funds, legitimacy or some other resource which can be used for persuasion or compulsion. It is also because one actor comes to convince another that their problems or goals are intrinsically linked, that their interests are consonant, that *each can solve their difficulties or achieve their ends by joining forces or working along the same lines* (Miller and Rose 2008, 34, emphasis added).

Such linking happens not necessarily through “persuasion, intrigue, calculation or rhetoric” but through what has been dubbed “translation” – a process in which “one actor or force is able to require or count upon a particular way of thinking and acting from another” (Ibid., 34). The creation of knowledges and the usage of expertise are important in this process as they enable governing by claiming a disinterested truth. Accordingly, the technologies of government, or the tools for intervention, link the representation in thought to action in practice through such mundane practices as techniques of calculation, procedures of assessment, the standardization of systems for training, and the inculcation of habits. What is important is that the rule takes place “without shattering their [diverse actors’] formally autonomous character,” and relies “upon the powers and the ways of thinking and acting of expertise” (Ibid., 39).

Miller and Rose (2008) developed the notion “at a distance” to show the high importance of the indirect mechanisms of rule to liberal democratic societies – specifically, to a particular, liberal style of governmentality. Also, they applied this concept to the confines of the *national* government. I, however, adopt their notion to focus on the indirect mechanisms of rule at the *international* level without specifically linking these mechanisms to the (neo)liberal governing.¹² As Walters (2012, 24) critically pronounced, “[T]here is much more to the world than neoliberalism.” Although these mechanisms (as applied to the management of migration and populations at large) can arguably be traced to the current international dominance of neoliberal capitalism, I left proving these links for some future research projects of mine.

That being said, this is not a “governmentality study” in the strict understanding of this political analysis. Such scholars as William Walters, Didier Bigo, Anna Pratt, Michell Dean, Peter Miller and Nicholas Rose have influenced my intellectual leaning towards interpreting the current European integration project as a case of governmentalization of Europe. However, I also employ other tools and concepts (such as securitization, Europeanization, and discourse analysis) in an effort to present a comprehensive analysis of the EU’s migration relations with its neighbouring countries, Ukraine and Russia, and their consequences for the migration politics and policies in these countries, as well as for the governance of migration in Europe.

1.3 Research Methodology

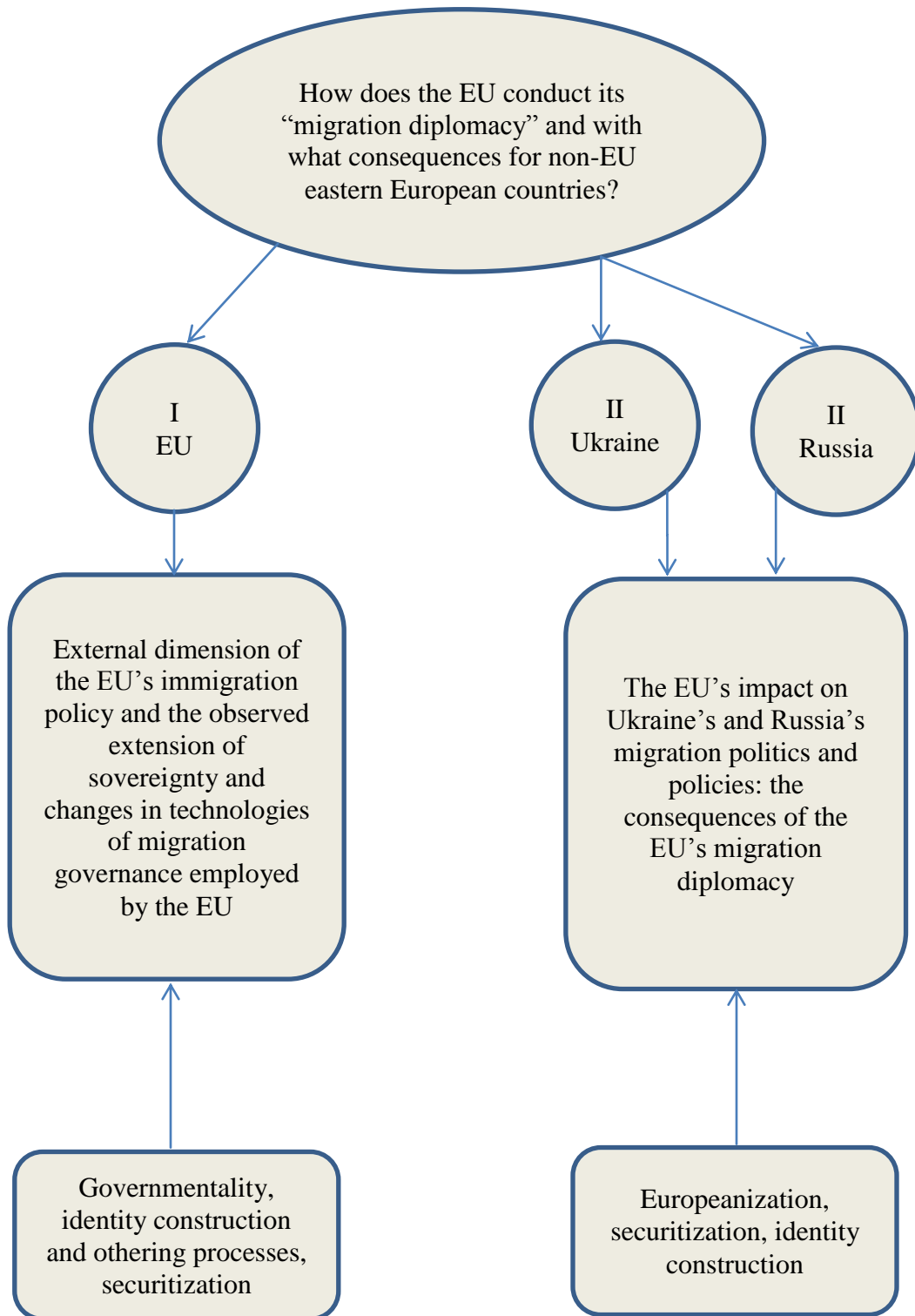
My study has two main components designed to answer the key question asked in the dissertation: how does the EU conduct its migration diplomacy and what are its consequences for

¹² In Walters’ interpretation, Foucault’s understanding of liberal governmentality is characterized by the following salient features: 1) the focus on “economic” or “frugal” governance in comparison to the police state; 2) a special regime of truth with a special role given to “political economy and its expert knowledge of the market,” and 3) a particular set of relationships to freedom, with the latter constantly managed and reproduced (Walters 2012, 30-31).

the EU's eastern European neighbouring countries? (See Figure 1.1). One component is an analysis of what has been driving the external dimension of EU policy on immigration and what this may tell us about the extension of sovereignty or changes in the techniques of governance of migration that are being deployed by the EU. I am interested in the ways the neighbouring countries' role and place in the management of international migration to Europe is being constructed, and how certain policy options become justified as acceptable and even necessary. The second component has to do with the consequences of the EU migration regime for non-EU European countries. I have used a comparative case-study research design and have drawn on the methods of process-tracing and discourse analysis. The case studies have been used "as a medium for continued theoretical and methodological discussions" (Hansen 2006, 11). The two cases selected – Ukraine and Russia – were studied along the same lines to identify the factors that explain any significant differences in these countries' responses to EU external pressures, as well as in the EU's approaches used in relation to these two neighbouring countries.

For my case study analysis, I used the process tracing method in a combination with various methods and techniques of data collection (including elite interviewing, documentary research, and media analysis) in order to reconstruct migration relations between the EU and Russia, and the EU and Ukraine respectively. The aim of the process tracing method is to "obtain information about well-defined and specific events and processes" (Tansey 2007, 765). It allows a researcher to stitch together various accounts and information received through data collection and weave "a story" about processes and events studied. Since process tracing requires collecting large amounts of data, it allows the researcher to identify critical junctures when policies or ideas were altered. As one of the methods for determining causal relationships (George and Bennett 2004; Radaelli 2003; Checkel 2005), process tracing was specifically useful in the study of the

Figure 1.1. The Research Components



Europeanization of migration policies in the cases studied. The main emphasis, however, was on the reconstruction of the processes and events studied.

When doing Europeanization research, one should be careful to establish a causal effect between the domestic change and European integration processes (Radaelli 2003). Clearly, changes in discourses, policies, and politics can be due to a complex combination of the effects of global, domestic and regional forces. To avoid the trap of attributing all of the changes close to or resembling what the EU wants to the processes of Europeanization, rival hypotheses about the impact of domestic actors and other international organizations on the policies and politics in the case studies were also investigated.

Finally, discourse analysis presented both a theoretical and analytical path for the study of written and spoken texts. According to poststructural analysis, foreign policy is a discursive practice; “foreign policies rely upon representations of identity, but it is also through the formulation of foreign policy that identities are produced and reproduced” (Hansen 2006, 1). Analyzing foreign policy discourses allows us to understand what role migration discourses play in structuring inter-state relations in Europe and what implications they have – what challenges and opportunities they create – for the sovereignties of third states/non-EU states that co-operate with the European Union on migration. In addition, the analysis of discourses allows us to identify the strategies used by the European Union to externalize migration controls to its neighbourhood. Discourse analysis further illuminates the techniques and practices employed by various actors to manage migration, both in the EU and in the two case studies. Finally, identifying how the EU constructs itself as a “normative” power on internal security policies calls for a discourse analysis as well.

The EU's migration diplomacy was studied as an example of *discursive encounters*, that is, through a contrast of the discourse of the "Self" with the "Other's" counter-construction of Self and Other (Hansen 2006, 76). I show how Ukraine and Russia respectively encounter the European discourses on the emigration potential of their citizens and on perceived or real insecurities perceived to come from their territories and citizens.

Research design

In designing this study, I drew on Hansen's (2006) models of research design for discourse analysis. In particular, two intertextual models – the official discourses and the wider public debates – were used in studying the impact of the EU's "migration diplomacy" on inter-state relations in Europe and the EU's domestic impact in non-EU countries. While the first model focuses on official discourse and the intertextual links made within it, the second model, in order to broaden the scope of analysis, includes the wider media debate, oppositional political parties or any other competing or supportive discourses to the official ones. These two intertextual models allowed me to analyze official foreign policy discourses and to identify both the traditional and the non-traditional actors participating in them. When it was possible, I sought to determine the links between official and oppositional discourses.

Figure 1.2 schematically represents the research design used in this study. By placing the EU's "migration diplomacy" (which includes a series of events and a combination of formal and informal rules and practices directed at third countries) at the centre of my study, I seek to analyze these practices through time (since the end of the Cold War and the break-up of the Soviet Union) and space (Ukraine and Russia that currently share borders with the EU). Since

this study focuses on the intersection between migration and foreign policy, the EU, Ukraine and

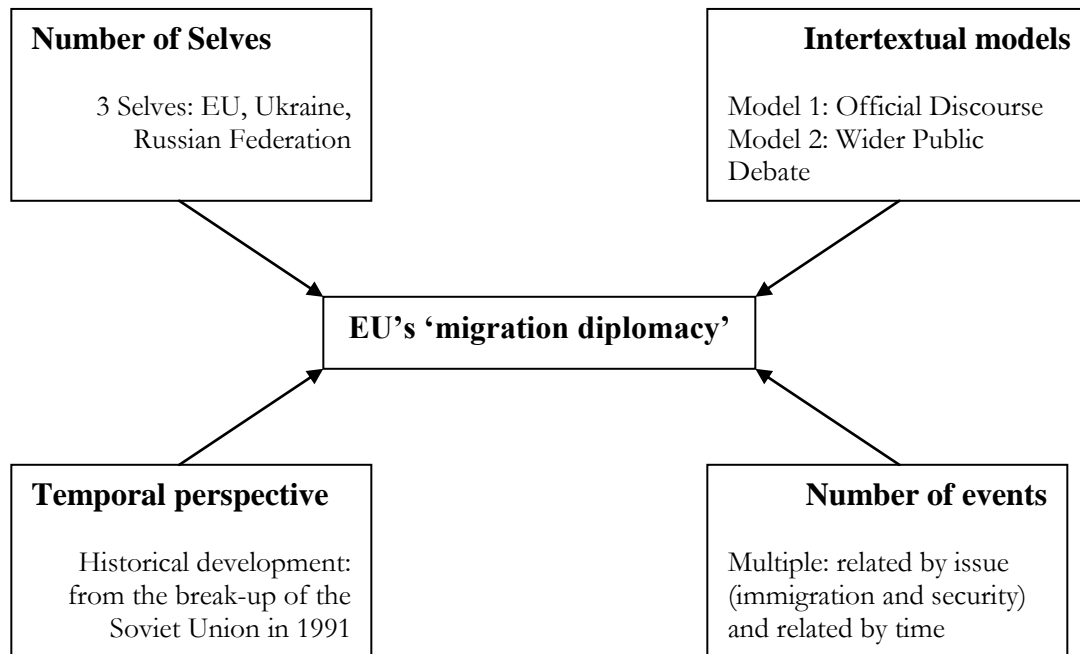


Figure 1.2. The Research Design

Russia are treated as the three Selves. The aim was to compare the responses of different Selves (Ukraine and Russia) to the same set of practices and discourses (i.e., the EU's migration diplomacy).¹³

With regard to temporal perspective, the case studies were studied from the end of the Cold War and the break-up of the Soviet Union until 2011. For the EU case, the analysis covers the 1980s; the mid-1980s were decisive with regard to shaping the logic and prospects for consequent policy-making on immigration and asylum and external border management in the EU (Guiraudon 2006; Walters and Haahr 2005; Monar 2005).

¹³ Alternatively, it is possible to lump these two countries under a single Self – Eastern Europe, and analyze the EU's identity from the perspective of the West/East interactions between the EU and Eastern Europe (on the western construction of Eastern Europe, see Wolff 1994; Neumann 1996). However, this approach is not taken in this study.

I used a wide range of primary sources to answer the questions of this study. In the EU case, the list includes various relevant official texts produced by EU institutions, such as communications and country reports by the European Commission, opinions and decisions of the European Parliament, conclusions of the European Council and of the Council of Ministers. I also analyzed press releases by EU institutions and speeches by EU politicians and high-ranking bureaucrats, including those who were interviewed for this study. My analysis was also informed by publications of some European think-tanks (e.g., Centre for European Policy Studies) and public platforms (like Statewatch).

Similarly, for the case studies I analyzed the official discourses as expressed in texts produced by their governments and the speeches of government officials made in the media or during the interviews conducted in these countries. In order to capture the wider foreign policy debates, I also used relevant verbatims of discussions in the parliaments, speeches and positions of political parties, and press releases of governmental institutions. In addition, I conducted media analysis using a Ukrainian weekly newspaper, “Dzerkalo Tyzhnya,” a daily newspaper, “Den’,” and press releases and articles published by the news agency UNIAN. In Russia’s case, my analysis was based on the thematic compilation of the publications on migration from various Russian newspapers that are contained in the database of “Demoscope Weekly,” a Russian weekly demographic newspaper of the Insitute of Demography (available at <http://demoscope.ru>). My analysis was also informed by the studies on migration policy and visa relations with the EU conducted by Ukrainian and Russian NGOs. I also included the positions of Russian and Ukrainian scholars who were interviewed in these countries. Interviews and information sources in Ukraine and Russia were accessed in Ukrainian and Russian respectively.

My field research took place in May-August of 2008 in Kyiv, Moscow and Brussels. In total, 37 interviews were conducted in these three cities with relevant officials and researchers, and they were designed to provide a better understanding of the contexts and the topic. In Brussels, I interviewed officials from the Freedom, Security and Justice Directorate General and from the Council Secretariat. (Regretably, I was unable to secure any interviews from the DG RELEX). I also interviewed representatives of the Commission's Delegations to Russia and Ukraine respectively. Interviews in Ukraine and Russia were designed to capture the public officials' subjective understandings of their country's relations with the EU in the realm of migration and border management and to understand their responses to the EU's evolving immigration and border regime. Whereas in Ukraine I conducted 13 interviews with government officials and academics, in Russia I was only able to organize 6 interviews, with only one interview being with an official from the Ministry of Foreign Affairs. Regretably, Russian authorities were not open to being interviewed. To compensate for this, I used interviews with officials from the Federal Migration Service and border guards that were published in popular newspapers and/or in the official departmental newspapers and press releases. The institutional affiliations of interviewees are listed in Appendix 1.

CHAPTER 2. THE EU AS AN AREA OF FREEDOM, SECURITY AND JUSTICE: THE CONSTRUCTION OF THE EU'S INTERNAL SECURITY MODEL, 1985 – 2010

Introduction

The projection of the values underpinning the area of freedom, security and justice is essential in order to safeguard the internal security of the EU. Menaces such as terrorism, organised crime and drug trafficking also originate outside the EU. It is thus crucial that the EU develop a strategy to engage with third countries worldwide (Commission 2005b, 3).

Most threats to the internal security of the EU either originate **outside Europe** or have a clear nexus to other parts of the world (Council 2010a, 3, bolded in original).

JHA policies rank high on the EU's internal agenda, as well as in its external relations with other states. The policy areas include issues such as EU citizenship, immigrant integration and social cohesion, irregular immigration, measures against human trafficking, terrorism, and drugs, judicial co-operation in civil and criminal matters, and police co-operation. Designed to tackle perceived and real threats to EU governments and citizens, these security-oriented policies have become one of the most dynamic policy areas, both internally in the EU and in its external relations.

This chapter engages with the following question: How do the discourses about the EU as a special internal security model and as an area of freedom, security and justice (AFSJ) shape the EU's foreign policy towards non-EU countries – particularly, toward its non-EU European neighbours? I examine the rationale for the rise of the ED-JHA policies and assess the role that the “neighbourhood” plays in this emerging EU's foreign policy and in the construction of the EU as the AFSJ. The larger goal is to account for the ways in which the EU expands its space of governance beyond its borders to neighbouring countries. Building on the governmentality studies and critical foreign policy literatures, I argue that the ED-JHA has evolved into a coherent and ambitious foreign policy of the European Union through the construction of

common threats to the identity of EU MSs, as well as to the security and welfare of EU citizens. In addition, the ED-JHA has served as a platform for the EU to flex its power muscles in the international arena as an active international player in the internal security field.

In the context of the EU's enlargement to the east, a new European Neighbourhood Policy (ENP) was introduced in 2004 as a platform to engage the EU's newly acquired neighbours. There is general agreement in the political science literature that the ENP was the EU's response to the threats and challenges perceived by the MSs' governments due to the eastern enlargement, and that the security component has been dominant in ENP formulation and implementation. According to the external governance literature, the ENP has allowed the EU institutions and MSs to inject the conditionality principle into its relations with non-EU states without membership perspective thereby increasing its chances of policy transfer by "soft" means (Lavenex 2005a). Following the analyses of the Eastern enlargement, some scholars highlighted similar patterns of unilateral policy transfer and the importance of conditionality in the EU's policy toward its new neighbours (Kelley 2006; Maier and Schimmelfennig 2007).

By looking at the external dimension of the EU's internal security policies, I explore how the EU is being constructed as the area of freedom, security and justice through partnership with its neighbours. Identity and foreign policy are closely interrelated and it is through security discourse that foreign policy priorities get constructed, materialized into actions, and acted upon in the world context (Campbell 1998). The external dimension of the EU's internal policies is analyzed through the prism of threat construction that is being presented to its populations and that serves to legitimize the external policies for its public.

2.1. Theorizing the External Dimension of the EU's JHA Policies

In recent years, scholars have demonstrated research interest in the external dimension of the EU's JHA policies.¹⁴ Nevertheless, despite their examination of policies, actors, activities, and processes with a proclaimed "external dimension" or producing "externalities", there is no agreement on what the ED-JHA actually is. The ED-JHA has been categorized as: one of the dimensions of the EU's foreign policies (Keukeleire and MacNaughtan 2008); as an instrument of the EU's external policy (Lavenex 2007; Rees 2008); as a unique "policy universe" (Smith 2009); and as a distinctive policy with its own *raison d'être* and mechanisms (Balzacq 2008). Some concepts are used interchangeably, such as "extra-territorialization" (Wichmann 2007), "externalization" (Lavenex and Uçarer 2004), "internationalization," or "external governance" (Lavenex and Wichmann 2009), or simply "external dimension." Such variation in concepts may stem from the fact that JHA policies are diverse and numerous, have enjoyed different levels of communitarization and EU competence (see Peers (2006) for more details), and have been differently pursued in external relations due to being national security- and sovereignty-sensitive.

Questions about the political, legal and institutional dynamics of policy-making dominate studies on the ED-JHA. From the public policy perspective, Wolff *et al.* (2009, 10) define the ED-JHA as "an attempt to provide an overall strategic orientation to punctual measures adopted in the policy area of JHA, such as border management, the fight against terrorism and the fight against organized crime." Substantively, the ED-JHA covers the external dimensions of various policies in the areas of terrorism, migration and organized crime. Institutionally, the policy includes "the actors, rules and practices that relate to the EU's efforts to protect its citizens from a wide range of internal and external threats" (Wolff *et al.* 2009, 10-11).

¹⁴ Some of the most active contributors to studies of the external dimension of the EU's JHA policies are Thierry Balzacq, Sarah Wolff, Nicole Wichmann, Gregory Mounier, Sergio Carrera, Elspeth Guild, Valsamis Mitsilegas, and Sandra Lavenex. The list can definitely be expanded.

As the quote at the beginning of this chapter states, the Commission's major motivation for advancing the external dimension is the transnational nature of the named threats. Co-operation among the internal security agencies hence is viewed as a legitimate exchange of expertise, information, and experience. Yet, what the ED-JHA actually does for the Union has not been sufficiently debated (Balzacq 2008, 2009a, is an important exception). Policy-makers and scholars predominantly legitimate the EU's externalization of its internal security on the grounds that it is necessary for the European Union to protect its citizens. Consequently, from the governance perspective, there has been an interest to understand under what conditions the EU can be *more efficient* in transferring its norms, rules and values to non-members of the Union in order to meet its own security goals. The "external dimension", however, should not be taken for granted as a mere necessity of security concerns, with the latter considered unproblematic. Why?

The ED-JHA has evolved from a loosely defined initiative of inter-governmental co-operation, into a dynamic and ambitious policy of engagement on internal security matters with non-EU countries. It stretches across a rather broad scope of policy issues such as (1) immigration and asylum, (2) organized crime and terrorism, (3) judicial co-operation, and (4) police co-operation. We can think about the ED-JHA as "a policy universe" that comprises "issues that are dealt with at the EU level under a variety of different institutional set-ups ... and across all of them" (Smith 2009, 3), with both communitarized and intergovernmental modes of governance present. The ways in which security threats are construed, as well as the EU's role in mitigating or eliminating them, have implications for the EU's foreign policy toward other countries and regions in the world, including towards the European neighbours of the Union, deemed to be the countries from which these threats originate or transit to the EU.

By examining the internal security discourses that seek to rationalize and legitimate the ED-JHA strategy and its activities as part and parcel of the EU's AFSJ, we will be able to account for the significance of the ED-JHA in the construction of the EU's collective identity and its policies towards "outsiders." Therefore, I suggest we understand the ED-JHA as one of the foreign policy discourses that constructs and reproduces differences.

Foreign policy relies on discursive representations of identity (Hansen 2006). It is "a specific sort of boundary-producing political performance" (Ashley 1987, 51) and "one of the boundary-producing practices central to the production and reproduction of the identity in whose name it operates" (Campbell 1998, 68).¹⁵ The ED-JHA discourse is replete with representations of confrontations between a Self (in this instance, the EU as a political project) and an Other (non-EU countries). The ED-JHA is part of the wider practices of differentiation and modes of exclusion that "constitute their objects as 'foreign' in the process of dealing with them" (Campbell 1998, 68-69). What goes into the external dimension of any EU policy (be it energy, immigration, asylum, terrorism, organized crime, etc.) reflects a conventional matrix of interpretations and definitions of differences that the logic of identity requires. The external dimension therefore presents risks and dangers that the EU, its MSs, and citizens should be aware of and should be ready to address. These interpretations create the basis for formal foreign policy, with the ENP being one instance of it. The "neighbourhood" policy reproduces the identities of the self (the EU) and the other (non-EU). It exists to mitigate the differences between the EU and its neighbours but it does not resolve them, because the outsider status of the ENP countries is preserved.

¹⁵ While some might protest the usage of concepts applied to analyze states' foreign policy to studying the EU, I concur with those who emphasize the state-like features of the European integration project (Buckel and Wissel 2010).

Secondly, the ED-JHA serves the geopolitical ambitions of the European Union through “the control and management of people, objects and movement” (Balzacq 2008, 1). While the co-operation of EU MSs on matters of internal security is a significant development from the perspective of supranationalization, their co-operation with non-members is even more significant in terms of the modes of international co-operation on security matters. Arrivals of undocumented people on boats to the European shores are frequently followed by calls from European politicians and security personnel for the greater protection of external borders and the deployment of personnel to foreign or international waters (for example, by deploying the FRONTEX missions). Calls are also made for a need to increase expertise exchange, operational co-operation, personnel training, or financial and technical assistance to the countries of origin or transit of migrants. Through such means, the EU exercises subtle influence over third countries, raising questions about the effects of these influences on the sovereign rule of these countries over their territories and populations.

Finally, the development of the external dimension has influenced the EU’s internal policy and the construction of the EU’s internal security identity. Emphasizing the cross-border nature of security challenges has enabled further integration within the European Union. “More Europe” on such matters as irregular migration, asylum, protection of external borders, and criminal justice, becomes a collective salvation to individual MSs. Therefore, the necessary acceptance of the transnational nature of modern threats to European societies calls for more coherent and efficient collective response, and this leads to further internal integration. To pursue credible “security partnerships” with third countries, the EU must be united internally.

The ED-JHA is one of many strategies for the construction of an EU-wide identity. The signifier “AFSJ” is used to denote, maintain, and regulate the EU as a special “home affairs”

model, as well as to simultaneously distinguish the “inside” from the unstable and anarchic/insecure “outside.” Security is a relational and historically-specific concept; both “risk” and “security” have temporally specific interpretations and meanings which are deployed as political technologies of governance (Walters 2008, 161-2). The EU is intrinsically implicated in the construction of the security threats it seeks to tackle and of a security order it tries to maintain. In the European Union, internal security discourses represent “a particular regime of in/security and power relations” (Walters and Haahr 2005, 93) that is invented and put to use at a particular time, under specific circumstances, and for a particular reason. Walters and Haahr (2005, 94) argue that the “JHA powerfully constructs the EU as an endangered community, the site of a safe(r) domestic inside that is juxtaposed with a dangerous and sometimes chaotic outside, with EU frontiers as the dividing line between them.” Similar to other foreign policy discourses, JHA discourses represent dangers as being “located in an external and anarchic environment, which threatens the security of an internal and domestic society” (Campbell 1998, 8). In particular, they identify non-military security challenges to EU governments and provide a policy space wherein security actors from MSs and EU institutions both formulate these challenges and negotiate possible solutions to them.

2.2 The Formation of the ED-JHA Policy Domain: From Tampere to Stockholm

Two processes have engendered the formation of the external dimension of the EU justice and home affairs: European integration, on the one hand, and the geopolitical reality of a post-Cold War Europe, on the other. The break-up of the Soviet Union and the end of the Cold War had caused a new geopolitical reality to emerge. The eastward enlargement created a dilemma for the EU of balancing the needs of internal security and forming cooperative relationships with non-

EU countries. In Foucaultian terms, the EU's vulnerability to its newly acquired neighbours in eastern and southern Europe became problematized, turning the neighbourhood into an object of governance. The question of how to live next door to the neighbouring countries that are said to make the EU vulnerable to threats such as terrorism, illegal immigration and organized crime, has arguably become a central one in the EU's search for the best ways of engaging with its neighbours. With the process of globalization since the 1990s, the ED-JHA has evolved from a loosely defined initiative of inter-governmental co-operation in the EU into a dynamic and ambitious policy of engagement on internal security matters with third countries in all parts of the world. It is gradually being shaped as the policy that "informs the EU's geopolitical ambitions" (Balzacq 2008, 1) and that shapes the Union's common – state-like – identity.

2.2.1 The Significance of Intra-EU Internal Security Co-operation

In the course of the European integration since the 1970s, inter-governmental and inter-institutional processes and activities in the justice and home affairs field have significantly increased within the European Union, with sovereignties pooled especially on unauthorized immigration and border management. As has been shown in greater detail by some scholars (see Peers 2006; Boswell 2003a; Monar, Mitsilegas and Rees 2003), informal inter-governmental co-operation on security-related issues can be traced back to the 1970s when – within the Trevi group – interior officials exchanged information and experience in addressing terrorism, crime, and unwanted immigration. The launch of the Single Market by the Single European Act (1986) activated more formal intergovernmental co-operation within the EU when five out of ten MSs agreed to step up their internal security co-operation and establish a border-free market area in

accordance with the Schengen Treaty (1985).¹⁶ The Schengen framework was a “laboratory” for JHA officials whose experience was used to set the agenda on inter-governmental co-operation on internal security (Guiraudon 2006). In addition, national ministries of justice and interior used EU-level politics to increase their executive control over the policy area, conducting negotiations behind closed doors and with no or little scrutiny and oversight from national and European parliaments (Guiraudon 2006).

The incorporation of the Schengen rules into the EU Treaty framework in 1997 created a new space for internal security co-operation and led to “a single internal security zone encompassing all Schengen members” (Monar 2005, 146).¹⁷ With their emphasis on stricter control over external borders as a compensating measure for border-free internal space,¹⁸ the rules became EU *acquis* and were now applicable to all MSs with the exception of the UK, Ireland, and Denmark. Significantly, this “internal security zone” represents a particular style of reconnecting security to a sense of place when questions of internal security also become questions of “political and even territorial identity” (Walters and Haahr 2005, 94). EU ministers of interior now talk about efficiency and cost-saving measures in pooling resources to safeguard the security and welfare of EU citizens.

In addition to turning the EU into the “Schengenland” (a concept that is associated with the exclusionary nature of European integration), the Treaty of Amsterdam (1997) reaffirmed

¹⁶ For the five countries that initially signed the Schengen Agreement (France, West Germany, Belgium, Luxembourg, and the Netherlands), co-operation on immigration and asylum issues were considered measures compensating for the abolition of the internal border controls in a Single European Market initiated by the Single European Act (1986). These countries agreed to strengthen their common external borders through the sharing of best practices of border checks and surveillance, the provision of common training and education for border personnel, as well as the introduction of measures necessary to combat terrorism and organized crime, illegal migration, and trafficking in goods and human beings.

¹⁷ According to Peers (2006, 45), the Schengen provisions were included into the Treaty framework because of a significant overlap between the expanding Schengen rules and EU JHA policies.

¹⁸ The ambiguity of this border-free space is fully acknowledged, especially in light of the recent discussions about the possibility to re-introduce border controls within the EU in cases of emergencies and threats to public order.

MSs' intention to make the EU into the AFSJ. In the three AFSJ Programmes and their Action Plans (i.e., the Tampere, the Hague, and the Stockholm programmes) created thus far, EU governments have set out the direction through which this goal should be realized. The most pivotal component of these Action Plans is the reconfiguration of internal and external border controls and the management of populations through immigration controls. As Carrera (2007, 5) mentions, one of the objectives has been "to send a clear message to 'the outside' about a common European security identity substantiated in an Area of Freedom, Security and Justice." Through the development and implementation of the AFSJ policies, the EU has been constructing itself as the "home affairs" model, and it is in the ED-JHA where the Union's political, economic and social differences from the "outside" countries are being formulated and emphasized. The ED-JHA discourse – that represents the threats to internal security as coming from the "outside" – plays an important part in legitimizing the EU's efforts to become an influential international player in dealing with non-traditional security threats.

Notably, as is shown in the next section, migration was the first JHA issue that received a formal, political approval for an external engagement. Immigration control as a key concern and a goal for EU MSs, and consensus among interior ministers on the importance of getting third countries on board to reach their internal policy goals, played key roles in engendering an external dimension for the EU JHA policies. While EU MSs were reluctant to step up the level of communitarisation and harmonisation of the JHA field internally (especially on labour migration, police and criminal matters), it was the anticipated "added value" of the Union that they pursued when agreeing to allow EU institutions to legislate internally and engage externally in co-operation on migration management. Immigration and border control-oriented measures were first to be placed into the Community competence and become communitarized by MSs.

The internal construction of the EU as the AFSJ has taken place in the context of a binary opposition between the inside and the outside when the threats (such as terrorism, organized crime, drugs, corruption, and illegal immigration) are represented as mainly of “foreign” or “transnational” origins. Such representation motivates a need to co-operate with non-EU countries “in an increasingly interconnected world” (Council 2005b, 2). The discourse around these security threats, I claim, is one of the many discourses that enable the construction of a common identity for the EU. In this particular case, the identity construction based on the representation of the common security threats to all EU MSs, is reinforced through the gradual institutionalization of the EU’s external border. The latter process takes place, among other things, through the common visa policy and the Schengen Borders Code, integrated border management (IBM) policies, the activities and operations of FRONTEX, Rapid Border Intervention Teams (RABIT), and the European Border Fund. Thus, the ideational, technical, material, and human resources committed to external border management by MSs and EU institutions make the common external border “real.”

Within internal EU co-operation on justice and home affairs, in addition to measures that need be pursued internally, two dimensions have been presented and pursued as solutions to the internal security challenges of EU MSs:

- 1) engagement with third countries to address threats and risks that have a transnational character, with the goal of increasing the capacities of these countries to deal with home-grown crime that potentially travels to the EU, or transnational crime that uses their territories as staging grounds for their activities;
- 2) rationalization of a need to increase the EU’s international role in shaping the agenda of world co-operation on internal security matters.

These two objectives permeate the EU's great power ambitions. The processes of governance that constitute these two dimensions reveal how the EU, by seeking to become an influential player and norm-setter in the justice and home affairs field, pursues policies to increase its power in Europe and the world. The two recent initiatives – the idea of introducing a unique “European model” in internal security (suggested by “Future Group” in 2008) and the launch of the Internal Security Strategy (ISS) (by the JHA Council in February 2010) – add further layers to the constitution of the EU's territory and identity. The construction of a common threat serves the role of creating the EU as a distinct territory/space in contrast to its neighbours. What is actually occurring, especially with ENP countries, points to hierarchically imposed governance modes on non-EU countries, rather than equal partnerships (Lavenex and Wichmann 2009). Similarly, the more recent talk of “*global* area of freedom, security and justice” (Council 2005b) or an “*enhanced* area of freedom, security and justice” (Council 2006a) remains an empty rhetorical device, with its effects unclear for non-EU countries.

2.2.2 The ED-JHA and the Construction of a “Home” Security Model in the EU

Official EU discourse regarding the ED-JHA reveals two interrelated tendencies that constitute the EU as a “special internal security” model. First, the insecurities coming from the outside oblige the EU to increase its activities beyond its borders and assist non-EU countries (that are unable to meet their security challenges). This, secondly, requires increased internal coherence so that the EU can more effectively tackle cross-border or transnational challenges. According to the Directorate-General for Home Affairs, the external dimension of justice and home affairs “contributes to the establishment of the internal area of freedom, security and justice” and “supports the political objectives of the EU's external relations, notably by fostering the rule of

law, democracy, respect for human rights and good governance in other countries” (Commission 2010). The one is seen to be dependent upon the other. The underlying theme is the EU’s international influence in “internal” security, and the governance of the external becomes an additional motivator for a better – or more efficient – internal governance. The EU institutions (the Commission in particular) advocate going “global” in order to increase the EU’s attractiveness and make it relevant in “the changing security environment” (Council 2008a, 9). Therefore, the ED serves to enhance EU security while also extending its international influence.

My analysis below highlights the key moments that signify how the external agenda of building the EU as “the area of freedom, security and justice” takes the shape of a policy that displays the geopolitical ambitions of the Union.¹⁹ As *Chapter 3* is dedicated to the external dimension of EU immigration policies, here I only briefly touch upon the saliency of the immigration agenda to the formation of the ED-JHA and discuss in greater detail the key ideas in the development of the ED-JHA as the EU’s foreign policy.

Although it was the Treaty of Maastricht (1992) that conceptualized the EU as the AFSJ, the area’s principles and details, as well as concrete actions to implement them, were fleshed out in the conclusions of the Vienna Council (1998) and of the Tampere Council (1999), with the implementation actions laid out in the Commission’s Scoreboard (2000). EU governments expressed their commitment to using “all competences and instruments at the disposal of the Union, and in particular, in external relations” in “an integrated and consistent way to build the area of freedom, security and justice” (Council 1999b, point 59). They also agreed to collectively

¹⁹ The analysis is based on following documents: 1) the AFSJ programmes (i.e. the Tampere, the Hague and the Stockholm Programmes), their action plans and implementation reports; 2) available Multi-Presidency work programmes on the ED-JHA, 2000-2010; 3) *A Strategy for the External Dimension of JHA: Global Freedom, Security and Justice* and its implementation reports by the European Commission and the General Secretariat of the Council produced in 2006-2010; 4) *European Security Strategy* (2003) and its implementation report approved in 2008; 5) Future Group Report (2008), and; 6) *European Internal Security Strategy* (2010).

increase the EU's influence and positioning in international co-operation efforts on internal security matters. At the 1999 Special European Council on Justice and Home Affairs in Tampere, MSs re-emphasized the importance of the Union's "capacity to act and be regarded as a significant partner on the international scene" (Council 1999b, para. 8) and linked this capacity to its ability to deliver the AFSJ for EU citizens. Although the Tampere Programme formally introduced the external dimension of the EU's internal security, intentions to establish an external dimension in the immigration and asylum field by linking MSs' and Union's actions in foreign policy, economic policy, immigration, and asylum policy were first expressed a decade earlier.²⁰ Unsurprisingly, as the EU can act internationally only on matters where internal agreement exists, the Council was able to endorse only the external dimension of the EU's asylum and immigration policy (in the Community competence since 1997) and mentioned organized crime as an issue of concern to be raised with non-EU countries.

Since the Tampere, the external dimension of European asylum and immigration policies has developed into a key focus of co-operation among MSs and third countries, with "illegal immigration" and measures at the external borders of the Union receiving the most attention both internally in the Union and in its relations with third states. MSs incorporated immigration matters into their foreign policies, and called for a "targeted approach" to the problem of migration management, with explicit reference to Common Foreign and Security Policy (CFSP) and other European Union Policies as possible frameworks to penalize third countries that did not fulfill their obligations in border management and migration management (Council 2002b).

²⁰ The first calls for political and economic co-operation on migration management with third countries were publicly made by the European Parliament in 1987 and by the European Commission in 1991 (European Parliament 1987; Commission 1991). Also, in 1992 at the Edinburgh European Council, member states adopted "Declaration on the Principles of Governing External Aspects of Migration Policy" (Council 1992). This policy area is discussed in Chapter 3.

As an incentive, the Union introduced a financial instrument to assist third countries to improve their capacity to manage migration and borders.

Another important moment in the Tampere Council conclusions was the MSs' affirmation that readmission and immigration clauses should be incorporated into the EU's co-operation agreements with third countries and conferred the authority to negotiate readmission clauses on behalf of the Community on the European Commission. Facing third countries' unwillingness to conclude readmission agreements, EU MSs agreed to use the Union's bargaining power and influence in getting non-EU countries on board with migration. Such transfer of competence was important in spreading the principle of readmission to third countries.

The details of the external dimension of the EU's AFSJ were further elaborated through intergovernmental negotiations in the Committee of Permanent Representatives (COREPER). MSs' representatives agreed at that time that "Developing the JHA external dimension is not an objective of itself" (Council 2000a); rather, its primary purpose was to contribute to the establishment of the AFSJ. Rather than developing a "foreign policy" specific to JHA, it was recommended that JHA issues be incorporated into all aspects of the EU's external policy, making the ED-JHA a cross-pillar approach with cross-pillar measures. COREPER recommended raising awareness of JHA issues and of the significance of co-operation with third states among the personnel of the Union's foreign delegations and of MSs' diplomatic corps (Council 2000a).

In line with the COREPER recommendations, at the 2000 Feira Council national governments agreed that the purpose of the external dimension of the JHA was "to contribute to the establishment of an area of freedom, security and justice" and that this external dimension

needed to be incorporated “into the Union’s external policy” (Council 2000b, 5). EU member states agreed to structure the priorities of the ED-JHA in accordance with the broader geographically-based aims of the EU’s external policies (that is, enlargement, the Stability Pact in the Balkans, and Common Strategies towards the post-Soviet and Mediterranean countries). Non-military aspects of crisis management were also included among the EU’s priorities in the ED-JHA. Member states agreed that they should co-operate with non-EU countries on issues such as: migration policy, organized crime, terrorism, drug trafficking, and financial crimes (including money laundering and corruption), as well as assist with the development and consolidation of the rule of law in countries on the path to democracy (Council 2000b).

Since then, the EU has been vocal about the importance of the JHA dimension in its external relations with non-EU countries, as well as in its activities within international organizations (see also Rees 2008). Notably, an emphasis has been placed on increasing the consistency between ED-JHA activities and the EU’s strategic foreign policies toward third countries. In the *Strategy for the External Dimension of JHA: Global Freedom, Security and Justice* (2005), member states linked the integrity of the AFSJ to successes in tackling the “global” dangers of terrorism, organized crime, and illegal immigration in co-operation “with countries outside the EU” (Council 2005b, 2). Irregular migration received the most attention in the ED-JHA Strategy. At the same session of the European Council, the *Global Approach to Migration* (2005) was also adopted by EU governments, further reinforcing the logic and symbolism of the “global” spread of security challenges and the need to tackle them in partnership with countries of origin and transit. The strategy largely focused on the security aspect of the AFSJ, to the benefit of the EU: third countries are to be engaged on JHA issues in order “to respond to the needs of its [the Union’s] citizens” (Ibid., 5). The Strategy referred to all

types of instruments at the EU's disposal, from regulatory instruments such as action plans, action-oriented papers and reports, to incentives, penalties, and capacity-building tools. It explicitly warned third countries about the importance of cooperating with the EU on JHA policies: "Countries should be aware that the nature of their relationship with the EU will be positively affected by their level of co-operation, given the central importance of these issues for the EU and its Member States" (Ibid., 5). The Council reiterated its commitment to align the EU's JHA policies with the CFSP, ESDP, and the EU's development policies, and to making them consistent with the goals of the European Security Strategy (ESS) (European Council 2003).

It is worth mentioning here how the ESS reflects the conceptualization of security threats in the post-Cold War world.²¹ The Strategy linked internal and external threats to security: "The post-Cold War environment is one of increasingly open borders in which the internal and external aspects of security are *indissolubly* linked" (European Council 2003, 2, emphasis added). Among the key threats mentioned were: terrorism, proliferation of weapons of mass destruction, regional conflicts, state failure, and organized crime (including human trafficking and growth in maritime piracy). Notably, the majority of them (e.g., organized crime, terrorism, civil crisis management) had already been identified or would later be identified (e.g., state failure, bad governance) as themes in the ED-JHA. The Strategy listed irregular migration among the "key threats" facing the Union, pointing to the priority attributed to this issue:

Europe is a prime target for organised crime. This internal threat to our security has an important external dimension: cross-border trafficking in drugs, women, illegal migrations and weapons accounts for a large part of the activities of criminal gangs. It can have links with terrorism (European Council 2003, 4).

²¹ The European Security Strategy was prepared by EU High Representative Javier Solana, and it was adopted by the European Council in December 2003. Since its adoption, the ESS has been referred to in every multi-presidency programme of the ED-JHA, in the Strategy on the ED-JHA (2005), and has been taken into account in reviewing the Hague programme and preparing a Stockholm programme for the AFSJ.

“Illegal migrants” were thus explicitly linked with organized crime and terrorism, blurring the line between the military and civilian aspects of security provision in Europe. The Strategy emphasized the importance of better coordination between JHA policies and the EU’s anti-terrorist measures and policies against organized crime, as well as of greater consistency between EU instruments and the external activities of individual MSs (Ibid., 13). A “Report on the Implementation of the European Security Strategy” (Council 2008a), while essentially concentrating on CFSP/ESDP matters, also mentioned terrorism and organized crime as major sources of international instability. It labeled migration (in the context of climate change and the irregular immigration situation in the Mediterranean region) a factor of instability and political tensions for the EU and its partners. Moreover, the report linked organized crime, illegal immigration and piracy to state failure and called on the Union “to improve the way in which we bring together internal and external dimensions” (Council 2008a, 4).

Partnership with third countries in the field of JHA is based on the principles of strengthening the rule of law and promoting respect for human rights and international obligations. The 2005 ED-JHA Strategy declares: “The EU should use its significant relationship with third countries as an incentive for them to adopt and implement relevant international standards and obligations on JHA issues” (Council 2005b, 5). This was subsequently supported by a political declaration, the “Vienna Declaration on Security Partnership” (2006), signed by the EU, neighbouring countries, and other countries participating in the Vienna conference on the international dimension of internal security.²² The Declaration was “the expression of the increasing role of internal security in external relations” and was meant to signal the commitment

²² In May 2006, the Ministerial conference on the “Role of Internal Security in Relations between the EU and its Neighbours” took place in Vienna. Representatives from more than 50 countries and international organizations met to discuss the external dimension of internal security at the conference that, according to the organizers, meant to recognize the increasing importance of internal security in the foreign relations.

of the EU and its partners to an “enhanced Area of Freedom, Security and Justice.” What “an enhanced area of FSJ” means is unclear, but its development, it is mentioned, can only be successfully achieved “through relationships based on mutual partnership between the European Union and its partners” (Council 2006a). What “mutual partnership” means is, again, unclear from this document. However, the prospect of closer co-operation with the EU was declared as “an effective way to *align with common international standards* in justice and home affairs” (emphasis added). Terrorism, organized crime, corruption, and management of migration flows were defined as the key areas of common interest.

In practice, the external dimension of the AFSJ has been largely focused on security concerns in relation with the ENP countries, the Western Balkan countries, and Russia (with whom the EU has been working on establishing a Common Space of Freedom, Security and Justice). Most of these countries (with the exception of non-immediate neighbouring countries that are part of the ENP) share borders with the European Union and are viewed as “buffer zones” or “transit zones” between the EU and the areas where potential threats originate. Clearly, in the discourse on internal/external security, threats to the EU’s order are presented as if they are mainly of ‘foreign’ or ‘transnational’ origin. Risks such as terrorism, organized crime, drugs, corruption, and illegal immigration are risks of a transnational nature that states face “in an increasingly interconnected world” (Council 2005b, 2). These risks play their role in constituting the EU as the AFSJ, providing a space for EU-wide threat construction and the creation of a rationale for the most effective and appropriate responses. Some of these responses by the EU include practices such as: the increased transnational policing, strengthened border controls, strict visa policies, lowered standards of humanitarian protection within the EU, and the increased reliance on security and intelligence agencies like FRONTEX or Europol.

Additional layers to the conceptualization and construction of the AFSJ as a “home” security model, with emphasis on the external dimension, were added by the Future Group on European Justice and Home Affairs in the report *Freedom, Security, Privacy – European Home Affairs in an open world* (2008).²³ The Future Group’s report proposed a concept of “European Model” of home affairs based on “a unique societal approach” that balances mobility, privacy and security.²⁴ The Future Group emphasized the importance of the growing interdependence between internal and external security and argued for “developing a holistic concept covering e.g. development, migration, security, economic, financial and trade policy aspects” (2008, 18). The fact that in the external dimension “[i]n the area of freedom, security and justice, actions and measures have to follow strict geographical prioritisation and political differentiation” (Future Group 2008, 48) proves that the external dimension reflects and is aligned with the wider foreign policy goals of the EU. This model became the foundation of a new AFSJ Programme, the so-called Stockholm Programme (2010-2014). The idea of a special “European security model” has also found its place in the Lisbon Treaty (2009) and in the Internal Security Strategy (ISS) (2010) (Council 2010a). Whereas the Future Group suggested a concept of the EU becoming a unique internal security space, the latter documents elaborated its meaning, priorities and actions.

As far as migration is concerned, the Future Group collapsed inter-state migration co-operation and security into one area: “the external dimension of Home Affairs policy is vital if

²³ The Future Group (with a full name *an Informal High Level Advisory Group on the Future of European Home Affairs Policy*) was created in January 2007 at the initiative of the German minister of interior, Wolfgang Schäuble, and EU Commissioner for Justice and Home Affairs, Franco Frattini. It was assembled to review the Hague Programme and design a new 5-year AFSJ programme (Future Group 2009, 5).

²⁴ The proposal read: “European action is needed to cope with the challenges to freedom and security of our citizens that cannot be solved by national action alone. European citizens expect policy-makers to guarantee security as one basis for freedom while at the same time offering strong standards of privacy. In accordance with these expectations, the term “European Model”, commonly used in the areas of economic and social affairs as a synonym for a unique societal approach, can also be used in Home Affairs. It has become an essential part of the quality of life in the European Union. Citizens are entitled to responsible and efficient national as well as European policy-making that respects and preserves this ‘European Model’” (Future Group 2008, 22).

common action is to be taken in the area of security and migration along the lines of the 2005 European Union Strategy for the External Dimension of the Area of Justice, Freedom and Security” (2008, 15). It depicted a policy designed to *prevent* immigration as a “responsible policy,” making a recommendation to develop further “a politically shaped strategy vis-à-vis third States, which would in particular allow illegal migration to be curbed *at its roots*, with a focus on border management problems” (2008, 58, emphasis added). In this context, circular migration, mobility partnership, and European strategy on visas were presented as the EU’s incentives and leverages in dealing with third states.

Finally, the Stockholm Programme supports the principle of a single external relations policy for the Union and reiterates that the ED-JHA should conform to the broader goals of EU external relations. Approved after the Lisbon Treaty was ratified, the Stockholm Programme reflects an agreement for further supranationalisation of the JHA area and contains an extended list of areas where EU institutions “add value” to the actions of MSs (Council 2009a, 77). Besides migration and asylum, these are: 1) the security co-operation on “serious and organized” crime, terrorism, drugs and human trafficking; 2) information exchange; 3) justice (i.e., promotion of the rule of law, human rights, good governance, anti-corruption measures), and; 4) civil protection and disaster management, with an emphasis on prevention and response to major technological and natural catastrophes, and “meet[ing] threats from terrorists” (Council 2009a, 77). The reference to co-operation with third countries is also made in the context of civil crisis management, and management of natural and man-made disasters in third countries. In addition, the Council instructed the Commission to examine the possibility of concluding ad hoc co-operation agreements with third countries on trafficking in human beings, with full use of the Union’s leverage against third countries.

What is also relevant for the argument made here is that the Stockholm Programme demonstrates the importance of various geographical regions to the EU. It contains five groups of countries categorized in terms of their importance for the EU and the ED-JHA. They are:

- 1) Candidate countries and countries with EU membership perspective, the main objective of co-operation with which is “to assist them in transposing the EU *acquis*;”
- 2) European neighbourhood countries and “other key partners” (not identified), in co-operation with which the EU targets “capacity-building” and “institutional development” and works to facilitate the mobility of their citizens;
- 3) The EU’s strategic partners such as the USA and Russia. The Programme makes a general statement that with these countries, “the EU should co-operate on all issues in the area of freedom, security and justice” (Council 2009a, 79);
- 4) For the group of countries in the European Economic Area (EEA) and/or Schengen states, the document uses very different language – one which positions them in the “inside.” With these countries, the EU is said to have a close relationship that allows for “closer co-operation, based on mutual trust and solidarity *to enhance the positive effects of the internal market as well as to promote EU internal security*” (Ibid., 79, emphasis added);
- 5) All other countries and regions the importance of each being determined by “their contribution to EU strategic or geographical priorities” (Ibid., 79).

What this shows is that the external dimension of internal security has been blurred with the EU’s overall foreign policy towards non-EU countries. The Internal Security Strategy (ISS) (2010) reflects “a larger consensus on the vision, values and objectives which underpin EU internal security” (Council 2010a, 1). It states the interrelations between internal and external

security and once again emphasizes the importance of external relations for the successful implementation of the AFSJ. The link between *internal* stability and security, and co-operation with non-EU countries is explicitly made in the ISS:

The quality of our democracy and public confidence in the Union will depend to a large extent on our ability to guarantee security and stability in Europe and to work with our neighbours and partners to address *the root causes* of the internal security problems faced by the EU (Council 2010a, 3, emphasis added).

The concept of "the root causes" of internal security threats is interesting in the context of co-operation with third countries, as it echoes the "root causes" approach utilized in migration co-operation. Whether and how it will be utilized in the Union's relations with third countries, especially by the internal security agencies involved with third states (e.g., Frontex, Europol or Eurojust) will be interesting to observe in future.

Both the ESS (2003) and an ISS (2010) clearly go beyond traditional military threats in conceptualizing threats to European societies. The ESS signalled the importance to the EU of coherently and consistently incorporating JHA policies into the Union's external relations in order to address such threats as terrorism, proliferation of weapons of mass distraction, regional conflicts, state failure, and organized crime (including human trafficking and growth in maritime piracy). In a 2008 report on the implementation of the ESS, the ED-JHA appears as an instrument of the CFSP, alongside its another instrument, the ESDP. This points to blurring of the boundaries between "internal security" concerns and foreign policy concerns. The distinction between the "external dimension" of home affairs and the EU's foreign policy has been largely erased. For example, the Internal Security Strategy acknowledges:

A concept of internal security *cannot exist without an external dimension*, since internal security increasingly depends to a large extent on external security. International co-operation by the EU and its Member States, both bilaterally and multilaterally, is essential in order to guarantee security and protect the rights of our citizens and to promote security and respect for rights abroad. The EU's policies with regard to third countries need to

consider security as a key factor and develop mechanisms for coordination between security and other related policies, such as foreign policy, where security issues must increasingly be taken into account in an integrated and proactive approach (Council 2010a, 16, emphasis added).

According to this excerpt, the legitimacy of international co-operation on internal security lies in the mutual commitment to security and protection of citizens and because of that, it must be part of foreign policy. The reality, however, is that the internal security agenda has driven the EU's relations with non-EU countries since at least the 1990s where it was first evidenced in the context of the EU's enlargement to the east (Grabbe 2006). The Lisbon Treaty expands the legal personality of the Union and enables the EU to potentially increase its influence with third states as well as within international organizations such as the Council of Europe or the United Nations. The practical implications of the Lisbon Treaty for the ED-JHA, and the effects of the Stockholm Programme on co-operation between security and police agencies of the EU and non-EU states are yet too early to assess. What is clear, however, is that EU governments are gradually moving into a direction of 'more Europe' on security questions, including greater control and operational co-operation at the external borders.

Since 2008, one notices a significant shift in the EU's official discourse about the AFSJ in general, and the ED-JHA in particular. There is more emphasis on "continuity in applying the JHA-Relex policy" and on making "*citizens more aware of it*" (Council 2008b, 2, emphasis added). With the failure of the EU Constitution, more emphasis has been placed on making the EU closer to its citizens and making citizens aware of the benefits that the Union brings to them. For example, the 2008 ESS Report says: "popular commitment is essential to sustaining our commitments abroad. We deploy police, judicial experts and soldiers in unstable zones around the world. There is an onus on governments, parliaments and EU institutions to communicate how this contributes to security at home" (Council 2008a, 12).

2.3. The European Neighbourhood Policy (ENP) and the EU as the Area of Freedom, Security and Justice

By interrogating the policy development and implementation of the ED-JHA, I have tried to show how a particular vision of the European Union as the AFSJ and its corresponding identity have been constructed. The ED-JHA is only one of many discourses – in this case driven by the “homeland” experts from MSs and EU institutions – that construct the identity of the European Union. The identity that is projected in foreign policy is in the first place constructed through internal negotiations of the security threats to that identity (Campbell 1998). Through foreign policy certain understandings of identity are reinforced and claims to that identity are legitimized. Such negotiations of identity are necessarily accompanied by exclusionary practices; certain groups of people or countries are represented – explicitly or implicitly – as a different, or even antagonistic, other. Whereas the European Union emerges as a free and secure land where justice prevails, neighbouring countries are presented as zones of instability and insecurity, where “the root causes” of the menaces lie, threatening to spill over into the EU space.

Through this opposition, I argue, two processes have been made possible. In addition to the construction of EU identity and its associated governance practices, the specific construction of the neighbourhood has made it possible to turn the neighbourhood into the object of governance by the European Union. By identifying threats as potentially coming from the countries beyond the borders of the European Union, the governance of these lands and the international presence of the European Union there has been justified and legitimated for citizens of the EU. On the other hand, the superiority of the European model of governance has been maintained and reinforced. The discourse about the threats of a cross-border nature and their “root causes” has created the “need” to direct the neighbours in how they should be governed.

Thus, the concept of “neighbourhood” has received a special place in the EU’s internal transformations since the end of the Cold War, first of all in the context of eastward enlargement. However, only with the “Big Bang enlargement” did “the neighbourhood” become a formal signifier of the EU’s relationship with its neighbours. Smith (2005, 757) summarized the dilemma that the EU faced in the post-Cold War years in the following way: “The history of post-Cold War relations between the EU and its non-EU European neighbours can be read largely as a history of the EU coping with the exclusion/inclusion dilemma by eventually choosing inclusion.” As she further relates, before the 2004 and 2007 enlargements, the EU was not much interested in “outsiders” further east, except for Russia. In the wake of the eastward enlargement, the ambiguity in relation to the “last belt” of Eastern European “outsiders” remains unresolved as the EU does a balancing act between wanting to remain an attractive democratizing force to its neighbours, and needing to remain a “viable entity.” The EU’s policies towards its Eastern European neighbours, as reflected in the ENP and its recent Eastern Partnership Initiative, represent the two competing logics at work – that of *inclusive* external governance and that of *exclusionary* securitization. “For a neighbourhood policy to exist there needs to be two separate polities” (Balzacq 2008, 4). More than that, the neighbourhood as an entity does not need to exist for a policy to be adopted: it can be “created” through the policy and for the sake of the policy. The representation of a specific group of countries as “neighbouring” has made it possible to turn this “neighbourhood” into an object of governance by the European Union. Moreover, the neighbourhood was invented through the discourse of danger and insecurity before the formal policy – the ENP – was introduced.

Smith and Webber (2008) point out that regional stabilization “has been a central rationale of post-cold war enlargement in general and the new ENP in particular.” In a policy

initiative initially formulated as “Wider Europe – Neighbourhood” (Commission 2003a), the European Commission sought to address the Union’s vulnerability to its eastern European neighbours. The Commission recommended moving “beyond existing co-operation to deeper economic and political, cultural and security co-operation – strengthening stability, security and well-being for all concerned” (Commission 2003a). The ENP has been driven by security considerations (Zaiotti 2009) and could be viewed as an attempt to exercise power beyond the EU’s borders in order to secure EU wealth, prosperity, and stability by means of “soft” power (Lavenex 2005a). The ENP policy aims to soften new dividing lines between the enlarged EU and its neighbours by offering the latter “the chance to participate in various EU activities, through greater political, security, economic and cultural co-operation” (Commission 2004a, 3). Significant emphasis is placed on co-operation in Justice and Home Affairs (Occhipinti 2007). Issues such as migratory pressure, readmission, asylum questions, visa policies, document security, trafficking in human beings, drugs and arms trafficking, organized crime, and various forms of financial crimes are identified as priority concerns for EU MSs. The ENP targets neighbouring countries’ capacity to maintain their internal order and to address security challenges in a manner that would diminish threats to the EU’s internal security (Wichmann 2007). Through the ENP, the EU aims to create a circle of politically stable and economically developed partners that will serve as a buffer zone against the more unstable regions on the continent. The language of partnership and neighbourhood is, however, problematic for the European countries that are parties to the ENP and that have membership aspirations (i.e., Ukraine, Moldova and Georgia). Because of its ambivalence, the ENP neither excludes nor includes the partners as potential future members of the political community that is the EU. Rather, with no political commitment to further enlargement, it keeps them as “outsiders” with

“special relationships” with the EU that have a “stake” in the EU’s stability, prosperity and security.

The development of the area of freedom, security and justice is first of all aimed at delivering freedom of movement and life under conditions of security and justice for *EU citizens*. Both the ED-JHA and the ENP are driven by the desire to secure EU territory. What is at stake is the redefinition of what it means to be a “neighbour” and a “partner” within the foreign policy of a united Europe. At this historic juncture when future enlargement is heavily contested within the EU, the discourse of the “neighbourhood” and “partnership” serves the purpose of stabilizing the Union’s relations with Eastern European countries while withholding an invitation into a “common European home.” We can observe that the ENP is expanding the avenues of communication with the neighbours and socializing their elites into the values and norms of the EU club. It seeks to transfer the EU *acquis* and best practices to the new democracies. The governance of the neighbourhood thus makes “fuzzy” the boundaries of the EU (Zielonka 2006). The difference between the EU and its “other Europe” is not presented in antagonistic terms when the rhetoric of enhanced partnership is used. Nevertheless, it is notable that a “home” model of Europe still leaves the Eastern European neighbours outside, even when they are presented as important partners in delivering security to EU citizens.

Considering that security agencies on both sides of the EU border have interests in increasing their control capacities over transnational security challenges (Occhipinti 2007), greater JHA co-operation with the ENP countries may lead to “transnational policing” (Walters and Haahr 2005) between the EU and its immediate neighbourhood. It is questionable, however, whether it will lead to incremental integration (for example, into the Schengen area) and eventual full membership in the Union. While the EU makes greater sectoral integration possible for

neighbouring countries that are willing to co-operate with the EU (Lavenex 2008), the language of partnership, rather than of integration or accession, does not resolve the accession quandary for the EU's European neighbours.

Both ED-JHA and ENP are driven by the logic of securing the EU territory and concomitantly stabilising the neighbourhood in order to prevent instability and insecurity spilling into the EU territory. The EU's interest has been to have neighbours that could be buffer zones from the less stable territories. Managing migration, fighting terrorism, organized crime, corruption, human trafficking and drugs have been made priorities for the EU's external relations with third countries. In this list, migration management has been one of the most contentious issues for countries of origin and transit: while fighting cross-border crime is in the interests of third states, controlling and restricting the mobility of their own citizens is not.

Conclusions

This chapter has introduced an alternative conceptualization of the ED-JHA as a discourse that reaffirms the differences between an "inside" and an "outside" of the European Union. I have argued that co-operation with third states on justice and home affairs gradually reveals itself as one of the dimensions of the EU's foreign policy that constructs and maintains this difference. The evolution of the ED-JHA has been characterized by the construction of common threats to EU citizens' security, stability and welfare. The "others" that are thereby identified play a role in the construction of European identity. Furthermore, given that foreign policy portrays threats to the political community and defines its members (Campbell 1998), one could argue that in the supranational entity that is the EU, the ED-JHA plays a salient role in defining the challenges that EU member states collectively face. Immigration and crime may unite EU governments

around a shared perception of the threats to their safety and prosperity. These transnational phenomena (immigration, crime, terrorism and civil conflicts) are said to necessitate supranational responses, including trans-border engagement. The EU's neighbouring countries remain important but are still outsiders (and sources of insecurity) with which the EU engages to protect its freedom, security and justice.

There are overlaps in threat construction across EU institutions and MSs' governments that serve to unite the Union and its MSs behind a course of action. Smith (2009) interestingly points out that, to a large extent, ED-JHA has been focused on two broad issue areas – immigration and crime. The threat is constructed as an external one, or, at least, is perceived as coming from outside of the Union. “Immigration” and “crime” as phenomena have the fluidity to allow MSs accommodating necessary variations with regard to the profile of the foreigner that is a “threat” or the groups who are “crime-perpetrators.” For the EU, the transnational/transborder phenomena of immigration, crime, terrorism and civil conflicts become supranational threats that require trans-border engagement to address them.

The chapter has also shown that the ED-JHA has evolved from a loosely connected series of intentions, mainly of a reactive nature, focusing on immigration management, combating terrorism and organized crime, into an ambitious and relatively proactive programme of building partnership with third countries. Partnership is built by mobilizing and reinventing the existing instruments at the EU's disposal to fit the parameters of co-operation with third states (membership perspective notwithstanding). The geographical priorities of the ED-JHA correspond to the EU's foreign policy priorities and reflect the greater logic underlying the EU's co-operation with third states. The ED-JHA instruments include the ones previously employed in the enlargement process (e.g., benchmarking, exchange of information, monitoring,

diplomatic/economic/political incentives), as well as new instruments that correspond to the changing priorities of the EU's external relations (such as the ENPI, facilitation of cross-border traffic, visa facilitation, and mobility partnership). The EU has determined its priority regions (i.e., candidate and 'prospective candidate' countries, ENP countries, and Russia), strategic, or traditional, partners (USA, Canada, Latin America) and "global" partners (African and Asian countries, especially China, India, and Japan). In the case of its priority regions, the EU seeks to shape these countries' administrative, legislative and institutional capacities to be in line with the EU's traditions, in order to make these countries trustworthy partners, capable of dealing with the threats and challenges to their own security and that of the EU. While utilizing a prescriptive style of communication, the EU promotes the principle of joint ownership of the process and claims to be sensitive to the internal problems of its partners.

The ED-JHA is a complex policy space that is defined by political pressures, diplomatic negotiations, and technocratic co-operation. Whereas operational co-operation takes place on a state-to-state basis between EU countries and third countries, the Commission provides overall coordination and strategic direction. The depoliticization that is taking place makes it impossible to fully understand the ED-JHA by examining only politically institutionalized forms of co-operation. While ED-JHA co-operation takes place within established institutional forums and platforms (like ENP and Common space with Russia), its political and technocratic side remains unexplored. Both functionalist and institutionalist approaches focus on determining the lines of influence (inter-state, inter-institutional, etc.) that help to explain why certain decisions in ED-JHA were made but not others. The managerial and technocratic governance across state borders remains largely unexplored.

Through the internal and external co-operation on justice and home affairs, the European Union acquires both implicit and explicit features of a special “home affairs” model, with non-EU Eastern European neighbouring countries viewed as important, but still excluded from this “home” model. The EU’s neighbouring countries remain outsiders to the EU’s internal space of freedom, security and justice, even if their capacities to play the role of “guards” from the outside are increased (through various EU partnership instruments and assistance programs).

Chapter 3. The Changing Landscape of Migration Management in Europe, 1991-2010: In Search of Common Interests and Willing Partners

Migration is at the heart of the political debate in Europe and, for a few years now, is one of the strategic priorities in the external relations of the Union. If carefully managed, it can be a positive factor for growth and success of both the Union and the countries concerned (Commission 2007, point 1).²⁵

[...] **Immigration is a reality which needs to be managed effectively. In an open Europe without internal borders, no Member State can manage immigration on its own.** ... Moreover, the EU has become an increasingly important player on the global scene, and its common external action is constantly enlarging to new domains; immigration is one of these (Commission 2008a, 3, bolded in original).

Introduction

Both at the national and supranational levels in the European Union, immigration has become an important topic in the European integration debate. Since the 1990s, EU policy makers have sought internal collaboration on various aspects of immigration control, as well as on matters of immigrant integration and treatment of foreigners legally present within EU territory. As the Commission's statements quoted above show, the EU similarly attributes great importance to migration issues in its external relations, making migration one of the dimensions of its foreign policy towards third countries. Migration management clauses have been inserted into the EU's co-operation frameworks with the Euro-Mediterranean region, with the countries covered by the European Neighbourhood Policy (ENP), with Latin American countries, as well as with 77 countries grouped under the ACP title (i.e., African, Caribbean, and Pacific). The Union conducts regular informal exchanges on immigration management with the USA, Canada, and the Russian Federation. It also has Europe-Asia dialogue on migration and seeks to include migration matters in its dialogue with India and China.

²⁵ European Commission DG External Relations, http://ec.europa.eu/external_relations/migration/intro/index.htm (accessed October 8, 2007).

How can we account for such an expansion of bilateral and multilateral intergovernmental initiatives on migration in the European Union's external relations? How has the EU's "migration diplomacy" evolved and what results has it produced for migration governance in Europe? This chapter answers these questions through the examination of the genealogy of the EU's co-operation with non-EU countries on migration, or what has been called "the external dimension of the EU immigration policies." It also examines what the external dimension of the EU's "comprehensive migration management" does *for* the EU as an international actor by analyzing the evolving EU level co-operation strategy entitled the "Global Approach to Migration" (hereafter GAM). Introduced by the European Council in December 2005 to address the "seriousness of illegal migration" to the EU, the GAM is the most recent comprehensive expression of the EU's external migration relations, and it is regarded as "the overarching framework for the EU external migration policy, complementary to the EU foreign policy and development co-operation" (DG Home Affairs 2011).²⁶ The GAM is presented by the Commission as a new way to address the migration dilemmas of the European Union by engaging in dialogue with the non-EU countries from which immigrants to Europe originate, and it puts together the issues of migration, development, foreign policy, and other policies in the Union's external relations (Commission 2006a). By adopting the GAM, EU governments declared their willingness to establish anew a political dialogue on immigration with developing countries on the African continent, as well as with the neighbouring Mediterranean, Eastern European and South-Eastern European countries.²⁷

²⁶ DG Home Affairs official web-site, "Managing migration through partnership with non-EU countries," http://ec.europa.eu/home-affairs/policies/immigration/immigration_intro_en.htm, accessed 23 January 2011.

²⁷ Clearly, separate member states had conducted bilateral relations with countries in the neighbourhood to control migration into their territories, especially on readmission and return, before the Global Approach was approved.

The EU's political dialogue on migration with non-EU countries is based on the concept of shared responsibility for migration between countries of origin, transit and destination. Migration has been steadily "mainstreamed" into the Union's development co-operation and other external policies. The Global Approach, in particular, has been promoted as *the* EU approach to external migration relations. It is comprised of three dimensions: the prevention and reduction of irregular migration, the promotion of the relation between migration and development, and the creation of opportunities for legal migration into the EU. In 2011, the fourth dimension – the external dimension of asylum policy – was proposed by the Commission as part of what it now calls a "Global Approach to Migration and Mobility" (GAMM) (Commission 2011b). As the title suggests, the Commission proposed to further link the issues of migration regulation and the matters of mobility of third country nationals into the EU.

According to the official rhetoric, the EU promotes global migration management and seeks to foster regional co-operation among states facing similar challenges with emigration and immigration, irregular migration, and human trafficking and smuggling. The GAM is considered a comprehensive approach that provides enough flexibility to incorporate tools and practices deemed beneficial to all parties involved (i.e., states of origin, destination, transit, and possibly migrants themselves). Content-wise, the Global Approach consolidates under its umbrella all previously developed ideas of migration management in the EU and hence contains little innovation in conceptual terms. Nevertheless, it serves as a convenient rhetorical platform that consumes governmental technologies (e.g., biometrics and surveillance for border protection) and social spaces (e.g., detention centres, airport security zones, local border traffic regimes) to maintain migration and mobility controls on a regional, if not global, level. It normalizes the

extension of the EU's governance practices beyond its territory and gives legitimacy to its attempts to regionalize the regulation of migration flows.

I argue that the GAM is an inventive governance tool that allows the EU to increase its influence on setting the agenda in the global governance of migration by working to institutionalize transnational migration partnerships directed at the regulation of labour, humanitarian, and irregular migration flows. Having linked migration to development (with the latter reflecting the interests of the countries of origin), the EU has increased its leverage in negotiations with third countries on migration co-operation extending its "soft power" influence beyond into the territories of the neighboring countries and/or countries of origin of migrants. Thus far, despite the rhetoric of utilizing migration for development, this regime has largely focused on control and prevention of migration flows and on meeting the interests of EU MSs. The EU has approached development as a strategy to reduce and prevent migration into its territory, rather than as a strategy to create greater development *per se* in the countries of origin (Lavenex and Kunz 2008).

Utilizing relevant secondary literature, official documentation of the EU's institutions, the author's interviews with EU officials, and media reporting on the EU's external relations in immigration and border management fields, this chapter seeks to identify the power relations that structure contemporary international migration and produce inter-state tools of population management. I first examine how the EU's comprehensive migration regime has come into existence through inter-governmental co-operation among EU MSs. This brief review is followed by the analysis of how the external dimension of EU immigration and asylum policies has been constructed, while the next section presents a critical interrogation of processes, instruments, tools and mechanisms employed by the EU to pursue its interests in immigration

management through co-operation with third states. Prior to drawing conclusions, I analyze the nature of the EU's "migration partnership" and the impact of its "migration diplomacy" on the sovereignty of non-EU countries.

3.1 Harmonization of the European Immigration Policies: Delegating the Control Functions to the EU Level

The processes of migration and border management are part and parcel of the European integration project. One can roughly differentiate three stages in the development of the institutional and legal framework of the EU immigration and asylum policy. Up to 1986, immigration policy was solely a national prerogative, although informal inter-governmental co-operation in the form of sporadic exchange of information on terrorism, crime, and irregular immigration took place within the Trevi group in the 1970s-1980s between law enforcement and migration authorities of EU governments (Peers 2006).²⁸ The inter-agency exchanges were galvanized in 1986-92 when *informal* intergovernmental co-operation, conducted outside of the institutional framework of the EU, picked up during the negotiation over the Schengen Agreement (1985) and its implementation thereafter.

At the second stage (1993-97), *formal* intergovernmental co-operation began on asylum and immigration policies among EU governments. The Maastricht Treaty established a third (intergovernmental) pillar dealing with Justice and Home Affairs (JHA), as well as the Common Foreign and Security Policy (CFSP). The Maastricht Treaty recognized the issues of common concern for the EU MSs, such as: asylum policy; external frontiers; immigration policy and policy regarding third-country nationals (TCNs); conditions of TCNs' entry and movement within the EU; and combat against unauthorized immigration, residence and work by TCNs

²⁸ For a detailed historical analysis of immigration and asylum law and policy-making, consult Peers (2006) and Geddes (2003; 2008).

(Geddes 2003, 135). However, the treaty did not confer any authority on immigration and asylum issues to the Community-level institutions and only allowed national groupings to engage in policy discussions in the European parliament.

A goal to harmonize immigration and asylum policies and to increase the competence of the EU on migration matters was approved by MSs in the Treaty of Amsterdam (1997). The Treaty dealt with some aspects of free movement, immigration and asylum, and it removed immigration and asylum policy from the intergovernmental JHA “pillar” into the Community Law. Notably, by stating that “the Union shall set itself the objective to maintain and develop 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 borders, asylum, immigration and the prevention and combating of crime” (Treaty of Amsterdam, Article 2), the Treaty framed the discourse on migration policy as a supranational challenge that needed to be addressed at the EU level. Evidently, it reiterated the discursive link made between immigration, asylum and crime, adding to the securitization of immigration in Europe. The Amsterdam Treaty also incorporated the Schengen *acquis* into the Treaty framework, making it part of the main body of Community law. This incorporation, preceded by demilitarization and economic integration in Europe (Walters and Haahr 2005), initiated the formal stage of the construction of the common external border as an instrument of risk management (Walters 2002), leading to the boundary build-up between the EU and its neighbours (Geddes 2008). This started a third stage in the institutional and legal development of the EU’s immigration and asylum policy, with the process of communitarization of immigration, asylum, and external border policies set in motion. A Directorate-General (DG) for Justice and Home Affairs was created to develop and implement

the AFSJ policies. This DG played an important role in developing both the internal and external agendas of the EU's immigration and asylum policy-making (Boswell 2008).

In the academic literature, the changing landscape of migration management in Europe has by now been well documented. Considering the reluctance of EU MSs to release their national prerogatives over labour migration and residency policies (Collett 2009), these changes are particularly noticeable in immigration policies where control mechanisms got shifted “up and out” (Lavenex 2006) – that is, shifted to the EU level and into the realm of the EU's relations with non-EU countries. There have been significant changes in the area of irregular migration and border controls – the area where the EU is perceived to have an “added value” to MSs' policies. Irregular migration into the EU is associated with such irregularities as foreigners arriving without proper authorization (e.g., visa) or overstaying their visas (i.e., so called “overstayers”), or with rejected asylum seekers who fail to leave the territory. On top of it, the irregularity is associated with various (organized) crime activities, such as transportation of unauthorized migrants into the EU, illegal acquisitions of identity documents, or remaining on EU territory without authorization. With cross-border movement of people viewed through the security lens, migration regulation has become increasingly framed as an issue of migration *control* and as matter of *policing* and *border control*, and this has contributed to the increased surveillance of human mobility both across and within states' borders.

To address the problem of unauthorized populations, the EU has opted for co-operation with non-EU countries to complement its internal effort. Moreover, this co-operation has come to be presented as the only way for the EU to have a credible, comprehensive immigration policy. As will be shown below, through negotiations, incentives, concessions, and leveraging, the EU has been searching for “willing” partners to better control immigration into the EU.

Intended to reduce migration pressures on the EU through enhanced control measures in neighbouring countries, the agenda of co-operation on migration management (that is, an inter-state regulation of population movement) has recently become an issue of “good governance” within the framework of the EU’s external agenda on justice and home affairs and is being linked to other dimensions of EU co-operation with countries of origin and transit of migrants (Council 2005b). As migration gradually becomes institutionalized as a dimension of inter-state co-operation, the patterns of this co-operation need to be identified and analyzed. Why? Migration policy is still being defined as a *national* policy that regulates the movement of foreigners and nationals to, from and through a state’s *national* territory (Weinar 2011), and hence conceptualizes regulation of migration as a phenomenon that is ultimately a matter of state sovereignty. This view notwithstanding, migrant receiving states in Europe – and elsewhere, for that matter, – have sought to influence the migration policies of the countries of origin and of transit as a way to address their own immigration concerns. The normalization of such external strategies hence merits investigation in order to understand whether questions of sovereign rule over one’s population are modified under the influence of the receiving states.

As was argued in Chapter 2, the external dimension of JHA policies (where immigration policies belong), with its own *raison d’être*, functions as a policy of common identity construction and a policy of the creation, maintenance, and regulation of the EU as the space of freedom, security and justice. The foreign policy of the EU’s justice and home affairs results in the export of the EU’s principles and norms in internal security beyond its borders, but it is also accompanied by the construction of difference between the EU and those it assists to establish better capacities in policing and law enforcement. The underlying logic at work is the construction of an inside/outside boundary that is not necessarily territorially based. As Doty

(2006, 122) argues, “the inside/outside boundary is a function of a state’s discursive authority, that is, its ability, in the face of ambiguity and uncertainty, to impose fixed and stable meanings about who belongs and who does not belong to the nation, and thereby to distinguish a specific political community – the inside – from all others – the outside.” Among the most vivid political activities constructing the EU as a political community are the constitution of EU citizenship, common external border policies, and its “European security model” policies. By regulating access and entry to its territory and shaping the rules of legal access, the EU gets “territorial” (Walters and Haahr 2005) and negotiates who is in and who is out and under what conditions. Ultimately, as part of its “national border” discourse, the security discourse in the EU constructs third-country nationals rather than third countries per se as cultural “others,” with the linkage made between illegal immigration and crime and also terrorism (Walters 2002).

In geopolitical terms, as Geddes (2008) has noted, first EU enlargement and then the introduction of the concept of the neighbourhood provided the logics for the EU’s co-operation on migration management with third states. Externalization of migration control emerged as a response to the changing geographies of migration after the end of the Cold War when fears of uncontrolled East-West migration were high. The EU’s externalization strategy on immigration and asylum first emerged in its relations with Central and Eastern European accession countries (CEECs) in the 1990s, and it was intrinsically related to the integration processes. As the CEECs’ accession became apparent and imminent, transfer of EU standards and norms to the accession countries was viewed as the mechanism to boost trust in the internal security institutions of the accession countries and increase their capacities to deal with potential threats and challenges coming out of new neighbouring countries into now common EU territory (see Apap 2004). This period was characterized by systematic attempts to transfer migration control

and asylum burden-sharing measures to accession states in central, eastern and southern Europe, with demands that these countries demonstrate their capacities to control the future EU external borders. Such practices turned these countries into “buffer zones” tasked with halting and absorbing “unwanted” migration flows destined for the core of the EU (Grabbe 2000; Lavenex 1999; Jileva 2003). With interior ministries in charge of formulating the details of migration and asylum policy, the transfer of immigration and asylum policy to the accession countries “gave rise to an extension of networks of intensive transgovernmental action beyond existing MSs to include potential MSs and key international organizations, such as the International Organization for Migration and the UNHCR” (Geddes 2008, 175). Membership conditionality served as a leverage deployed by the EU in accession negotiations (Grabbe 2006).

A second phase in the development of the external dimension of the EU immigration and asylum policy started with the introduction of the concept of the European “neighbourhood,” resulting in a new understanding of the management of migration relations with countries of origin and transit through so called “migration partnerships” that serve as vehicles to influence migration flows from these countries (Geddes 2008). The concept of “migration partnership” has also been applied to countries beyond the EU’s neighbourhood, allowing some scholars to argue that “these various partnership initiatives are part of an attempt to form a coherent EU approach to migration management that is strongly focused on border management and measures to deter flows of irregular migrants and asylum-seekers, and that seeks to export EU action to neighbouring transit countries and countries of origin” (Geddes 2008, 177).

This study conceptualizes the EU’s external dimension of its internal security policies as one of the EU’s foreign policy discourses, with security framing constructed first of all at the EU level and later used to motivate its external co-operation. Therefore, the EU’s external dimension

has to be understood through the analysis of the EU's foreign policy formulation toward its *European* neighbours. Unlike the inclusive approach taken towards CEECs, there has been a lasting ambivalence towards the current European neighbours. The EU has conjured "special relations" with its European neighbours to the east (i.e., Eastern Partnership) while lumping these countries into the EU's broader foreign policy towards all of its neighbouring countries. The foreign policy dimension is, in the EU's official rhetoric, an important foundation of what partnership on migration may mean with each given country. How the overall conceptualization of migration co-operation has developed in the EU is analyzed in the next section.

3.2. A Genealogy of the EU's "Migration Diplomacy"

In tracing the main developments in the external dimension of the EU's migration regime, I have built on Balzacq's (2008) genealogy of the ED-JHA while taking into account the current state of affairs in the EU's "international migration relations." The analysis that follows focuses on some of the most important ideational formulations and conceptual innovations in the formation of the EU's "migration diplomacy." The EU's migration relations present a dynamic process of the EU searching for ideas of how to make migration governable and how to incorporate third countries into the system aimed at stemming migration flows into EU territory. The political rationality of governing immigration to Europe is based on a continuous search for new ideas and solutions to problems at hand by producing new knowledges about migration and mobilizing the expertise of security apparatuses in order to govern political spaces through governing human mobility.

The emergence of the idea of the "external dimension" of the European immigration and asylum policies at the (supranational) policy level goes back to the earlier initiatives of the European Parliament (1987) and European Commission (1991) that called on EU governments to

address the challenges of migration towards Europe by cooperating with the countries of origin and paying attention to the “root causes” of irregular migration, especially the one associated with socio-economic development and political stability (Lavenex 2006; Balzacq 2008; Geddes 2005). Both the European Parliament and the European Commission argued in favor of economic and political co-operation with third countries in order to have a comprehensive approach to the admission of migrants and asylum seekers, as well as to tackle the root causes of involuntary migration. But neither the Parliament nor the Commission had formal competence to shape the Council’s agenda on this issue. The co-operation between MSs had a transgovernmental character and was focused “on control of flows rather than motives to move” (Lavenex 2006, 333). However, EU MSs recognized the importance to address the “root causes” of migration in a “Declaration on Principles Governing External Aspects of Migration Policy” that was adopted after the civil war in the former Yugoslavia provoked the massive refugee inflows into European countries. Reacting to growing public intolerance of such massive arrivals, in December 1992 during the Edinburgh European Council, EU governments discussed the migratory pressures on Europe and recognized the necessity to address the “root causes” of irregular migration.

The “root causes” approach for engagement with the countries of origin and transit was further enhanced by the work of the High Level Working Group on Asylum and Migration (HLWG) (formed in 1998). There are three important ideas associated with this group: “a comprehensive approach to migration,” the mandate to work at the systemic level in the field of JHA, and a “concentric circle” model of migration policy. These proposals – by the Parliament, Commission, and the HLWG – preceded the formal approval of the importance to co-operate with the countries of origin and transit by the Tampere Council in 1999. Arguably, they created

an intellectual climate favourable to more formal policies at the EU level. As was mentioned in Chapter 2, external relations on migration were the only policy area that was elaborated in the Tampere conclusions. MSs endorsed the idea of bi-directional relations between foreign and internal policies of the European Union (Balzacq 2008), as well as gave their support to the Commission to conclude readmission agreements with relevant third countries.

At the Tampere Council, EU governments agreed “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 combat those who organize it and commit related international crimes” (Council 1999b). The summit called for a common approach to asylum and migration issues, with an emphasis on partnership with countries of origin and transit of migrants, improved and effective asylum measures, and fair treatment for TCNs who legally reside in the MSs. Three interrelated community policies in the realm of migration management were approved: common asylum and immigration policy; immigrant integration policy; and external border management to stop any illegal movement across the EU borders. A “comprehensive approach to migration” was to be built in close partnership with countries of origin of migrants in order to address political, human rights and development issues in those countries. In addition, EU governments proclaimed that the management of migration flows and the prevention of human trafficking were to be achieved in co-operation with countries of origin and transit through: the development of information campaigns about legal employment opportunities in the MSs; the establishment of “a common active policy” on visa and false documents, and; combating those who engage in trafficking and economic exploitation of human beings. At the same time, MSs supported providing assistance to third countries with voluntary return and strengthening their ability to effectively address human trafficking and to cope with

their readmission obligations. The Commission received a mandate to negotiate (on behalf of the Union) readmission agreements with relevant third countries. At this stage, there was no understanding of what “co-operation” with countries of origin and transit actually meant beyond one-sided thinking about the EU’s and MSs’ interests in managing illegal migration (Debrouwer 2008).

Further endorsement and elaboration of the MSs’ support for the external migration relations took place during the Seville European Council in June of 2002. EU governments emphasized the importance of “combating” illegal immigration by (1) introducing common visa requirements for third country nationals and a common identification system for visa data, (2) speeding up the conclusion of readmission agreements, (3) introducing a repatriation programme, and (4) adopting directives on combating trafficking in human beings. Council supported “gradual introduction of the coordinated, integrated management of external borders” and called for “a targeted approach” to the problem of “illegal immigration,” with “the use of all appropriate instruments in the context of the European Union’s external relations” (Council 2002b, para. 33). Moreover, EU governments agreed that “any future co-operation, association or equivalent agreement which the European Union or the European Community concludes with any country should include a clause on joint management of migration flows and on compulsory readmission in the event of illegal immigration” (Council 2002b, para. 33). Since then, the migration clause has become a part of all relevant political platforms in the EU’s external relations (e.g., ENP, other associations and partnership agreements), accompanied by the EU’s rhetoric of a “shared responsibility” for migration flows between receiving and sending countries, which in practice meant an attempt by receiving European countries to place more responsibility for migration flows on sending countries. The “joint management of migration

flows” was elaborated as “co-operation with partner countries on visa policy, border control, asylum, readmission and counteracting illegal migration, and the integration of legal migrants living and working in the EU” (Weinar 2011, 9).

Significantly, the Seville Presidency Conclusions reflected the urgency that tackling *illegal* immigration into the EU acquired for MSs. Despite the divide between the opponents and supporters of the UK proposal to extraterritorialize asylum processing to third countries and punish countries unwilling to co-operate on irregular migration, the explicit reference still was made to CFSP and other EU policies as possible frameworks to penalize third countries who do not fulfill their obligations in border management and migration management (Council 2002b). Although the UK proposal fell through, MSs agreed on the necessity “to carry out a systematic assessment of relations with third countries which do not co-operate in combating illegal immigration” and to take this assessment “into account in relations between the European Union and its Member States and the countries concerned,” with possible negative ramifications for their bilateral relations (Ibid., 12). Interestingly, EU governments found it necessary to include the following warning to “non-willing” partners:

If full use has been made of existing Community mechanisms but without success, the Council may unanimously find that a third country has shown an unjustified lack of co-operation in the joint management of migration flows. In that event the Council may, in accordance with the rules laid down in the treaties, adopt measures or positions under the Common Foreign and Security Policy and other European Union policies, while honouring the Union’s contractual commitments but not jeopardising development co-operation objectives (Council 2002b, 12).

In turn, the Commission, as the institution directly involved in migration negotiations with non-EU countries, supported encouraging those countries “that accept new disciplines, but not penalizing those who are not willing or not capable to do so” (Commission 2002a). It proposed to incorporate migration aspects into the strategic framework of co-operation with third countries

in order to provide *incentives* for readmission agreements and to enable the EU to *review* and *reassess* the migration situation in third countries on a recurrent basis. The Commission also suggested that, in its co-operation with third countries on migration, the EU's approach should: strive to address the root causes of migration; should be based on common interests, and should be supported by concrete initiatives aimed at increasing the capacities of third states in managing migration (Commission 2002a).

Among the EU institutions, the Commission was the one that adopted the linkage between migration and development and sought to convince EU MSs of the necessity to expand the EU's approach to migration co-operation beyond the security agenda. In its Communication "Integrating Migration Issues in the European Union's Relations with Third Countries" (2002), the Commission further elaborated the necessity to address the "root causes" of migration and the need to address the development needs of third countries. The Commission's persistent position on the linkage between migration and development, as well as the growing international attention to the migration-development nexus, created an environment conducive to formal policy adoption. EU governments adopted it as their policy stance at the supranational level in 2005. In the EU context, however, the linking of migration to development had an additional, security-related dimension aimed at regulating the mobility of third-country nationals into the EU "in a secure way," with prevention and/or minimization of migrant inflows at the core of the evolving migration regulation regime. As Lavenex and Kunz (2008) point out, rather than seeing *migration as a tool for development*, EU MSs tend to conceptualize *development as a tool to reduce migration inflows*. Such development-related concepts as "circular migration," "mobility partnerships" and incorporation of diasporas and migrants into the development projects of their "home" countries, were introduced to appeal to the MSs' securitized approach to migration

regulation. This linkage expanded the scope of the EU's intervention and increased its influence on shaping the migration policies and institutions of the countries it co-operates with. This will be further elaborated in Section 3.3 below.

Further construction of the external dimension as part of the security logic was reflected in the Hague Programme (2004), that is, a second 5-year programme of the building up the EU as the AFSJ. Notably, the Hague Programme framed immigration – as well as terrorism and cross-border crime – as an international issue that requires co-operation between “all parties concerned” – countries of origin, of transit, and of destination, and *migrants*. Irregular migration thus was placed among the top three threats to the EU's “area of freedom, security and justice,” and the need to address these threats at the transnational and international level was reiterated by EU MSs (Balzacq 2008, 14-20).

Finally, the culmination of the EU's migration diplomacy thinking thus far has been the invention of the GAM by the Commission in 2005 as a symbolic framework to promote co-operation with countries of origin and transit and as an umbrella concept pulling together all relevant, earlier formulated mechanisms for regulation of migration flows. The GAM partially addressed tensions and internal challenges that had obstructed a coherent collective policy on migration co-operation with non-EU countries. In the Treaty of Amsterdam, EU governments recognized the potential for a stronger international role for the EU with regard to its competence in the JHA field. However, the EU's self-interest in migration prevention and its security-oriented approach to migration regulation were working to undermine its global influence. The division of competences and internal tensions between EU governments – unwilling to lose control of the agenda-shaping and policy making – and the Commission, had resulted in an unbalanced approach to migration co-operation with third countries, with migration approached

through a security lens rather than a labour lens. The GAM can be viewed as a victory for the Commission in convincing MSs – at least theoretically – to accept a more balanced approach to migration co-operation with third countries for the sake of the global influence of the EU (Weinar 2011). In particular, EU governments have also expressed more willingness to incorporate the migration-development nexus into their own external relations under the influence, among other things, of the increasing international support for this approach (Lavenex and Kunz 2008).

The analysis of the post-2004 developments in the external dimension of EU's immigration policy reveals the growing institutionalization of the link between migration and development and the rhetorical shift from a security discourse to a humanitarian one, with respect to immigration policy. However, security remains the paramount concern for EU policy-makers as the security dimension remains in the EU's policy towards third countries (especially in relation to its immediate neighbouring countries). Linking migration to development created a new space for the Union to intervene in the governance of those sending countries whose citizens comprise migration flows into the EU. Such discursive shifts and ensuing policy initiatives reveal the growing importance that the Union attaches to ordering the spaces beyond its territory. The GAM emerges as a strategic framework for the Union's internal coordination and consistency in its relations with third states (Commission 2008b; Council 2008c). It combines the management of legal immigration, the prevention and reduction of illegal immigration, and the nurturing of synergies between migration regulation and development assistance, and is meant to soften the security-driven management of migration flows towards the EU by providing legal opportunities for work and travel in EU MSs to third-country nationals. The intention notwithstanding, security considerations remain predominant, if not determinant.

3.3. The EU versus Third Countries' Interests in International Migration Regulation: Inventing Tools, Rationalities and Techniques

While co-operation (or conflict) between states on the regulation of migration flows is not something historically new, what is new in the case of the European Union is the “attempt to relate and co-ordinate action at the EU level and – in certain policy areas – formulate common policies” (Geddes 2008, 20). What is also unique to the European Union is the attempt to assist and guide non-EU countries in how their migration regulation should be instituted. Moreover, the EU’s innovation lies in the continuous learning and adjustment to how non-members of the Union may be of use to the EU MSs in stemming the flows of unwanted population into the EU territory; all the weight of the European Union as an international actor and a normative power is used to extract the compliance of third countries. EU governments have formally chosen to manage migration into the EU territory with the assistance of third countries with whom they co-operate.

To account for the geopolitical ordering of space and the creation of “buffer zones” or “security circles” around the EU (accompanied by negotiations of where the Union’s external borders lie), one needs to analyze the tools and techniques the EU has been using to “mainstream” (the Commission’s most recent term) immigration into its external relations. In addition, one needs to problematize the discursive changes and thematic and paradigmatic linkages around migration management as a phenomenon. The political rationalities and tools employed by the EU in relation to accession countries and non-members differ, and reflect the construction of an inside/outside dichotomy: the accession countries are potential insiders, whereas the neighbouring countries (viewed as transit countries) are viewed as both ‘in’ and ‘out’, with fuzzy borders and borderlands constructed around the Union to meet its geopolitical

goals. In the enlargement context, the transfer of governance models of migration controls happens in the context of accession negotiations (e.g., financial, technical, and expert knowledge assistance in creating the capacities of CEECs in migration and border management). In the case of the Western Balkan countries, membership prospect (provided to these countries by the European Council in 2003) offers a similar logic. In addition to financial and technical assistance, a roadmap to a visa-free regime with the Union has motivated these governments to undertake the required policy changes in migration controls in line with the EU's demands (Trauner 2009a, 2009b).

In the case of neighbouring countries with no membership perspective, political maneuvering by EU institutions and MSs has been important to exercising the EU's authority and influence. In the relations with the eastern European neighbours of the Union (i.e., Ukraine, Moldova, Belarus, Georgia, Armenia, Azerbaijan), the EU's experience with the Western Balkans provides a map for possible future action (Interviewee 27, in Brussels, July 2008). Similarly – as was the case with the Western Balkans – visa dialogue and a roadmap to a visa-free regime function as leverage for the EU to demand compliance with its norms and rules, and hence allow it to intervene into third states' governance capacities in migration and border management. Facilitating mobility for the neighbouring countries' nationals (that was restricted in the first place due to the introduction of strict visa rules by the EU for these potentially “risky” nationals) emerges as a tool to secure third countries' co-operation on irregular migration. This co-operation includes undertaking policy changes to align security and mobility rules in line with European ones, with roadmaps for a visa free regime used as a potent foreign policy tool with “willing” partners, who are themselves interested in a liberalized travel regime to the EU for

their citizens. What happens in the external dimension, then, is representative of the processes used by the EU to balance its security interests with third-countries' sensitivities and interests.

3.3.1. Readmission Agreements as a Foreign Policy Tool

Since the mid-1990s, the principle of readmission has become one of the pillars of the EU MSs' approach to dealing with irregular immigration. Deportations of the foreigners deemed to be staying "illegally" in a given country has been common, and EU governments had sought signing readmission agreements with third countries. These agreements have been viewed as an important tool to reduce the effect of irregular migration, together with the MSs' policies of detention and expulsion of foreigners who do not have the right to stay in the country. Since, in the 1990s, EU governments struggled to return third country nationals when their "home" countries were unwilling to co-operate in repatriating these individuals, they saw an "added value" in the "Europeanization" of the readmission policy. An effective return policy was envisioned as an important tool to enforce migration control measures. In 1999 in Tampere, EU member states agreed that, upon the Council's mandate, the European Commission would have the competence to negotiate EU-wide readmission agreements with non-EU countries.

At the EU level, the implementation of the external migration policy objectives has been undertaken in two manners – through international agreements and co-operation programming, on the one hand, and through the GAM policy on the other (Weinar 2011). The EU's signing of readmission agreements with countries of origin and of transit of migrants and its migration clause are the two examples of the EU's attempt to institutionalize an inter-state regime aimed at regulating irregular migration through international norms. For the sake of comparison, in the last ten years (2001-2011), the migration clause has appeared in 13 treaties, while the human-

rights clause features in 15 treaties (Weinar 2011, 9).²⁹ In turn, the GAM contains a list of instruments that EU governments have agreed to use when seeking to establish migration relations with third countries. The success of migration controls in the EU is commonly presented as being dependent upon the willingness of other countries to assume responsibility for their nationals (present in the EU territory without authorization) and/or for “transit” migrants entering the EU from their territories.

Readmission co-operation is revealing in terms of the substance of the policies promoted by the EU and its MSs, as well as of the power relations (both among states and among states and international organizations in the business of migration management) constituted in the process. Its analysis enables us to trace the invention of the political rationality and the technologies of the EU’s “migration diplomacy.” Arguably, in its negotiations with third countries, the Commission has faced the limitations of EU MSs’ security-driven approach to migration co-operation with third countries (as was initially expressed in the sole emphasis on readmission negotiations and other migration control measures to prevent irregular immigration) and the unwillingness of third countries to enter into readmission relations. To make the policy of inter-state migration co-operation workable, the Commission has been inventive with regard to possible incentives to offer in exchange for “willingness” to co-operate on migration. As a result, the EU has expanded the range of migration issues raised in negotiations with non-EU countries, thereby increasing the EU’s influence over third countries’ internal migration policy-making. This claim is elaborated below.³⁰

²⁹ The human rights clause is a stipulation that the countries that have concluded trade and other agreements with the EU must respect human rights. It is a conditionality clause in the EU’s external relations.

³⁰ It should be acknowledged that EU governments have frequently acted in parallel or against the Commission negotiating a readmission agreement with a given country. With the Mediterranean countries, usually unwilling to enter into agreement with the EU, member states have also been inventive and adoptive in cases when the Commission had been unable to conclude the readmission negotiations or where their implementations had been “hindered by administrative obstacles and a lack of co-operation from the authorities of the signatory country”

In 2000, the Commission received its first mandate to negotiate readmission agreements on behalf of the European Community from the European Council. Pakistan, Russia, Morocco, and Sri Lanka (in 2000), Hong Kong and Macao (in 2001) were the first countries selected by the Council to negotiate EU-wide readmission agreements. Only in February 2002, when EU MSs and the Commission developed a plan on combating illegal immigration to the EU, concrete criteria and strategic considerations in determining what countries should be approached to conclude readmission agreements were developed (Coleman 2009). These included: the migration pressure, the existence of bilateral agreements, future accession negotiations, the geographical position of a country, the added value of a community-wide agreement, and geographical balance and coherence (Council 2002c). Notably, similar criteria were selected to determine with which countries the EU should intensify migration co-operation (Council 2002d). In 2004, in its proposal for a common readmission policy for the EU, the Commission suggested considering such criteria as geographical proximity of a country to the EU, the kind of migration problems a given country faces, its level of development, and the intensity of its relations with the EU (Commission 2004b). This proposal reflected the migration-development thinking promoted by the Commission in its migration policy proposals.

Recognizing that readmission agreements were negotiated “in the sole interest of the Community,” the Commission argued that incentives were needed to induce non-EU countries to co-operate on irregular migration and readmission. It argued that negotiations on readmission

can only succeed if they are part of a broader co-operation agenda, which takes duly into account the problems encountered by partner countries to effectively address migration

(Cassarino 2007, 180). Cassarino’s research on the Mediterranean countries show that some EU MSs have started “to devise a broader framework of co-operation based on administrative arrangements, bilateral deals and exchanges of letters and memoranda of understanding as an alternative to formal readmission agreements, arguing that these new forms of “compromise” foster co-operation on readmission” (2007, 180). Such informal arrangements were meant to secure bilateral co-operation on readmission and to minimize or avoid defection by the implementing third country, and they have implications on state-to-state relations and migrants’ rights. In particular, they foster convergence between states around short-term, security-driven interests in relation to migration management.

issues. This is the reason why the Commission considers that the issue of “leverage” – i.e. providing incentives to obtain the co-operation of third countries in the negotiation and conclusion of readmission agreements with the European community – should be envisaged on a country by country basis, in the context of the global policy, co-operation and programming dialogues with the third countries concerned (Commission 2002a, 25).

In addition, the Commission tried to inject development-related goals into the predominantly security-oriented migration co-operation with third countries. In particular, it emphasized the need to better understand the migration situation in third countries, the effects of international migration on them, as well as the ways in which the EU could help these countries, and match it with the availability of financial resources in line with the needs of third countries – including financially – to regulate international migration (Ibid., 4). Rather than simply providing financial resources for the “repatriation of immigrants and rejected asylum seekers, for management of external borders, and for asylum and migration projects in third countries” (Ibid., 4), – which was the position and preference of the EU MSs most concerned with addressing “illegal immigration” – the Commission suggested including development-oriented goals into relevant Country Strategy Papers (CSP).³¹ These measures would target “the root causes of migration flows,” such as poverty, ineffective political institutions, and local conflicts (Ibid., 4). In the Commission’s interpretation, including “a global development package” in the CSPs for developing countries would encourage them to sign readmission agreements with the EU. This package would need to be supported with an increase in migration-related funding, as well as be complementary with the general EU’s development priorities for a given country or region (Ibid., 5). Nevertheless, the Commission’s proposals remained within the dominant framing of migration co-operation aimed at reducing and preventing irregular migration. In December 2005, MSs endorsed this “migration-development” initiative under the GAM, making migration-development one of the aspects of the EU’s external migration relations (discussed below).

³¹ CSPs contain information about the programming priorities of the EU in relation to a given country or region.

The Commission also recognized that the incentives provided might not necessarily be adequate and satisfactory to the cooperating country:

In certain cases, this specific accompanying support may not be sufficiently attractive. Indeed, the readmission agreements can have important consequences for the third countries concerned. As transit countries, they can be confronted with considerable charges, of both a technical and financial nature, since they will have to deal with the repatriation of the persons concerned. Even the reintegration of its own nationals can generate for a country additional constraints for its labour market or for its programmes of government aid.

In those cases, and in the context of the global policy, co-operation and programming with the third countries concerned, the European Community and the Member States, should be ready to consider supplementary types of incentives. At Community level, the margin of maneuver for these incentives is however limited (Commission 2002a, 26).

Thus, the Commission drew MSs' attention to the need for "supplementary types of incentives" such as: granting better market access or tariff preferences (if WTO compatible), additional development aid (but without penalizing those countries that pose no significant problem regarding migration), a more liberal visa policy, or increased quotas for migrant workers. The Commission, however, acknowledged the tensions that existed between MSs and their unwillingness to further communitarize these policies, stating that such compensatory measures seemed "difficult to negotiate at the level of the Community, not least since it would suppose substantial co-operation and co-ordination from and between the Member States" (Ibid., 26). The EU's inability to come to an agreement internally has limited the scope of options available to the Commission in its attempts to develop deeper migration relations with non-EU countries.

Under such circumstances, finding financial incentives has been a major priority for the Commission and the Community in general, and there has been an increase in the EU's funding for migration- and border-related projects for third countries. First of all, funding for immigration, asylum, and external border matters was incorporated into the EU's co-operation frameworks with third countries in 1999 when the Community received competence on these

matters. In particular, migration-related objectives were inserted into the Commission's programming of activities within relevant Country Strategy Papers (CSPs) and National Indicative Programmes (NIPs), funded through existing geographical funding instruments (Commission 2002a).³² Attention was given to traditional regions of emigration, with the activities covering such issues as: "the establishment of policies and infrastructures for welcoming asylum seekers, institution building (in particular with regard to police and judicial systems and the improvement of external-border checks), measures to combat illegal immigration and trafficking in human beings, and the return and reintegration of refugees and displaced persons" (Ibid., 39).

Secondly, the EU has introduced special financing for migration-related co-operation with non-EU countries into its budget. The first special budgetary line (called "B7-667") for non-EU and non-accession countries was approved by the Council in 2001, and it targeted third countries' capacities to cope with their "readmission obligations," to assist the Union with voluntary return, and to combat trafficking in human beings.³³ Under this budget line, the Commission financed what it called "innovative" projects in partnership with third countries of origin and transit (Ibid., 40). The Commission saw this spending as, on the one hand, a way to develop the external dimension of the EU's migration policy and implement the EU's interests and goals, and, on the other hand, as a form of assistance to third countries (CSES 2007, 124). The budget included €42.5 million for 2001-2003, with the implementation of the projects taking place in 2001-2006, with 28 per cent of the total budget remaining uncommitted due to a combination of factors (e.g., low number of applications, poorly advertised calls for funding)

³² Among these were programmes like PHARE, TACIS, MEDA, and CARDS, all part of the EU's geographical priorities for co-operation.

³³ DG JLS web-site, accessed January 15, 2009, http://ec.europa.eu/justice_home/funding/intro/wai/funding_2004_2007_en.htm

(CSES 2007). There were 50 projects funded by the Commission, and they covered, among others, such topics as the establishment of migration management policies, voluntary return and reintegration policies, and prevention of illegal immigration. The projects were geographically dispersed, with, for example, 9 per cent of the total budget committed to cross-regional projects, 10.5 per cent spent on projects in Russia/CIS/Eastern Europe, 22 per cent in the Maghreb countries, 21.5 per cent spent in Afghanistan and Pakistan, and 11 per cent in the Balkans (CSES 2007, 80-81). As was mentioned in the independent review prepared by a third party, in comparison with geographical funding instruments, this theme-focused funding provided the Commission with more flexibility to adapt to the needs of implementing partners and countries concerned and to test “different approaches to tackling migration issues” (CSES 2007, 124).³⁴ This programme served as a testing ground for future programming in the area of migration co-operation with third countries, which with time started targeting themes and regions/countries more specifically, as is shown below.

In 2003, the Commission argued for a separate programme of financial and technical assistance in the area of migration and asylum in order to show the *EU's solidarity* with those third countries “committed to improving management of migratory flows” (Commission 2003b). A separate thematic programme was meant to signal the Union’s willingness to provide incentives for the countries *willing* to co-operate, as well as to increase the political visibility of the EU’s *positive* action in addressing its migration problems. As a result, the programme called AENEAS (with a total budget of € 250 million for the period of 2004-08) was approved to assist third countries to improve their capacity for migration management and refugee protection, tackling illegal migration, building up their border-control capacities, and enhancing document security (Regulation (EC) No. 491/2004). In 2004, the Council and the European Parliament

³⁴ For more analysis of this budget line implementation, see CSES (2007).

agreed that it was necessary for the Community to have a programme “designed to provide a specific additional response to the needs of third countries in their efforts to manage more effectively all aspects of migratory flows, and in particular to *stimulate third countries’ readiness* to conclude readmission agreements, and to assist them in coping with the consequences of such agreements” (Regulation (EC) 491/2004, L80/1, emphasis added). The Regulation listed such objectives as: the development of legislation in the field of legal immigration, information about and development of legal migration (which also included “raising of public awareness of the advantages of legal migration and the consequences of illegal migration”); the development of national legislation and practices of international protection, as well as increasing third countries’ reception capacities; the establishment of “an effective and preventive policy in the fight against illegal migration;” and readmission and durable reintegration policies and practices (Commission y. u., 2).

The programme aimed to strengthen co-operation between EU MSs, third countries, and the international actors involved in migration issues. This financing was intended “particularly, but not exclusively” for those third countries “actively engaged in preparing or implementing a readmission agreement initialled, signed or concluded with the European Community” for projects that brought together, “in a coherent and complementary way, the general principles of community co-operation and development policy and national and regional Community co-operation and development strategies” and were “consistent with the Community efforts which contribute to addressing the root causes of migration” (Regulation (EC) 491/2004, L80/2). The funding targeted actions in the fields of management of migratory flows, return and reintegration of migrants in their countries of origin, asylum, border control, refugees and displaced people. It funded 107 projects, organized geographically in accordance with the “migratory route” concept,

and thematically in accordance with the Community's interests (i.e., return-reintegration/readmission, irregular migration/border management, asylum and protection, migration management, legal/labour migration, human trafficking, and migration and development/remittances).³⁵

The AENEAS programme was implemented in 2004-2006 and distributed € 120 million (Commission y.u.). In 2006, it was replaced by a Thematic Programme for the Co-operation with Third Countries in the Area of Migration and Asylum for the years 2007-2013 (TP hereafter) (Commission 2006b). The TP reflects a renewed agenda of "global" co-operation on migration and asylum as expressed in the GAM, with the labour migration and migration-development dimensions added to the previously present migration-security dimension of co-operation with third countries. Although it is still too early to assess the impact of this financial programme on the EU's migration relations with non-EU countries, the main features of this financial instrument are analyzed here.

Still aimed at increasing non-EU countries' capacities in the migration and asylum fields and reaching the internal policy priorities of better managed migration flows towards the EU, the TP provides assistance in the areas of: migration and development; economic migration; illegal immigration; voluntary return and reintegration of migrants; and international protection. In a Strategy Paper adopted by EU governments, the primary importance of the migratory route concept and of the EU's geographical priorities was emphasized (Council 2006c, 5). In other words, the above listed thematic priorities were subordinated to the geographical and "migratory route"-based approach that "seem[ed] to better respond to the way migration is envisaged at EU level, i.e. on the basis of geographical priorities" (Council 2006c, 5).³⁶ In funding the projects,

³⁵ For more analysis of the AENEAS implementation, consult Picard et al. (2009).

³⁶ Such routes as the Southern migratory flows (south-north migration), the Eastern migratory route (east-west

the EU prioritized the regions of emigration and transit towards the EU, although other countries were eligible for funding as well.

Another important change by MSs to the Commission's Proposal for the TP was the decision not to finance "*per se*" projects designed to address directly the root causes of migration, or humanitarian operations. Instead, financial aid was to have a "limited scope" and a "specific and technical nature," targeting state capacity-building in third countries. In addition, TP would fund projects that encourage "co-operation initiatives in which partners of countries of origin, transit and destination will develop and share experience and working methods on the various aspects of migration" (Ibid., 4, 7). The TP thus promotes further regional co-operation on migration, as it finances global and multiregional initiatives that are aligned with the Community's priorities on migration. Funding of activities that develop legislative and institutional capacities of third countries to host immigrants and asylum seekers, features prominently in the programme. Under migration-development theme, however, EU governments only elected to fund information campaigns about the link between migration and development among migrants, diasporic groups, and countries of origin; other aspects of migration-development activities can be funded under the EU's geographically-based financial instruments (i.e., ENPI and DCI).

According to the Commission, the financing that was available under the B7-667 budget heading "contributed to ensuring increased visibility of the Community's external action in the area of migration among the Member States, the administrations of certain third countries, as well as within certain specialised international organizations and an increasing number of non-governmental organisations" (Commission 2006b, 5). Further visibility and internal coherence in

migration), the flows from and through the Middle East and Gulf countries, the flows from Southern and Eastern Asia and the Pacific, and the flows from Latin America and the Caribbean were identified.

external migration policy has been targeted by the consequent policy developments and financial programming by the Community. The TP, in particular, has been justified

by the need to provide a horizontal Community framework to strengthen co-operation between EU actors, third countries and international actors concerned by the migration phenomenon, with a view to encouraging greater understanding of the challenges and contributing to the quest for balanced and mutually satisfactory solutions.

...

The thematic approach answers the wish of the Commission to ensure greater visibility for the contribution made by the Community's external policy to migration issues and may facilitate the creation of synergies between the Community and Member States approaches in the field (Commission 2006b, 7).

In addition to increasing the visibility of the EU in migration policy, this external policy field serves to consolidate and maintain policy coherence within the EU, providing the basis for better exchange and co-operation between MSs and EU institutions.

What is also interesting in the Commission's Communication on the TP, but not present in the Strategy Paper approved by EU governments, is the emphasis on the ownership of the co-operation agenda by third countries' governments. Unlike in the previous programme, the Commission chose to include respect for democratic principles and the rule of law and for human and minority rights as "an essential element to be taken into account" in the selection of projects to be funded under the TP 2007-2013. In the Commission's words,

the actions financed under the thematic programme should be associated with measures aimed at strengthening democracy, human rights, core labour standards and decent work, and the rule of law. Measuring progress in the promotion of these fundamental values is a key element of the needs and performance assessment prior to any further funding of identified actions. This approach would foster the third countries' ownership of migration and asylum related issues (Commission 2006b, 9).

In another place, the Commission mentions its intention "to involve third countries in the actions financed from the thematic programme in order to develop their ownership," as well as to inform them about the actions programmed and implemented (Ibid., 14). At the same time, the Commission seeks certain independence of action in third countries by involving NGOs. The

Commission states: “While the formal agreement and ownership of third countries should be sought, the thematic programme will give the Community a certain autonomy and flexibility vis-à-vis governments of beneficiary countries: the Commission will be free to fund actions through NGOs and other actors of the civil society without government’s agreement, in cases where co-operation is restricted or in situations of difficult partnership” (Ibid., 14).

Notably, having introduced financial assistance to advance the EU’s external migration relations, the Commission and the Council endorsed and introduced monitoring and evaluation mechanisms that have created pressure on third countries to comply and to show the “willingness” to reform. Thus, the Commission included migration aspects into the strategic framework of co-operation with countries (“Regional and Country Strategy Papers” - CSPs) in order to provide *incentives* for readmission agreements and for the recurrent review and reassessment of the migration situations in third countries. In 2003, the Council mandated the Commission “to monitor relations with third countries which do not co-operate with the EU in combating illegal immigration” and work out individual recommendations on migration for every partner country (Council 2003b). In December 2003, EU MSs agreed that the monitoring mechanism will be used to track “the migratory situation in the third countries concerned, including their administrative and institutional capacity to manage asylum and migration and the actions being taken in order to tackle illegal migration” (Commission 2005c, 2). Intended “to identify options through which the EU and its Member States might co-operate to support the relevant country in migration management” (Ibid, 2), such innovation allowed the Commission to use data collection, monitoring and reporting to gather information and create pressure on third countries.

Thus, we can observe that financial assistance allows the EU to partner with international and national non-governmental and intergovernmental organizations and both directly and indirectly steer third countries' migration management policies and institutional capacities. Utilizing the migratory route concept, the EU and its international partners seek to influence migratory flows toward EU territory, while increasing the capacities of its neighbouring countries, and countries further afield, to process and possibly host humanitarian migrants, as well as prevent individuals from entering EU territory in irregular status.

Similarly, visa facilitation emerged as an incentive for third countries to commit to signing readmission agreements and to broader co-operation "against illegal immigration," turning visa facilitation agreements into a "carrot" for neighbouring third countries and an expression of "a real partnership in external relations" (Council 2005c, 18). In addition, they have come to be viewed in the EU "as an opportunity to compensate for the negative side effects of the EU Eastern Enlargement" (Trauner and Kruse 2008, 416), that is, the Schengen restriction of freedom of movement for citizens of new neighbouring countries.

In the Commission's interpretation, the aim of a common readmission policy is to stipulate technical procedures for return of third country nationals, whereas a common return policy, with its focus on humane treatment and the human rights of the deportees, is meant to save the credibility and integrity of the legal EU immigration system (Commission 2003b; Commission 2004b). These two policies have been viewed as cornerstones of the EU's policy against irregular immigration, with the return policy intended to minimize the criticisms of the EU immigration and asylum policies by human rights organizations. In the official discourse, insisting on humane return and ensuring third countries' compliance with international human rights norms is the EU's responsibility; it is committed to adhering to human rights and the

dignified treatment of foreigners when undertaking deportations. Here is a representative quote that shows the Commission's position on the readmission policy:

In policy terms, Community readmission agreements are a necessary tool for an efficient management of migration flows into the European Union. As they facilitate the swift return of illegal migrants, they are a major element in fighting illegal immigration and contribute to stable immigration and a reduction in entries in the EU member states. Concluding such agreements is also seen as a means of giving to the public opinion, sensitive to the subject of immigration, a tangible proof of the willingness to take concrete measures for a greater control of migratory flows. This is a legitimate concern even if it is obvious that readmission agreements alone will never be sufficient to solve the problem of illegal immigration. Moreover they also help to undermine the activities of internationally operating smuggling networks, which are behind a significant part of the illegal immigration in Europe (Commission 2004b, 7).

Criticized by human rights organizations for the practices of sending potential refugees into the countries that did not respect the principle of *non-refoulement* and where migrants may be treated with disrespect, the European Union's approach to migration control transfer to third countries started to include a transfer of the European and international human rights norms and practices. One of the interviewees described the EU's position on concluding readmission agreements with non-EU countries in the following way:

The objective of the readmission agreements is to agree between parties on the administrative procedures to be followed in case of readmission requests. So, readmission agreements are in principal *an administrative tool* facilitating the return of people who have been found staying illegally [on a territory of a signatory country]. So, in a sense, ... taking into account that all states around the world under the international law have an obligation to take back their own nationals, these agreements are basically *facilitating something which is, as far as we are talking own nationals, an obligation...* (Interviewee 25, in Brussels, June 2008, emphasis added).

As far as third-country nationals are concerned, readmission agreements are viewed by the European Commission as a tool to "modernize" non-EU countries' migration and border controls in line with European and international norms:

In this respect [the third-country nationals clause], ... Ukraine has another two years to take measures in this regard. And these measures for Ukraine, of course, should include the

conclusion of readmission agreements with its eastern and south-eastern neighbours and countries further to the east. ... They will have to beef up their border controls on the eastern side in particular but also on their western border. They will have to improve the detention centres they have. They will have to bring up, let's say, to the European standards, let's say, the administrative infrastructure in Ukraine dealing with illegal migration and related issues. In that way, you may also consider such an agreement as *a tool which will stimulate Ukraine to beef up and bring up to the European standards the way it is dealing with illegal migration at this point in time* (Interviewee 25, in Brussels, June 2008, emphasis added).

Within the EU, a position on a standard template for bilateral readmission agreements between an EU member state and a third country was approved in November 1994, and it did not contain any provisions on the readmission of third-country nationals (Council 1999a, 3). The first draft to include such a clause was adopted within the Schengen context in November 1997 in a draft submitted for a standard Readmission Agreement between a Schengen State and a third country (Ibid., 3), turning it into practice in the EU external relations.

Readmission, however, is presented as only one part of the EU's migration management approach:

[...] the EU is of course developing the external dimension of the migration policy in particular with regard to the countries bordering on its external borders... Because we do not want to create "fortress Europe," and the EU has [as] one of its main objectives in the migration policy the objective of facilitating people-to-people contacts to allow the movement of people to the extent possible on the European continent and between the neighbours. So, we have the visa facilitation agreements in place with Ukraine, as well as with Russia, which facilitate people-to-people contacts. So, readmission is only part of the migration deal, if you like, that the EU is establishing with its neighboring countries (Interviewee 25, in Brussels, June 2008).

However, it is not acknowledged that the need for such balance and comprehensiveness in the relations with third countries emerged as a result of third countries' insistence, wish or even resistance to co-operate without any incentive, reward or concession on the part of the EU. The scope of the EU's migration relations hence is being directly affected by the responses the Commission and the MSs get while pursuing their interests in co-operation with third countries.

Therefore, the system of “migration partnerships” that the EU countries have sought to establish with third countries should also be viewed through the lens of effective readmission and return, with “effectiveness” being understood as the institutionalization of the readmission system in accordance with the respect for the human rights of the returned individuals. Here then, the “civilized” practices of more or less forced “removal”, or deportation, and treatment of migrants in detention or holding facilities are supposedly transferred to peripheral non-EU countries in close proximity to the countries of origin of labour migrants and asylum seekers. Such a transfer of norms has led to the establishment of “the European space of circulation,” with migration controls increasingly “externalized” and deportation and the construction of illegality of mobile human subjects used as the main instruments in governing human mobility both inside and across the EU’s borders (Karakayali and Rigo 2010).

3.3.2. Security Paradigm versus Development Paradigm in the EU’s External Migration Relations: The Post-Hague Developments

The softening of the EU’s security-driven migration co-operation with third countries has been taking place through the insertion of development and migrant-oriented policies and incentives into the EU’s “comprehensive” and “balanced” approach to migration management. In its Communication “Integrating migration issues in the European Union's relations with third countries” (Commission 2002a), the Commission for the first time attempted to put migration back into its broader context, emphasizing the causes and both positive and negative effects of international migration. It elaborated the link between migration and development and presented a list of tools that were meant to potentially balance the interests of EU MSs, of countries of origin of migrants, and of migrants themselves. The Commission’s proposal was built around the concept of “migratory routes,” and it came up with a list of measures that would help the Union

to engage countries of origin further afield from its territory. Its migration management model targeted the migration management capacities of third countries and sought to involve migrants in the regulation of migration. The Commission also introduced such notions as “circular migration,” “mobility partnership,” and the idea of involving diasporas in the socio-economic development of their “home” countries through remittances and other investments.

Having utilized the concept of the “root causes” of migration, the Commission was able to introduce a development aspect into the migration management discourse in the EU, and to gradually – and partially – dilute the purely restrictive and security-oriented discourse and agenda of co-operation with non-EU countries. This shift in the EU’s approach has in part been engendered by the growing popularity of the migration and development linkage in the international migration policy discourse in the 2000s, and the EU’s desire to play an important role in international migration and development co-operation (Lavenex and Kunz 2008). The Commission also seized an opportunity to influence internal EU debate on migration co-operation by referring to the international discussions on migration and development. Once accepted into the EU’s policy, the migration/development linkage has expanded the list of measures that can be promoted in “migration partnerships” and has been used to steer the internal governance of the countries from which irregular migrants come to the EU. In particular, the European Union has emphasized the linkage between migration, development, and good governance, seeking to improve their relations with the countries of origin of migrants. These tools are, in a Foucaultian sense, technologies that enable the Commission to micro-govern third states and migrants.

Initiating the migration-development linkage in the EU’s discourse on proper migration regulation has created an additional political space for the EU to attract third countries into

“migration partnerships;” facilitation of legal migration and development opportunities are offered in exchange for non-EU states’ willingness and commitment to prevent irregular migration of their nationals or of transiting foreigners to the EU. Nevertheless, the EU’s interest in addressing potential insecurities associated with the migration and mobility of third country nationals and the priority it gives to the reduction of unauthorized immigration flows remain intact. This can be seen in the parallel development of technology-driven surveillance, checks and monitoring mechanisms at the EU’s external borders and the (in)security-driven screening built into its visa policy. In parallel to the introduction of facilitated travel and migration opportunities for third-country nationals, there has been a growing – though unrelated – trend of combining various techniques (for example, biometric identifiers, storage of personal data in databases with these data shared transnationally) in order to establish so-called “smart” borders where a sovereign logic of border controls can be exercised (Bigo 2011). These techniques allow the authorities in charge of providing territorial access to foreigners to thoroughly “sift” travellers to the EU, either in EU consulates or at the borders (Guild 2003, 2010; Bigo and Guild 2005). Thus, the discursive construction of a nexus between security and freedom of movement and immigration has remained intact. “Correct” behaviour of non-EU governments in controlling migration flows is stimulated by incentives, and rewarded in the form of financial assistance and closer trade and economic co-operation, as well as police and other security co-operation.

Concerned with ensuring the security of movement across borders, the EU has emphasized the need for increasing the capacities of third countries’ law enforcement agencies (such as border guards and ministries of internal affairs). Third states’ reform records are regularly assessed through such measures as monitoring, data collection, study missions, joint working groups, reports by NGOs and inter-governmental organizations working in third

countries, and exchange of information on the migration situation, as well as through the activities of Immigration Liaison Officers (ILO) placed in third countries.

In the Council's 2008 conclusions about partnerships with countries of transit and origin, MSs included a section on measures without which the global approach to migration management cannot be "implemented effectively" (Council 2008c). These are measures to build administrative capacities in third countries and regional organizations so that they can be prepared to partner with the Union and properly handle the *mobility given to their nationals*. They include: various mechanisms of knowledge and expertise transfer to third countries' authorities (e.g., twinning, training); generation of information about the internal economic and labour situation; increased protection against document fraud (through obligatory registration, improved registry office services, and use of modern technologies including biometrics), and; introduction of an integrated border-management strategy.

Additional reiterations of the Commission's approach to improving the impact of migration on development were proposed in the Communication "Migration and Development: Some concrete Orientations" (2005), for the 2006 UN High Level Dialogue on Migration and Development. This Communication was the Commission's elaboration of some of the ideas and mechanisms proposed earlier in 2002 (mentioned above in Section 3.2). In line with the international discussion, the Commission opted to focus on the issue of remittances and migrations' participation in the development of their "home" countries (which denotes their countries of origin). The measures recommended by the Commission include: facilitation of transfer of remittances (based on the increased knowledge of these financial flows), creation of incentives to enhance the role of diasporas in the MSs as actors of home country development, encouragement of circular migration and return to the country of origin, and mitigation of the

negative effects of “brain drain.” Therefore, migrants, their private money, and their activities in “home countries” became a target of governance for the Union.

The measures proposed focused both on the individual migrant, and on the authorities of her country of origin. Focusing on an individual migrant takes the external dimension agenda beyond the realm of purely inter-state co-operation. Instead, migrants become more directly incorporated into the governance of migration and development overseen by the EU; they become objects of governance, by both the receiving and the sending states. The Commission expressed its interest in discussing with willing developing countries “ways to overcome obstacles to remittance flows and to consider, where appropriate, whether specific technical assistance to improve their financial and economic infrastructure could be made available by the Community in the framework of its programmes, as well as by the European Investment Bank” (Commission 2005a, 5). It proposed to provide financial intermediation between *willing* international financial institutions and *willing* third countries and to support collective remittances by diaspora organizations and local organizations investing into local development in third countries. The Commission proposed to support third countries in mapping their diasporas in the EU MSs and creating databases of diaspora members willing to contribute to the development of their home countries, and to support the links between diaspora groups and their home countries. Also, it invited EU governments

to identify and engage diaspora organisations which could be suitable and representative interlocutors in development policy and/or possible initiators of development projects in countries of origin. It would also welcome steps by the organisations representing diasporas involved in the development of countries of origin to set up a mechanism that could ensure appropriate representation of their interests at EU level, in particular as far as policies of interest to these countries are concerned (Commission 2005a, 6).

Such measures and mechanisms, arguably, make the European Union into an agent steering migration processes and population movements by incorporating willing parties into the process,

and creating incentives and ‘ownership’ of the process by both migrant communities and third country governments. For the governmental state, governance involves paying attention to small details and governing at the level of micro-processes, instructing, and creating incentives to widen participation in such micro-processes. Back in 2002, the Commission had envisioned the possibility for greater involvement of diasporas in the development of their home countries if good governance could be fostered and investment climate improved. It stated: “it is up to each diaspora member to decide whether, to what extent and in what form (s)he wishes to contribute to the development of his/her country of origin. Public policies in this area can only provide incentives, facilitate and be responsive to people’s own initiatives” (Commission 2002a, 21).

Another issue to discuss is the Commission’s continuous insistence – at least since 1994 – upon the need to include legal labour migration into the EU’s comprehensive migration management strategy. Such ideas as facilitation of voluntary return, creation of opportunities for temporary migration in the form of circular migration, and the expansion of the use of temporary or “virtual” return by migrants for the sake of the development of their home countries were proposed by the Commission. Facing negative public opinion towards immigration in MSs and their governments’ reluctance to talk about positive immigration potential, the Commission proposed a list of measures that could prevent migration flows while at the same time addressing the developmental needs of the countries of origin. To regulate migration flows and maintain transnational links, the Commission opted to take on the role of a facilitator between EU MSs, third countries, and migrants by creating or maintaining “an infrastructure” for the development of these transnational links that would potentially benefit the countries of origin.

With the MSs’ approval, the external dimension of the EU migration policy evolved to include the formal formulation of the agenda on “migration and development.” The Commission

and the EU as a whole saw its participation in the global migration and development dialogue as a way “to play a leading role and gain in political and visibility terms in given a concrete expression to the notion of co-operation on migration and development” (Council 2006c, 28). Thus, the migration and development agenda has become a new way to influence the migration policies of the countries of origin and transit, i.e., through co-operation and partnership. This agenda has also increased the EU’s importance in the international migration and development field by financing both “global” and regional cooperative projects and best practices (Ibid., 28). In addition to the security framework in which migration was placed in the 1990s – especially in the context of eastern enlargement – migration-and-development-related measures have become part of the EU’s migration governance, and have been inserted into the EU’s Global Approach to Migration as tools for governing migration flows from third countries.

3.3.3. The Global Approach to Migration: the EU’s Toolbox of Influence?

In September of 2005, in the European Commission’s words, “Over just four days, hundreds of migrants, mostly young men from sub-Saharan Africa desperate to get to Europe, tried to enter the Spanish towns of Ceuta and Melilla” (DG JLS y. u., 1). These events attracted a great deal of public and media attention. The arrival of these “mostly young men from sub-Saharan Africa” created a “crisis situation” and spurred the public debate about the “seriousness of illegal migration,” and this stimulated EU leaders to take measures in order to prevent human deaths at sea and on land. It was clearly not the first instance of migrants dying on their path to the EU territory. As of June 2012, the European network against nationalism, racism, fascism and in support of migrants and refugees titled “UNITED for Intercultural Action” has tracked a total of

16,264 documented deaths because of restricted access to the EU territory.³⁷ According to the estimates of the International Centre on Migration Policy Development (ICMPD), at least 10,000 individuals have died in the last ten years in sea waters washing southern shores of the EU (Kroeger 2007). Nevertheless, the events of September 2005 galvanized a reaction from EU institutions and MSs. After a series of informal and formal discussions about possible measures to address “illegal immigration crisis” in the EU, the European Council approved the so-called Global Approach to Migration (GAM) in December of 2005.

By adopting the GAM, EU governments sought to establish a new political dialogue on immigration between the European Union and African countries and to enhance migration co-operation between the EU and its neighbouring Mediterranean countries. In 2007, this approach was extended to Eastern and South-Eastern neighbours. In the Commission’s interpretation, the GAM represents a new way of resolving migration dilemmas in the European Union by cooperating with non-EU countries from where immigrants to Europe originate. The GAM put together migration, external relations, and development policy with the goal of addressing migration in an integrated, comprehensive, and balanced way in partnership with third countries (Commission 2006a).

On the occasion of endorsing the Commission’s proposal for the GAM (Commission 2005d), the European Council noted “the increasing importance of migration issues for the EU and its Member States and the fact that recent developments have led to mounting public concern in some Member States” (Council 2005a). The Council also underlined

the need for a balanced, global and coherent approach, covering policies to combat illegal immigration and, in co-operation with third countries, harnessing the benefits of legal

³⁷ The organization keeps record of only those deaths that can be put down to “Fortress Europe”, including border militarization, asylum laws, accommodation, detention policy, deportations, carrier sanctions, etc. Their records go back to 1 January 1993. More information is available at <http://www.unitedagainstracism.org/pages/campfatalrealities.htm>.

migration. It recalls that migration issues are a central element in the EU's relations with a broad range of third countries, including, in particular, the regions neighbouring the Union, namely the eastern, south eastern and Mediterranean regions (Ibid., 3).

The Global Approach was intended to increase the political visibility and importance of the Union's actions in international migration management (Interviewee 23, in Brussels, June 2008). In addition, the Commission sought to include a promise of legal migration opportunities in order "to allow the EU to gain credibility in the eyes of its partners and to reach the next stage of co-operation with them" (Commission 2007b, 16).

The GAM expanded EU governance beyond the neighbouring "transit" countries (with which the security paradigm remains paramount) towards countries further afield from the Union, with priority given to the countries that produce the largest number of irregular migrants to the Union. The discursive linkage of migration to the EU's development agenda is more salient in the framing of the EU's relations with African countries, than in the framing of its relations with its immediate eastern and southern neighbours (where the security/migration link remains dominant). Such rhetorical differences notwithstanding, security- and control-oriented measures are present in the EU's actions targeting irregular migration flows from the south as well, with surveillance operations carried out by FRONTEX and MSs in the southern maritime waters (see Carling 2007; White 2007).

Considering the number of years of co-operation with the eastern neighbours on migration and borders,³⁸ the extension of the Global Approach towards the east (Commission 2007b) was largely a symbolic move that formalized the de facto status quo and was intended to increase the coherence and coordination of action between MSs and the EU institutions in external migration relations. In addition, it showed the level of comprehensiveness the Union sought to reach in

³⁸ The Community funded projects on border and migration management in eastern European countries since the 1990s under the TACIS programme and later under the special migration-focused financial instruments.

attempting to address migration challenges through the global coordination of states' actions. For example, the Commission proposed to expand the geographical reach of the Global Approach beyond the immediate transit and sending countries (i.e., Turkey, the Western Balkans, the Russian Federation) and some ENP countries (i.e., Ukraine, Moldova, Belarus, Armenia, Azerbaijan, Georgia) to include other countries of origin and transit further afield. It rationalized such an extension by appealing to the complexity of the concept of “migratory routes” (one of the foundations of the Global Approach) and the need to encourage co-operation among non-EU countries at the regional and global level, as well as between countries facing similar challenges with regard to migration management (Ibid.). Such regional co-operation had been extensive in Eastern and South-eastern Europe in the framework of such intergovernmental platforms as the Budapest process and the Söderköping process, or within the Baltic Sea co-operation structure. Having instituted the *global* approach in its policy, the Union overall – and the Commission in particular – have encouraged their experiences and best practices in addressing migration problems to be shared among the regions and countries. Moreover, the Commission's support to fostering regional coalitions and platforms on migration management was based on one of the principles of the EU's ED-JHA Strategy – specifically, the principle of regional co-operation in addressing such international threats as terrorism, organized crime, and illegal immigration.

The GAM employs various instruments to operationalize the EU's co-operation with third countries. I suggest that we classify them into (1) operational co-operation platforms (i.e., “Mobility Partnerships” and the “Common Agenda on Migration and Mobility”), and; (2) tools aimed at knowledge transfer and the fostering of transnational migration expert communities.

“Mobility partnerships” as a strategic tool for the cross-border governance of labour

First introduced as part of the migration-development framework (Commission 2002a), the “Mobility partnerships” are a new strategic tool designed to “balance” the EU’s security interests (i.e., in tackling illegal labour immigration) and labour market needs with third countries’ interests in remittances and migrants’ interests in secure and legal employment opportunities. Still in its infancy, “mobility partnerships” are tailored to a specific country and provide the overall framework for managing various forms of legal movement between the EU and the third country. Mobility partnerships can be completed only with countries that are “committed” to addressing irregular immigration and have concluded readmission agreements with the Union. In the Commission’s conceptualization, all three components of the Global Approach (i.e., legal labour migration, illegal immigration, and migration and development) should be present in mobility partnerships for them to be effective tools of co-operation with third countries. Notably, this is the first EU-wide tool that includes opportunities for temporary labour migration into the Union, education and training opportunities for non-EU nationals seeking work, research opportunities, or pursuing studies in the EU. It is intended to enable citizens of a partner country “to have better access to the European Union (EU)” (Commission 2007a, 3). Although mobility partnerships are concluded in accordance with the level of relations the EU has with a particular country, their composition provides for a tailored and flexible approach enabling adjustment of the partnership “to the ambitions of the country concerned and of the EU, and to the level of commitments which the third country is ready to take on in terms of *action against illegal migration and facilitating reintegration of returnees*, including efforts to provide returnees with *employment opportunities*” (Commission 2007a, 3, emphasis added).

Since 2008, mobility partnerships have been piloted with Moldova and Georgia on the so-called “Eastern migration route,” and with Cape Verde and Tunisia on the “Southern

migration route.” Moldova and Cape Verde – two priority countries for the EU – were the first countries willing to conclude these action-oriented agreements.³⁹ These agreements are neither legally nor politically binding.⁴⁰ The Commission and participating EU MSs can withdraw from the partnership at any time the third country fails to comply with its commitments (Commission 2009); no reciprocal right of withdrawal is given to a third country (though the latter may simply withhold from or stop implementing the agreement).

The Commission’s dependence on EU governments’ participation complicates its ability to negotiate a meaningful proposal with third states. The mobility partnership as a tool, however, was designed to be flexible enough allowing other MSs to join in after the start of a partnership’s implementation. Most likely, “mobility partnerships” have potential to increase coordination and coherence among EU institutions and MSs in conducting “migration diplomacy.” Parkes (2009), for example, has also suggested that mobility partnerships have potential to become a “model for policy coordination” in the EU. Evidently, the commitment of the EU and its MSs to providing meaningful and symmetric partnership opportunities for third countries that go beyond restrictive and security-oriented measures to address the problem of unauthorized immigration into the EU, remains to be seen. But, again, the need to adapt to situations in which third countries are unwilling to enter into more expansive migration relations with the EU can be seen in a recent proposal to have an alternative framework to mobility partnership which the Commission dubs the “Common Agenda on Migration and Mobility.” At the core of this alternative lies an idea of two parties agreeing on “common recommendations, targets and commitments within each of the

³⁹ Willingness and readiness to commit to co-operation on the part of a non-EU country played a role in how the first two countries were selected for a pilot run of the “mobility partnerships” (Interviewee 23, in Brussels, June 2008).

⁴⁰ There is no reinforcement mechanism in place to make the parties – both EU member states and non-EU country – to enter into cooperative relations and to implement taken-on projects or obligations.

four thematic pillars of the GAMM,” with the possibility to upgrade to a Mobility Partnership at a later stage upon mutual agreement (Commission 2011b, 11).

Knowledge transfer tools

Besides mobility partnerships and return and readmission mechanisms, there are also what the Commission calls “knowledge tools,” “dialogue tools,” and “co-operation tools” (Commission 2011b).⁴¹ At the core of all these variously categorized tools lies a single premise of knowledge and expertise transfer to the “willing” countries as the EU and its implementing international partners (such as ICMPD, IOM, UNHCR) are the main drivers and “service-providers” to governments of cooperating countries. For example, migration profiles for such countries as Ukraine and Russia have been produced by the IOM. Studies and statistical reports are compiled both by European experts and local experts, whereas impact assessments, fact-finding missions, EU migration missions, twinning and other operational co-operation projects are, again, undertaken by European experts. They are used to collect information and up-to-date analysis of the migration situation in a particular country, as well as to introduce European practices in the migration area to local experts and policy-makers. While having a solidaristic and egalitarian idea of assistance to cooperating governments in dealing with their migration challenges, their implementation is not free of criticism. In the case of migration missions, for example, Weinar (2011, 10) points out that “their destination is usually decided unilaterally by the EU side without prior consultations with the country in question.” Therefore, the ownership of this knowledge about migration situations is not necessarily produced collaboratively.

⁴¹ In the Commission’s interpretation, “knowledge tools” include migration profiles, mapping instruments, studies, statistical reports, impact assessments and fact-finding missions. “Dialogue tools” include migration missions, seminars and conferences, whereas “co-operation tools” cover capacity-building, co-operation platforms, exchanges of experts, twinning, operational co-operation and targeted projects and programmes (Commission 2011b, 12).

3.3.4. Migration Partnerships: Shared Responsibility and Solidarity?

Political dialogue with non-EU countries on migration has been built on the idea (promoted by the EU) of the shared responsibility between countries of origin, destination and transit of migration. *Solidarity* in migration management is another innovative political rationality of cross-border governance of population movement that is being promoted by the EU in its official documents.⁴² One of the principles of EU internal governance, the language of “solidarity,” together with “coherence” and “complementarity” among EU institutions and MSs, has also been used recently in relation to third states’ co-operation on migration with the EU. It was in the GAM (2005) that the language about solidarity with non-EU countries was endorsed for the first time. The 2008 European Pact on Immigration and Asylum (Council 2008d) also mentions this concept. However, it was elaborated only in 2008 when the Commission put out a proposal on how to advance the EU’s comprehensive immigration policy.

The Commission’s 2008 Communication, “A Common Immigration Policy for Europe,” added new dimensions to the EU’s immigration policy discourse. In it, the Commission suggested organizing immigration policy around “the main strands of EU policy – **prosperity, solidarity and security**” (Commission 2008a, 4, original emphasis). In the Commission’s interpretation, the EU needed to use the principle of “solidarity” both for internal co-operation and in immigration co-operation with third countries, while being guided by the ideas of mutual trust, political and operational solidarity, transparency, shared responsibility, and joint efforts (including financial solidarity and burden-sharing). In order to show “solidarity” with third

⁴² This concept has been used in the 2006 Brussels European Council Conclusions, the Future Group’s report (2008), the “European Pact on Immigration and Asylum” (2008), and in the Commission’s Communication “A Common Immigration Policy for Europe” (2008). The recently approved Stockholm Programme for the implementation of the area of freedom, security and justice also uses this concept.

countries, the Commission proposed establishing “genuine partnerships” with third countries, paying attention to the “opportunities for legal mobility, capacities for migration management, identification of migratory push factors, protecting fundamental rights, fighting illegal flows and enhancing possibilities to *let migration work in service of development*” (Commission 2008a, 9-10, emphasis added). The Commission thus pushed for a rethinking of the migration-development nexus in favour of development *per se*, rather than migration prevention. From this, we can assume that the Commission proposed to measure the “genuineness” in partnerships in terms of EU MSs’ abilities to meet the migration policy interests of third countries, rather than simply to pursue their own interest in migration prevention and control through political pressure and financial means. The Commission, at least in its rhetoric, seeks to balance the interests of both sides in the name of “proper management” of immigration flows towards the EU but also for the sake of development in third countries.

It should also be noted how the Commission conceptualized the two other principles – prosperity and security – of the common immigration policy. It suggested measuring “prosperity” in terms of legal immigration’s contribution to the *socio-economic development of the EU*, granted that clear rules of legal immigration, matching skills of labour migrants to the needs of MSs’ economies, and integration of immigrants were established in the EU. As far as the security principle is concerned, the Commission reiterated the four policies already in place: 1) a harmonised visa policy (including the facilitation of travel for “bona fide travelers” and the usage of technologies “to enable differentiated, risk-based checks on visa applicants”); 2) integrated border management, with strengthened operational capacities of FRONTEX; 3) the policies addressing irregular immigration and human trafficking, and; 4) the return policy (Commission 2008a, 11-12).

The Stockholm programme (2010-2014) also attempts to strike a balance between the freedom of movement and mobility, and the Union's right to secure and protect its borders and territory. Yet, the latter got more attention in the programme. Thus, MSs agreed that managing access to "Europe in a globalized world" should combine an integrated border management and effective visa policy, facilitating access to "bona fide travelers" through various "smart" border technological tools that would prevent "risky" individuals from entering the Union. In this formulation, the ability of the EU to exercise control over its external borders and territory is presented as a *maxima* to be reached, while the negative effects of increased controls on population movements go unmentioned. Technology is presented as a panacea against the menace of illegal immigration, whereas the "illegality" is created by these controls to begin with. In parallel, the Stockholm programme reaffirms, normalizes, and fetishizes the right to control one's borders and territories as an expression of states' sovereign right.

In the official EU discourse, the distinction is drawn between migration and mobility. To portray a positive international image, the EU presents itself as being open to various categories of *legitimate* travellers. The Stockholm Programme, for example, states:

Access to Europe for businessmen, tourists, students, scientists, workers, persons in need of international protection and others having a *legitimate interest to access EU territory* has to be made more effective and efficient. At the same time, the Union and its Member States have to guarantee security for its citizens. Integrated border management and visa policies should be construed to serve these goals (Council 2009a, 4, emphasis added).

Apparently, the openness of EU territory is maintained through the construction and maintenance of a legitimate/illegitimate foreigner binary, and an emphasis made on the security of travel.

Whereas the EU seeks to prevent or stop foreigners from using 'illegitimate' ways of getting employment and/or residence in EU territory, it presents itself as being open and welcoming to 'legitimate' foreigners and to persons seeking protection. On the other hand, such measures as

the increased protection of the EU's external borders, with a greater operational role given to FRONTEX and to the technological creation of "smart" borders with automated controls, are promoted as *the* measures to prevent illegal immigration and increase MSs' capacities in differentiating the flows of people into "good" and potentially "risky". While the EU talks about its benevolent aims and openness to legitimate travelers, it simultaneously funds various security arrangements to beef up its external borders. Since the 1990s, control over its external borders has been a priority for the EU. FRONTEX's role in controlling illegal entry into the Union has been increased, with necessary increases in its budget and operational deployment at land and sea borders in MSs (Léonard 2010; Carrera 2007; Jorry 2007).

3.4 Population, Territory, Sovereignty

While international co-operation on migration regulation remains sporadic and consultative (Kosłowski 2009), the EU presents a rich case of regional migration co-operation that – despite similarly being a non-binding political platform for co-operation among "willing" partners – is much more intense than in the international arena. The EU migration regime incorporates innovative governance practices to bind third countries into delivering on promises, especially with migration controls. The so-called "migration partnerships" are based on "joint ownership" of the partnership, with financial support and other incentives provided by the EU, leading to increased interaction of government officials, migration and security experts.

The association of the "territory-borders-migration control" with sovereign power is blurred nowadays, if it ever was so clear. Migration controls have been extraterritorialized and hence, exercised outside of the remit of sovereign power traditionally understood to be enclosed within borders on a given territory (even when these borders are dispersed to consulates and any

other places where the control over the movement takes place). Aiming to achieve control over the movement of some categories of suspicious populations through technology-based, “smart” techniques, “the sovereign states have accepted a displacement of their sovereignty beyond their borders for these techniques to work” (Bigo 2011, 42). More than that, the states – and it applies to EU states – “have largely externalised their sovereign technologies and policing practices by obliging their ‘neighbours’ to participate actively in their controls towards movement of population coming from outside and being rebranded as third country nationals” (Bigo 2011, 42). Such externalization of sovereign technologies and policing practices, however, is not associated with “the dislocation or erosion of state sovereignty” (Bigo 2011, 42); rather, such practices are categorized as “pooling” of sovereignties aimed to strengthen the states’ sovereign right to control population movements.

The question then is, what happens with the sovereign power of those states to which migration controls and policing practices are transferred if the sovereign exercise of migration control is no longer directly and mainly associated with the territory and the borders? Can we interpret the institutionalization or intensification of migration controls, as well as the fortification of borders, in those countries as an increase in their sovereignties as the global discourse of international migration would claim? On the one hand, we see the extension of European Union authority indirectly guiding third countries in their migration management policies. This trend is accompanied by the construction of a “global” space of migration governance, in which all are encouraged to participate. Indirect rule is driven by expert knowledge and monitoring of the migration situation in non-EU countries. The functionaries in charge of guarding the territory and borders thus enable the continuity of the sovereign power, despite the governmental logic in place. The EU seeks to control the numbers and directions of

human movement towards and within its territory by negotiating the scope of its power over productive populations (i.e., labour) comprised of third country citizens. Such negotiations are voluntary and are only possible in exchange for a third country's commitment to fight irregular migration toward the EU territory.

On the other hand, we see the acceptance and encouragement by the Commission of the extension of the sending states' reach towards their nationals residing in EU MSs in the suggestion that non-EU states "map" their diasporas in EU countries. In addition, the Commission proposed to act as an intermediary between diasporas, financial institutions, and third states, thus gaining more techniques of governance vis-à-vis the financial flows of migrants towards third countries. Arguably, the exercise of migration controls within one's territory may in practice – if not in rhetoric – cease to matter for the states' sovereignty claims. For now, however, the loss of control over people's movements at the state borders continues to be interpreted as a threat to national sovereignty and security.

As Neil Walker suggests, in today's international system "sovereign power is increasingly asserted along *functional* boundaries cross-cutting the territorial division of the Westphalian map" (Walker 2003, 22, quoted in Gammeltoft-Hansen 2008, 9). In the case of refugee regimes, for example, this trend has been observed "in the growing emergence of cooperative legal frameworks between EU or Member States and third countries effectively extending sovereign functions beyond EU borders" (Gammeltoft-Hansen 2008, 9). Such cross-border co-operation causes the renegotiation of territorial or national conceptualizations of sovereignty, rather than a complete rejection of the Westphalian order (Ibid., 9-10). For EU member states, migration management discourses create spaces for re-interpreting sovereignty as they negotiate the scope and territorial reach of a key feature of their nation-state authority:

population management. At the same time, the governmentality of “global” migration management enables the re-institution of their sovereign power as expressed in the logic of border controls (with an emphasis on dataveillance techniques) and preventative measures in the territories of third countries, or at the external EU borders (through FRONTEX operations). This takes place within the historical situation of governmentality, when an implied loss of sovereignty is being “compensated through the resurgence of sovereignty within the field of governmentality” (Butler 2004, 56).

Gammeltoft-Hansen (2008) has showed that states – due to diversity in national and international laws on refugee protection – have exploited the differences in national refugee regimes with regard to the distribution of responsibilities and the standards of protection owed to humanitarian migrants (2008, 14-15). Gammeltoft-Hansen argues that EU countries seek third states’ territories as “offshore” zones for reduced human rights obligations and less costly humanitarian undertakings by providing third countries with resources to handle migratory flows and assume responsibility for asylum seekers. In other words, offering some assistance to other states to manage migratory flows is a more cost efficient strategy for the EU than providing residence and integration assistance to new migrants. EU MSs’ external strategies have also been dubbed “the policy of delegation” aimed at transferring responsibility for control over unwanted populations to “countries of origin” and “transit” of migrants, thereby removing “responsibility for action and judgment from the legal arena of the state” (Basaran 2008, 344). Co-operation on migration control and labour migration may potentially expand into an informal regime when willing states negotiate the parameters for governing the productive capacities of their populations across borders. The problematic of the government has become a matter of how to enable mobility, while simultaneously monitoring movement (Larner 2008).

An analysis of the operational co-operation of the authorities in charge of border protection, combined with knowledge of the technical details of co-operation on re-admission, allows us to see how the EU and its eastern neighbours are negotiating their sovereign jurisdictions beyond (in case of the EU) and within (in case of EU's neighbours) their territorial borders. We should also ask what effects these sovereignty games have on political, social and economic transformations in Europe, where Europeanization and globalization dynamics overlap. How are states able to exercise their authority beyond the borders that constitute them as that authority in the first place? Such questions regarding transformations in sovereignty, or the internationalization of governance, require further studies and examination of many areas, including migration. However, it is through the focus on states' regulation of population movements that we can see how the foreigner emerges as a convenient object on which to apply political authority. The figure of the foreigner makes it possible for states to reclaim their real or perceived control over their borders and to emerge as potent governance structures mobilized to protect citizens against security threats and to create positive welfare opportunities for their nationals.

In the concluding chapter, I will return to the question of what the externalized migration management means for how we understand sovereignty and the demarcation of borders.

Conclusions

EU co-operation with third countries on migration management has followed closely interrelated geographical and thematic lines that correspond to the Union's external governance ambitions. The thematic and issue priorities of the Union reflect separate logics and flexibility of co-operation at the national, regional and the 'global' levels. Five themes are of key interest to the

European Union: migration and development, control of external borders, prevention of irregular migration, asylum and international protection, and legal (labour) migration. Population control seems to be at the core of states' negotiations over their sovereignties and the territorial reach of their governing practices. By intervening in the third states' capacities to manage their populations, the EU reinforces its own and third countries' control over their populations. Simultaneously, there is another dynamic in place – a push beyond nation-state migration control towards a “global system” in which states' apparatuses are united, with the common goal of controlling population on a greater, supra-national scale.

The Union uses a geographically differentiated and targeted approach in which co-operation with a third country is individualized and tailored to the latter's internal situation, both in terms of political and economic development and migration dynamics. In a managerial approach, the EU co-operates selectively with countries willing to commit to tackling the EU's migration challenges, while packaging it in the language of “partnership” and “joint ownership,” “common interests,” flexibility, and openness to third countries' needs. It creates incentives for co-operation (for example, facilitated travel arrangements for third country nationals or access to legal employment through a “mobility partnership”). The act of incorporating third states' concerns and challenges into the EU's thinking on how migration could be ordered and regulated in the interests of all countries concerned becomes normalised. In addition, the individual migrant becomes EU incorporated – especially in regard to the migration and development agenda – into the “development” of their “home” countries through the facilitation of remittances, the involvement of diasporas in the development of their “home countries,” and by promoting “circular labour” migration. The system that emerges is designed to meet the EU's interest of reducing “illegitimate” migration flows, but at the same time, to offer third countries something

in return (e.g., development opportunities, legal routes for labour migration, facilitated mobility for bona fide travellers).

Indeed, MSs and EU institutions make use of multilateral platforms (even those established outside of the EU framework) to transfer knowledge, expertise, policy solutions and common practices on migration and asylum (Lavenex 2007). These platforms are meant to facilitate exchange of information and create peer-pressure on participating states. For example, the Söderköping process was initiated to provide “training and a forum for comparing national experiences and disseminating best practices and for peer pressure mainly, but not exclusively, on asylum management, between WNIS countries, some EU MSs (with the Swedish Migration Board in a leading role), the UNHCR and the IOM” (Commission 2007b, 42). The expansion of the Budapest Process to the CIS countries, for example, was motivated, among other things, by a need to inform and make the CIS countries aware of the European Union policies on migration. Bringing these countries into the framework of various international and European platforms, with officials invited to attend conferences, seminars and other training events, adds to both formal and informal co-operation. With the help of international platforms, policy convergence takes place. Such rules and norms transfer blurs the lines between the inside and outside and expand the boundaries of the EU’s governance beyond its borders (i.e., through regulating people’s mobility). Securitizing practices sustain the dichotomy of ‘wanted’/’unwanted’ travellers and migrants, when the mobility of the ‘wanted’ (e.g., professionals, skilled migrants, academics and researchers, diplomats) is welcomed and of the “unwanted” (e.g., refugees, asylum seekers, low skilled and unskilled migrants, poor, unemployed) – controlled (see Guild and van Selm 2005). By demanding from third states to be in control of their borders to stop

unauthorized movement into their territory, the EU reinforces the logic of the state's control over entry and exit of its national territory.

The European Union promotes global migration management and seeks to foster regional co-operation among states facing similar challenges with emigration and immigration, irregular migration, human trafficking and smuggling, readmission and return of nationals to their countries of origin, etc. The political significance of the Global Approach to Migration lies in the fact that it is an umbrella term and platform that provides flexibility to incorporate tools and practices deemed beneficial to all partners involved, that is, states of origin, destination, transit, and finally migrants themselves. Global migration management becomes a convenient platform that consumes governmental technologies (e.g., biometrics for border protection) and creates and maintains social spaces (e.g., detention centres, airports as mobility control zones, local border traffic regimes) for population control.

The GAM thus (1) creates the environment for increased influence on agenda setting in international migration management; (2) extends its governance beyond the EU's borders into the territories of the neighbouring countries and/or countries of origin of immigrants, and; (3) allows the EU to influence developing countries and their citizens through migration. The EU pursues both exclusionary and inclusionary practices in order to secure the EU's legitimacy in the eyes of its own citizens, citizens of third countries, other states and non-state organizations that together play their role in the governance of immigration and human mobility. Linking of migration to the development agenda has opened up new spaces for the EU's intervention and increased the EU's leverage in negotiations with third countries on irregular migration management. These measures, in combination, crystallize as the way to reclaim the "control over borders" that are said to be disappearing with growing interdependence.

CHAPTER 4. MIGRATION POLICY AND POLITICS IN UKRAINE AND RUSSIA, 1991-2011

We all originated from a country where population relocation was strictly controlled, both by the authorities and, we can say, by popular opinion. Migration is perceived to this day as an object for control. A foreigner is perceived nowadays as an object for control. [...] We are talking about the official position. Thus, it must be controlled, must be restricted. The logic is absolutely rudimentary, and it has not disappeared (O. Malynovska, in Kyiv, May 2008).

Introduction

The creation and exportation of the EU's migration and asylum law, policies, and practices to non-EU and non-accession countries have aimed to regulate migration flows towards EU territory. As indicated earlier, there has been an externalization of migration controls, especially to the accession countries that bordered the EU. What remains less studied are the options of third countries' governments that have been "co-operating" and "assisting" the European Union in its endeavor to establish a system of migration control. The role of non-EU governments in creating the exclusionary migration regime in wider Europe, and their power and authority to exclude foreigners, needs to be interrogated. Ultimately, it remains predominantly accepted that a nation-state has a sovereign right to population management by determining entry and exit rules for its nationals, as well as foreigners seeking to enter or remain in the territory. Why then, and under what conditions, have third countries like Ukraine and Russia permitted – or actively implemented – elements of the EU's migration regulation and control implicitly – or sometimes explicitly – assisting the EU to establish the system of "control at a distance"? The policies of these countries – placed in this study into a category of "the distance" in relation to the EU's indirect rule and where migration controls are being implemented and executed – should not be

ignored in the analysis of the EU's migration regime and its implications for international migration governance.

This chapter examines migration politics and policy-making in Ukraine and Russia after the break-up of the Soviet Union in order to provide background information prior to analyzing these countries' international co-operation on irregular migration with the EU. I first review the post-independence situation with international migration in Ukraine and lay out the domestic legislative and policy environment in the 1990s and early 2000s that led to Ukraine's migration co-operation with the EU. Secondly, I discuss the challenges of migration policy- and institution-making in the Russian Federation in 1991-2010. I explore the legislative and institutional frameworks of migration policy in order to show the framing of the migration debate in Russia, in national and economic security terms. The tracing of migration politics and policy-making in Russia stretches up to the year of 2010 as I want to highlight the endogenous processes of migration policy-making in this country. Because the Ukrainian government has been exhibiting attention to migration under pressure from the EU, more recent changes in its migration policy are discussed in Chapter 5.

I advance an argument that the degree of European and international influences on migration *policy* of a given non-EU country is determined by factors such as: (1) the domestic situation with international migration flows, (2) the legacy of domestic migration and political membership norm-making, or lack thereof, (3) foreign policy orientation towards the EU, and (4) a country's participation in the international migration norm-making and in the international migration organizations (e.g., IOM) and intergovernmental processes (such as the Budapest process). In turn, migration *politics* is heavily dependent on the local perceptions and discourses on international migration, as well as on the experiences with immigration and the degree of

politicization of (racially and ethnically different) immigration. The latter largely influences and determines what governance purposes migration politics may be called upon to play for the government of a given country.

4.1 Ukraine: Entering the World Map of Contemporary International Migration

As a post-Soviet country that was isolated from the world by the Iron Curtain and the strict migration and border controls of the Soviet Union, Ukraine is a relative newcomer to the world of international migration and migration-related legislation and policy making. Thus far, it has developed a system of legislative norms and administrative practices on migration but they remain patchy. Migration policy has not been a priority for the Ukrainian government (O. Malynovska, in Kyiv, May 2008). Inter-institutional disagreements over what migration policy should be, continuous inter-agency “turf wars” – both over internal state budgets and external donors’ funding – and the lack of political will to prioritize migration are some of the factors that have caused continuous institutional restructuring and discussions over the conceptualization of migration policy. At some point, migration responsibilities in Ukraine were dispersed among nine authorities (see Table 4.1 for the historical distribution of functions among various government bodies). The most recent attempt to create an institution in charge of migration was made by the current President of Ukraine, Viktor Yanukovich. In response to the EU’s requirements (as laid out in the EU-Ukraine Action Plan towards visa liberalization signed in 2010), in April 2011 the president decreed the establishment of a centralized body, the State Migration Service of Ukraine, in charge of developing and implementing a migration policy.

Table 4.1. Central executive bodies involved in migration issues and their responsibilities

	Entity	Area of responsibility
1.	Ministry of Internal Affairs of Ukraine (MIA)	Coordinating activities to counter illegal migration
2.	Ministry of Foreign Affairs of Ukraine (MFA)	Visa policy and consular activities
3.	Ministry of Labour and Social Policy of Ukraine	Setting quotas for the labour market in Ukraine
4.	Ministry of Health of Ukraine	Controlling the sanitary and epidemiological situation in Ukraine
5.	State Committee for Nationalities and Religion (SCNR) under the Ministry of Justice of Ukraine	Handling refugees (to be reorganized as part of the State migration service of Ukraine)
6.	State Border Service of Ukraine (SBS)	In charge of border control; countering illegal migration at the state border
7.	Security Service of Ukraine	Monitoring and control of foreigners in relation to national security
8.	Ministry of Education	Dealing with foreign students to Ukraine
9.	Ministry of Youth and Sports	In charge of permission for family immigration

Adapted from: Table 3 “Central Executive Bodies involved in migration issues and their responsibilities” (IPA/ICPS 2009, 22).

4.1.1. Ukraine – A Country of Emigration, Transit Migration, and Immigration

Ukraine has garnered international attention with regard to migration due to its status as a country of origin and transit for labour migrants and human trafficking. Labour migration (both legal and irregular) from Ukraine and transit migration through Ukraine have become the focal points of the country’s “international migration relations.” With the break-up of the Soviet Union in 1991, Ukraine became one of the countries participating in international migration. On the one hand, its citizens acquired the right to leave the country freely, without special authorization from the state (as was the practice during the Soviet era), and emigration became a possibility. Facing the social and economic hardships of the early post-Soviet years, some Ukrainian nationals became either legal or irregular labour migrants, working on a short-term (e.g.,

seasonally, or occasionally as petty traders doing cross-border sale and purchases) or a long-term basis abroad (PyrozHKov, Malynovska, Marchenko 1997; PyrozHKov, Malynovska, Khomra 2003). On the other hand, Ukraine's close geographic proximity to the affluent western European countries and the opening of its borders has contributed to the country being used as a transit hub by migrants travelling further west from Africa, Asia and the Middle East (Malynovska 2006).⁴³ Having relaxed its border controls, with no yet established and organized system of visa issuance for foreigners, Ukraine became one of the countries in a migration route used to transport labour migrants to western European countries, causing the IOM and some European governments to become alarmed by Ukraine's "transit" potential (IOM 1994a).

During the Soviet era, immigration into Ukraine was prevalent over emigration and came predominantly from other Soviet republics (Malynovska 2006). Since the mid-1990s the ethnic constitution of foreigners arriving in Ukraine has included groups that had not historically resided there (i.e., ethnically, culturally and "racially" different immigrants from Asia, Africa, and the Middle East) and who became dubbed "non-traditional migrants" (Malynovska 2006; Braichevska et al. 2003). The 1990s also witnessed the return of ethnic Ukrainians displaced during the Soviet era, and the emigration of various ethnic groups from Ukraine to the USA, Israel, Germany, and Russia.

Although there are no comprehensive statistics on the flows of unauthorized migrants through Ukraine, the country is viewed as a supplier of "illegal" labour to Europe. It is common knowledge in Ukraine that since the borders were opened, some compatriots have been making attempts to enter or stay in an irregular status in some European countries (especially in Poland,

⁴³ In accordance with the temporary arrangement on visa issuance, foreigners were able to get an entry visa to Ukraine issued by the Ukrainian consulates and diplomatic representatives abroad, issued by the consulate points and by border guards at the state border crossing points, and issued by the relevant bodies of the Ministry of Internal Affairs (Cabinet of Ministers 1993).

Portugal, Italy, Spain, and Greece), in the USA, and in Russia. Their vulnerable situations, hardships and labour “adventures” abroad have been a recurrent topic in the Ukrainian media.⁴⁴ It is also recognized by international and local experts that Ukraine is a supplier and a transit country for human trafficking. Some have argued that irregularity and/or illegality have been viewed by Ukrainians as “the main model of a ‘successful’ migration abroad” creating a favourable environment for the business of human smugglers and traffickers (Nikonova 2004, my translation). Nevertheless, the estimates of irregular migrants – both in Ukraine and in other countries – are frequently speculations or guesstimations compiled on the basis of information variously provided by the governments of countries of destination, Ukrainian diplomatic missions, church organizations or NGOs that work with unauthorized migrants in Europe, as well as through the volume of remittances transferred to Ukraine (Mansoor and Quillin 2007).

In the categorization of law enforcement authorities of the EU countries, Ukraine is widely referred to as a country of origin and transit of “illegal” immigration into European countries. According to the EU Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration (CIREFI), Ukraine is part of the Central European migration route, which is one of five identified global routes of irregular immigration into the EU (which also includes Russia, Poland, and Slovakia). This route is mainly used by migrants from the Far and Middle East, Southeast Asia, and the Commonwealth of Independent States (CIS).

The Central European route was a major concern before the EU enlargement to the east and the expansion of the Schengen regime to these countries. The importance – that is, in terms of perceived risks – of this route has declined since the late 1990s as the countries in the region augmented their border and migration controls. Nevertheless, in the risk assessment by EUROPOL, Ukraine is still described as one of the major “origin and transit points for illegal

⁴⁴ For examples, see Hutsul (2004); Starodub (2005); Soronevych (2009); Hryhorash (2010).

immigrants/victims of trafficking” heading into the EU (EUROPOL 2010, 31). EUROPOL considers that the country’s geographical location – as the neighbour of the EU and at the intersection of flows between east and west and north and south – makes it a significant hub to be exploited by organized crime. Moreover, the country’s geographical location may make the EU more vulnerable to organized crime activities from Ukraine if the EU lifts its visa requirements for Ukrainian nationals (EUROPOL 2011). Ukrainians are among the top ten nationals denied access at the external borders (FRONTEX 2011).

At the same time, Ukraine is the second destination country in Eastern Europe and Central Asia⁴⁵ with 5.3 million migrants present in the country (IOM 2010a). The Russian Federation (12.3 million) and Kazakhstan (3 million) are the other two out of the top three destination countries that, in total, host 80 per cent of the international migrants in the region (UN DESA 2009, referenced in IOM 2010a, 190). There is also some evidence to suggest that Ukraine – as a “transit migration” country in relation to the EU – has now become a point of destination for some migrants unable to get further west (Düvell 2008; Pylynskyi 2008; Y. Pylynskyi, in Kyiv, May 2008; V. Chumak, in Kyiv, May 2008). Existing research on transit migration shows that sometimes migrants change their intention about destination countries and instead remain in “transit” countries for longer than the term “transit” would imply or our understanding of “transit migration” allow us to imagine (see Ivakhnyuk 2008). The state statistics on immigration to Ukraine since 2005 show an increase in the number of immigrants selecting Ukraine as their destination point but the numbers are still in the single digit thousands

⁴⁵ The 2010 World Migration Report covers the following Eastern European and Central Asian countries in this comparison category: Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Georgia, Kazakhstan, Kosovo (as defined by the UN Security Council Resolution 1244), Kyrgyzstan, the former Yugoslav Republic of Macedonia (FYROM), Moldova (Republic of), Montenegro, the Russian Federation, Serbia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan (IOM 2010a, 190).

per year. The country may be becoming a destination *by choice* and not only because of migrants' inability to proceed further west.

Similarly to their western counterparts, Ukrainian law enforcement agencies use the concept of "migration routes" in their classification of migration flows towards Ukraine. The Vietnamese, Pakistani-Indian, Sri Lankan-Bangladeshi, Afghani, Chinese, Kurdish, Uzbek and Tajik, and Chechen migration "routes" are identified as the major migration channels into Ukraine, and these are based on the countries of origin of the migrants (ICPS/IPP 2006, 11-12). These are also the major source countries of *migration through* Ukraine. According to the statistics provided by the State Statistics Committee, these countries are also among the major source countries for immigration into Ukraine.

The widely accepted labeling of Ukraine as a "transit" zone of international migration has affected domestic perceptions of migrant communities. Consider the following excerpt from the 2006 ICPS/IPA report entitled "Ukraine's policy to control illegal immigration:"

Ukraine is not only a transit country, but also a destination country for illegal migrants who remain in Ukraine for various reasons. Vietnamese, Iranian, Arabian, Chinese, Turkish, Indian, and Pakistani diasporas have already developed in Ukraine. Currently, a community of emigrants from African countries is being formed. According to the official data, some 8,000 Chinese, 6-8 thousand Vietnamese and about 6 thousand Afghani nationals reside in Ukraine today. However, practically no studies have been carried out *to evaluate these communities of illegal migrants in terms of their real numbers, their socio-economic and criminal situation* (ICPS/IPA 2006, 12, emphasis added).

Without providing any evidence or factual data, the authors of this report further claimed that such diaspora communities conduct a "criminal business of ... transporting illegal migrants through Ukrainian territory to EU countries" (ICPS/IPA 2006, 13). Evidently, there are groups of foreigners involved in smuggling their nationals through Ukraine further west. It is problematic, however, that such claims are made about migrants in a blanket fashion; this is an environment where the presence of foreigners in the country is largely embedded into the language of

organized crime. Consequently, public discussions that are saturated with language about “third world” criminals abusing the country feed into xenophobic sentiments in Ukraine. Moreover, since there is a dearth of academic research studies on migration flows from and through Ukraine, any form of information that is available becomes widely circulated and cited, even if the original source features unsubstantiated claims and lacks credible data. For example, in its National Indicative Programme (NIP) for Ukraine (2011-2014), the European Commission cited this same 2006 report as its major source of information about the “illegal” migration situation in Ukraine.

4.1.2. Migration Flows and Politics of the 1990s-early 2000s

Having gained its independence in 1991, the Ukrainian state had to develop institutional and legislative capacities to regulate the entry and exit of both nationals and foreigners, as well as to regulate the status of foreigners present on its territory. Initial legislative norms can be divided into two categories: 1) norms for Ukrainian citizens, including the laws on travel and on labour migration, and 2) norms for foreigners entering Ukraine.

In January 1993, the government of Ukraine cancelled the system of total control over any travel abroad for its citizens. The incumbent government also cancelled the system of obligatory registration for foreigners. The same month, the Ukrainian parliament approved a law “On Citizenship.” A year later, in January 1994, the parliament adopted a law “On Rules of Exit and Entry to Ukraine for Citizens of Ukraine” that guaranteed Ukrainians a right to leave and return to the country freely. Ukrainians received the right to hold a national passport allowing one to travel abroad. In addition, the Ukrainian parliament approved a law that allowed Ukrainians a right to be employed or conduct entrepreneurial activities abroad. For a country that

had such a heavily regulated regime of movement both internally and externally, these were “revolutionary laws” (Malynovska 2004).

Between 1993 and 1996 the Ukrainian government concluded agreements with such countries as Russia, Belarus, Moldova, Armenia, Latvia, Lithuania, Poland, Czech Republic and Vietnam, to regulate the legal stay and employment of their nationals on a reciprocal basis (Malynovska 2004). In the 1990s, Ukraine participated in the framework agreement on labour migration among CIS countries, as well as in the CIS efforts to curb unauthorized labour migration.⁴⁶

To regulate the status of asylum seekers from the former Soviet Union, in 1993 the Ukrainian parliament passed the law “On Refugees.” In March 1994, the United Nations High Commissioner for Refugees opened its office in Ukraine in order to assist, advise and monitor the country’s implementation of its commitment to the protection of refugees and displaced persons. The first refugee law was replaced by a new law “On Refugees” in 2001, allowing Ukraine to accede in January 2002 to the 1951 United Nations Convention on Refugees and its 1967 Protocol. The rules applicable to the entry and stay of foreigners in the Ukrainian territory were outlined in the law “On the Legal Status of Foreigners and Stateless Persons” (1994, amended in 2007) and in the Cabinet of Ministers’ Decree “On the Rules of Entry of Foreigners to Ukraine, their Departure from Ukraine, and Transit Travel via the Territory of the Country” (1995, amended in 2000). In 2001, the parliament approved a Law “On Immigration” and a new law “On Citizenship.”

The early 1990s therefore were years when Ukraine moved from a strict system of migration controls characteristic of the Soviet period (both at the borders and within the territory)

⁴⁶ These international agreements were fuelled by Russia’s interest to regulate migration flows in the region because it was the main destination for labour and humanitarian migrants from the former Soviet countries. Russia’s role in institutionalization of regional migration regulations in the CIS region is discussed in Chapter 6.

to a more liberalized system allowing non-nationals to enter the territory. Law-makers and migration experts in Ukraine were energized by independence and sought to liberalize the entry rules for foreigners, expecting “as guests investors from Europe, the U.S., Australia, and New Zealand, and everything to be more or less civilized” (Interviewee 20, in Kyiv, May 2008). However, together with potential investors, the country faced an inflow of foreigners seeking entry to western European countries, with the Ukrainian territory becoming a part of the channel of irregular migration. Already in the 1990s, the Ukrainian media reported on migrants trying to cross the Ukrainian territory further west. “Transit migrants” were said to come from about 90 countries, with Chinese, Bangladeshis, and Indians being the most populous groups in the 1990s. In response to these “uncontrolled, chaotic and very much mass-like flows” (Interviewee 20, in Kyiv, May 2008), and relying on “international practices,” the government gradually introduced legislative and administrative norms to control the flows of what was called “transit illegal migration” through Ukraine.

Weak institutional, financial and organizational capacities hampered control of migration flows both of its nationals and of foreigners. Official statistics and estimates of the numbers of non-Ukrainian migrants transiting through Ukraine vary greatly. In the 1990s, the number of irregular migrants detained by Ukrainian border guards increased from 148 persons in 1991 to approximately 14,646 in 1999 (Polyakov 2004, 18-19). Detentions for illegal crossings peaked in 1999, stabilizing around 5,000 per year in 2000-2002 (Polyakov 2004). Such numbers show an increase in transit flows, as well as testify to an increased capacity of the Ukrainian border guards to detect individuals trying to enter or leave the country without authorization. The majority of migrants were detained at the western border where, historically, borders were better equipped and better controlled on both sides (Interviewee 16, in Kyiv, June 2008). Another hot

line for detention was the eastern border with Russia and the northern border with Belarus, where no borders had existed during the Soviet era. These borders were poorly equipped and viewed by Ukrainian border officials as posing major risks of uncontrolled movement of people, drugs, arms, and organized crime (Interviewee 18, in Kyiv, June 2008). The situation with establishing border controls was complicated for the new Ukrainian state due to Russia obstructing the demarcation and delimitation of its border with Ukraine (Interviewee 18, in Kyiv, June 2008).

The media analysis, official documents analysis, and the interviews conducted in Ukraine reveal that there were two official trends in how the government approached the problem of unregulated migration. First, policy-making was directed at prevention of Ukraine being used as a transit territory for on-migration by foreigners. This included measures such as the introduction of visas for countries with high “illegal migration” potential, intensified internal migration controls over foreigners, new rules on border crossing by persons, goods and vehicles, enhancement of physical infrastructure at borders, institutional capacity building of border troops, and diplomatic efforts to regularize border demarcation with neighbouring countries (Moldova, Russia, and Belarus). Second, it involved taking measures to prevent trafficking and smuggling of both nationals and non-nationals through Ukraine (e.g., the criminalization of organization of human smuggling and of illegal border crossing, and improving document security). The evidence of these trends is provided below.

Who were those deemed “illegal migrants” and what has been a trend in the construction of migrants’ “illegality” in Ukraine? First of all, the Law on The Legal Status of Foreigners and Stateless Persons (1994) provided the grounds on which a foreigner can be denied entry to Ukraine (Article 25), stipulated the responsibility of the foreigner for the violation of the established rules of stay in and transit through Ukraine (Article 30), as well as determined

conditions under which a person's term of rightful stay could be shortened. Among the reasons to deny entry were the security interests of the country and the need to maintain public order, the interests of the local populations (i.e., citizens of Ukraine and persons living on its territory), protection of the populations' health, and the security of the environment and ecological security. Entry could also be denied through: intentional submission of wrong personal information or falsified documents at application for entry or at entry; the failure to submit a valid passport, visa or other documents necessary to enter Ukraine, as well as violation of the conditions of entry and crossing at the border-crossing point, of customs norms, sanitary norms or rules and inability to fulfill the conditions and instructions of border guard authorities. There was also the following condition: "if there are justified reasons to consider that a person has reasons and goals of entry other than declared ones on the application for entry or during the entry into Ukraine, or if he does not provide enough evidence regarding reasons and goals of entry" (Parliament of Ukraine 1994, Article 25, my translation). Another clause of Article 25 stipulated that the person could be denied an entry to Ukraine if he or she was a carrier of some infectious disease(s) or entered Ukraine for transit purposes without adequate documents to enter a destination country legally and without a departure ticket from Ukraine, and when a person did not possess adequate financial resources for his/her stay and/or transit through Ukraine and for return to his country of origin or destination.

Article 30 determined the violations: "residence without the necessary documents permitting residence in Ukraine; residence on the basis of invalid documents; failure to follow established procedures for registration or movement and choice of place for residency; employment, and avoiding to leave at expiry of the term of stay; as well as failure to uphold the rules of transit across Ukrainian territory" (Ibid., Art. 30, my translation). The Ministry of

Internal Affairs and the Ministry of Foreign Affairs were in charge of processing visa applications and determining and controlling foreigners' right to enter and stay in the country. In turn, the State Border Guards was the agency in charge of detecting and capturing those who violated the state borders of Ukraine.

Ukrainian law did not – and still does not – explicitly define the terms “illegal migration” and “illegal migrant.” However, the “illegality” of foreigners has been constructed through various restrictive executive practices towards foreigners' entry, stay and exit from the country. These practices have been gradually normalized through policy and legislative changes that continue to define the “illegality” of the foreigner. Largely, the construction of “illegal immigrants” was made possible through the work of the law enforcement agencies whose mandate covered various aspects of foreigners' entry, exit and stay on the territory of Ukraine and who gradually received the explicit function of “fighting illegal migration.”⁴⁷ Evidently, mass media and public opinion played an important role as well in influencing the political will to address irregular migration. Gradually, the norms initially set out in executive decrees, rules and instructions became more institutionalized, and the laws “caught up” with the realities and practices of law enforcement agencies in their “fight” against “illegal” migration. The laws have laid out the practical conditions under which a foreigner is deemed to be unlawfully present in the country and is considered an “illegal migrant.” In the official rhetoric, such construction of “illegal immigration” was reflective of the “real” problems and situations that the law enforcement agencies found themselves in when dealing with migrants. As a result of legislative changes, in the process various agencies were empowered in their fulfillment of duties against “illegal migration.” Such “capacity-building” and institutional establishment of migration

⁴⁷ Not all authorities in charge of migration were dealing with “illegal” migration. Thus, the State Committee on Nationalities, Religion and Migration was in charge of humanitarian aspects of immigration into Ukraine.

authorities in Ukraine has been a priority of the European Union and international organizations like IOM in charge of “migration management” and with the mandate to assist governments in their efforts to regulate international migration.

The Ukrainian authorities viewed “illegal migration” mainly through the lens of organized crime and as being of a transit nature for Ukraine. The language of addressing “illegal migration” was embedded into official discourse on national and social security, and the problem of transit migration was deemed to originate in the geopolitical positioning of Ukraine between “the Western European countries and the third world countries” (Cabinet of Ministers 1996). In proposing the list of measures to address “illegal migration” through Ukraine, the government justified the urgency of addressing this problem due to migration flows being associated with and exploited by criminal groups:

The main contingent of migrants arrive from the countries where international drug lords and terrorist organizations actively operate, which use this channel for delivery and transit of drugs and means of subversive acts, delivery of militants/gunmen, and the creation of a resting base along the whole length of the route (Cabinet of Ministers 1996, my translation).

Such linking of migration with various transborder criminal activities criminalized migration in general and transit migration in particular. Initially, there was no differentiation between the categories of migrants and trafficked persons, and everyone involved in smuggling (i.e., organizers and victims) were presented in official discourse as criminals. The concern with “transit migration” got expressed in the heavy emphasis on border controls made by the Ukrainian authorities, as well as by the international aid donors (e.g., Germany and the USA) interested in Ukraine being in control of its territory and borders. Notably, the border authorities viewed “illegal migration” mainly as a violation of state territorial borders and as a security threat towards the borders of Ukraine (hence the change to the definition of “illegal migration” in

the executive programmes). Parliamentarians included Article 332 into the Criminal Code of Ukraine (2001) making the illegal transportation of migrants across the border of Ukraine a criminal offence.⁴⁸

Concerned with “transit” migration, the government increased internal policing of foreigners through identity and document checks and turned to the deportation of those who violated the rules of entry or stay in Ukraine as much as state funds permitted. Such authorities as the State Border Guards, Ministry of Internal Affairs, and the Security Services of Ukraine were designated to be in charge of “illegal” transit migration and to undertake the necessary measures to stop or prevent the irregular flows. The Ukrainian government claimed to orient itself on international practices when regulating detention and deportation of foreigners present in the country without authorization, and sought international technical and financial assistance to increase state capacities to deal with “transit” migration (Cabinet of Ministers 1996). Although in 1998-2000 the Ukrainian law enforcement authorities detected 138,000 foreigners subject to deportation (largely, citizens of South-East Asian and of Near and Middle Eastern countries), they were not deported due to a lack of state funds (Zubar and Fomin 2001).

The first definition of “illegal migration” can be found in the governmental programmes of “fighting illegal migration.” In the 1999-2000 Cabinet of Ministers’ Programme, illegal migration was already defined as “crossing of the state border of Ukraine by foreigners and stateless persons and travel through its territory that violates the established order” (Cabinet of Ministers 1999, 2, my translation). The term “illegal migrants” was defined as “foreigners and stateless persons whose stay in the territory of Ukraine violates the established order” (Ibid., 2, my translation). It can be assumed that expanding the definition of “illegal migration” to include

⁴⁸ This Article is part of a Section of the Criminal Code entitled “Crimes in the sphere of the protection of state secrets, inviolability of the state borders, and security of conscription and mobilization.”

activities in the border zone was an attempt to include border guards and provide legitimacy to their “illegal immigration fighting” activities. Consequently, in 2001, the state border guards acquired a right to detain foreigners at the borders and the legislation was “improved” with the aim to fight “illegal immigration through the state border” (Parliament of Ukraine 2001). This was another case of legislation catching up with the realities faced by the authorities and empowering the institution that was already engaged in such activities but without a clearly defined mandate.

In the 1999 Programme for the Fight against Illegal Migration, the government claimed that a “huge number of illegal migrants” had “accumulated” in Ukraine due to:

- Inefficient laws regulating migration processes;
- Absence of funding to adequately equip the north-eastern portion of the country’s border;
- Lack of control over the operation of individuals and companies that invite and hire foreigners and stateless persons in Ukraine;
- Absence of an effective financing mechanism for the deportation of foreigners and stateless persons (Cabinet of Ministers 1999, my translation).

Unlike the earlier policy documents in the sphere of “illegal” transit migration, this Programme referred to the strategic choice of Ukraine in favour of European integration and its legislative adaptation to the EU *acquis*. The government aimed to enhance control of the central and regional authorities over immigration processes in Ukraine and to diminish the negative impact of organized crime groups on immigration processes. It also signaled the beginning of the voluntary adaptation of the Ukrainian government to the legal norms and practices of the EU. Considering the fact that the EU-Ukraine PCA (in force since 1998) did not contain a section on justice and home affairs, the significance of Ukraine’s adaptation in justice and home affairs is even greater. The Ukrainian government considered such adaptation a necessity due to the tightening of borders by its eastern European neighbours and the future expansion of the

Schengen zone, and was concerned about an increase in transit migration flows by the end of the 1990s. The law and policy adaptation to European norms in 1999-2003 were voluntary, but also necessitated by the communitarization of the Schengen *acquis* in the EU in 1999 (Chumak 2003). In addition, an introduction of migration control measures was also necessitated by the pressures coming from the European Union to increase the state's capacity to control migration flows and accept third-country nationals entering EU countries through Ukraine. In the words of one interviewee, the Ukrainian government was undertaking all migration control measures “under the watch of the European Union:”

They saw it all, they monitored it all, [and] we made it all [all their actions/reforms] transparent. That is why they [the EU side] clearly understand and no longer say that the situation with transit migration in Ukraine is threatening nowadays. Ukraine as a supplier country is a different question. Because individuals who leave [for EU countries], leave Ukraine *legally*. They *stay* illegally there. Here we cannot not let them leave the country. ... They remain there in violation of the term of stay. But the question of transit, transit illegal migration is no longer such an acute question in relations with the EU as it was earlier (V. Chumak, in Kyiv, May 2008).

In December 1999, the government and the parliament of Ukraine approved a list of measures to address the problem of transit migration. This included assigning administrative and criminal responsibility to prevent illegal crossings of the state border, the conditions for detention and deportation of foreigners, criminal responsibility for the organization or transportation of unauthorized migrants across the border, as well as the administrative responsibility for the violation of stay with consequent deportation. In 2000-2001, Ukrainian border guards physically reinforced the north-eastern border by adding about one hundred additional personnel to subdivisions, leading to a three-fold increase in the density of the border protection (Sylyna 2001a). In addition, they began recruiting locals in the border regions as informants to provide information about any foreigners present in the vicinity (Sylyna 2001a). Overall, among the reforms introduced in 1999-2003 there was: a gradual tightening of borders,

changes to visa policy and the rules for visa issuance, stricter rules that applied to foreign students and the educational institutions' financial responsibility for such students (where student status was used to get further west to Europe), acquisition of citizenship through (presumably false) marriage to a national, criminalization of human trafficking, carrier responsibility, and other measures directed at preventing irregular transit migration through Ukraine.

Ukraine restricted its visa policy in line with the EU visa policies and practices, by issuing visas solely in the consulates. New visa issuance measures were part of the set of innovations introduced by the government as part of the "Kyiv initiative" in the fight against irregular immigration. This foreign policy initiative of the Foreign Ministry of Ukraine was Kyiv's attempt to simplify the legislative-judicial basis for deportation procedures. Besides a stricter visa policy, it included: signing agreements with a list of countries for returning foreigners who entered Ukraine illegally, introducing stricter visa issuance requirements for countries that were countries of origin of illegal migrants, and increasing the diplomatic presence of Ukraine in such regional centres as India and Vietnam, with further expansion into the African continent (UNIAN, 21 December 1999). These were the main countries of origin of transit migrants through Ukraine. By 2001, the restriction of the visa issuance procedures (at the so called "first lines of control" in Ukrainian consulates) resulted in "stoppage of visa issuance to Afghan nationals" and sharply restricted "order of issuance of permits to enter Ukraine for nationals of other Middle Eastern countries" (Sykina 2001a).

Whereas in the early 1990s "transit" migration was considered the result of Ukraine's relaxed and not yet institutionalized approach to foreigners entering its territory, by 1999 and the early 2000s "transit" migration had come to be understood as caused by Ukraine neighbouring the countries that had started to introduce more restrictive border and migration controls. The

new discourse reflected a concern with being “flooded” with “illegal migrants” unable to enter the European countries. The *potential* risk of being flooded (as stated in the 1996 Programme) became a *real* threat in the Programme for 1999-2000. As mentioned above, detention numbers at the borders increased significantly after 1991 and peaked in 1999. The language about Ukraine turning into a country of “accumulation” of illegal migrants also reflected this change. Pavlo Shysholin, the First Deputy Head of the State Committee of Protection of State Borders, stated: “Illegal immigration, as a type of transnational organized crime, has acquired the nature of a threatening level in Ukraine. In the last one and a half years, Ukraine has changed from being a country of transit into a country of sedimentation of illegal migrants” (*Dzerkalo tyzhnya* 22-28 July 2000, my translation). Such singular focus on illegal immigration as “transnational organized crime” is significant because it makes invisible the complex nature of irregular migration flows (that may include asylum seekers) and only makes visible its criminal elements.

Such a securitized understanding of migration was not the sole approach to migration in Ukraine in the 1990s but it shows that “*transit migration*” and *immigration into* Ukraine were not viewed as part of the same phenomenon and were treated with different degrees of urgency and priority by the government. Moreover, the outmigration of nationals was ignored at that time. Whereas “transit migration” was associated with organized crime and the abuse of the liberal border regime of Ukraine and was the topic on the agenda of law enforcement and anti-corruption authorities, immigration was understood in societal terms and was linked to the social policy of Ukraine. In 1997, then President of Ukraine Leonid Kuchma formally decreed the framework of migration policy for Ukraine and appointed the governmental agencies in charge of migration (i.e., Ministry of Labour and Social Policy and the State Committee on Nationalities, Religion and Migration). The migration policy framework included such main

emphases as repatriation; return of the Crimean Tatars deported during Soviet times; assistance to refugees and asylum seekers; and the regulation of immigration of foreigners and stateless persons (President of Ukraine 1997). In 2000, the protection of interests and rights of Ukrainian nationals employed abroad was added to this framework (President of Ukraine 2000). Notably, despite the significant external labour migration of Ukrainian nationals, the first official *public* discussion of the situation of Ukrainians working abroad took place only in 2003 when the Ombudsman Nina Karpachova presented her report before a parliamentary committee. Since 2003, the government's attention to the problems of its labour migrants working abroad has gradually increased. It has mainly centred on remittances, social payment system (such as pensions and taxes), and the protection of human rights of migrants abroad.

4.2. Understanding the Migration Situation in Post-Soviet Russia

It is usually argued that with the break-up of the Soviet Union, Russia changed from a country with only internal and inter-republican migration into an active member of the international migration system. The Russian Federation became a part of the international migration system when it acquired international borders and became a source, transit and destination point for various migratory flows. The idea of a sudden Russian entry into the international migration system, however, can be challenged if one looks at the opening of Russian society from a non-Western perspective. While the Soviet Union was closed off from foreign Western influences, and made it extremely hard for foreigners to enter its territory, it was not completely isolated and closed to international migration as a phenomenon. The Soviet Union had various educational, training, and exchange programmes for students and professionals from developing countries,

especially from those that co-operated closely with the communist government in Moscow.⁴⁹ As far as *emigration* was concerned, an ethnic-based selective emigration, though heavily controlled and capped annually (about 3000 emigrants per year), was allowed in the period of emigration policy liberalization (1971-1980s) (Krasinets 1997, 8).⁵⁰

It is, however, correct to argue that citizens of the Soviet Union, in all of its republics, had no right to emigrate or travel freely (i.e., without the state's authorization) as tourists to the western capitalist states before the Iron Curtain lifted. In this regard, for citizens of these countries, freedom to travel was a novelty that made them into participants in international migration flows, especially in the context of the political, economic and social transformations that have been taking place in post-Soviet countries since the 1990s. In May 1991, the government of the Soviet Union cancelled exit visas and registration for citizens travelling abroad.⁵¹ As a result, Russians – and other Soviet citizens – were allowed to travel freely abroad. After the break-up of the Soviet Union and with consequent easing of migration controls, Russia became a destination point for migrants from ex-Soviet republics and from so-called “non-traditional” countries for Russia, that is, from outside of the former Soviet Union.

4.2.1 Post-Soviet Russia and Migration Flows: The Migration Politics of the ex-Empire

To understand the post-Soviet migration situation in Russia, this section examines 1) migration flows, 2) institutional framework, and 3) legislative framework of migration regulation in Russia in the 1990-2010 period. Internal Soviet migration regulation was characterized by centrifugal

⁴⁹ It should be acknowledged that migration studies up until the 1980s still did not consider students as one of the categories of international migration.

⁵⁰ According to Krasinets (1997), in the 1948-1970s, there was little emigration from the Soviet Russia due to the closed nature of the Soviet society and high migration controls. In the 1971-1980s, however, there was a growth in ethnic emigration from three thousand to thirty five thousand individuals per year. Such ethnic groups as Jews, Germans, Armenians and Greeks, were allowed to emigrate to their ancestral lands or to reunite with families (Krasinets 1997, 8-9).

⁵¹ This law was in place in Russia until 1996 when a new law on exit was adopted.

tendencies, with command and state directed migration used to regulate the labour needs of various parts and regions of the Soviet Union, and was largely controlled and restricted by the state through the internal passport system. Thus, with the break-up of the Soviet Union, the potential for the “return” of Russians to their historical “homeland” was high; according to the 1989 Soviet census, about 25 million ethnic Russians lived in Soviet republics other than Russia (Gritsenko 1999). The situation for the country was aggravated by migration and population displacement in post-Soviet space due to various conflicts in other republics (for example, Armenia, Azerbaijan, Moldova, and Uzbekistan), causing their populations to flee to Russia and other countries. Although the Commonwealth of Independent States (CIS) region and the Baltic states all experienced increased migration and population displacement in the 1990s, Russia was the main attraction pole for these flows (IOM 1997). These population movements led migration scholars to argue about an emergence of a “post-Soviet migration” phenomenon, with a list of studies appearing on this topic (see IOM 1997; Vitkovskaya 1998; Vyatkin, Kosmarskaia and Panarin 1999).

With little experience in regulating foreign migration flows, the Russian government was open to and sought international assistance in creating its domestic migration regulations. In 1992, it signed a co-operation agreement with the IOM and received an observer status in this organization. In October of that year, an office of the United Nations High Commissioner for Refugees (UNHCR) was opened in Moscow. In 1993, the Russian Federation ratified the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, and it adopted national laws on refugees and forced migrants. National legislation was drafted with the assistance of foreign migration experts. The international recognition of Russia was an important priority for

the government; international co-operation on migration was part of its federal migration programs of 1994 and 1997 (President of Russia 1994; Cabinet of Ministers 1997).

The 1990s witnessed the emergence of various state and non-state institutions and platforms (such as the Budapest Process and the Geneva Process) and the expansion of the IOM and UNHCR presence in the region that collectively monitored and participated in the regulation of migration flows in post-Soviet countries, as well as in other Central, South-Eastern and Eastern European countries. The East-West migratory processes in Europe were a hot academic and policy topic (Wallace and Stola 2001; Górný and Ruspini 2004). In the early 1990s, the scientific predictions about the emigration potential from ex-Soviet republics ranged from 0.5 million to 5 million, with some French scholars predicting a number as high as 25 million Russians from the ex-USSR trying to emigrate into the West (Orlova 1994, 44). These flows were considered a policy challenge by the international community in general, and by European countries in particular. Flynn succinctly summarizes the international anxiety about migration from the CIS region:

From 1989 the potential for a mass migration of people from the territory of the former soviet bloc generated great concern at the international and particularly European level. Although the west had called for the liberalization of emigration from the Soviet Union during the 1970s and 1980s, following the breakdown of borders between east and west, from 1989 the west perceived the potential migration as a threat and used this to legitimate the policies of an increasingly 'Fortress Europe.' Where previously migrants who arrived from the FSU had been unconditionally accepted as political refugees, now they were treated as ordinary, voluntary/economic immigrants and, as such, they faced increasingly severe entry restrictions. In many ways, movement between east and west was as restricted as it had been prior to 1989 (Flynn 2004, 11-12).

In turn, Pilkington (1998) observed that the international community was unwilling to face the potential inflow of refugees and migrants from former Soviet countries. With significant migration flows within the territory of the former USSR, there was "an interest in encouraging Russia to manage those displaced 'internally' in the post-Soviet space" (Pilkington 1998, 19).

Therefore, they tacitly agreed with the fact that, in its newly adopted legislation, Russia created categories for migrants from its “near abroad” (i.e., ex-Soviet republics) as if the borders between former Soviet republics were “less than full international borders marking independent states” (Pilkington 1998, 19). In its rhetoric and legislative framework, the Russian government differentiated between migrants from the ex-USSR republics and migrants from beyond the USSR, creating a differentiated system of “foreigners” in Russia.

Migration flows into Russia. Russia experienced an inflow of repatriated people and asylum seekers from the former Soviet Union. This included both ethnic Russians and non-Russians from conflict-ridden republics and/or from new republics where populations were uncertain about their future due to economic or political uncertainties and/or ethnic conflicts. By 2001, countries such as Kazakhstan, Uzbekistan and Tajikistan saw the highest level of out-migration by Russians in comparison with other ex-Soviet republics (Flynn 2004, 14-15). The official statistics on the registration of returnees from the former Soviet republics recorded 1,576,100 ethnic Russians and Russian-speaking forced migrants and refugees who arrived in Russia between July 1992 and January 2002, with the actual number being significantly higher due to the poor registration system by the territorial authorities of the Federal Migration Service (FMS) (cited in Flynn 2004, 16). In addition, Russia also started to receive asylum seekers from beyond post-Soviet space, including from such regions as Africa, the Middle East, and East Asia.

Separately one needs to mention labour migration to Russia from the former Soviet republics, as well as from “far abroad” countries. In the 1990s, Russia attracted both legal and unauthorized labour migration. At the beginning of the 1990s, there were about 100,000 official foreign workers in Russia (Krasinets 1997, 124). Ukraine, Turkey, China, and former Yugoslav

republics constituted the major source countries of labour migrants (Krasinets 1997, 127). Together with formally invited and/or legalized foreign labour, Russia also attracted irregular labour migrants from post-Soviet countries and from China. The “illegality” of these migrants was aggravated by a poor system of labour migration regulations, burdensome procedures for registration of foreign workers, and the growing “grey economy” with its demand for cheap labour. As the numbers of unregulated foreign workers from post-Soviet countries grew, the Russian government initiated regional co-operation to regulate labour migration and prevent illegal migration from former Soviet countries in the framework of the evolving CIS co-operation platform. In April 1994, the CIS countries signed a Co-operation Agreement on labour migration and social protection of labour migrants. In 1998, Russia initiated the CIS co-operation agreement against illegal labour migration in the region, making it one of the first states to initiate a multilateral international agreement against “illegal migration.” Notably, in the CIS context, “illegal migration” was mainly understood as irregular labour migration among the newly independent CIS countries.

Emigration. The peak of an ethnic-based emigration from Russia to the “far abroad” happened in 1990 when 103,600 persons permanently emigrated from Russia, mainly ethnic Germans, Jews, Armenians, Greeks, and other ethnic groups heading to their ancestral lands (Government of Russia 1997, 11-12).⁵² On average, approximately 100,000 people emigrated from Russia each year during the 1990s (Krasinets 1997, 10). Countries such as Israel, USA, Germany, Greece, Australia, Canada, and Finland were among the most popular destination countries. The

⁵² According to the Russian Government, in the following years, not more than 100 thousand persons emigrated to “far abroad” annually (Government of Russia 1997).

emigration from Russia was mainly of an ethnic nature, with ethnic Germans and Jews constituted the most populous emigration waves in the 1990s.

Besides ethnic emigration, there was also a so called “new migration” from Russia, which was migration of an economic nature, with Russians traveling to the west in search of better lives. While post-Soviet Russian migration has largely occurred within the CIS region as Russians moved back to their homeland, there was a wave of international migration of Russians to the “far abroad.” Kopnina (2005, 27) has called this a “new Russian migration” to the “far abroad,” pointing out its “greater social and ethnic diversity” and “a wide range of motivations” of people on the move. Unlike the earlier waves of Russian political émigrés to the West in search of freedom of expression, the “new” Russian emigration has been characterized mainly by economic reasons, with very few “true political refugees” fleeing the conflict areas, or intellectuals and free thinkers seeking freedom of expression (Kopnina 2005, 30). Kopnina’s research shows that the “new migrants” from the CIS region “often enter receiving countries with temporary, conditional and tourist visas, or falsified documents.” They are “self-employed, have ‘black jobs’ or use their friends and families for informal financial support” (Kopnina 2005, 31). In addition, their legal status is subject to change, depending on their circumstances of arrival and opportunities to formalize their status in a new country of residence (e.g., asylum seekers, marriage partners, contract workers, commuters, etc.). This “new migration” has been largely dubbed and known as “irregular” or “illegal” migration in Europe.

Notably, already in the 1994 Migration Programme decreed by the President of the Russian Federation, the Russian government acknowledged the reality of Russians leaving and entering foreign countries without authorization. The Programme contained such categories of citizens as “uncontrolled emigrants” (i.e., “citizens of the Russian Federation that enter third

countries through the territories of the ex-USSR republics”) and “illegal emigrants” (i.e., “citizens of the Russian Federation who leave abroad or cross the state borders of the Russian Federation in illegal way (with the exception of the border with the ex-USSR republics)”) (President 1994, Addendum 1, 2-3). The introduction of such categories notwithstanding, the Programme’s section on “illegal migration” mainly discussed the problems caused by the irregular entry of foreigners *into* Russia.

Among the emigration flows from Russia, migrations scholars also observed a “brain drain” and pointed out to its possible negative effects for the country (Simanovsky, Strepetova, and Naido 1996). At the policy level, in 1994 the Russian government introduced a special program to improve the situation of Russian scholars in order to prevent the “brain drain.” With Americans and Europeans investing in Russian research laboratories, more nationalistic scientists and public figures called on the government to protect Russian science and its research potential by not allowing westerners to exploit its scientific resources.⁵³

The western neighbours of Russia were also concerned with a growing phenomenon of “transit migration” through Russia (IOM 1994b). One could point out internal conditions (e.g., ineffective migration laws, transparent borders with the neighbours, visa-free entry for citizens of CIS countries) and external conditions (e.g., toughening of immigration policies by western countries, increasing refugee flows in the region) for irregular transit migration through the Russian Federation. For the Russian government, however, the major concern was refugee flows, rather than “transit” migration. In the official rhetoric, “transit” migrants were usually portrayed as “illegal migrants” from “far abroad” who used Russia as a transit hub for their further travel to western European countries or to North America. “Transit” migration was associated with

⁵³ See Simanovsky, Strepetova, and Naido (1996) for an excellent analysis of the “brain drain” phenomenon from Russia, including the position of international organizations on this issue and Russia’s attitude to international assistance in dealing with the brain drain from Russia.

transnational organized crime, and migrants were portrayed as mainly abusers of the visa-free regimes between Russia and the neighbouring countries using these countries as a stage in their travel further west. As is shown below, the Russian government began to rely on migration control oriented measures as the main mechanisms for addressing all irregular flows toward and through its territory.

4.2.2. Migration politics and policy: 1991-2010.

Speaking in linear historical terms, one can roughly distinguish three main periods in the migration policy making in Russia:

- (1) 1993-1998 – the initial years during which the country’s first migration-related laws⁵⁴ and an independent executive body, the Federal Migration Service of Russia (FMS), in charge of assisting forced migrants and asylum-seekers, were created. Return migration and (both regular and irregular) labour migration from ex-Soviet republics were the key concerns for the government. Immigration was mainly associated with refugee flows and was framed in social policy terms.
- (2) 2000-2005 – the period when a restrictive turn in migration policy was taken, and migration became associated primarily with threats to national security and the territorial integrity of the RF. Such a construction was reinforced by the linking of immigration to a threat of terrorism following the September 11 attacks in the US and problems with terrorist acts in Russia. During this period, migration functions were transferred to the Ministry of Internal Affairs of Russia (MVD).

⁵⁴ The examples include: the Law on Forced Migration (1993), the Law on Asylum (1993), the Law on Russian Citizenship (1992), and the Law on the Procedure for Exit and Entry to the Russian Federation (1996).

(3) post-2007 – the present period which is characterized by liberalization of immigration policy and by an attempt to utilize migration policy to meet Russia’s labour needs, address its demographic crisis, and legalize the populations in irregular status.

The 1990s: Establishing a New Migration Policy. Migration policy and politics in the RF in the 1990s were of a reactionary nature and aimed at addressing the situation with so called “return” migration from former Soviet republics. Considering the volume of these inflows, the major priority for the government was to regulate the legal status of these returnees in Russia. In 1992, the government established the FMS, an independent body with a mandate to regulate migration, with a specific focus on return migration from former Soviet republics. It was formed on the basis of the Migration Committee, previously part of the Ministry of Labour and Employment (President 1992). In May 1992, the FMS developed the first republican programme, “Migration,” in order to support refugees and forced migrants from the “near abroad” with resettlement, housing, one-time financial payments, employment opportunities, and other social support programmes oriented toward easing up the returnees’ settlement and integration in Russia. This initial migration policy-making had a “provision”-oriented nature, with the FMS acting as the main developer and implementer of the policy. During this period, the main mandate of the FMS was to protect the rights of refugees and forced migrants and to help with their resettlement.

In its new migration legislation, the Russian state differentiated between migrants from former Soviet countries (and within this group, between ethnic Russians and non-Russians) and from other countries (called the “far abroad”). Since there was no separate law on immigration into Russia until 2001, laws such as the “Law on Forced Migrants” (1993) and the “Law on

Refugees” (1993), taken together with the “Law on Citizenship” (1991), determined the conditions for immigration into the RF. Russian law classified immigrants on the basis of their possession of Russian citizenship or an entitlement to Russian citizenship (on the basis of their USSR citizenship), and allowed immigration into Russia only on humanitarian grounds. Thus, ethnic Russians and those with a primary affinity to Russia, who were coming from the former Soviet republics, were dubbed “returnees,” “settlers” (*pereselentsi*), refugees, or displaced migrants and were processed and assisted in accordance with the Law on Forced Migrants (1993). Immigrants who did not possess USSR citizenship, who were not entitled to Russian citizenship, and/or were coming from beyond the ex-Soviet space, were processed in accordance with the Law on Refugees (1993).

The Russian Law on Refugees was drafted with international assistance and in full compliance with the UN Refugee Convention, and it was considered one of the most liberal refugee laws in the world at the time, especially since western countries started restricting their rules for asylum (Pilkington 1998). Notably, the way the ratification of the Refugee Convention and the drafting of the Law on Refugees took place, later, created a certain perception in the Russian government about having been tricked into a more liberal asylum regime than the West itself was willing to provide.⁵⁵ The perception of this “injustice” was reinforced when in the late 1990s Russia was criticized for not upholding its international obligations toward asylum seekers and refugees present in Russia (in particular, for stalled application processing, low recognition rates, and insufficient support to refugees). Russia was viewed as a refugee-producing country and as a country that, due to its limited support for asylum-seekers and refugees, was indirectly forcing these groups to move westward into European countries. The international community

⁵⁵ Such observation was communicated to the author in one of the interviews conducted in Moscow in July 2008. Similar observation was made by Hilary Pilkington (1998) in her study about Russian return migration in the 1990s.

thus pressured Russia to establish adequate conditions for refugees to remain in Russia. Having faced economic difficulties and budgetary shortcomings, the Russian government did not fund migration programmes adequately. Moreover, it prioritized assistance to returnees (or forced migrants) from ex-Soviet republics (President 1994).

In the early 1990s, the Russian government viewed migration mainly in social policy terms, with some elements of securitization expressed in the language of social stability and potential social tensions. In its “Program for Economic Reform of Russia” (1993), the government mentioned two reasons why Russia needed migration policy. These were: 1) the development of legislative and administrative norms to assist the integration of refugees and displaced persons arriving in Russia, and 2) the development of adequate norms for social protection of workers in order to minimize possible “push” factors and prevent labour emigration of Russian citizens. In May 1994, however, the government’s “Programme on the Main Social Policy Directions of the Government of Russia” prioritized “delivery of assistance to forced migrants, protection of rights and interests of compatriots abroad, [and] regulation of the external labour migration processes” (Government 1994, 8, my translation). The government sought to regulate migration in order to “ensure social stability” and to “prevent spontaneous development of migration processes” (Ibid.) In 1994, the government introduced measures to prevent illegal migration activities and instituted control over the health conditions of those entering the Russian territory (Government 1994, 8-9). Earlier, in December 1993, the President of Russia (1993) introduced immigration controls to regulate migration flows.⁵⁶

⁵⁶ The Russian President introduced the immigration control in order to: 1) control the entry of foreign citizens and stateless persons seeking asylum or transiting through Russia, their identification, registration and stocktaking; 2) implement measures to prevent uncontrolled migration and to organize the orderly deportations of foreigners; and, 3) process the asylum applications of those who entered the Russian territory (President 1993, my translation).

The first elaborate and comprehensive migration programme, decreed by the President Borys Yeltsin in 1994, mentioned that Russia's migration policy was aimed at regulating migration flows, overcoming negative consequences of the uncontrolled migration processes, creating conditions for the realization of rights of migrants, and ensuring humane treatment of persons seeking asylum in the RF. Having listed what the government considered to be migration problems for Russia at the time, the programme included the following tasks the migration policy was to accomplish for the state: protection of migrants' rights and interests, regulation of migrant settlement within the country ("in accordance with socio-economic development of the receiving regions, national compatibility, specifics of the psychology of migrants and climatic conditions"), creation of reception and settlement programs that would stimulate migrants' integration and adaptation to the existing local socio-economic development, as well as addressing such issues as "external labour migration, organization of immigration controls, and suppression of illegal/illicit migration" (President 1994, 3, my translation).

What is also worth focusing on is a list of categories of migrants and migration-related concepts that the programme introduced; they are illustrative of how the Russian government conceptualized the governing of migration at that time. Thus, the government classified the main migration flows into five categories, four of which are relevant for this study.⁵⁷ Persons seeking refuge in the Russian territory were called *forced migrants*, and the law divided these persons into forced settlers (or returnees) and refugees. Notably, the programme mentioned the "solidary responsibility" of all ex-Soviet republics, including Russia, for the situation of forced migrants in the CIS region.

⁵⁷ The fifth category was an *internal (socio-economic) migration*. It described the challenges associated with internal migration across Russian regions and along the line of urban/rural migration. It is not relevant to this analysis.

Next, emigration and immigration were placed into a category of *external migration*. It was stated that emigration “does not constitute an acute problem” whereas immigration was described as potentially having “an unfavourable impact on Russia’s labour market” (President 1994, 5). The programme described immigration into Russia as being unregulated and uncontrolled, causing certain regions of Russia to experience an inflow of an “unqualified lumpen labour force, with criminal tendencies, from the neighbouring countries, especially from Central Asia” (Ibid., 6). In addition, “transit *immigrants*” – “foreigners entering Russia with the purpose of simplifying the procedure of exit into third countries” – were also placed under the category of external migration (Ibid., Addendum 1, 2, my translation). The Russian government pointed to other countries’ unwillingness to accept these migrants: “The unwillingness of other countries to accept transit immigrants leads to their concentration on the territory of the Russian Federation, which leads to social tensions” (Ibid., 6, my translation). Interestingly, “transit” ex-Soviet citizens were viewed differently from foreigners; those who had permanently lived in the ex-republics and traveled to Russia with the similar aim of entering third countries on a simplified procedure, were classified as “transit *emigrants*.”

External labour migration constituted a separate category, and it applied to migration of Russians for work abroad. The Programme emphasized a need to respect state interests in influencing the structure of emigration-immigration flows in order to preserve the professional and qualified human resources of the country. At the same time, the government acknowledged its intention to protect the rights of labour migrants abroad, facilitate employment opportunities abroad to minimize the negative effects of domestic unemployment, and to protect “the Russian labour market from uncontrolled inflow of foreign labour” (President 1994, 8).

An *Illicit/illegal migration* category was created to refer to the “problem of illicit entry and exit of foreigners and citizens of the Russian Federation” (Ibid., Addendum 1, 3). Residents of Russia and other ex-Soviet republics en route to third countries were classified as “uncontrolled *emigrants*” or “illegal *emigrants*.” In turn, the term “illicit/illegitimate *immigrants*” was reserved for foreigners whose purpose of entry contradicted their intentions, or who possessed falsified entry document, or who entered the country illegally, including through the territories of the ex-Soviet republics (Ibid., Addendum 1, 3). The Programme proclaimed an increase in the number of foreigners entering the country in violation of the existing rules or trying to use the Russian territory in order to enter third countries. It linked uncontrolled entries by foreigners to the worsening of “the criminal situation in the large administrative and manufacturing centres,” and proclaimed them to be damaging “the national security of the country, and complicat[ing] the socio-economic situation in a list of its regions” (Ibid., 7).

The next, revised Migration Programme for the Russian Federation for 1998-2000 was prepared by the Russian Government (Government of Russia 1997), and it reflected changes in priorities and in the migration situation in Russia, depicting a growing concern with “illegal migration” and an emphasis on migration control and security-related measures. For the first time in Russian administrative practice, the illegal migration was defined as

Entry into the Russian Federation, stay and exit from its territory of foreign citizens and stateless persons in violation of the legislation of the Russian Federation that regulate the procedure for entry, stay, transit, and exit of foreign citizens, as well as their voluntary change of their legal status during the stay on the territory of the Russian Federation (Government of Russia 1997, 6, my translation).

In turn, the differentiation between Russian citizens and citizens of ex-Soviet republics, and foreigners from other countries was preserved with terms such as “uncontrolled emigrants,” “illegal emigrants” and “illicit immigrants” remaining intact. In addition, the definition of the

“external labour migration” received a classifier of being “legal:” “voluntary relocation abroad on the legal basis of persons permanently residing on the territory of the RF and of foreigners and stateless persons entering Russia to conduct paid labour activities” (Ibid., 6, my translation). Such a definition thus separated the legal from the illegal labour migration of Russian residents, of foreigners and stateless persons present in Russia. The prevention of the illegal labour migration of Russians became listed as one of the priorities of the government (Ibid., 12).

In comparison with the 1994 Programme, the 1997 Programme gave a more nuanced explanation about immigration and transit migration through Russia. In it, the government presented immigration – especially low skilled from neighbouring countries in Central Asia, Far East, and South-East Asia – as having a negative effect on Russian labour market. In turn, the government hinted at unwillingness of other states to accept asylum seekers and transit migrants from Asia, Africa, and the Middle East as the reason why Russia, with its “transparent” borders with the neighbouring CIS countries, was facing potential “social tensions” and “a threat to national security” from “transit” migration. The government claimed that, as of 1997, there was more than 1 million foreign citizens and stateless persons in the Russian territory with unspecified legal status (Government 1997, 11).

The new Programme painted a heightened concern of the state with the irregular immigration of foreigners into Russia. It reiterated that the uncontrolled entry of foreign citizens and stateless people and their “unlawful” stay in the RF territory had “a negative impact on the crime situation in large administrative and manufacturing centres, is detrimental to the security of the state, [and] causes a complication of the socio-economic situation in a list of regions” (Ibid., 11). What was new, was the concern with immigration in border regions:

Illegal migration in the border regions and attempts at legalization at any price (for example, “silent expansion” of Chinese) poses a threat to the territorial integrity of the

country. Questions of illegal migration must be addressed at the international level, first of all with the neighbouring countries. Considering the “transparency” of the Russian borders, mechanisms to work with illegal immigrants, present in the territory of the country, should be developed (Government 1997, 12, my translation).

Also, as can be seen from this excerpt, in addition to presenting illegal migration as a threat to the Russian workforce from unqualified foreign workers, the government linked illegal migration to the national security concerns by presenting it as a threat to territorial integrity of Russia. The emphasis shifted to the security elements of “territorial expansion” by migration from China, and the threats to stability of the Russian regions. The fears about such “expansion” were reinforced by the outflow of local populations from the Far East, Siberia, and other northern regions of Russia, multiplying the fears about these regions being “taking over” by foreigners (Krasinets 1997). As a solution, the government elected to call for deportation and improved immigration controls as key measures in dealing with unauthorized migrants.

It should be mentioned that, since the 1990s, the presence of Chinese workers and/or immigrants has become a recurrent, racialized theme in the Russian migration discourse. In the 1990s, China became one of Russia’s major sources of foreign labour, especially in the Far-east region. Chinese migrants mainly worked in manufacturing, construction and agriculture, and were largely concentrated in the territories situated in close proximity to China. Since then, Chinese migration to the Far East has been associated with fears about perceived occupation, territory take-over and annexation by Chinese, and the dissolution of “white” Russia. A naturally declining population of the RF accentuated the fears about foreigners settling on Russian lands leading to what Alexseev (2006) has called “immigration phobia” against Chinese.

In the illegal migration discourse, the so called “transit migration” of migrants from “far abroad” enjoyed individual attention. Again, we can observe the distinction made between citizens of the former Soviet Union and foreigners from other countries. Whereas the irregular

labour migration from the “near abroad” (with the exception of low-skilled migration from the Central Asian republics) was more or less tolerated by the authorities, as filling gaps in the Russian labour market, irregular migration from “far abroad” was depicted as threatening Russian national security and its international prestige. Notably, irregular migrants from “far abroad” were depicted mainly as “transit” migrants *en route* to the west causing Russia to be a “victim” of organized crime groups smuggling these migrants through its territory. The Russian government thus had its interest in international co-operation on organized crime engaged in the illegal transfer of labour to and through Russia.

Notably, as the terms “transit *emigrants*” show, residents of ex-Soviet republics transiting through Russia *en route* to other countries were not classified as foreigners *per se*. Foreigners were dubbed “transit *immigrants*.” This distinction pointed to an underlying perception in Russian foreign policy of transparent or non-existent borders between the now independent CIS countries. The territorial stretch of the Soviet Union continued to serve as a realm of definition and construction of the Russian realm. This understanding of the territory has played an important, yet unspoken, part in the perception and construction of Russia’s zone of influence in the post-Soviet space; populations of now independent states were classified as ‘less than foreign’ and treated on par with residents and citizens of the Russian Federation leaving for third countries.

Since the early 1990s, Russian policy on “return” migration was closely intertwined with its foreign policy. The question of the return of ethnic Russians and Russian speakers became politically charged approximately in 1993, due to major migration-related financial, institutional, and legal challenges, as well as socio-economic problems in Russia (Pilkington 1998; Flynn 2004). The internal situation was reinforced by the concurrent politicization of Russian

communities in post-Soviet countries and the complicated nature of relations between the “homeland” Russia and these communities. During this period the Russian government also proclaimed the “near abroad” as its “zone of interest” and modified its initial openness to repatriation. In the mid-1990s, return migration became an issue of Russia’s foreign policy, with the government opting to promote rights and the betterment of life of “compatriots” in newly independent states, rather than encouraging their return (Pilkington 1998). Due to the presence of Russians in the Baltic and the CIS countries, Russian migration and citizenship policies became intertwined with its foreign policy. The latter acquired a dimension of the protection of “compatriots,” laying the foundation for Russia’s approach to its diaspora and its relations with the countries where ethnic Russians live in a concentrated territory and in large numbers.

Flynn (2004) has shown that the Russian state discourses on the construction of the “homeland” and the relationship between Russia and its population abroad have been dominated by the three interrelated themes that territorially position the “homeland” for these “Russians” (i.e., either ethnic Russians or culturally related Russian-speakers) either within or outside of Russia. First, there is a “diaspora” discourse that locates the “homeland” in newly independent states and encourages the Russian communities to remain there and play an important geopolitical role for Russia in these new states. Secondly, there is a forced migration discourse that locates the “homeland” within the RF territory and speaks to the experiences of Russian returnees who decided to leave the newly independent countries. In the late 1990s, this discourse reflected a growing securitization of migration in Russia, making these categories of returnees serve the national security interests of the Russian Federation by populating the appropriate regions (as designated by the state) and adding to the Russian workforce.

Finally, the state had used a repatriation discourse in order to encourage the voluntary “return” to the homeland. With no legislation on the voluntary return of Russians, this discourse was marginal in 1991-2002 (Flynn 2004, 51). Mainly non-governmental organizations and some individual politicians argued for the creation of the legislation to enable ethnic-based return migration (Flynn 2004). The status of this discourse changed in the 2000s (the years not covered by Flynn’s research); the government started paying more attention to the growing depopulation of the RF. Encouraging the repatriation of Russians and Russian-speakers became one of the measures supported by the state. Then President Vladimir Putin argued that migration from the former USSR may help Russia minimize the negative impact of the demographic decline on its economic and international standing. In June 2006, by his decree, Putin initiated a policy aimed at providing assistance to compatriots willing to return voluntarily to Russia.

This complicated construction of the “homeland” in relation to its population abroad reveals a complex and continuous negotiation over the extension of the Russian territory into its imperial borderlands. This made migration a necessary concern of the Russian foreign policy discourse. In order to assist its “compatriots” abroad, in the 1990s Russia created a liaison network of migration consultants and stationed them in some ex-Soviet countries. This network later became enhanced with migration control experts. In 2001, in order to “ensure the interests of the Russian Federation in the area of migration, as well to implement international agreements of the Russian Federation on the issues of the population movement regulation and the defence of the rights of settlers,” Putin created foreign offices of the Russian migration service in countries such as Armenia, Kirgizia, Latvia, Tajikistan, and Turkmenistan (President of Russia 2001). The “compatriot card” has remained significant and has been actively used in Russian foreign relations with former Soviet republics.

In order to meet its migration policy interests, Russia considered it important to engage in international co-operation on migration (President 1994; Government 1997). The government saw such co-operation relevant for increasing the state's capacity to regulate migration flows into Russia (through the conclusions of relevant agreements), as well as wanted Russia to participate in the activities of the international organizations in charge of migration and in international migration norm-making. Finally, the government was interested to co-operate with international organizations in order to get some technical and financial assistance with the implementation of the federal migration programme (Government 1997, 14).

2000-2005: “Russia is not a Pass-Through Courtyard.”⁵⁸ Migration Controls and Policing of Foreigners. By the late 1990s, security-oriented officials became the main agenda-setters in the discussion of migration questions in Russia, framing migration in national security terms. The FMS became heavily criticized for its inefficiency in regulating migration flows (Flynn 2004). In May 2000, it was abolished, and the migration mandate went to the Ministry of Federation Affairs, National and Migration Policy. Flynn (2004, 47) observed: “The abolition was interpreted by many as the further withdrawal of the state from provision for refugees and forced migrants, and the lowering of the status of the problem of migrants within governmental priorities.” In October 2001, the Security Council of the Russian Federation declared illegal migration to be approaching a level of a threat to the national security. This led to the abolishment of the latter ministry and a transfer of migration functions to the Ministry of Internal Affairs (MVD), an institution that was first and foremost concerned with fighting “illegal immigration” to Russia. In February 2002, the MVD became a federal executive body on migration, and a new FMS was established as its subsidiary organ (President of Russia 2002).

⁵⁸ This was pronounced by Gennadiy Raikov, leader of the parliamentary group “People’s deputy” (Latsis 2002).

The MVD was now in charge of all migration-related questions, including the regulation of migration flows, granting of refugee status, attracting foreign labour to Russia, employment of Russian citizens abroad, prevention of illegal migration, and the implementation of immigration controls.

At a press conference after reorganization, the new head of the renewed FMS, colonel-general Andrei Chernenko, announced that his agency would now prioritize migration control, the regulation of labour migration, and refugee and forced migrant issues. Chernenko was quoted saying:

The President gave us two main tasks. First, act to prevent Russia from being used as a pass-through courtyard. And second, encourage the inflow of valuable human resources. We are not planning to build insurmountable obstacles. To a large degree, we are creating 'the department of love' since we want to attract people of childbearing and labour market-active ages to Russia. So that they love and make babies here. So that they work for the welfare of their families and of Russia. And at the same time [they] respect our Fatherland, and acquire our mentality (Chernenko, quoted in Gamov 2002, my translation).

With the police now in charge of migration, the official discourse shifted to the "fight" against unregulated and unauthorized migration, paralleled by the government effort to increase its capacity to regulate the labour inflows (for example, through such measures as the introduction of labour migration quotas and migration cards to record the entry and exit of foreigners).

Migration policy making in Russia was now oriented toward migration control and the increased state regulation and was largely orchestrated by the Administration of the President, with little or no input by nongovernmental organizations and migration experts (Grafova 2002; Naryshkina 2002). The following two quotes exemplify the new rhetoric of migration authorities and represent the spirit and official framing of immigration in Russia in the 2000s. The first one belongs to Boris Gryzlov, Minister of Internal Affairs of Russia:

Upon inspection, foreigners frequently lack papers permitting employment, education – that is, a mismatch between declared and real goals for entry [into Russia] reveals itself.

Quite a few when entering Russia legally but for a specific term, from the very beginning have no intention to leave it. Legalizing their stay through legal channels ... also is not part of their plans. They count on getting lost in our country with the help of their countrymen. Ethnic criminal groups are being formed from these kinds of people.

Starting from 2001, thousands of illegal migrants have already been deported from Russia. Within the law, we will be using deportation, as well as expulsion from the country in accordance with the legal ruling. Persistently and methodically, we will remove from the country those who came with hidden goals (quoted in Uglanov 2003, my translation).

Another representative statement speaks to the official understanding of hidden and clandestine goals of immigrants arriving in Russia, as well as shows the linking of immigration to the increase in crime in Russia, to the threat of terrorism, and to other threats to the stability and public order of the country. In an interview for the radio station "Ekho Moskvyy" on September 19, 2003, Deputy Chair of the FMS Mikhail Tyurkin stated that Russia was hosting around 5 million people without a definite legal status. He said: "Among them are illegal migrants who come to the territory of Russia for mercenary ends, with goals of committing crimes, terrorist acts and other actions that are, so to say, in violation of Russian legislation" (Ekho Moskvyy 2003, my translation).

In the wake of September 11, 2001, events in the US, the Russian government created an interdepartmental working group with the aim to develop new migration policy and legislation that would take into account the "new" international situation. The creation of this working group reflected the understanding that, in the words of its head, Viktor Ivanov, "national security cannot be ensured without strengthening border and immigration control" (Zhurnal rossijskogo prava 2002, my translation). As a partner in the coalition against terrorism, the Russian government sought to increase the efficiency of its border and migration controls. It explicitly linked immigration to an international terrorist threat. The Deputy Head of the Presidential Administration linked these questions in the following way:

because of the threat of international terrorism, we started to view anew a list of phenomena, with immigration processes being one of them. The main task became to ensure calmness, confidence of the society, [and] to protect it from terrorism and transnational crime. Particularly alarming is the growth of illegal immigration. The Security Council of Russia has declared that it reached the scale of a threat to national security (Zhurnal rossijskogo prava, 2002, my translation).

As the result of the work of this working group, the Russian Federation adopted a new, harsher Law on Citizenship (2003) and the Law on the Legal Status of Foreign Citizens (2003). The Law on Citizenship restricted the procedure for naturalization in Russia, introducing language requirements and increasing the length of residence within Russia (from 3 to 5 years) before applying for citizenship. The government introduced immigration quotas and increased internal migration controls towards foreigners. Notably, the changes to the Law on the Legal Status of Foreign Citizens were justified as being in accordance with European norms. Their adoption, the explanation was, would allow Russians to have “convincing” arguments in their demand for visa-free travel for the Kaliningrad oblast’ (KO): “These measures are aimed to match a Law on Entry into Russia with European standards, and that will help our representatives in the EU to present a better argued position to demand the preservation of visa-free regime for entry into the Kaliningrad oblast’” (Gazeta 2002, my translation).

The formulation of immigration as the “problem” justified the emphasis put by the state on the policing of borders and of foreigners within the country. In the early 2000s, one can observe an adaptation of the Russian legal and administrative practices to European standards, including on the criminal responsibility of those engaged in the organization of human smuggling and trafficking. In 2001, within the Russian police force, immigration inspections were created (Belasheva 2001). The police also received new operational functions to detect organizations and people engaged in illegal migration (Babaeva and Popova 2001).

It should be acknowledged that the early 2000s witnessed the emergence of a dual approach to migration in official Russian migration policy. On the one hand, the government sought to restrict its policies towards foreigners present in its territory without authorization. On the other hand, it also started expressing an interest in attracting foreign labour in order to sustain its economy. In its Demographic Conception (2001), the government admitted a need for immigrants to compensate for the declining population of the country. Nevertheless, national security considerations prevailed, and the perceived security interests trumped the economic considerations. At this stage, antagonisms between policing and demographic approaches to migration regulation in Russia were steered by the Presidential Administration and security officials in the direction of increased policing, justified by the need to protect “national security” and “territorial integrity.” At that time, the Russian public was additionally sensitized to immigration as some alarmist local officials, especially in the far-eastern and southern regions of Russia, contrasted immigration with the declining population and criticized the federal government for “inaction” in the fight against the immigrant “occupiers.”

With the restrictive tendencies of Russian migration policy intact and in full operational swing, the 2003 Concept of Migration Process Regulation in Russia still mentioned the demographic goals associated with immigration (Government of Russia 2003). In particular, the Concept formally acknowledged the future need for additional labour resources that will have to be recruited through immigration, first of all, from CIS countries. The government understood that such an active policy of recruitment – and hence competition – for foreign labour demanded a greater state capacity in regulating migration inflows and promoting tolerance towards immigrants in the Russian society. Such a formal acknowledgement by the government was

significant because it represented an emerging understanding of a need to liberalize the Russian migration policy for foreign labour (discussed later).

Despite its emphasis on restrictive and security-oriented migration regulations, the 2003 Migration Concept showed a novel and a more comprehensive conceptualization of migration processes and policy directions for Russia. It comprehensively blended the concerns of national (i.e., territorial) security, economic security (i.e., demographic balance and the labour needs of the Russian economy), social security and societal stability, and Russia's geopolitical interests. The government called for migration processes "to become a factor enabling positive development of the Russian society, to be based in the needs of the economy, interests of the national security, protection of the social order and the health of the population under the conditions of strict observance of the international obligations of the Russian Federation" (Government of Russia 2003, 2, my translation).

Similarly to the earlier official discourse on the impact of immigration on the Russian society, the programme linked immigration to social tensions and increased crime rates in Russian communities caused by immigrants. It also continued to link immigration to terrorist threats. In particular, the declining rate of refugee recognitions in Russia was associated with the threat of terrorist penetration: "There is a decrease in the number of refugees and persons acquiring temporary or political refuge in the Russian Federation, including due to the growing threat of penetration of terrorist organizations into the territory of Russia" (Ibid., 1, my translation). The government justified its approach by referring to the "world trend" of increasingly restrictive humanitarian and economic migration regulations in response to the latest terrorist attacks. The programme stated: "A number of countries have undertaken unprecedented

measures of security. Our country is also trying to pay adequate attention to questions of anti-terrorism” (Government 2003, 1-2).

Concerned with the depopulation of the Russian border regions and its far-eastern and northern territories and with the uncontrolled arrival of immigrants into those regions, the government proposed to repopulate these areas by means of internal migration and the encouragement of citizens from the CIS countries for work and settlement. The government blamed chaotic and uncontrolled population growth and worsened crime in the southern and central regions of the European Russia (where the majority of migrants settle) on the uncontrolled settlement of immigrants and of internal migrants (Ibid., 1). The government thus sought ways to prevent “unwanted” migration into those regions and to influence the ethnic composition of those regions through a policy of recruitment. The Russian government has been concerned with “proper” settlement – or settlement of “proper” residents – in Russian territory since the early 1990s when compatriots abroad began to be viewed in strategic and geopolitical terms (Pilkington 1998). There was a belief that a state-directed migrant settlement process, with the consideration given to the ethnic balance and cultural proximity of immigrants to the local population, would lead to faster assimilation of immigrants in their new communities. In this interpretation, the goal of state migration policy is to address both social and national security concerns.

Although the Migration Concept elaborated the Russian economy’s need for immigrant labour, it did not miss the opportunity to present “illegal” immigration as a threat to the economic security of Russia. From a human rights perspective, the government viewed the “illegality” of migrants (both of Russians abroad and of foreigners in Russia) as being tied to the “violation of labour and social rights” of these migrants. Nevertheless, the interests of the state

were above those of migrants' rights; the Concept emphasized "a threat to the national labour market and favouring the development of a grey economy" from unauthorized labour migration (Government 2003, 2, my translation).

Thus, national, economic, and social security lenses were used to construct unauthorized and uncontrolled immigration as a threat for Russian society. To minimize the negative effects, the state has sought to acquire better capacities in selecting and regulating the wanted and "unwanted" flows of labour migration. The position of the government reflected, as well as informed, the public's negative sentiments towards given regions. Revealing of the racialized discourse in Russia that also criminalizes migrants from the mentioned regions, is the following statement from the Russian government:

Mass migration of foreign citizens and stateless persons from the states of Transcaucasia, Central and Eastern Asia and their illegal residence in a number of regions of the Russian Federation frequently make the social situation worse, create the basis for the formation of terrorist organizations and of political extremism, present a threat to the security of the Russian Federation (Government of Russia 2003, 2, my translation).

It should be mentioned that human rights organizations and some of the Russian liberals (e.g., the Union of the Right Forces) were highly critical of the official migration discourse being embedded in the security language, be it national, social, economic, or cultural security terms. They held a common position that the transfer of all migration-related issues to the Ministry of Internal Affairs (the law-enforcement agency in charge of preventing disorder and maintaining order) put too much emphasis on illegal migration and law enforcement issues, at a time when the problems of returnees and refugees from the former USSR and of internally displaced people (e.g., Chechens) remained largely unresolved and neglected.

Some short observations about the trends among the Russian public are in order. In July 2002, the Movement Against Illegal Immigration was founded in Russia.⁵⁹ The Movement set a goal of attracting the authorities' attention to the issue of illegal migrants committing crimes in Russia and of informing the Russian population about the "threats" to society from "illegal immigrants." On the eve of a 2004 parliamentary election, immigration became a hot topic as nationalism, xenophobia, and racism were on a rise in Putin's Russia. In anti-immigrant populist discourse, people from Georgia and other Transcaucasian countries were presented as "polluting" the nation and committing crimes against the native Russians. There was an increase in ethnic clashes between local populations (frequently composed of skinheads) and migrant communities (of Azeris and Tajiks, for example).

Playing with the sentiments expressed by anti-immigrant groups and parties, the official line of the FMS changed to appease the public and provide evidence of their efficiency in addressing irregular immigration. Trying to defuse the criticisms coming from pro-immigration and human rights groups, the FMS justified the tightened controls and checks on foreigners as only directed at migrants who engaged in criminal activities while in Russia. Subsequently, not to compromise Russia's interest in attracting foreign labour, the official position of the government became the following: Russia was opening its doors only to those foreign workers whom Russia needed and who respected Russian laws. At the Board meeting of the Russian Federal Security Services in January 2004, Putin called for the toughening of measures against "illegals" already in the country and asked security services to join in this work. Putin instructed the Russian authorities: "In the last years the problem of illegal migration has entered the rank of the most acute problems... Russia needs the inflow of labour resources but only where and when it is needed by the state. A tough barrier should be erected on the path for those who violate the

⁵⁹ This organization was proclaimed extremist and banned by the Moscow High Court in 2011.

laws and operate in the grey economy business” (quoted in Vasilenko 2004, my translation). In their rhetoric, both the President and the MVD referred to the numbers of irregular migrants and to a high level of crime among the incomers to justify such a restrictive turn on immigration. Simultaneously, while restricting migration policy, the authorities declared their readiness to give preferential treatment – in issuing visas and work permits – to those foreigners who obey Russian laws.

2006-2010: From Restrictive to Liberalized Labour Migration Legislation. The restrictive 2002 and 2004 migration reforms in Russia resulted in the overbureaucratization of the registration procedure for foreign workers and in the illegalization of foreign labour. Heavy and non-transparent bureaucratic procedures for registration and work permits increased the number of those who were forced to work without authorization. The government was highly criticized for its ineffective measures in addressing irregular migration and for increasing the number of unaccounted-for foreigners in the country. By 2005, the number of persons with precarious legal status increased to 5 million or, by some estimations, to as high as 15 million (Vitkovskaya 2008). Such a situation increased the “grey sector” of Russia’s economy, as well as negatively impacted the situation of foreign workers who may have been exploited and abused by employers. Critics of the government policy pointed to Russia becoming unattractive to foreign workers at the time when the country needed migrant labour to compensate for the losses in its labour force. The argument about the need for foreign labour for economic development was also linked to the geopolitical argument about Russia being in need of immigrants (and not just temporary foreign labour) in order to populate its vast territory, especially in the north, north-

east, and south-east. Again, such a situation was presented as threatening Russian national security, as well as the security of migrants present in Russia.

Similarly to the previous reform on migration that was orchestrated from the Presidential Administration, the push for a new reform on migration came from the top level of the Russian government. On 17 March 2005, in his speech at the Security Council, President Putin prioritized the stimulation of migration processes as “our most important task.” In May 2006, he repeated this priority in his speech to the Parliamentary Assembly. Putin openly admitted that Russia needed to liberalize its migration policy and open the country to foreigners but only to those foreigners who abide by Russian laws and contribute to the Russian economy. He also mentioned the importance of immigration for Russia from the point of view of the worsening demographic situation and labour shortages, and called on the government to introduce a special program for the voluntary repatriation of ethnic Russians and of those culturally close to Russian culture (the so called compatriots programme). Such statements by the President were interpreted as a signal of a renewed interest in migration issues at the highest level of the Russian government, and they resulted in migration dimensions being inserted into such state programs as the Demographic Strategy of Russia, the Program of Action on the Labour Market, and others (Vitkovskaya 2008). The FMS – the authority in charge of migration issues – had been reformed again. It became a more independent structure (though still in the structure of the MVD), now engaged in the development and formulation of migration legislation and open to input from academic and non-governmental circles (Vitkovskaya 2008).

Since January 2007, Russia has had a new system of the foreign labour registration. Two main laws regarding the status of foreigners in Russia – the Law on Migrant Registration for Foreign Citizens and Stateless Persons and the Law on the Legal Status of Foreign Citizens –

underwent major revisions. Although the changes in foreigners' registration and the issuance of work permits apply to all foreign workers, particular emphasis has been placed upon facilitating the registration and legalization of workers from those CIS countries with which Russia has no visa requirements. Such CIS countries as Ukraine, Tajikistan, Uzbekistan, Moldova, and Azerbaijan are among the major source countries of circular and temporary labour migration to Russia. The reforms of 2006 simplified the legalization procedure for workers from these countries, allowing them to stay beyond the initially allowed 3-month period.⁶⁰ These new rules were designed to formalize and legalize circular migration flows that have been characteristic to labour migration to Russia from the NIS countries.

4.2.3. Russia's Regional Role in the Pan-European Migration Regime

According to World Bank and UN data, Russia hosts about 12.1 million foreign-born people and is the second country in the world (after the U.S.) in terms of the number of international migrants in its territory (Mansoor and Quillin 2007). Internationally-accepted methods of calculating immigrant populations (i.e., birth place) may not be the most accurate in post-soviet countries, where inter-republic mobility during Soviet times was encouraged and undertaken in accordance with administrative plans and the needs of the administrative economy (Iontsev and Aleshkovski 2007). Some citizens in these now independent countries could be considered foreign-born but are not necessarily viewed as immigrants. According to Russian estimates, between 1992 and 2006 the RF received a total number of 11.5 million immigrants including: officially registered permanent residents (7.3 million), refugees (1.2 million), and non-status

⁶⁰ For more on the changes and their implementation in Russia, see the results of monitoring of the law implementation conducted by a group of Russian scholars in Vitkovskaya et al (2008).

immigrants (3 million) (Ibid.). Methodology notwithstanding, both numbers still put Russia in second place among the largest immigrant-receiving states in the world.

For the EU, Russia plays the role of a buffer zone, attracting a significant number of labour migrants from the Caucasus, Ukraine, Moldova, Belarus, Central Asia, Afghanistan, and China. A 2006 World Bank study on migration flows to, from and within the Eastern European and the former Soviet Union countries captured two major movements of migrants from Eastern Europe and Central Asia – to Western European countries, and to rich CIS countries (Russia and Kazakhstan in particular) (Mansoor and Quillin 2007). Indeed, Russia has been placed at the centre of the Eurasian migration system that consists of “a group of the post-soviet countries interconnected by persistent and numerous migration flows resulting from interaction of a number of factors – historical, economic, political, demographic, socio-ethnic, and geographical” (Ivakhnyuk 2007, 88). However, as Ivakhnyuk (2007, 97) admits, “the CIS states are far from realization of a common coordinated migration policy as to the population movements between the post-soviet states and to the third countries.”

The EU’s immigration policies, a degree of MSs openness to foreign labour, and the EU’s external migration relations with Russia and with Ukraine respectively affect population movements within the Eurasian system as well as between the western European migration system and the Eurasian migration system. Specifically, the European Neighbourhood Policy, with its emphasis on mobility (including the channels for legal labour migration) and “people-to-people” contacts, educational and cultural exchanges may, in the long term, change the dynamics of population mobility in the Eurasian space. Preferences for work abroad of citizens from Moldova, Ukraine and possibly even Belarus, for whom Russia has been a main destination point for labour migration, may affect the interactions of these two systems the most, as the ENP (with

its Eastern Partnership initiative) is directed at these countries. The growth in people's movement between these two systems may change the political considerations on which the EU's interaction with its neighbouring countries is based. In the relationships in the triangle EU – Russia – common neighbourhood countries, questions of identity, political autonomy, integration and future stability are at stake. In addition, some other factors may change the dynamics of inter-system influences: labour market considerations, economic development considerations, customs union, visa regime and the ease with which individuals can get access to the labour market/jobs and get adapted to the cultural, economic and social specificities of the labour-receiving societies.

As far as migration patterns between the RF and the EU are concerned, migrants from the Russian Federation are among the top six non-European Union migrants living in the EU (Vasileva 2011). In 2008-2010, Russians were also among the top ten nationals detained or denied entry at the borders of the European Union countries (Frontex 2011).⁶¹ These figures refer to citizens of the Russian Federation only, and, since the European statistics record migrants in accordance to their country of origin and do not record their transit routes, the problems with recording and quantifying the numbers of migrants who have travelled through Russia have been noted (Williams and Aktoprak 2010, 18). Despite the sketchy data about migration from the Russian Federation into the European Union, there is an understanding among policy makers and migration-related international organizations that Russia remains an important transit hub for irregular migration into the European Union (Williams and Aktoprak 2010, 18).

4.3 “Transit” as a Category of Governance

⁶¹ For comparison's sake, Ukrainians have been “the most commonly refused nationality at a stable 51% (*sic*) (17 336) of the total refusals along the eastern land border” (Frontex 2011, 24).

In the early 1990s, the IOM was commissioned by Switzerland and some other western European governments to produce a series of country reports on the transit migration potential of some Central and Eastern European countries, including some ex-Soviet countries (Russia and Ukraine). Western governments were concerned about these countries' capacities to regulate their emigration and international migration flows destined to Western Europe and North America. As the result of its studies, the IOM claimed that, due to geopolitical, political and economic reasons, countries such as Russia, Ukraine, Bulgaria, the Czech Republic, Hungary, Poland, and Romania, had become "transit" territories. In its report on Russia, the IOM noted that, due to its porous borders, undocumented migrants from the Middle East, Asia, and Africa were able to enter the Russian territory, on their routes from or across Eastern Europe and other former Soviet countries. Similarly in the 1990s, some migration scholars in Russia, as well as in Ukraine, argued that the CIS region had become one of the routes for irregular migration, due to its geopolitical position between developed and developing countries, their unprotected, frequently poorly demarcated borders, and their poorly instituted migration controls (Tishkov et. al. 2005).

In general, our knowledge of "transit" migration remains limited. As I illustrated in this chapter, "transit migration" from "non-traditional" migration countries have frequently been presented in alarmist terms by officials in "transit" countries, as well as in countries that are destination points for these "transit" migrants. The countries of "transit" have viewed such migrants as trespassers on their territories and have introduced measures of migration controls specifically targeting such migrants. States' tendency to categorize and count these flows and the statistics that they produce should rightly be doubted. Ivakhnyuk (2008), for example, points out that the Russian FMS' practice of distinguishing between *temporary labour migrants* (viewed to

be destined to Russia) and *transit migrants* (considered to be *en route* to the EU) is empirically difficult to sustain. The research shows that many migrants from the “far abroad” (considered mainly en route to the EU) remain in Russia, despite their initial intention to move to a more prosperous country further west (Ivakhnyuk 2008, 4).

In this context, a comment on the performativity of the global migration management policy discourse and of its particular expression in the EU’s relations with its neighbours, is in order. Categorization of migration according to its destination (which “transit migration” signifies), its duration (“circular,” “temporary” or permanent”) or its legality (“legal,” “illegal,” “unauthorized”) not only describes and orders the reality of international migration into comprehensible categories, but it shapes the way migration is perceived. These categories reflect the problem to be addressed at the policy level, as well as create the reality that the policy is called to address.

The securitization of migration in Europe has been producing various figures of the foreigner that have been used to control mobility in the European space of circulation. Such categories as “guest-worker”, refugee, and “illegal immigrant” are the figures that represent categories of governance in Europe (Karakayali and Rigo 2010). The wide usage of these categories in other than European countries is evidence of a growing universalization of the “scapegoat” figures that also serves to push certain groups of immigrants to the margins of societies. Discursive construction – linking and differentiation – may differ among countries and regions but they share the features through which human mobility is governed. What is similar is the process in which the “figures of migration” “allow state authorities, public discourses, and collective agents to relate to and govern migration in a specific way, according to the given social and political compromise of migration” (Karakayali and Rigo 2010, 129). Such categories

of governance regulate the behaviour and discourses of all relevant subjects participating in migration, including migrants themselves. One of the examples is the making up of stories of “political” persecution by labour migrants to Western Europe after the latter closed the channels for legal labour migration in the 1960-1970s and asylum became the only way for legal immigration (Karakayali and Rigo 2010, 129). Another, more contemporary example is the elevation of some migrants as “victims of trafficking” while others are relegated to being deceptive and untrue to their receiving countries as “would-be economic migrants” or “bogus asylum seekers” (Squire 2011a, 3).

The category of “transit migration” is also illustrative. On the one hand, as the case studies showed, it created a category of migrants that do not belong or are wrongly “stuck” in the territory of some country en route to some other destination. Little or no rights are accorded to these people, possibly even when they are present legally in these so called “transit countries.” “Transit migrants” are mainly associated with irregular migration. On the other hand, it created a category of states that became “buffers” between receiving and sending countries. The notion of a special problematique that “transit” countries face appeared in the early 1990s when IOM published its migration reports (mentioned above). “Transit” countries were expected to control and siphon migration flows. It happens that the “transit countries” are the same “borderzones” where contestation and political struggles over irregularity of human movement takes place (Squire 2011a).

The categories of “transit migrant” and a country of “transit migration” are categories of governance that span beyond the realm of one nation-state and create a certain continuity among the states among which labour migrants circulate. These categories are produced by the global capitalist system in which the promise of the freedom of movement for “global” labour remains

unmet. The international discourse of migration management promotes temporary and circular migration as the means to meet the states' need in flexible labour; such representation renders individual migrants (from the global South) disposable due to their oversupply (Kalm 2010). While the category "transit country" positions states in the hierarchy of states concerning the governance of migration regulation, the category of "transit migrant" produces a category of people who are unwanted and whose place is in "transit centres," with such policy measures as detention, return, removal etc., presented as legitimate when applied to individuals who violate the legal order of states, the main regulators of human mobility. At the same time, "transit migrant" is a category of people stranded somewhere where they do not want to be. Transit migrants are presented as having no good intentions towards the country that they "temporarily" visit. Such representation arguably contributes to negative sentiments towards foreigners, especially to the one that are racially different. In addition, the state hesitates to take on responsibility for the well-being and human rights of foreigners who are constructed as individuals who purposefully choose to treat a given country as a transit only.

Conclusions

The two cases studied in this chapter allow for the following conclusion concerning the relation between the domestic migration policy and politics and the willingness of a country to co-operate with the EU on migration, or irregular migration in particular. As was argued, the degree of international and European influences on migration policy of a non-EU country is determined by: (1) the domestic situation with international migration flows, (2) the legacy of domestic migration and political membership norm-making or a lack thereof, (3) foreign policy orientation towards the EU, and (4) a country's participation in the international migration norm-making and

in the international migration organizations (e.g., IOM), and intergovernmental processes (such as the Budapest process). Additionally, one may mention the importance of the migration dimension for the country's foreign policy, and the political uses of it in its own "migration diplomacy." In turn, migration *politics* is heavily dependent on the local attitudes towards immigration, wider domestic discourses on international migration, and the degree of politicization of immigration. In combination, these factors play an important role in shaping the environment for the political uses of (irregular) migration discourse for domestic governance purposes. In addition, they set the stage for the international "strategic" plays regarding distribution of responsibilities over world migration flows and introduction of migration controls designed to stop or decrease these flows.

There are some differences and some similarities in the background of the studied countries that may have influenced their interest to co-operate with the EU on migration. Concerning similarities, both Ukraine and Russia – as post-Soviet countries – were new to the international migration regulations and needed to work towards accession to some of the international migration-related conventions. Similarly, they also sought to introduce the laws determining the political membership in a nation (e.g., the citizenship law, the norms determining the status of the foreigner) and the norms enabling both nationals and foreigners to enter and leave the territory of the country. As far as migration profile is concerned, both Ukraine and Russia became countries of emigration, transit migration, and immigration.

Regarding differences, two features need to be highlighted, as they have affected the development of relations with the EU. First, is the size of immigration flows, their structure, and the capacity of the government to handle those flows (i.e., register or provide legal status, provide some form of support for settlement and integration). Second is the acuteness of the

migration problem, as perceived by the government. Facing a significant amount of people arriving temporarily or permanently from abroad, the Russian government had strategic reasons to regulate these migration flows. The institutionalization of migration controls was hence perceived as a way to re-insert sovereign power over its territory and the borders. Various Ukrainian governments, in turn, neither paid much attention to migration problematic, nor sought to order the institutional division of labour for various migrant categories. As a newly independent country, once Ukraine had stabilized its control over borders, migration flows decreased. However, the politicization of immigration grew, in response to the international relations of Ukraine concerning migration with the EU and other countries.

As will be shown in the case study chapters, Russia's interest in proper migration management and its own migration diplomacy with the CIS countries result in Russia copying the practices and policies of the EU deemed suitable for its own migration regulation. The EU and Russia thus converge around international migration regulation norms, building on each other's experiences. Both sides adjust to the other's requirements in order to liberalize the travel regime for their nationals. Unlike Russia, Ukraine's migration policy-making has been stimulated and/or encouraged by the EU's attention to irregular migration flows from its territory. Whereas instituting border controls was in Ukraine's interests and reforms were advanced by institutional pressure from inside, other areas of migration regulation lagged behind.

CHAPTER 5. UKRAINE: EUROPE'S "COURTYARD WITH A THROUGH PASSAGE"? EUROPEANIZATION OF MIGRATION CONTROL

Introduction

This chapter examines the conditions under which Ukraine has co-operated with the EU on migration, and what the consequences of this co-operation have been for Ukraine. The objective is to analyze the foreign policy options and domestic policy reforms of a country that has been placed into the security paradigm of the EU's immigration policy and whose citizens have been viewed through the lens of risk – as potential irregular immigrants into the EU territory, and whose territory/geographical position has been viewed as providing “a conduit for the cross-border flow of a wide range of non-legal activities” (Council 1999d).

The Union's migration diplomacy encompasses the EU's attempts to influence migration from, as well as the migration policies of, non-EU countries. My study of the case of Ukraine, a country with EU membership aspiration, shows that the policy reforms and transformations in migration that have taken place there have been driven by the political rhetoric about gaining EU membership prospect or, at least, fulfilling the EU's conditions for liberalization of visa rules for Ukrainian nationals. Examining the nature of the Ukrainian position in negotiations with the EU allows us to refine and trace what discourses or arguments have been used by the Ukrainian government to reposition the country with regard to the processes of European integration, from which it has been excluded thus far. The reforms of the state border management system and the willingness to undertake internal security reforms in order to gain visa-free travel for its nationals also reflect Ukraine's desire to claim a place in the common security space of Europe.

From a public policy perspective, the establishment of the European migration regime has caused, among other things, the establishment of a control-oriented and restrictive set of policies towards potential immigrants and foreigners in Ukraine when the “fight against illegal

migration” becomes the taken-for-granted “truth” in policy-making. Therefore, we observe a trend of policy convergence in migration control and the regulation of migration flows influenced by the EU’s requirements for norm and value transfer. Legal approximation has become a cornerstone of the EU’s approach of closer co-operation with the ENP countries, and it results in convergence in problem definition and in the means of addressing the problem.

The EU’s migration diplomacy towards Ukraine has been focused mainly on addressing security threats. While this security paradigm has contributed to strengthening the governance capacities of the Ukrainian state (e.g., border and migration controls), it has also limited the EU’s transformational role in this particular country. The EU’s interest in the Ukrainian government being in control of irregular migration from and through its territory (both of its nationals and of transit migrants) has tipped the balance in Ukraine’s migration politics and policy in favour of “illegal” immigration measures. Whereas the rhetoric about illegal immigration and legal measures to control migration flows remain dominant in the policy priorities of the Ukrainian government, wider migration questions continue to be neglected.

The chapter proceeds as follows. First, I analyze EU-Ukraine relations and the place of migration in them. Secondly, I analyze how the negotiation of a readmission agreement and the EU’s “fight” against unauthorized migration flows towards its territory played out in EU-Ukraine bilateral relations. The analysis of the readmission negotiations is followed by a section in which EU-Ukraine co-operation on visa liberalization is discussed. I conclude with an impact analysis of the EU’s role in the domestic reform process in Ukraine.

5.1 European Integration and Irregular Migration: Engaging the “Transit” Country in Readmission and Migration Policy Reform

As Chapter 2 showed, since the 1990s, the European Union has made internal security co-operation one of the priorities of European integration. The EU's concern with new threats (such as irregular migration, insecure borders and cross-border crime, and terrorism) that could potentially "spill-over" into the EU territory, led to centralized justice and home affairs policies in the EU's relations with third countries, especially with its immediate neighbours (Browning and Joenniemi 2008; Lavenex 2005a). On migration and asylum, European Union co-operation with non-EU countries has depended on the migration profile of a particular country, the level of political relations, and political appropriateness of co-operation on migration and of concluding a readmission agreement.

Ukraine's migration profile was of concern to European countries, and migration has occupied an important place in their bilateral relations. As was mentioned in Chapter 4, Ukraine has been viewed as a country of transit for irregular migrants, as well as a source country for irregular labour migrants to the EU. Some experts argued that "[I]llegal labour migration of Ukrainian citizens [is] a factor of tension in Ukraine's relations with EU countries and the accession countries;" more Ukrainians worked illegally than legally in the accession countries causing an "unfavourable psychological dimension" to the presence of Ukrainians on their labour markets (Razumkov Centre 2001, 22). Whereas in the last decade the Europeans refer to the importance of migration co-operation in terms of their internal security and protection of labour markets, the Ukrainian diplomats envision migration co-operation in terms of both internal security and economic relations with the EU, with the goal of freedom of movement of Ukrainian nationals viewed as one of the four freedoms in the future free trade area between the EU and Ukraine. In the words of one interviewee, Ukraine's co-operation on justice and home affairs with the EU was characterized as follows:

Ukraine is of interest, first of all, with regard to economic integration. That is why considerable efforts are directed at the creation of the free trade zone [between the EU and Ukraine]. But a free trade area and economic development cannot exist without appropriate judicial standards being upheld in Ukraine. That is, of the standards that are currently determined by the common Schengen legislation and are found in the documents that stipulate our co-operation in the area of freedom, security and justice. The question of your study – the regulation of migration and borders – also has an economic subtext because Ukrainian citizens are interested in the provision of the freedom of movement (Interviewee 4, in Brussels, July 2008, my translation).

Besides the interest of the law enforcement agencies in tighter co-operation with their European counterparts, Ukraine's economic interest in establishing a free trade area with the EU additionally stimulates the government to pursue reforms in the justice and home affairs field. In addition, this economic interest of Ukraine provides the EU with additional leverage to demand the introduction and implementation of the relevant, security-related reforms by Ukraine. The new bilateral agreement between the EU and Ukraine has been formally in the works since 2007, when the two parties agreed to negotiate a new association agenda for Ukraine, and establish a free trade area. Guarantees for the security of economic, trade, and financial activities has therefore been an important condition for making the introduction of the free trade area between the EU and Ukraine possible. Economic tools are one of the most important levers that the EU has had, and it usually uses its economic power to the full.

The ability of the EU to encourage reforms through incentives and to increase compliance from Ukraine has changed in accordance with the reformulation of its foreign policy towards this country. In their bilateral relations on migration, we can observe a shift from a limited focus on readmission and illegal migration co-operation, to material and technical support and shared responsibility, to visa facilitation and co-operation to establish a system of facilitated travel under conditions of security. These stages parallel the evolution of the EU's foreign policy towards its eastern neighbours, with whom facilitation of travel opportunities for

their nationals has turned into a “policy conditionality” (Trauner 2009b) when membership conditionality cannot be applied. Such an adaptation in the EU’s foreign policy to non-EU European countries can also be explained by some of these countries’ continuous pressures for greater co-operation with the EU. Ukraine’s case is a telling one. Despite a lack of an EU membership prospect, Ukrainian diplomats have taken a high starting negotiation position with the EU, frequently demanding more than the EU has been able to deliver due to the absence of a common position towards Ukraine among EU governments (Interviewee 4, in Brussels, June 2008).

5.1.1. EU-Ukraine Political Co-operation

When the European Union and Ukraine signed a bilateral Partnership and Co-operation Agreement (PCA) in 1994, the EU viewed the newly independent country through the prism of its post-Soviet ties with the Russian Federation. Unlike the association/Europe agreements concluded with CEECs, the PCA with Ukraine was mainly an economic and trade co-operation agreement that provided a framework for political and economic dialogue between the parties, and expressed the EU's support for Ukraine's efforts to consolidate its democracy and complete its transition to a market economy. On the Ukrainian side, the declaration about the country’s aspiration for EU membership had already been made in the first EU-Ukraine Co-operation Council in June 1998 when Ukrainian Prime Minister Valeriy Pustovojtenko spoke about Ukraine's desire to receive EU association status (Council 1999e, 20). European integration has formally been a foreign policy choice of Ukrainian governments since 1998 when then President Leonid Kuchma approved a Strategy for the European Integration of Ukraine. All consecutive

Ukrainian governments and elected presidents, at least in their rhetoric, have confirmed European integration as their foreign policy aspiration and/or priority.

Thus far, the EU collectively has recognized only the European *aspiration* of Ukraine. Ukraine is a “neighbour” of the EU to which the ENP applies, together with its more recent outgrowth, the “Eastern Partnership” (EaP) (introduced in 2009).⁶² Proclaimed to avoid the dividing lines in Europe, the ENP was the EU’s attempt to offer meaningful incentives to the neighboring countries for political and economic reforms in line with the principles of democratic governance and a free market economy. This policy was intended also to increase security and stability around the EU’s external borders through enhanced sectoral co-operation and policy coordination with the neighbouring countries (Weber, Smith and Baun 2007). In addition, the ENP has a declared goal of facilitating interactions between citizens of EU countries and citizens of neighbouring countries. To soften some of the grievances of its neighbouring European countries, the EU has introduced into its foreign policy such instruments as visa facilitation agreements, “mobility partnerships,” “migration partnerships,” and – specifically for the eastern neighbours – local border traffic regimes and cross-border co-operation projects. The Commission admits that, for the governments of the EaP countries, “mobility is a key litmus test for engagement with the EU and promoting mobility in a secure environment should be a priority for the EaP. The EU should promote mobility of citizens with those partners that are willing to commit to ensure that the conditions for well managed and secure mobility are in place” (Commission 2008c, 6).

Since the ENP prioritizes a transfer of rules, norms and practices in all agreed areas of co-operation to neighbouring countries, we can expect a certain degree of Europeanization of Ukrainian migration policy, which is one of the areas of EU-Ukraine co-operation. According to

⁶² The Eastern Partnership initiative covers Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Ukraine.

the conditionality approach, the EU is also supposed to have a greater leverage over Ukraine due to its EU membership aspiration and its elites' interest in economic co-operation and free trade with the Union. Having started with a declaration of intent to co-operate on irregular migration, drugs, and money laundering (declared in 2001), EU-Ukraine co-operation on justice and home affairs is arguably one of the most advanced the EU has with any non-EU country.⁶³ In the next subsection, I review the importance of migration and border management questions in the EU-Ukraine relations.

5.1.2 The 1990s: Setting the Stage for Irregular Migration Co-operation

From its very beginning, the formal co-operation between the European Union and Ukraine contained a reference to their co-operation on irregular migration (in particular, on readmission), although the PCA (1994) did not contain a section on justice and home affairs. The PCA's Article 27 registered a possibility for exploring ways for co-operation against illegal immigration between the EU and Ukraine, especially on readmission: "The Co-operation Council shall examine which joint efforts can be made to control illegal immigration taking into account the principle and practice of readmission" (Official Journal, 19.2.1998, L49/9). This clause was part of Title IV of the PCA, entitled "Provisions Affecting Business and Investment," and placed in the Chapter that stipulated labour conditions. Besides illegal immigration, the PCA committed the parties to co-operating on money-laundering and drugs. After the PCA was ratified by the EU in 1998, Sub-Committee 4 (which was one of the EU-Ukraine political institutions created to implement the PCA) received an additional task: to cover justice and home affairs issues, such as customs, cross-border co-operation, illegal immigration, drugs, and money laundering. From this

⁶³ Note that the JHA area was not covered by the PCA but it is supposed to have a prominent role in the new association agreement currently under negotiations.

Sub-committee work, co-operation between Ukraine and the EU on justice and home affairs expanded beyond the PCA's short mandate.

Financially, starting in 1996, the EU provided assistance for legislative, institutional and political-economic transformations in CIS countries (Ukraine included) through the Technical Assistance to the Commonwealth of Independent States (TACIS), though it did not cover JHA activities. As the importance of third pillar issues (i.e., the justice and home affairs) grew within the EU, the Council expanded the scope of TACIS programming for 2000-2006 to include justice and home affairs activities and border infrastructure projects (Council 2000 c).⁶⁴ In addition, the TACIS programming received an additional cross-border co-operation component that targeted developmental needs on both sides of the future border between the EU and some CIS countries, as well as supported the promotion of people-to-people contacts and transformation processes in these countries through their co-operation with the CEECs that were to become EU members in future.

The *Common Strategy towards Ukraine* (1999), agreed by the then fifteen MSs under the framework of the Common Foreign and Security Policy (CFSP), was the first EU document to reflect the EU's approach to Ukraine with the enlargement taken into consideration. An internal document of the European Union, it reflected its approach to a country that, in the case of eastern enlargement, would become the EU's direct neighbour to the east. It emphasized two areas where the EU was willing to provide support: (1) for integration of Ukraine into the European and international market economy; and (2) to the government in the field of justice and home affairs. EU MSs were concerned with Ukraine's "geographical position as a transit country, providing a conduit for the cross-border flow of a wide range of non-legal activities" (Council

⁶⁴ At the time of initial TACIS programming, the EU had no competence on justice and home affairs yet. Co-operation in this area took place on an ad hoc basis, as determined or requested by partner countries in the region (Interviewee 26, in Brussels, June 2008).

1999f, 2). Their priorities included strengthening the rule of law in Ukraine, including “the need for legislation to help tackle serious crime, the political will to implement such legislation, and the necessity for a readmission agreement between the two jurisdictions” (Ibid., 2). Articles 34 and 35 of the Common Strategy reflected the EU’s priorities to co-operate against illegal immigration and human trafficking, as well as in the field of border security and organized crime (including money laundering, illegal arms and the drug trade). Such measures as developing a “more active” dialogue on illegal immigration, coordinating Ukraine’s visa policy with the EU visa policy, and introducing travel documents that would be hard to falsify, were listed as matters the EU wanted the Ukrainian government to address.

EU governments were interested to determine the scope of “illegal” immigration through Ukraine and to identify the gaps in the Ukrainian government’s capacities to deal with transit migration. The EU sought increased co-operation on readmission of Ukrainian nationals, stateless persons and citizens of third countries (including signing of a readmission agreement) and Ukraine’s accession to the International Convention on Refugees, as well as to international norms against organized crime, corruption and money laundering (Council 1999f).

The active co-operation between the EU and Ukraine on “illegal migration” started with a joint report prepared following a study mission by European experts to Ukraine. Focusing on “illegal” migration, *the Joint Report of the EU-Ukraine PCA Sub-Committee on Illegal Immigration and Trafficking in Human Beings* (2000) included a list of reforms that Ukraine could undertake to increase its capacity to control migration flows towards and through its territory. The report recognized the “Kyiv initiative” (the foreign policy initiative described earlier) as “an official plea for co-operation to combat the tides of migrants,” saying that: “The authorities readily admitted their difficulties in coping with the migrants flows. This is not

surprising, given that smuggler organizations are increasingly well-equipped and well-organized” (Council Secretariat 2000, 4). The Ukrainian side emphasized to European experts its inability to deal with transit migration through Ukraine if similar problems were not simultaneously addressed by Russia and Belarus – two main “gateways” for transit migration into Ukraine.

In Ukraine’s case, the EU’s approach required the country to acquire a “modern” migration policy and “modern” border controls to enable the government to tackle the problem of “illegal migration” and human trafficking in accordance with European practices and internationally recognized norms (Council Secretariat 2000). For better policy formulation and implementation, European experts advised the Ukrainian government to create one administrative agency with overall responsibility for migration issues. To make border controls effective, the EU insisted that Ukraine make progress with the demarcation of borders with Russia, Moldova, and Belarus, presenting the demarcation as “an important precondition” for “comprehensive support” (Council 2001a, 8).

As the governmental programs to address “illegal migration” show, since the 1990s the Ukrainian government had aimed to acquire international technical and material assistance in order to increase its institutional, administrative and financial capacities to stop and prevent migration flows through its territory. The Ukrainian authorities appealed for international support in fighting illegal migration, considering the country’s limited resources to detain and deport individuals classified as “illegal migrants.” They sought to reframe the problem of “transit” migration (initially perceived in the EU as a sole responsibility of “transit” countries) as a common challenge that countries of destination, origin and transit had faced and had to deal with collectively. As stated by one interviewee, “Ukraine has faced the same challenges with illegal

migration as the Europeans, with the only exception being that we do not have Ukrainians as illegal migrants” (Interviewee 20, in Kyiv, June 2008). This position of Ukraine was significant; it caused EU governments to gradually realize that relations with countries of origin and of transit had to change in order to persuade and incentivize them to co-operate on migration and border management.⁶⁵ First realized on an ad hoc basis, the Hague Programme (Council 2005c) formalized various incentives and compensatory measures for third-countries’ willingness to co-operate on migration and border management. As was shown in Chapter 3, EU governments gradually increased assistance to cooperating countries while simultaneously paying more attention to instituting the policies that would make irregular migration less attractive. Whether such policies have produced the desired outcomes is debatable. What is clear, however, is that these efforts have led to the formalization of inter-state migration relations in Europe. Whereas the EU’s externalization strategy caused the formation of a migration management regime, third countries have played a role, too, in how this regime has been institutionalized.

Although the EU demanded that Ukraine increase its capacities to deal with irregular migration, it initially played a minimal role in assisting Ukraine in this regard. Unable to finance the detention and deportation of foreigners unlawfully present in its territory, the Ukrainian government requested from the EU assistance for the repatriation of irregular migrants, for establishment of transit camps and temporary detention centres, and for border infrastructure on its eastern border with Russia (the major route for irregular crossing into Ukraine). The Ukrainian officials communicated to the Commission their concern with new dividing lines in Europe (created through the expansion of the Schengen rules to Central and Eastern European accession countries), and requested closer co-operation to soften the potentially negative

⁶⁵ Ukraine was only one of the neighbouring countries that influenced the EU’s pragmatism in its migration relations with third countries leading EU governments to introduce various incentives and *quid pro quo* measures for third countries’ co-operation on migration. On the role of the Mediterranean and African countries, see Cassarino (2009).

consequences of EU's enlargement. Thus, in September 2000, Ukrainian diplomats proposed to the EU an agreement on the "joint fight" against "illegal" immigration, human trafficking, money-laundering, drug and arms trafficking and other issues of organized crime, and for EU assistance with border equipment and infrastructure development (Council 2001b).⁶⁶ Instead of fortifying the western borders, the Ukrainian side requested assistance to increase the protection and infrastructure development of its northern and eastern borders. The EU side, however, considered their assistance for infrastructure and upgrading of the western border (the training and equipment) as efforts that would "improve border management (border control and surveillance of the green border) as a whole, and certainly benefit the Northern and Eastern border as well as the Western" (Council 2001a, 8). By the Ukrainian public at large, however, the improvement of the western border infrastructure was mainly interpreted as the construction of new walls in Europe.

When the EU and Ukraine signed the Justice and Home Affairs (JHA) Action Plan (AP) for Ukraine in December 2001, this was a first operational AP with a non-EU and non-accession country signed in the area of justice and home affairs. The first formal expression of Ukraine's willingness to undertake reforms in the JHA sphere in accordance with the EU's norms and practices, the AP was accompanied by a monitoring instrument (Scoreboard) that allowed the EU to oversee the process of reforms in the justice and home affairs sector in Ukraine. Although the Ukrainian government pursued a formal legal framework to expand co-operation on justice and home affairs (the area not covered in the PCA), the EU instead opted for an operation-oriented document that aimed to advance the implementation of the policies agreed within the PCA, and gave the EU a monitoring mechanism with regard to implementation. The AP institutionalized

⁶⁶ This was Ukraine's diplomatic response to the EU and Russia signing an Action Plan Against Organized Crime. Ukrainian diplomats pursued parallelism to the EU's relations with Russia in what they saw possible to request and receive from the EU.

the high-level JHA Ministerial dialogue between the EU and Ukraine, as well as formalized regular meetings of experts. In 2002, the parties agreed to deepen their relations in the following areas: the negotiation of an EU-Ukraine readmission agreement and improved migration management in Ukraine; improved border management; immigration; judicial reform; the rule of law; and organized crime and terrorism. The AP targeted expert knowledge transfer, technical and financial support, Ukraine's accession to various JHA-related international and European agreements, legislative adaptations, as well as institutional and administrative reforms. It should be noted that, when the EU and Ukraine signed a new ENP Action Plan (ENP AP) in 2005, it did not include an elaborated section on justice and home affairs. Rather, the 2001 AP was revised and updated, and it became part of the ENP AP.

Within Ukraine, the EU's eastern enlargement made the insecurity lens a pre-dominant one in the perception of migration flows to Ukraine, activating wider public discussions about the potential negative effects for Ukrainian society. In compliance with the EU accession requirements and, in particular, with the Schengen requirements, Ukraine's western neighbours had been harmonizing their border and visa policies, intensifying border controls, and strengthening their "fight" against "illegal" migration. According to one of the most influential think-tanks in Ukraine, the Oleksandr Razumkov Ukrainian Centre for Economic and Political Studies, such developments in the CEECs were associated with the negative effects on Ukraine in the migration area. These included:

- 1) the restriction of movement for Ukrainian citizens after the Central and Eastern accession countries introduced visa requirements, with potential negative effects on tourist and business contacts;
- 2) the restriction of the petty trade, or business tourism, taking place in border regions;

- 3) problems of potentially higher costs for businesses engaged in cross-border commerce;
- 4) potential restriction on employment opportunities for Ukrainians working or seeking work abroad in the accession countries and deportations of those working without authorization; and,
- 5) shifting of the burden to deal with transnational migration to Ukraine, with the consequent negative effects on Ukrainian society (Razumkov Centre 2001, 22-27; Pashkov and Chalyy 2001).

The enhancement of border and migration controls by Ukraine's western neighbours heightened the fears about accumulation of "transit" migrants in Ukraine, unable to get into EU countries and waiting for a proper opportunity to continue their journey. This situation was deemed to represent a real threat to the social stability of Ukraine. The central political issue hence became the mobilization of a governmental effort to prevent Ukraine from being used as a transit zone and to reduce insecurity coming from its transit status in Europe. Notably, the Razumkov Centre experts also forecasted that, if Ukraine's interests were not taken into account by the European partners in the latter's "fight" against irregular immigration, Ukraine would (1) turn into a country accumulating "illegals;" (2) face an increased threat for "import" of terrorism, drug trafficking, and worsened crime situation; (3) face increased pressure on Ukraine's labour market, a worsened social situation and increased money flows into the "grey sector," and 4) generate negative public attitudes towards foreigners ("those who arrived") (Razumkov Centre 2001, 24). To avoid these negative consequences, the authors advocated increased co-operation between the EU and Ukraine and EU's financial assistance to Ukraine in dealing with the transnational threat of "illegal immigration".

Both internal debate and the external approach to dealing with the dangers posed by uncontrolled migration were focused on increasing the capacities of governmental security agencies (such as border guards, police, and security services). European countries provided training and deployed missions to monitor and assist Ukrainian border guards in properly identifying potential risks and insecurities. Table 5.1 shows the distribution of funds allocated by the European Commission for projects in Ukraine in 2000-2005. As demonstrated below, border management constituted the largest portion of the funding.

Table 5.1. Projects Financed by the European Commission in Ukraine, millions EUR

Area	2000	2001	2002	2003	2004	2005	Total
Border Management	2.7	11.5	14.0	3.0	8.1	16.6	55.9
Asylum and migration	0.2	-	2.5	5.4	0.5	-	8.6
Human trafficking	-	-	1.9	-	-	-	1.9
Drug trafficking	-	2.2	2.5	1.5	-	-	6.2
Total	2.9	13.7	20.9	9.9	8.6	16.6	72.6

Source: ICPS/ISP (2006, 28).

The EU's willingness to invest in the security complex in the neighbouring countries coincided with the inclination of the Ukrainian government to increase the security-related resources to "fight" "illegal immigration." In addition, investment in border protection corresponded to the degree of interest of the new state in developing its border agency and creating its border infrastructure. Having inherited the Soviet-style, militarized border security, with the military in charge of border protection, the government prioritized border control and the demilitarization of its border agency (in line with international practices of border protection and security).⁶⁷ Under such circumstances, issues other than addressing "illegal migration" were

⁶⁷ On the demilitarization trends in international border protections, see Andreas (2003).

of a lesser priority for the government of Ukraine. Reforms of 1999-2003 were mainly directed at establishing controls over migration flows towards and through the Ukrainian territory.

On the eve of the enlargement, Ukraine's participation in various European and international inter-governmental platforms grew as well. In 2002, the government applied for full membership in the IOM arguing that this was "necessary due to the direction of Ukraine's foreign policy on integration into the European Union and due to regulation of migration problems" (Parliament 2002, my translation).⁶⁸ Western European countries made a decision to expand the consultative process entitled "The Budapest Process" towards Eastern European countries, with Ukraine included.⁶⁹ At Sweden's initiative, in May 2001 a new migration-oriented Söderköping Process was initiated, focusing on the new neighbourhood belt of the expanded European Union. Its main objectives were to respond to the challenges of the eastward enlargement and to promote better co-operation on asylum and migration among the countries situated along the future new borders of the European Union.⁷⁰ The Söderköping Process has been headquartered in Kyiv, Ukraine. Finally, the Council of Europe's European Committee on Migration, with its ministerial conferences and consultation processes, has played a role in facilitating Ukraine's participation and its active involvement in the inter-state migration

⁶⁸ Becoming a full member of the IOM also allows a country to access a greater financial support for migration-related issues. Some advocated for the IOM accession when migration flows were perceived to be uncontrolled, and fears of potential inflow of refugees from Afghanistan in the wake of September 11 was high (Sykina 2001a).

⁶⁹ Established in 1991, the Budapest Process (BP) is a consultative forum of now more than 50 countries and 10 international organizations that co-operate to develop "comprehensive and sustainable systems for orderly migration" (IOM, <http://www.iom.int/jahia/Jahia/policy-research/budapest-process/>). Its purpose is an exchange of information and experiences among the participants on such topics as regular and irregular migration, asylum, visas, border management, human trafficking and smuggling of migrants, and readmission and return. This consultative forum developed in three stages. Initially, between 1993 and 2003, the BP focused on the co-operation with the Central, Eastern and South-Eastern European countries outside of the EU framework, and it concentrated on such themes as prevention and fight against irregular migration, return and readmission, and asylum. On the eve of the EU enlargement, the BP was extended to include the CIS countries in order to create a network to the east of the future EU. In 2010, the decision was adopted for the BP to cover a so called "Silk Routes Region," that is, Afghanistan, Bangladesh, China, Iran, Iraq, Pakistan, and Syria (IOM, <http://www.iom.int/jahia/Jahia/policy-research/budapest-process/>, last accessed 24 October 2011).

⁷⁰ The Söderköping Process web-site, <http://soderkoping.org.ua/page2864.html>.

regulation initiatives in Europe. Overall, the Council of Europe Migration Committee has become an influential forum for exchanges on migration among participating governments, and international and supranational organizations and non-governmental organizations concerned with migration. In particular, in May 2000 the Committee on Migration adopted a document entitled “Towards a Migration Management Strategy” launching intergovernmental co-operation on migration management in Europe.⁷¹

For Ukraine, opening up to internal security co-operation became an important strategy for countering the exclusionary tendencies of the construction of the EU as an area of freedom, security and justice. Whereas the European Union had been presenting an expansion of the Schengen zone as a moment of triumph for a united Europe, the reality of the expansion of the Schengen for the new eastern European neighbours was different: once their western neighbours joined the EU, the regime of movement of these countries’ citizens was directly affected. With the expansion of the EU visa rules (i.e., the EU’s “black visa list”) to the eastern accession countries, the latter’s neighbours began to use an argument about freedom of movement within Europe as a way to pressure the European Union for visa-free travel for their nationals. In addition, the accession of such CEECs as Poland and Hungary – with their interests in a less stringent regime of movement with Ukraine – created internal pressures in the EU to liberalize the EU’s visa regime towards Ukraine.

Fearing isolation in the wake of eastern enlargement, the Ukrainian government asked for the EU’s financial and technical assistance in dealing with transit migration. On the eve of

⁷¹ Out of six regional conferences organized by the Migration Group of the Council in 2001-2005, five focused on irregular migration in the region. The sixth one dealt with the topic of migration of unaccompanied minors. In October 2003, Kyiv hosted one such regional conference titled “Migration policies on the eve of the EU enlargement: what challenges for future co-operation within the East European region” (Council of Europe, Regional conferences web-site, http://www.coe.int/t/dg3/migration/Documentation/Default_regconf_en.asp). In addition, in September 2008, Kyiv hosted an 8th Council of Europe Inter-ministerial Conference entitled “Economic migration, social cohesion, and development: towards an integrated approach.”

eastern enlargement, official Kyiv was proactive – in the words of Ukrainian Minister of Foreign Affairs Kostiantyn Hryshenko – in “preventing emergence of any dividing lines in Europe” by “making the enlarged EU’s eastern frontier the borderline of “comprehensive co-operation” with the goal of steadily introducing the EU’s “four freedoms” (Hryshenko 2003). During the launch of a “Kyiv Dialogue” – a dialogue to prevent dividing lines in the new Europe – the Ukrainian Foreign Affairs Minister publicly offered an initiative to create a common readmission space by means of a series of bilateral agreements among countries of origin, transit and destination of “illegal migrants.” Ukrainian authorities viewed the “fight” against illegal immigration and readmission to be important items on the EU-Ukraine co-operation agenda. Behind the idea of creating a common “readmission space” was the following assumption and explanation by Oleksandr Chalyy, Ukraine’s former state secretary for European integration:

The readmission issue cannot effectively be addressed only at the bilateral level, and for an effective fight against illegal migration and organized crime there must be a common readmission space created. The first step should be the signature of bilateral readmission agreements among Belarus, the EU, Moldova, Russia and Ukraine. We do not offer to sign a multilateral readmission agreement; rather, we initiate the development of common approaches and principles that would be implemented by each side in the preparation of the text of the agreement. In other words, we talk about a system of bilateral readmission agreements (quoted in Sylina 2003, my translation).

Although the EU did not accept Ukraine’s proposal,⁷² that Ukraine made such a proposal is significant in itself; it can be interpreted as part of Ukraine’s effort to be viewed as part of various “common spaces” within an integrated Europe. At the same time, it could be interpreted as Ukraine’s attempt to resist the responsibility that the EU wanted to place on the countries that were viewed as “buffer” countries for the EU. Ukraine’s policy has been to change the perception of it being the “buffer” country and to instead become a country “within;” it has been

⁷² Migration flows are usually composed of mixed migrant groups. Genuine asylum seekers are frequently caught in the network of western governments' migration controls and opt for illegal routes to get to the territory of western states. Considering such situation, from a human rights perspective, it was not acceptable to create a common readmission space with the countries that produce asylum seekers in the first place (e.g., Chechens from Russia).

advocating “sharing” the burden with the EU, rather than “shifting” the burden from the EU to Ukraine. One of the interviewees affirmed that this was the aim of Ukraine’s position:

There is a general tendency in EU politics to decentralize and to disperse migration control from the border line to the territories of third countries, if we look at the basin of the Mediterranean sea and control of international waters. On the other hand, inside the EU without internal borders, migration controls are nevertheless being conducted... we are forced to take this into account and try to get involved in the general system of border control of the European Union, so that our Ukrainian control authorities would gradually become part of the joint control mechanisms. Evidently, for now we remain a third country of co-operation within the Schengen acquis. The idea is to enter this common space of freedom and security [sic] gradually, so that gradually both at the psychological level and at the level of technical co-operation Ukraine ceases to be perceived as a buffer zone or, as they call it, a second filter (Interviewee 4, in Brussels, July 2008).

The relevant Ukrainian authorities (especially the Administration of the Border Guards) have been willingly and sometimes voluntarily adopting the internal security rules resembling or identical to the Schengen ones. The perceived ownership of the direction of the reforms is also visible in how the revised – and newly titled – *EU-Ukraine* Action Plan in the Area of Freedom, Security and Justice (AP AFSJ) (2007) is viewed by the Ukrainian side. Unlike its 2001 version, the current AP is perceived as reflecting Ukraine’s interests; the Ukrainian negotiators were able to align its content in accordance with the domestic agenda of reforms. The Ukrainian side views the document as an important expression of the two sides’ interests and as a step forward in the EU-Ukraine co-operation. The EU-Ukraine AP AFSJ is considered one of the best sectoral co-operation documents that secures Ukraine’s interest in the best way possible:

We developed it [the EU-Ukraine JLS Action Plan] together. There were serious negotiations on each of the sections, on each point, on each word. We tried way harder to pack it with Ukrainian interests. It is considered – well, we consider – that in our action plan we try harder than in other bilateral agreements [with the EU] to defend Ukraine’s interests, be less conceding to the European side (Interviewee 8, in Kyiv, May 2008).

Moreover, the AP’s language was adapted to the necessities of the internal situation in Ukraine in order to increase its degree of implementation. In particular, Ukrainian negotiators were able

to outline the details of the reforms needed for the internal bureaucratic implementation. Aa Ministry of Justice official interviewed noted,

[The Action Plan] is a bilateral document that is written in a language that is different from our internal acts. That is why it contains language that is a medium between the European and our [bureaucratic and legalistic jargon]. ... We are trying to have those points that only we are implementing be written in a way that is better for us. Because later on this Action Plan is being sent to all executive bodies [in Ukraine], and they look at it and do not understand what is required from them and what a particular point is about (Interviewee 8, in Kyiv, May 2008).

Overall, the Ukrainian government has viewed the JHA co-operation with the EU as a positive development for Ukraine – as such that increases the country's capacity and modernizes its law-enforcement agencies in line with European and international practices. The activities of the EU Border Assistance Mission to Ukraine and Moldova (EUBAM) are exemplary in this regard. When in 2005 the Ukrainian and Moldovan presidents asked the EU to deploy its border mission to monitor the flows through their common 1,222 kilometer-long border, their aim was to involve the EU as a third party in this co-operation and let it play a stabilizing role in the region. This border sector was of concern to Europeans due to a range of illicit activities taking place at this border (including smuggling of goods and human trafficking), aggravated by the fact that 472 kilometres of this border are adjacent to the secessionist region of Transnistria over which Moldova has no control. As one interviewee mentioned, the goal of the border mission was:

to receive financial backing from the EU in putting this section of the border in order [and] in providing answers to the EU concerns with regard to illegal migration and smuggling [of goods] through this region. Since the EU received a direct mechanism of control, in this way many questions were taken off the agenda (Interviewee 4, in Brussels, July 2008, my translation).

Deployed in December 2005 and fully funded by the European Union (financed under the Rapid Reaction Mechanism) with the United Nations Development Programme (UNDP) acting

as implementing partner, EUBAM is the EU's Mission with a mandate to provide support and technical advice to the border guard and customs authorities of Moldova and Ukraine as they seek to approximate their procedures to EU standards. The mission has its headquarters in Odesa, Ukraine, and six field offices on both sides of the Moldova/Ukraine border. The Mission consists of a staff seconded and contracted from EU MSs and of nationals from Moldova and Ukraine. It is stated in the EUBAM's description of its mandate that: "By offering comprehensive support to our partners on EU best practice from its headquarters in Odessa and six field offices on either side of the Moldova/Ukraine common border, EUBAM envisages that border and customs procedures and standards in MD/UA will ultimately mirror those prevalent in the European Union" (EUBAM).⁷³ The Mission's mandate has been renewed three times, with the latest one extending the EU's presence at the Ukrainian-Moldovan border until 30 November 2015.

It is interesting to note that in their 2005 Joint Memorandum, the Ukrainian and Moldovan presidents agreed that EUBAM was to assist border and customs officials address the problem of illicit flows and advise on the proper border control practices to safeguard the security of travel and goods. This would be done by means of advising the two countries' authorities and monitoring their activities, which also included

their right to make unannounced visits to any location on the Moldovan-Ukrainian state border, ... to any police station or Customs Post or Revenue accounting office, to be present and observe custom clearance in progress, to examine and to copy customs import documents and supporting commercial records, and official books and records that do not include State secrets, including those held on computers (EUBAM 2005).

The Mission's experts may also request re-examination and re-assessment of any consignment of goods that was already processed. Among the specific objectives, it should be mentioned that the presidents agreed that the Mission staff can audit the border control and surveillance measures in accordance with their national legislation, provide suggestions for administrative upgrades of the

⁷³ EUBAM web-site, "About Us" Section. Accessed October 28, 2011, <http://www.eubam.org/en/about/overview>.

border and customs authorities, improve the efficiency of border crossing procedures, “reinforce the surveillance of the green border through the delivery of relevant equipment and training,” and prevent human and goods smuggling, among other special objectives. EUBAM participates in two standing working groups with the host countries’ border services: one on illegal migration and trafficking in human beings, and the other one on weapons smuggling, contraband and customs fraud. It supports Ukraine and Moldova in their plans to join and implement the pan-European Integrated Border Management (IBM) strategy. The Mission also assists the governments in their implementation of visa facilitation and liberalization action plans with the EU. Finally, EUBAM has been part of the EU’s activities to promote anti-corruption and “good governance” principles in these ENP countries. Among its outreach activities, for example, there is one project with civil society and the youth of Moldova and Ukraine that promotes EU values and provides information on cross-border co-operation.

The EU has emphasized the security of movement as a precondition for any dialogue on the removal of visa requirements for citizens of its new eastern neighbours. Such EU position and the fact that Ukraine was interested in visa-free travel for its citizens, made the issue of border and migration co-operation with the EU a “technical” rather than a political one for the Ukrainian side, and relegated it to the level of technical expert discussions (Interviewee 19, in Kyiv, June 2008). Concurrently, the need for domestic reforms was rhetorically presented as necessitated by Ukraine’s European integration orientation and undertaken in accordance with the EU *acquis*. By being viewed as “technical” and as part of the conditions in visa negotiations, the questions of migration regulation and population management were depoliticized and removed from wider public discussion. How the EU and Ukraine negotiated their readmission agreement and visa facilitation agreement is discussed in the next two sections.

5.2. Readmission: Institutionalizing the Mechanisms of Return in Europe

Since the mid-1990s, the principle of readmission has become one of the pillars of the EU governments' approach to addressing the challenge of irregular immigration. The EU's interest in concluding a readmission agreement with Ukraine was determined by, first of all, Ukraine's nationals violating the rules of entry and stay in the EU MSs, and secondly, by Ukraine's territory being used for transit migration towards the EU. Although Ukraine had readmission agreements with all of its immediate western neighbours (Hungary 1993, Poland 1993, Slovakia 1993, Lithuania 1996, Latvia 1997, and Bulgaria 2001), its government hesitated to conclude an EU-wide agreement. Among the reasons for such hesitancy one can mention the EU's insistence on the obligation to accept the returned third country nationals as part of the readmission obligations, an absence of the readmission agreements with Ukraine's largest source countries of irregular/"transit" migrants (especially with Russia),⁷⁴ low administrative and institutional capacities to regulate migration flows through its territory, and undemarcated and poorly equipped and guarded eastern and northern borders.

Notably, the negotiations on readmission with Ukraine and with Russia were conducted by the European Commission concurrently, while at the same time Ukraine and Russia were also negotiating a bilateral readmission agreement between themselves. Facing pressure from the EU with regard to irregular migration flows towards EU territory, the Ukrainian government proposed a common readmission space and asked the EU to synchronize the conclusions of bilateral readmission treaties between the EU and Ukraine and the EU and Russia, and to assist it in negotiating with Russia. Brussels, however, did not want to interfere in Ukraine's negotiation

⁷⁴ Kravchenko (2005) mentions that about 80 per cent of all irregular migrants that end up in Ukraine, enter the country through the Ukrainian-Russian "green" border.

with Russia and did not support the creation of a trilateral consultation mechanism (Syliina 2006). Interestingly, Ukraine and Russia were the first countries with which the EU insisted on including a third-country national clause, obliging these neighbours to accept non-nationals who entered the EU territory from these countries. From the European Commission's point of view, convincing these countries to accept the third-country clause was the main challenge during the negotiations but "the incentive or the carrot in the form of visa facilitation agreement was very important for Ukraine" (Interviewee 25, in Brussels, June 2008) and for Russia (discussed in Chapter 6). Below I unpack the positions of the EU and Ukraine in the readmission negotiation, with attention paid to the domestic discussion in Ukraine.

5.2.1 The EU-Ukraine Negotiation of the Readmission Agreement

Table 4.3 shows the timeline of the readmission agreement negotiation. As can be seen from the timeline, the Ukrainian government expressed its political readiness to negotiate the readmission agreement with the EU even before the Commission received the Council's mandate. What interest did the government have in agreeing to take on readmission obligations in the form of the agreement and what was the domestic reaction to such a decision? From an analysis of media coverage, we can observe that the negotiation with the EU was accompanied by an alarmist discourse in Ukraine about the challenges facing "transit" countries and the need for European and international support to deal with problems Ukraine could not deal with alone. Besides receiving a simplified visa regime for some categories of citizens, the Ukrainian government was also motivated to attract the EU's and international attention to its problem with uncontrolled migration flows and to enlist financial, technical, and expert support in dealing with this

“challenge.” Evidently, this was expressed in the highly securitized presentation of “uncontrolled” migration, which is discussed below.

Table 5.2 The Timeline of the Readmission and Visa Facilitation Negotiations

<p>1994 – The PCA included a clause on co-operation on “the practice and the principle of readmission.”</p> <p>October 2001 – Ukraine agreed “in principle” to start negotiations on a readmission agreement at the EU-Ukraine Subcommittee meeting; proposed to negotiate a simplified visa regime for holders of diplomatic passports. This moment signified a political decision of Ukraine to enter into an EU-wide readmission agreement.</p> <p>March 2002 – Ukraine passed its version of the readmission agreement to the EU side during the Fifth Meeting of the EU-Ukraine Co-operation Council.</p> <p>June 2002 – EU Council gave the Commission a formal mandate to negotiate a readmission agreement with Ukraine.</p> <p>August 2002 – The EU presented its copy of a readmission agreement to Ukraine.</p> <p>November 2002 – The first round of negotiations started.</p> <p>25 February 2005 – The EU agreed to enter into a “constructive dialogue” on visa facilitation with Ukraine (confirmed at the ministerial troika).</p> <p>21 April 2005 – The visa facilitation dialogue was due to begin. No mandate from the Council to the Commission to start negotiations on visa facilitation.</p> <p>November 2005 – The Council gave the Commission the mandate to launch the negotiations on visa facilitation.</p> <p>November 2005 – The Commission opened negotiations with Ukraine on visa facilitation. Readmission negotiations unblocked.</p> <p>October 2006 – The text of the readmission agreement and visa facilitation agreement agreed in principle.</p> <p>June 2007 – The two sides initialed both agreements.</p> <p>November 2007 – The EU side ratified both agreements.</p> <p>1 January 2008 – The two agreements were to come into effect.</p> <p>15 January 2008 – The two agreements ratified in the Ukrainian parliament.</p>

The European countries’ insistence on return as one of the pillars of their policy in countering irregular migration made the neighbouring countries wary of accepting any responsibility for Europe’s “unwanted” migrants and asylum seekers. While the Ukrainian

government accepted its international responsibility to receive its own nationals from the EU countries, it found unacceptable at first to expand its obligations towards “transit” third-country nationals. The fear of being “flooded” with the EU’s unwanted migrants and asylum-seekers – especially as a result of the EU Dublin Convention principles of “safe third country” for asylum purposes and the responsibility of the first country of entrance – was frequently reiterated in the media discussions. Some experts argued that the lack of proper migration controls and border control capacities, as well as the ineffective and dispersed institutional responsibilities for migration regulation, worsened the situation for the country and necessitated the introduction of the relevant, control-oriented policies and institutional reforms (Razumkov Centre 2001).

Since the 1990s, the Ukrainian mass media have been saturated with rhetoric about the transit status of Ukraine and its territory being used by foreigners to get further west. The authorities reported increasing numbers of foreigners, detained while crossing the Ukrainian borders without authorization and heading west. It was also reported that some Ukrainian nationals living in the border regions were assisting both irregular migrants and their smugglers (UNIAN, 14 April 1998; Pavlyukh 2002; V. Chumak, in Kyiv, May 2008). Media publications were frequently alarmist about migrants from the “exotic countries” of Asia and Africa, with racist undertones.⁷⁵ At that time, migrants from Russia (i.e., Chechens), China, Afghanistan, India, and Bangladesh were among those most frequently detained at Ukraine’s borders (ICPS/IPS 2006). Any major conflict in the region, such as the Russian war in the Caucasus in

⁷⁵ The migrants detained in groups were described using the language used to denote goods (e.g. “consignment/lot/batch,” Unian, 19 January 1998). Migrants from Asian and African countries were referred to as “black’ guests” and “illegals from ‘warm’ regions” (Pavlyukh 2002). Also, consider the following representation of “exotic’ migrants: “In the Kyiv region, close to Brovary, there happened a “representation of the evil spirit.” Persons, who usually wait for various wonders in the evening on Malanka, at the eve of St. Basil’s Day, noticed how out of the forest, one “demon” came out, after him – a second one, then a third one... But since there were many “evil spirits” – about 18 of them, citizens doubted their version regarding the evil and went to the police. As it turned out later, those were uninvited guests from the far India trying to get out of the woods into a more comfortable place” (Hotsulenko 2003). This was an introduction to a newspaper story about “the calamity” or “evil” of “illegal immigration” for Ukraine. (Nota bene: Malanka is a Ukrainian holiday during the Christmas period.)

1999, the coming to power of the Taliban in Afghanistan in 1999, or the war in Afghanistan in 2001, set off alarmist discussions in the Ukrainian media, with migration flows discussed in security terms as a threat to both national security and social stability. When discussing potential “Afghan waves” resulting from the US military actions in Afghanistan, Sylina (2001a) used a forecast of the Department for Nationalities and Migration on the potential numbers of asylum seekers at the Ukrainian borders in order to assess the danger hanging over Ukraine:

within a month-month and a half, there will be up to 500,000 migrants at the Ukrainian border, 400,000 out of which will be chopped off by border guards. Thus, about 100,000 will end up on the territory of our country. Experts assume that 40,000-50,000 will officially ask for asylum, and the rest will stay illegally in Ukraine.

What kind of challenge are we facing? As far as refugees are concerned, ... an increase in their quantity will lead to significant material expenses. ...

And illegal migrants are a direct threat to the national security of any country. This week, speaking about the consequences of the anti-terrorist operation in Afghanistan for Ukraine, Minister of Foreign Affairs, Anatolii Zlenko, did not exclude the possibility of terrorists penetrating our territory. ... Besides, it is well known that an inflow of illegal migrants abruptly worsens the crime situation in a country, leads to the emergence of crowded quarters with descendants from countries in Asia and Africa that are hard to control, [and leads] to the active spread of drug addiction and prostitution, [and] the emergence of disease centres (Sylina 2001a, my translation).

The author of the quote above politicized the effects of anti-terrorist campaign in Afghanistan for Ukraine and put “illegal immigrants,” transit migrants, refugees, crime-perpetrators, and terrorists into one row under the heading of national security threats. Other politicized statements by politicians (e.g., by Minister of Defence of Ukraine, Oleksandr Kuzmuk) about the “flows” of Afghans on their way to Ukraine in October 2001 caused Ukrainian border officials to try and dispel fears about their incapacity to halt these “flows” (Sylina 2001a).

The US-led anti-terrorist campaign in Afghanistan coincided with the Ukrainian government’s expression of its willingness to enter into a readmission agreement with the EU. In the same year, the EU JHA Action Plan for Ukraine (2001) was finalized, and the clauses about

the EU-Ukraine co-operation against terrorism inserted into the Action Plan upon Ukraine's insistence (Oleksandr Chalyy, quoted in Sylina 2001c). Similarly to some other states, Ukraine placed such phenomena as international terrorism, irregular migration, and criminality into one synonymic line, arguing for the need for a "global" effort to address these risks. For example, speaking about a need to address irregular migration, the State Secretary of Ukraine's Ministry of Foreign Affairs in charge of European integration matters claimed:

The problem of international terrorism, finding the ways to counteract it and prevention of illegal migration need be resolved both at the national level and in the international juridical context. [...]

A set of factors –anti-terrorism actions, prevention of illegal migration flows and the necessity of the introduction of the visa regime with Ukraine by the candidate countries for EU membership – incite us to seek ways to deal with the problems that occur along the whole perimeter of the external borders. We also have to try to reach a common understanding with the EU on how to solve the list of problems associated with the movement of illegal migration towards the EU territory through the territory of Ukraine (Oleksandr Chalyy, quoted in Sylina 2001c, my translation).

As we see, policy makers in a "transit" country Ukraine placed terrorism and illegal migration into one large category of threats to national security. With Afghan nationals being among those most often detained by Ukrainian border guards at that time (Kuchuruk 2001), "illegal migration" became embedded into the crime-security nexus, allowing Ukraine to become a part of the international effort in addressing these "threats."

Although the readiness to enter into an agreement with the EU was expressed at the highest political level, the internal debate in Ukraine, driven by the alarmist accounts of the law enforcement agencies and of some media sources against illegal immigration, was filled with statements *against* signing such an agreement. A conflict between foreign policy and law-enforcement circles in Ukraine became apparent at this time. While Ukrainian diplomats sought ways to engage with the EU and to counteract the negative effects of the introduction of visas by some CEECs by taking on the readmission obligations, their law enforcement colleagues were

against additional obligations which in their understanding could compound their “fight” against “illegal immigration.”

The debate about Ukraine’s accession to the 1951 United Nations Geneva Convention on Refugees revealed these differences. Since the EU cannot sign a readmission agreement with a country that is not a party to the Geneva Convention on Refugees, acceding to the Convention was viewed as problematic because it would automatically open Ukraine to pressure from the EU in terms of the readmission obligations.⁷⁶ According to such law enforcement agencies as the Security Services of Ukraine (SBU) and the Ministry of Internal Affairs (MIA), the accession to the Convention was “not timely” due to the inadequate demarcation of borders with the countries from which the majority of unauthorized migrants were entering the territory of Ukraine. Moreover, signing the Convention would be negative for the country because of the asylum law that, in their interpretation, allowed human smugglers to abuse the refugee status. Therefore, signing an international instrument for the protection of refugees was mainly perceived through the “illegal immigration” lens. The following excerpt from a news report shows how Ukrainian security officials perceived the situation:

Transnational organized groups actively use the territory of Ukraine for transit of significant flows of illegal migrants from countries in Asia and Africa towards western Europe. The incomplete process of juridical legalization of Ukrainian-Russian and Ukrainian-Belarusian borders creates favourable conditions for that. ... More often organizers of illegal transfers of migrants attempt to use refugee status for the legalization of [illegal] migrants on the territory of Ukraine, for whom Ukraine is considered a temporary asylum for further travel into the countries of western Europe. At the same time, western neighbours of Ukraine are actively using the measures of visa policy and border control regime [to prevent migrants from entering their territories]. Under such conditions and on the occasion of Ukraine acceding to the Convention, SBU experts conclude, Ukraine may begin concentrating migrants on its territory, first of all from the countries of South-East Asia, and thereby turn into a country accumulating illegal migrants claiming refugee status and as a result face a set of additional challenges of a social and economic character, including an increase in the crime level (Sylyna 2001b, my translation).

⁷⁶ Despite member states’ interest, Ukraine was not included among the first four countries to negotiate an EU-wide readmission agreement with because, in 2001, Ukraine was not a party to the Refugee Convention.

As the above quoted text shows, national security rhetoric, in which immigration discussions were embedded, subsumed humanitarian migration flows under the category of illegal migrants, linking any real or potential asylum seekers to criminality, public disorder, drug addiction, prostitution, and the spread of diseases. Both detained irregular migrants and refugees were associated with public spending on their housing, feeding, and processing, topped off with concerns about public expenditures on their further deportations. Moreover, stories about asylum seekers trying to escape Ukraine to the west served to exemplify the “bogusness” of those who apply for asylum in Ukraine. To provide an example, I quote from an article in *Glavred*, an on-line newspaper and an “independent analytical agency:”

To avoid problems while crossing the border of Ukraine into Europe, an illegal can easily become a refugee – Ukrainian law is rather loyal to such a category. In particular, it is forbidden to expel or forcefully remove a refugee to a country of his/her origin where his/her life or freedom may be under threat. Family members of the person who has received refugee status, have a right to come to Ukraine and receive refugee status as part of the family unification process. In this way, an Asian illegal, who cut his/her way through to Ukraine, can call all his big family without problems.

...

With diligence, Ukraine tries to be in line with the standards of international law. But such yearning is only handy for illegals and those who make business from “servicing” them (Bugaenko 2006, my translation).

While some researchers have argued that the majority of people detained at the western borders had no intention of staying in Ukraine (e.g., Uehling 2004), the lack of positive messages about immigrants residing in Ukraine laid the foundations for the xenophobic, or what one Ukrainian expert calls “migranto-phobic” (O. Malynovska, in Kyiv, May 2008), attitudes in Ukraine.⁷⁷

With positive stories about refugees absent from the public discussion, such negative stories worked to reinforce xenophobic and anti-immigrant sentiments among the Ukrainian public.

⁷⁷ The Council of Europe’s European Commission against Racism and Intolerance (ECRI) (2008) reported an increase in racially-motivated crimes in Ukraine since its last monitoring report of 2002.

In such an environment, it is not surprising that the government's readiness to sign a readmission agreement with the EU was perceived by the Ukrainian public negatively. The offer to conclude a readmission agreement with the EU was even described by one reporter as signing one's own "death judgment" (Sylina 2002). From the foreign policy perspective, however, cooperating with the EU on home affairs was an opportunity to advance EU-Ukraine relations and the country's European integration ambition, although some viewed it as "a sacrifice on the altar of Ukraine's European integration" (Sylina 2002). Motivated by the earlier examples of Central and Eastern European countries signing the readmission agreements with EU MSs in exchange for visa-free travel for its nationals (for example, the Polish-German agreement), in March 2002 the Ukrainian government submitted its version of the readmission agreement to the Commission, together with a document that described the Ukrainian side's view of the step-by-step liberalization of the visa regime between Ukraine and the EU (Sylina 2002). By agreeing to enter into the readmission negotiation formally, the Ukrainian diplomats were after a gradual removal of visa requirements and viewed this as compensation for sharing the burden of "unwanted" migration with the EU. Obtaining a quid pro quo for the readmission agreement was especially needed to secure ratification by members of parliament, with MPs highly attuned to the irritation of Ukrainians by the "Schengen barrier" (Ibid.).

The official rounds of negotiations over readmission between 2002 and 2006 took place in an environment of heightened alarmist attention to "illegal migration" in Ukraine, a country of "transit" migration, when in fact the authorities in charge had already improved their control capacities and were more effective both in preventing the border crossing and in detaining foreigners who violated the rules of stay in Ukraine. As the numbers of those detained at the borders decreased in 2001-2004, the State Border Services invented a category of "*potential*

illegal migrants:” besides those who were captured when crossing the borders without authorization, statistics also classified as “illegal migrants” those who were forbidden to enter the territory of Ukraine on the grounds of high likelihood of turning into “illegal migrants.” Arguably, this helped to boost the evidence of the country continuing to be “flooded” with “illegal migrants” (O. Malynovska, in Kyiv, May 2008). Such prevention of entries became possible after border guards, in accordance with European practices of “modern” border control, received the authority to undertake so-called “second level” screening that included interviewing foreigners and seeking additional information to determine their reasons for traveling to Ukraine. The introduction of such screening was motivated by a need to determine the “real” intentions of foreigners seeking the entry to Ukraine. They put border guards in control of information about the foreigners entering Ukraine and gave them power to deny entry to those whom they deemed to be hiding their “real” intention and/or being inadmissible on security grounds.

There were two main themes in the readmission discourse in Ukraine. On the one hand, there were those who argued that, considering the level of “transit migration” through Ukraine and the unwillingness of Russia to even discuss a bilateral readmission agreement, signing the bilateral agreement with the EU would turn Ukraine into a “sedimentation basin” or “lagoon” of “illegality,” with all consequent negative effects (Sylina 2002). On the other hand, Ukrainian diplomats and migration experts saw “some political dividends and practical benefit” in signing the agreement; it would show Ukraine’s “good will” to move towards the EU and share its rules and values, and would let it move towards a visa-free regime with the EU (Ibid.). In addition, migration policy-makers were interested in reducing the number of “illegal” migrants on Ukraine’s territory. Concluding readmission agreements with the EU and with source and transit

countries (such as Russia, Uzbekistan, Turkmenistan, India and Pakistan) became a tool to reduce Ukraine's transit flows.

In the course of negotiations, the attention of the public was arguably controlled through an official discourse focused on Ukraine's interest to receive a gradual removal of visa requirements for its nationals, with limited discussions about the content of the readmission negotiation. What distracted the public from focusing on the perceived problem of signing the readmission agreement was the emphasis on the necessity of signing the readmission agreement if the Ukrainian government wanted to deliver a visa-free travel to its citizens. The ratification of the readmission agreement was made compulsory by the EU if Ukraine wanted to get the visa facilitation agreement in place. In addition, to counteract the negative portrayal of the readmission agreement, the official line coming from the Ministry of Foreign Affairs (in charge of the negotiations) started to present the readmission obligations as a means of lessening the attractiveness of Ukraine as a transit country. The official line shifted to emphasize the positive sides of the country signing the readmission agreement with the EU, with such "public relations" presented in terms of the common European fight against "outside" illegal immigration into Europe. Signing the readmission agreement with the EU hence became a tool against illegal immigration *into* Ukraine. This played a role in shifting public attention to the flows that were "foreign" *both* to the EU and to Ukraine.

The media analysis conducted by the author reveals that public attention within Ukraine was solely focused on the third-country national clause of the readmission agreement, while the return of Ukrainians from the EU countries was completely underplayed in the official and wider public discussion. The third-country national clause was also the main point of disagreement between Ukrainian and European negotiators. The Ukrainian government accepted its

responsibility to accept its nationals; for this category, the readmission agreement usually stipulates the technical procedure for return. In the words of one interviewee,

No one questioned the issue of the return of one's nationals, no questions emerged... There was a lot of complications regarding the transfer and reception of third-country nationals. Here the question was not that we refused or that they refused. There were questions with regard to the evidence base and how to undertake return with citizens of third countries... That is, there were no questions of political order. Political agreement to readmit was expressed. And the questions were simply technical, professional, how to identify an individual, how to transfer that identified individual, on the basis of what document... They [the Commission] made a compromise with us that this needed to be proved, that a person needed to be identified, that the person cannot simply be returned to us... And then in 2003 we started asking questions about where we would hold them (V. Chumak, in Kyiv, May 2008).

Arguably, the Ukrainian negotiating team maneuvered between its international/European obligations and its domestic politics, but little or no attention was given to concerns about Ukrainians to be returned from the EU. Rather, the right of the state to exercise its authority and sovereignty against foreigners entering or present in the country without authorization was assumed to be legitimate, as was the Ukrainian state's obligations to accept its returned nationals.

Considering its limited mandate from the Council, when the Commission opened the readmission negotiations with Ukraine in November 2002, it discussed visa issues only informally. The Commission requested postponement of the visa facilitation discussion until after the readmission agreement was signed. In particular, the EU-Ukraine ENP Action Plan (2005) mentioned that even the launch of "a constructive dialogue on visa facilitation between the EU and Ukraine" depended upon "the need for progress on the ongoing negotiations for an EC-Ukraine readmission agreement" (Commission 2005e, 4). Thus, Europeans demanded that in order to merely start discussing visa facilitation, progress would have to be made on the readmission agreement (Deutsche Welle 2005). The Ukrainian team, however, insisted on holding these negotiations concurrently and stuck to their demands by refusing to finalize the

readmission agreement if visa facilitation was not discussed in parallel (V. Chumak, in Kyiv, May 2008). As a gesture of “good will,” Ukrainian President Viktor Yuschenko temporarily waived visa requirements for EU citizens in May 2005, permanently removing them in July 2005. This was done to invite a reciprocal move from the European side, but the EU officials only “saluted” the Ukrainian government on this move. They were, however, willing to open up negotiations regarding the simplification of visa rules for Ukrainian nationals (Bobyts’kyi 2005). In November 2005, the Council of the EU gave the Commission a mandate to start visa facilitation negotiations with Ukraine. In the words of one interviewee,

The incentive or the carrot in the form of visa facilitation agreement was very important for Ukraine. To be honest, we were stuck with the readmission agreement. Negotiations were blocked until the moment that we (I mean the European Community) were also given a mandate to negotiate a visa facilitation agreement. And from that moment we started to negotiate two agreements in parallel, and only from that moment readmission negotiations became unblocked. Obviously, visa facilitation agreement was an important incentive for Ukraine to engage also on readmission. ... But it didn’t mean that suddenly Ukraine signed up for everything. We had at least four more rounds after that, which were really tough negotiations. ... I negotiated the agreements with 10-11 countries, and Ukraine was among the top three toughest negotiations (Interviewee 25, in Brussels, June 2008).

Thus, the Council’s decision regarding a visa facilitation agreement with Ukraine unblocked the readmission negotiation, making it possible for the two sides to sign the two agreements in June 2007 (V. Chumak, in Kyiv, May 2008). The Ukrainian negotiators were not willing to concede easily to the European side on readmission if the visa facilitation agreement was not attractive enough for the Ukrainian public. Under such circumstances, selling readmission as the *quid pro quo* for future visa-free travel to the EU, and reframing it as key to deterring “illegal” immigration, became central elements of the official Ukrainian discourse.

In the 2000s, the politicization of “illegal migration” in Ukraine grew significantly. Politicians of various stripes actively participated in generating and sustaining the public’s

attention to the “threat” of “illegals” and the turn of the country to a “lagoon” for Europe’s “illegals.” Under such circumstances, securing the EU’s financial and technical assistance to support the government’s “fight against illegal migration” was important; in the eyes of the public, it could be presented as “payback” for agreeing to share Europe’s “burden.” One interviewee mentioned the following:

They [the Ukrainians] asked to have something to show in the Ukrainian parliament and to the public at large that they were not just signing up something that was not in the interest of Ukraine in the first place but that they also got something in return which was a visa facilitation agreement, but also a reconfirmation of the fact that the EU will support Ukraine financially and technically in the implementation of the readmission agreement. But this money ... this is not new money. It is not that we will open a new drawer and say, “Hey, here is another 50 million dollar that you gonna get, which you can spend on the implementation of the readmission agreement.” This money is coming from the existing budget for Ukraine, and within this budget, there may be a shift of priorities (Interviewee 25, in Brussels, June 2008).

In order to assist Ukraine in preparing to readmit third country nationals, the EU agreed to redirect € 30 million (from the existing funding package assigned to Ukraine) for infrastructure development (i.e., reception centres), as well as additionally funded projects for human rights training of border guards and personnel working in long-term reception facilities and in “transit” centres (i.e., short-term temporary detention, up to 10 days).

Besides shifting the financing priorities, the Commission also agreed to include a clause on removal to a country of origin, rather than a transit country, if the country of origin is known and the EU has a readmission agreement with this country. As the Commission stipulated, in return for Ukraine agreeing to accept third country nationals and stateless persons, the European Union agreed to delay for 2 years applying these obligations after the entry of the agreement into force. During the transitional period, only nationals of those countries with which Ukraine had a readmission agreement or bilateral arrangements would be returned to Ukraine.

5.2.2. The Effect of the Readmission Agreement

A list of measures introduced in Ukraine as the result of signing the readmission agreement with the EU shows the impact of the EU's migration relations on third countries, as well as reveals the system of migration control that is being established in Europe through inter-state co-operation. As was noted in Chapter 3, the conclusion of readmission agreements is accompanied by the EU's attempt at transferring international and European human rights norms regarding the readmission process. Evidently, there are expectations on the part of the EU towards a given third country as to what reforms it is expected to implement and what international and European human rights instruments must be acceded to and implemented.

Although migration-control oriented concerns were prioritized, reinforcing the dominance of policy-making on "illegal" migration on the agenda of Ukraine's government, the overall record of Ukraine's preparation to accept third-country nationals has not been exemplary. To prepare Ukraine to readmit third country nationals, legislative and institutional changes were required to legalize the status of returnees within the country, as well to accept, host and further deport them to their countries of origin in due course. The government was also expected to erect an appropriate infrastructure (i.e., short- and long-term reception facilities run in compliance with European norms and standards) in order to be able to accommodate the returnees prior to deportation. Ukraine was also expected to implement the following reforms: (1) improve capacities of the State Border Services to serve as a second line of control against foreigners entering the country, including the authority to deny people entry; (2) improve operational capacities of the MIA in charge of implementing the readmission agreement, and; 3) establish a civic (non-military) institution in charge of migration.

Whereas there has been a positive record of reforming the Ukrainian border guards agency, the Ministry of Internal Affairs' (MIA) record and the record of the government in creating an institution in charge of migration management have been dubious. As initially "illegal migration" was mainly understood in Ukraine as unauthorized crossing of borders, the Ukrainian state mainly invested in the reorganization of the State Border Service and its capacities to prevent foreigners from entering the country. In the early 2000s, the MIA received budgetary funds and conducted occasional raids and operations to capture "illegals" within Ukraine, rarely undertaking deportations due to a lack of funding. Evidently, the MIA mainly played the role in creating an environment of fear and unease for foreigners staying in the country without authorization, and a warning sign for those considering Ukraine as a transit territory to their travels to the west.

Public attention to the importance of capturing "illegal migrants" living in Ukraine was fuelled by a competition for resources between various law enforcement agencies in charge of irregular migration. The underfunded MIA lobbied for the consolidation of migration control functions under its authority (Interviewee 5, Interviewee 8, and Interviewee 20, all in Kyiv, May 2008). Notably, continuous institutional restructuring in Ukraine revealed the relative strength of the competing interests over budget funds, foreign assistance, status and social payments (e.g., pension, military service benefits, etc.) related to them (ICPS/IPP 2006; V. Chumak, in Kyiv, May 2008). Once the readmission agreement was signed, the major emphasis in assistance from the EU was linked to developing the internal infrastructure to host and return migrants to their countries of origin. While the projects funded by the EU and implemented by the IOM in Ukraine for the State Border Services continued, the MIA became the major beneficiary of assistance for creating an infrastructure for reception and deportation, and training of personnel

for these centres. Having the operational capacities for internal policing operations, the MIA, in coordination with the State Border Service and the State Security Service, has been a key beneficiary of the readmission agreement in terms of funding and influence. From 2008 to 2010, two long-term reception centres (in the Chernigiv and Volyn oblast', with total capacity of 520 persons) were built in Ukraine with EU money, with MIA in charge of them. Since 2008, the MIA has received a budget allocation from the government for deportation of foreigners. After years of inter-institutional competition, in April 2011 the State Migration Service was formed within the Ministry of Internal Affairs (MIA), with the consequent transfer of resources and personnel involved.

While the MIA has been criticized for delays and inefficiencies in building and equipping the reception facilities, the State Border Service has become an exemplary case of border service “modernization” in line with European and international standards that brought praise from European counterparts (Interviewee 25, in Brussels, June 2008). In 2006, the concept of Integrated Border Management (IBM), adopted from the European Union, was introduced into the operational development of the Ukrainian border agency. Since 2010, the concept of IBM has been approved in the Law on The Concept of Integrated Border Management (IBM) for Ukraine, and was put into practice in January 2011.

As far as the “chain” of readmission agreements is concerned, the Ministry of Foreign Affairs of Ukraine has already concluded agreements with its neighbouring countries of Moldova and Russia, with negotiations ongoing with Belarus. It has also concluded readmission agreements with countries further afield, such as Turkey, Turkmenistan, Uzbekistan, and Vietnam. Currently, the Foreign Ministry is pursuing agreements with such countries of origin as

Afghanistan, China, India, Iraq, and Sri Lanka. It has also been interested in negotiations with countries in Central Asia.

As far as the institutionalization of the readmission principle is concerned, one interviewee, while speaking about the EU-Ukraine readmission agreement, mentioned that Ukraine “could be a big success story” for the EU’s wider migration management framework “if this readmission process would work well.”

The EU is giving a lot of money to make sure that return of third country nationals and the detention centres are up to the EU standard, that the right processes are in place that they could be returned to Ukraine and then they could be returned to the country of origin. If this process will work well, further rights will be safeguarded according to the EU standards, it – this readmission agreement – could potentially be a big success story, which is part of wider immigration management framework.

...

[T]his is the potential “success story” for the EU because they can effectively start returning people. ... And then if you do return to Ukraine, and his [migrant’s] rights are not violated, he is processed correctly, identified in co-operation with a representative of his embassy... And then he returns, and this process works well, then you can say that this is a good example of law enforcement (Interviewee 9, in Kyiv, May 2008).

Interestingly, this interviewee also presented the implementation of the readmission agreement as a possible “success story” for Ukraine as well:

Because Ukraine didn’t even have a special detention centre for migration or apprehended irregular migrants. ... Now there will be two opened this year. We are helping to make sure that they [the centres] are up to the EU standards and correspond to the EU best practices (Interviewee 9, in Kyiv, May 2008).

As we can see, both the EU and international organizations in charge of migration play their role in instituting and normalizing the deportation practices as one of the policy options to prevent irregular migration flows towards the EU core. International organizations also play the role in the construction of “illegality” and “irregularity” of human mobility and of the ways to address it. The fact that Ukraine did not possess migrant detention centres was interpreted as an oversight of the country that presumably deals with a “huge flows” of irregular migrants and as something

that needed to be changed for Ukraine to comply with the European “good” practices of migration management.

As the Commission emphasizes the effective implementation of the readmission agreement as a precondition for any possibility of visa-free travel for Ukrainian citizens, in Ukraine the implementation of the readmission agreement is viewed mainly through the lens of the potential of visa-free movement into the EU for Ukrainian nationals. Similarly, the reduction of transit migration flows – what the EU wants Ukraine to achieve – is celebrated as a step towards the higher probability of visa-free movement becoming a reality. According to the Administration of State Border Guards, in the general category of illegal migrants (which includes a sub-category of potential illegal migrants and denotes people forbidden from entering Ukraine), 83 per cent and 84 per cent respectively in 2008 and in 2009 were considered as “potential illegal migrants” and were prevented from entering Ukraine. This amounted to 19,700 persons prevented from entering Ukraine in 2009 and above 9,200 in the first quarter of 2010 (Chumak 2010). In turn, in the same period, border apprehensions at the western border of Ukraine decreased. This might suggest that preventing people from even entering Ukraine has become one of the main strategies of not having to deal with returns later.

Readmission of third-country nationals began in January 2010, and it has already been assessed “an effective instrument of the reduction of transit migrant flows. A country that implements such an agreement, loses its attractiveness as a transit-country both for migrants and for the organizers of this criminal business” (Chumak 2010, my translation).

The implications of the EU-Ukraine readmission agreement for Ukrainian nationals merits investigation in future research. The European Commission has been promoting the idea of “effective return” and incentives for migrants to return to their homelands. An idea about the

“reintegration” of returned migrants has surfaced in the EU’s Action Plan towards visa liberalization with Ukraine. What, if anything, the Ukrainian state starts doing about returned nationals will be interesting to follow over time.

5.3. “Towards an Orderly Mobility in a Secured Environment:” Facilitating the Mobility of Bona Fide Travelers

[...] the Council reiterates its commitment to promote mobility of citizens of the Eastern partner countries through visa facilitation and readmission agreements, and once these are successfully concluded and implemented, to take gradual steps towards full visa liberalization *as a long term goal* for individual partner countries on a case-by-case basis *provided that conditions for well-managed and secure mobility are in place.*

...

[...] in working towards a possible future visa free travel regime, the EU will *seek to provide incentives for reforms in the JLS domain and promote conditions for secure and well-managed mobility* using a country-specific approach, while at the same time ensuring regional coherence in the approach adopted towards visa liberalisation with the Eastern Partnership countries and also Russia (Foreign Affairs Council 2010, 2-3, emphasis added).

As the quote provided shows, EU governments perceive visa facilitation and readmission agreements as tools to ensure the mobility of citizens of the Eastern European partner countries. It is a rather paradoxical link, however: whereas visa facilitation is meant to introduce for certain categories of citizens a cheaper, faster and less burdensome process of being allowed to enter the EU, the readmission agreement actually lays out a procedure to quickly and effectively *return* citizens and third country nationals to these countries. According to the European Commission (2008d), the majority of the EU’s “illegal migrants” are “visa overstayers” and/or third country nationals who violate the conditions of their visas (e.g., becoming employed with a visitor’s visa). Since the 1990s, Eastern Europeans have been notorious for violating the conditions of their visas. For the EU then, linking the mechanisms of readmission and visa facilitation seems a

reasonable policy response. Facilitating mobility for bona fide travelers makes the EU look more “humane” in the eyes of third country nationals and testifies to its readiness to remain open to “legitimate” travelers. At the same time, for the Eastern European countries, whose citizens have been subjected to long queues and painful procedures for getting visas, and have faced a high level of visa denial, negotiating visa facilitation schemas in exchange for readmission seems a reasonable choice as well. One could weigh in millions of family, tourist and business connections for nationals against 15-20 thousand or fewer nationals returned through readmission. But the significance of this EU’s policy (i.e., linking readmission and visa liberalization policy instruments) goes beyond simply institutionalizing a system of rules and international agreements that regulate the movement of bona fide travelers between the EU and third countries. As was the case in the Western Balkans (Renner and Trauner 2009) and now can be observed with Ukraine and Russia, the EU has seized the importance of simplified visa regimes for third countries as an opportunity to pressure the interested and “willing” countries to undertake reforms in justice and public order policies. The EU acts as an “Europeanizer” of these countries’ norms and practices on the regulation of human mobility and, in some instances, is a facilitator of international norms being transposed into the national law of these countries.

In the promotion of mobility for nationals of ENP countries, two themes interact: the promotion of people-to-people contacts, and maintenance of open travel in secure conditions. In the Ukrainian case, the supporters of lifting visa requirements for this country have largely framed their position as a step to greater cultural interactions (or, in the EU jargon, “people-to-people contacts”) between Ukrainians and EU nationals. The official EU line, however, has largely been about *visa facilitation* in the context of the EU-Ukraine “fight” against illegal immigration, in particular, taking into account the Ukrainian government’s ability to ensure that

those who travel from and through its territory to the EU do so in a legitimate and a secure way. Also, the Commission made it clear that inability or lack of will to implement the readmission agreement by Ukraine may threaten the implementation of the visa facilitation agreement.

By easing its visa regime and emphasizing the importance of “people-to-people” contacts, the EU has sought to address the grievances of its European neighbouring countries. In its core, the ENP has been formulated as the foreign policy framework that allows accommodating the possibility of closer economic, political and social co-operation with the EU’s neighbours in exchange for reforms and policy adaptation. Co-operation on visa liberalization between the EU and third countries reveals a strongly conditional policy adaptation to EU norms and practices in the area of justice and home affairs. The conditionality, however, is enhanced and works because of the interest of third country’s security communities (i.e., border security, internal affairs, and security services) in enhancing their capacities to deal with perceived “transnational threats” to their stability and statehood (e.g., organized crime, illegal immigration, and drug trafficking) and to “modernize” and be viewed as partners in the global fight against these transnational threats. While socialization into European norms takes place through knowledge transfer and personnel training, it is hard to predict whether such policy convergence and building of security communities will lead to future integration into the European Union. The EU’s current climate is not conducive to further enlargement of the EU to include Ukraine or other parts of Eastern Europe. What is also important to emphasize is that the Ukrainian state found the motivation and resources to undertake the reforms in compliance with the EU demands once the political significance of the EU’s offer was deemed important. Therefore, one can conclude that the impact of the EU is stronger when its foreign policy is in line with the aspirations of the country.

5.3.1 Visa Discussions between the EU and Ukraine

The EU-Ukraine visa discussions show the various techniques and rhetoric used by Ukraine to counter the EU's exclusionary Schengen rules. As I mentioned in Section 5.2, Ukrainian diplomats proposed mutual and gradual visa liberalization when they offered the EU to sign a readmission agreement in October 2001. This was Kyiv's response to the CEECs' introduction of visas for Ukrainians.

Initially Ukrainian diplomats asked the EU to make exceptions for its nationals from the Schengen rules. After the Commission emphasized the impossibility of exceptions (at least at that time), they stopped asking to cancel visa requirements for its nationals and instead switched to a strategy of seeking the most favourable regime possible for its nationals in accordance with the Schengen rules (Sylina 2002). Ukrainian diplomats had requested a clear list of requirements the country needed to fulfill in order to lift the visa restrictions for Ukrainians (Ibid.). In the negotiations with the EU, Ukrainian officials used their knowledge of the Schengen *acquis* and the examples of its exceptions applied to other countries, as well as precedents of a more "humane" usage of the Schengen rules, to counter with concrete arguments and examples the EU's rejections or negative responses to the requests for a simplified visa regime (Interviewee 8, in Kyiv, May 2008). The policy conditionality of visa facilitation and/or liberalization that the EU had seized as its foreign policy tool, was acceptable to Ukraine; more than that, it was encouraged by the Ukrainian officials. With Ukraine included in the EU's "black visa list," the government sought ways to make the Schengen "friendlier" to Ukrainian citizens. Accepting the readmission obligations in exchange for gradual removal of visa requirements became also a strategy for the Ukrainian government to make the country closer to the EU.

Relations between the EU and Russia have served as a point of comparison – and sometimes disappointment and irritation – for Ukraine. Since the 1990s and prior to the Orange Revolution of November 2004, the EU cautiously proceeded in its relations with Ukraine, trying not to formally offer anything politically significant that could have irritated the Russian state. The Orange Revolution and Russia’s refusal to become part of the EU’s “neighbourhood policy” changed the EU’s formal foreign policy framework towards these two neighbours. For Ukraine, however, the concessions of Europeans to Russians frequently serve as a point of comparison and the grounds to demand more from the EU. In addition, Ukrainian diplomats have adopted some of the same strategies used by the Russians. Readmission negotiation is a case in point. Russia was the first country in the post-Soviet space to discuss visa liberalization with the EU as a long-term policy in the context of negotiations over the Kaliningrad transit in 2000-2002 (discussed in Chapter 6). Ukraine adopted a similar approach in its negotiations with the EU.

Inked in October 2006, the EU-Ukraine visa facilitation agreement is an international agreement that outlines simplified procedures for the issuance of visas to citizens of Ukraine for short-term travel to the EU (of no more than 90 days per period of 180 days). The agreement was concluded “with a view to further developing friendly relations ... and desiring to facilitate people-to-people contacts as an important condition for a steady development of economic, humanitarian, cultural, scientific and other ties” (Agreement 2007, 2). The agreement applies only to persons who hold Ukrainian citizenship and who intend to visit the Schengen countries. The non-EU Schengen countries (Iceland, Norway, and Switzerland) have negotiated separate agreements with Ukraine. Only holders of diplomatic Ukrainian passports were completely exempted from visa requirements.

The Preamble to the agreement recognized the possibility of “a visa free travel regime for the citizens of Ukraine as a long term perspective,” also noting that “visa facilitation should not lead to illegal migration” and that “special attention” should be paid to security and readmission (Agreement 2007, 3). This signified the first formal acknowledgement of a possibility to start discussing removal of visa requirements for Ukrainians. Additionally, Poland, Hungary, Slovakia and Romania, which have their diasporic communities mainly in border regions of Ukraine, declared their readiness to negotiate bilateral agreements with Ukraine on local border traffic regime (i.e., the separate regime of travel requirements for people living in border regions) as per the EC Regulation (No 1931/2006) that amended the Schengen Convention. This regulation allowed the countries with external borders to negotiate a favourable regime of travel with their neighbouring countries.

The EU-Ukraine visa facilitation agreement simplifies the list of documents required to justify the purpose of the journey to the EU country for specific categories of travelers. It introduces an issuance of multiple-entry visas for up to five years (if the person fulfills the requirements of visas received) for such categories as politicians, legislators and judges if their travel is for professional reasons; permanent members of official delegations to participate in intergovernmental meetings in any EU MS; spouses and children (including adopted) and parents visiting citizens of Ukraine legally residing in the territory of any member state; business people; and journalists. In addition, such categories of citizens as drivers and members of various modes of transportation who conduct international travel (e.g., airplane crew members), persons on educational, cultural and scientific exchanges, athletes and persons accompanying them in professional capacities, and participants in official exchange programmes organized by twin cities were allowed to receive a multiple-entry visas with the term of validity of up to one year.

This applies only to persons who had not previously violated the conditions of entry and stay in any EU member state. The agreement fixes the fee of 35 Euros for visa applications. But for certain categories of citizens, the visa fee is waived.⁷⁸

What merits attention in the agreement are the two final clauses. First of all, the agreement stipulated that it “shall enter into force at the date of the entry into force of the Agreement between the European Community and Ukraine on readmission of persons” (Article 14, clause 2) making it impossible for Ukrainian parliamentarians or other politicians to delay the ratification of the readmission agreement. On the occasion of the agreements signed by the EU and Ukraine, Franco Frattini, EU Commissioner for the Justice, Freedom and Security portfolio, stated: “I am very pleased that the agreements on visa and readmission have been signed - this means that Ukrainians will now be able to travel more easily while maintaining the efforts to clamp down on illegal migration” (Frattini 2007). This condition was frequently reiterated in the EU official rhetoric prior to Ukraine ratifying both agreements.

Secondly, the agreement allows each party to suspend in whole or in part the agreement “for reasons of public order, protection of national security or protection of public health” (Article 14, clause 5). The latter clause is in line with the letter of the Schengen Code and allows both sides to temporarily stop applying the provisions on the grounds of perceived or real national threats associated with travel and/or immigration. With negative public opinion and existing anti-immigrant sentiments in EU countries, MSs in this way protected themselves from potential problems associated with Ukrainians. Finally, although visa facilitation is an EU-wide agreement, national laws apply to cases such as the refusal to issue a visa, recognition of travel

⁷⁸ The fee is waived for 14 categories, among them: close relatives of Ukrainian citizens legally residing in the territory of any member state; members of official delegations that were invited to represent the state in meetings, consultations, negotiations or exchange programmes; members of national and regional governments and parliaments, constitutional courts and supreme courts; pupils, students, post-graduate students and accompanying teachers; disabled persons and persons accompanying them; athletes, journalists, and pensioners, to mention a few.

documents, proof of sufficient means of subsistence and the refusal of entry and expulsion measures (Article 2, part 2).

5.3.2. “Visa Dialogue” versus “Visa-Free Dialogue:” What’s in a Name?

In Ukraine, the potential visa-free regime of travel to the Schengen countries is, without a doubt, “the single most watched and known issue on the EU-Ukraine co-operation agenda” (Parliament of Ukraine 2010). The EU made launching the visa liberalization dialogue with Ukraine conditional upon the latter’s successful implementation of the readmission agreement. Ukraine started implementing the readmission agreement in January 2008 (in relation to its nationals), and in October 2008 the two sides formally launched the Visa dialogue at the EU-Ukraine Summit. The Dialogue included consultations among experts and senior officials aimed at determining the conditions under which an introduction of visa-free regime between the EU and Ukraine may be possible. The Visa dialogue examined four areas: 1) security of documents, including biometric data; 2) illegal immigration, including readmission, 3) public order and security, and, 4) external relations. Each area had a joint expert group tasked to evaluate the compatibility of Ukrainian legislation with EU standards and *acquis*, and to work out a set of recommendations that would allow Ukraine to align its legislation and operational practices with the EU.

With regard to the implementation of the visa facilitation agreement, the Ukrainian government’s efforts have been directed at monitoring irregularities in administrative practices of the consulates of EU MSs in Ukraine. This became possible thanks to a visa facilitation agreement monitoring mechanism requested by the Ministry of Foreign Affairs of Ukraine and approved by the Parliament. Considering the politicization of the visa regime with the EU, the

Ukrainian government tasked itself with exposing the inconsistent and/or unfair visa practices of EU MSs towards its nationals.

An important role of monitors, however, has also been played by civil society groups, think tanks, and advocacy and research institutions, both from Ukraine and from EU countries (particularly, from Poland). Civil society monitors have been diligently documenting the bureaucratic practices of the EU MSs' consulates in their implementation of the visa facilitation agreement, focusing on the number of rejections, visas issued, single versus multiple visas issued, etc. These organizations (such as “Europe without Barriers,” www.novisa.com.ua) have sought to determine whether the EU’s commitment to countering exclusionary practices towards European neighbours through facilitated visa regimes and simplified local border traffic regimes has been effective in addressing the problems of isolation and the construction of new “paper curtains” in Europe.⁷⁹ These groups have also played an important role in exposing any imbalances between security and freedom of travel in EU MSs’ practices of visa issuance, in analyzing the effectiveness of visa practices in addressing MSs’ security concerns, and in assessing whether bona fide travelers from neighbouring countries have not been prevented from travel to the EU. In addition, several research initiatives were launched to survey people who applied for visas, and to monitor border crossing points between Ukraine and its EU neighbours in order to assess the situation at the borders and the treatment of third country nationals entering the EU (e.g., Sushko et al. 2010). Finally, some think tanks have also been monitoring the process of Ukraine’s implementation of the Visa Liberalization Action Plan (see *Europe without Barriers* 2012; www.novisa.com.ua).

⁷⁹ Such advocacy initiatives as “Europe without borders” and “Visa Free Europe” were launched to collect data and analyze visa practices in relation to citizens of the ENP countries. Since there was a drop in tourist visits and business activity from Ukraine to Poland after Poland joined the Schengen zone in 2008, the Polish government and some research institutions took an active role in making sure the hurdles to travel were addressed.

European Union institutions and MSs make the lens of (in)security prevalent in their relations with Ukraine as they continue to link the discussion of visa liberalization for Ukrainian nationals with EU-Ukraine relations on irregular immigration toward the EU territory. The Commission seems to hold a “friendlier” position towards Ukraine than EU MSs in relation to the security of travel dimension (Interviewee 8, in Kyiv, May 2008).⁸⁰ This EU’s linkage between visas and security questions, however, was recently criticized by the Inter-parliamentary Committee on Co-operation between Ukraine and the EU in its 2010 report.⁸¹ The Inter-parliamentary Committee noted that the EU’s rhetoric about tighter co-operation and partnership with Ukraine was accompanied by attempts to tighten control over the EU’s external borders causing “increased complication of rules for entry and stay of Ukrainian nationals on the territory of the EU member states” (Parliament of Ukraine and European Parliament 2010, 3). The visa regime, it argued, “remains to be a significant hurdle on the path to enhanced co-operation between Ukraine and the EU” (Ibid., 3). Notably, the Committee also criticized EU MSs’ persistent collective insistence on the security of travel for Ukrainians – and, for that matter, for other third countries’ nationals – considering that “interdependence between crime and visa regime has not been noted” (Ibid., 14).

Differences in interpretation of the Visa Dialogue are observed in the naming of these formal discussions. While the EU continues to call this co-operation “the Visa Dialogue,” the Ukrainian side, in literal translation from Ukrainian, calls it the “Visa-free dialogue.” The Ukrainian government understands this dialogue as a path toward visa freedom, rather than the additional easing of the visa regime. It has consistently interpreted the visa facilitation agreement as a first step towards visa-free travel for its nationals.

⁸⁰ Since 2009, the number of Ukrainians detained within the EU territory or when crossing the EU external borders, has decreased. Still, Ukrainians rank “third among irregular migrants in the EU” (EU Delegation to Ukraine 2009).

⁸¹ This report evaluated the possibility of visa liberalization with Ukraine.

5.3.3. Formalities of the Visa Dialogue: 2008-2010

In the EU's initiative of Eastern Partnership (EaP), Mobility and Security Partnerships are promoted as the key to the EU's co-operation with third countries. "Mobility" is presented as "easier, faster and cheaper access to the EU territory" for citizens of the neighbouring countries, with legal migration opportunities (e.g., for workers, students) and possibilities of short term travel (short stay visas) (Commission 2008c). In turn, the "security" portion covers "fighting illegal immigration, upgrading the asylum systems to EU standards, setting up integrated border management structures aligned to the EU acquis, as well as enhancing the abilities of police and judiciary in particular in the fight against corruption and organized crime" (Commission 2008c). In the Eastern Partnership declaration, EU governments have also agreed that the Union will "take gradual steps towards full visa liberalization as a long term goal for individual partner countries on a case by case basis provided that conditions for well managed and secure mobility are in place" (Council 2009d, 7). How is this declared goal of "gradual visa liberalization" being realized in a particular case of Ukraine?

In November 2010, the European Commission proposed to Ukraine an Action Plan that stipulated the conditions under which a removal of visas for Ukrainian nationals may be possible (Commission 2010a). The Action Plan consists of four blocks where Ukraine is expected to undertake reforms. These are: 1) document security, including biometrics; 2) illegal immigration, including readmission (border management, migration management, and asylum policy as its sub-sections);⁸² 3) public order and security (organized crime, terrorism and corruption, judicial

⁸² Notably, asylum policy is placed within the block on "illegal immigration." Also, a footnote to this block states: "The full and effective implementation of the EU-Ukraine readmission agreement remains an underlying condition for the continuation of the visa dialogue and is of paramount importance for the establishment of a sustainable visa-free regime" (Commission 2010a, 5). Such inclusion arguably points to MSs' concern with the possibility of

co-operation in criminal matters; law enforcement, and data protection), and; 4) external relations and fundamental rights. In my interviews, both the Commission officials and the Ukrainian officials referred to the case of the Western Balkans as evidence of what Ukraine might expect from its relations with the EU. Thus, it makes sense to see how the EU's offer to Ukraine compares with the offers to the countries with EU membership prospects.

First of all, unlike the Western Balkan countries that received a "Visa Liberalization Roadmap" from the European Union, Ukraine received an "Action Plan," an operational plan to be implemented by Ukraine. It puts no obligation on the EU. Unlike the roadmap that leads to the lifting of all visa requirements when a given country fulfills its conditions (as was the case with the Western Balkans), the Action Plan only allows the parties "to enter into a fully operational phase of the visa dialogue" and lays out "all technical conditions to be met by Ukraine before the possible establishment of a visa-free travel regime" (Commission 2010, 1). This means that the Action Plan is largely an additional hurdle for Ukraine to overcome before it is deemed ready to receive visa-free travel with the Schengen countries. Such a mid-step requirement was introduced because some countries (e.g., Germany and France) were against offering eastern European neighbouring countries anything that could resemble the EU's approach to the countries with membership perspective (Sopinska 2010). They also were against automatically moving toward visa-free travel. In Ukraine's case, France requested the removal of an automatic application of a visa-free regime even when Ukraine fulfills all conditions. Instead, the fulfillment of conditions by the Ukrainian government will only open up "*a possibility for a dialogue about the liberalization*" of travel for Ukrainian citizens (Commission 2010a, emphasis added).

Ukraine being less willing to accept third country nationals through the readmission procedure once Ukraine receives visa-free travel.

Secondly, unlike any other country before, the Action Plan assigns a set of dual-stage benchmarks that must be met: so called “preliminary benchmarks” concerning the policy framework (legislation and planning), and implementation benchmarks which are called rather generally “more specific benchmarks (effective and sustainable implementation of relevant measures)” (Ibid., 2). Effectively, this extends the length of the “trial” period for Ukraine. In this context, the language of the Action Plan is remarkable itself: it gives *qualitative benchmarks* rather than *measurable* targets. The document is full of words that refer to the degrees of the strength of action: “*effective and sustainable implementation*”, “with *highest ICAO standards*”, “*adequate* protection of personal data”, “*complete*” (phasing out and roll out of international passports), “*high level of integrity and security*”, “*prompt and systematic reporting*”, “*regular exchange*.” Such language reinforces the non-obligatory nature of the EU’s commitment; the targets that Ukraine must meet might be constantly moving.

Another element that differs in Ukraine’s Action Plan is the fact that the Commission chose to include information about Ukrainian citizens apprehended while illegally residing in the EU (though noting that the number had declined since 2006) and returned from the EU countries. The Action plan instructs the Ukrainian government to adopt “measures for the reintegration of Ukrainian citizens” (returning voluntarily or under the EU-Ukraine readmission agreement). A separate part is dedicated to changing the system of registration of foreigners aimed at the elimination of a discriminatory system of registration.

The Action Plan was celebrated by Ukrainian politicians and the public in general as a positive development in EU-Ukraine relations. In the words of Pavlo Klimkin, Deputy Minister of Foreign Affairs of Ukraine, the implementation of the Action Plan will make Ukraine closer to the European Union:

What is not less significant is that as the result of the implementation of this Action Plan, we will undertake systematic reforms, which will be good for us both in the context of *our accession to the EU*, and if we will be seeking a visa-free regime with any other country like the USA or Canada, with which the requirements are the same. If we can do this, then our movement to visa-free regime with other countries will be much easier. Therefore the implementation of the Action Plan will *make us better and will make us closer to the EU* (Zaxid.net, 29 November 2010, emphasis added).

In the list of priorities on the EU-Ukraine Association Agenda for 2010, there were eight measures listed under the title of Justice, Freedom and Security co-operation (Commission 2010b). These covered the development of the system of personal data protection in Ukraine; development of the legislative and institutional framework on migration management (“with the aim of fighting illegal migration, smuggling and trafficking in human beings, with the support of the EU”); practical implementation of the international obligations toward refugees; pursuance of the visa dialogue; further implementation of visa facilitation and readmission agreements; as well as the ongoing demarcation of Ukraine’s borders and the development and implementation of integrated border management system in Ukraine. During 2010, in order to speed up the process of visa-free dialogue with the EU, the Ukrainian government passed a number of bills to satisfy the EU’s requirements. These included the law on the protection of personal data (approved 2010), on the concept of integrated border management (October 2010), and a new law on additional international protection status for asylum seekers (2011). The President’s Conception of the state migration policy of Ukraine failed to be approved in the parliament in 2010, however. On the eve of the EU-Ukraine Summit in November 2010, the Ukrainian government approved a list of measures in line with the implementation of the Comprehensive Institution Building (CIB) initiative of the Eastern Partnership, with migration being one of the three spheres prioritized (state assistance and sanitary measures the other two). Therefore, since the EU-Ukraine Association agenda was signed in 2009, a number of legislative and policy changes

have been already introduced in Ukraine to comply with the EU requirements for the visa-free regime. In the next section, I review the ones that are applicable to the migration policy of Ukraine that were introduced after November 2010 but before January 2012.

5.3.4. Incentivized Reforms

In the EU-Ukraine Action Plan on Visa Liberalization, a number of questions have to do with migration. First of all, there is a section on document security, including biometrics and a section on illegal immigration, including readmission (this contains subsection on border management, migration management, and asylum policy). A section on public order and security contains a sub-section on organized crime, terrorism and corruption, which covers issues related to human trafficking and personal data protection. Finally, a section on external relations and fundamental rights covers the requirements with regard to freedom of movement within Ukraine, conditions and procedures for issuing identity documents, and citizens' rights (including protection of minorities). Thus far, there are two important developments with regard to migration management that were introduced under the incentive of visa liberalization with the EU – specifically, the conceptualization of the migration policy and the creation of an institution in charge of migration.

After many years of institutional restructuring and failed reorganizations of 2008-2010, in April 2011 the Ukrainian President by his decree created the State Migration Service of Ukraine within the structure of Ministry of Internal Affairs. Creating one institution of a civil nature to regulate migration had been the EU's requirement since the first JHA Action Plan (2001). Despite the continuous EU pressure to create one agency in charge of migration in Ukraine (with this requirement also mentioned in the NATO and the Council of Europe co-operation

documents), the internal political situation was not favourable for the creation of one institution, due to conceptual differences and inter-agency “turf wars” over funding, property, and personnel distribution. Whether the created institution will be successful and will have the competences to be effective, is too early to assess. For its operational part, the President created a special migration police force and charged the Service with the development and implementation of migration policy (both emigration and immigration), citizenship, and documentation, as well as the registration of citizens and foreigners.

Another break-through in Ukraine that seemed to be facilitated by the Action Plan is the decree by the President “The Concept of state migration policy” of May 2011 (President of Ukraine 2011). Although the Constitution of Ukraine stipulates that migration policy must be determined by law, the decree denotes a new stage in the formation of migration policy in Ukraine. Among the phenomena that are listed as “threatening” to the national security of the country, are illegal migration, the worsening demographic situation, and brain-drain of scientists, professionals, and qualified workers. The Presidential decree explains the necessity of improving the state regulation of migration processes by such political and social-economic factors as:

- 1) integration of Ukraine into the international labour market;
- 2) decrease of the population of Ukraine;
- 3) recruitment of labour through “active immigration policy of foreign states,” and;
- 4) discrepancy between the laws of Ukraine and current migration realities (Ibid.)

The Concept, for the first time, formally outlines strategic directions for the migration policy of Ukraine that include, among other listed topics, issues of internal and external labour migration of Ukrainian nationals, the introduction of additional and temporary mechanisms of humanitarian protection of asylum seekers, countering of the “manifestations” of racism,

xenophobia and religious intolerance,⁸³ development of positive and tolerant treatment of immigrants among the population, enhancement of social and juridical protection of citizens of Ukraine working abroad, and the “creation of the favourable conditions and mechanisms for return of Ukrainian nationals, that permanently live abroad, with the aim to reduce emigration flows” (President of Ukraine 2011, 2). The mentioned measures reflect the possible opening up of migration policy formulation in Ukraine beyond countering “illegal” migration that became the most salient feature of migration policy-making in the 1990s and 2000s.

It should be noted that migration accents in the EU’s Visa Liberalisation Action Plan have been positively assessed by Ukrainian migration experts. Thus, Malynovska (2011) considers the visa dialogue to have had a positive effect on migration policy-making in Ukraine since the Action Plan reflects the institutional and legislative problems in migration policy that have been neglected by politicians for quite some time. In particular, she emphasizes the novelty for the Ukrainian legislation of the requirements to reintegrate nationals who return, to introduce measures to monitor migration flows, and to improve the refugee legislation, as well as the importance of the introduction of an effective institutional structure for migration flows regulation. Although the Action Plan does not contain any new measures that were not mentioned earlier in the EU-Ukraine JLS co-operation agenda, it emphasizes questions that, according to Malynovska (2011), are in the interests of Ukraine. Following the EU norms and standards should be positive for Ukraine as it is meant to increase the efficiency of state institutions.

As the EU requirements force the Ukrainian authorities to modernize their system of personal identification, documentation and registration of citizens and foreigners, the loudest

⁸³ Though in the softly formulated language of “countering the manifestation of racism,” which has been a point of criticism of the Ukrainian official position that does not recognize the presence of racism and immigrant intolerance and instead only admits to some “manifestations” of these phenomena in Ukraine.

critical voices are those that criticize the government's inactivity and inability to introduce the measures required by the EU. In terms of the policy discussion, the criticism can be made that the EU's requirements on migration empower the voices of those who speak in favour of more restrictive, control-oriented migration policy in Ukraine.

Conclusions

In its relations with the European Union, the government of Ukraine bargained for facilitated travel for its citizens and used its record on "transit" "irregular" migration as evidence of its contribution to European migration management. Facing the EU's pressure to increase external controls, the Ukrainian government has been willing to prevent "risky" foreigners from entering its territory by introducing stricter migration controls in its consulates, at the borders, and within its territory. With the EU's assistance, the government has been developing a database (called "Arkan") to record foreigners' entry into its territory. This database is compatible with the EU's Schengen-related databases and can potentially be merged (Interviewee 9, in Kyiv, May 2008), if Ukraine is ever to become a member of the Schengen space.

Governments of "transit" countries have both internal and external audiences for whom their speech acts are directed. One can also argue that, in Ukraine, the securitized discourse about immigration has both internal and external roots. On the one hand, activation of the argument about Ukraine being only a transit country for immigration and a country that would be turned into an "accumulation place" for unwanted EU migrants allowed the government to press the EU for larger technical and financial support of efforts directed at tackling the problem of illegal immigration. Such a position arguably emerged under the pressure from the European Union –

and, to an extent, from the USA and individual European countries, especially as far as control of borders is concerned – to siphon potential security “threats” and ensure proper controls.

On the other hand, domestically, the securitization of immigration has played its role in shifting or, rather, organizing, the priorities of the government. Securitization of immigration and the tendency to equate immigrants with “illegal,” “transit” migrants who mainly attempt to use Ukraine as a transit territory on their way to the EU, have negatively affected the public’s understanding of immigration and enabled governing immigration and overall population through security. While law-enforcement bodies have been vocal about their “fight” against illegal immigration and have increased their powers institutionally, there has been little attention to other dimensions of migration phenomena at the state level. The most neglected issue seems to be humanitarian migration, despite Ukraine’s commitments to be part of the international refugee regime. The State Committee in charge of refugees has been restructured a few times since its creation in the early 1990s. It has continuously faced budgetary constraints jeopardizing its effectiveness in the processing of asylum claims and/or creation of integration programmes for refugees (Interviewee 20, in Kyiv, May 2008). Although labour migration has become prioritized since early 2000s and the authorities have been vocal about the importance of protection of citizens working abroad, less attention has been given to the rights of labour migrants present *within* Ukraine.⁸⁴

⁸⁴ It should be acknowledged that, prior to the financial crisis of 2008, Ukraine started to face labour shortages, causing migration and industry officials, migration scholars and businesses to raise the profile of discussions about the need of the Ukrainian economy to attract foreign labour (see Nadruga 2011). Also, in response to racist and xenophobic incidents in Ukraine in 2005-2008, some attempts were made at the state level to address the growing problem of anti-immigrant sentiments and ethnic- and race-based crimes against foreigners in Ukraine. In particular, an inter-institutional Committee in charge of promoting pro-immigrant views and addressing the needs of immigrants was created. Some media sources (e.g., *Korrespondent* and *Novynar*) published a series of publications that showcased the contributions of immigrants to Ukrainian *economic* development since 1991 (see Novynar 2008; Smirnov 2006a; Smirnov 2006b; Solomko 2006; Borisova 2006). The Council of Europe’s Commission Against Racism and Intolerance (ECRI) still reports little improvement regarding the state’s actions against xenophobia and racial and ethnic intolerance and discrimination in Ukraine (see ECRI 2012).

Evidently, it is not appropriate to consider Ukraine a ‘blank page’ on which the EU discourse on immigration (hardly homogeneous but, nevertheless, heavily influenced by populist anti-immigrant rhetoric) is easily written. As was mentioned by Malynovs’ka (in Kyiv, May 2008), the country has a history of anti-migrant state policies and public sentiments reaching back to the Soviet times which have arguably been reinforced by the securitized and xenophobic treatment of the new international migration towards and through the now independent Ukraine. Nonetheless, one could argue that EU practices and policies set models for other countries to follow, especially if their foreign policy orientation is to belong, even if partially, to the EU space.

This case study shows that, even if a European country lacks EU membership perspective but has a membership aspiration, it has a strong incentive to adapt its domestic laws to EU norms and pressures. The adaptation, as well as overall foreign policy position towards the EU, is shaped by the country’s interpretation of other European countries’ paths to candidate status and membership in the EU. In addition, such adaptation is internally justified by the EU membership orientation. Ukraine has been susceptible to migration policy developments in the EU: “European” solutions that allow domestic policy actors to solve the existing problem find fruitful grounds and are followed in Ukraine. As was similarly argued in the case of Moldova, Brussels’ incentives notwithstanding, Europeanization depends on the willingness of the governing elite to adopt the EU’s language and implement “westernizing” reforms (Schmidtke and Chira-Pascanut 2011). As Schmidtke and Chira-Pascanut convincingly point out, in a contested common neighbourhood of the EU and Russia, the split loyalties of the EaP countries – between the EU/west and Russia/east – can play a decisive role in whether the “westernisation”/Europeanization process becomes stalled.

Whereas the EU co-operates with non-EU countries to prevent irregular immigration into its territory, Ukraine undertakes reforms in justice and home affairs in line with the EU's norms and practices in order to counteract the exclusionary practices of the EU's internal security policy and instead locate itself within the *common space* of freedom, security and justice. This desire can be observed in the negotiations between Ukraine and the EU on visa facilitation and liberalization, in Ukraine's voluntary adaptation to the Schengen Code, its adoption of the concept of migration control and integrated border management, and in the country's approach to ensuring security of travel of its nationals by tightening controls on the movement of foreigners. Some of the policy, administrative, and procedural changes that were adopted by the Ukrainian authorities have to do with the regulation of the country's nationals (e.g., proper crossing of the national border and security of identity documents). Nevertheless, the majority of the changes have aimed to regulate foreigners' entry, exit and presence in the territory of Ukraine. We see in Ukraine a case of selective compliance with EU norms and practices that reveals the Europeanization of exclusionary practices. The study of the EU's treatment of foreigners is incomplete if we do not take into account how it is transposed to third countries.

The European Union has placed emphasis on shaping laws and institutions in the area of migration and border management in Ukraine according to European practices and norms. The EU's financial assistance – either directly to the state or through various projects implemented by intergovernmental or non-governmental organizations – creates additional pressure to undertake reforms, especially if the assistance is conditional. Moreover, the EU's assistance may also facilitate adaptation to European norms and practices if the authorities receive financial assistance from the EU for the activities and measures that are being underfunded from the state budget, either due to a lack of state resources or simply because of not being a priority for the

state. In that regard, arguably, some of the policy developments in Ukraine, with the readmission adaptation being the most obvious one, would have not been properly funded without the EU's assistance.

Reforms of the border agency are an instructive example. The Ukrainian government had been interested in instituting its borders and enhancing control over its territory and borders, in order to stop illegal traffic through its territory. Whether there was pressure from the EU is less important because ultimately an internal demand for stricter border controls exists. The EU and other western partners simply became facilitators that – through their technical and financial assistance – create greater capacities in the country. Besides having more control over borders and illegal movement through them, Ukraine was interested in being behind the Schengen wall. In particular, the Ukrainian border guards gradually undertook internal reforms because the leadership of the agency was motivated to see the agency as a modernized European one, on par with other border agencies in Europe (Interviewee 16 and 17, in Kyiv, June 2008; V. Chumak, in Kyiv, May 2008). Thus, to some extent, this was an internally motivated reform process, with the financial assistance from the west, as well as with transfer of rules, knowledge and personnel training that have been adapted from the European border guards training schools. The State Border Administration has undertaken modernization of border guard services, border infrastructure, equipment, and techniques. What emerges as a result is what William Walters calls “zones” of security – regionalization of policing, with the world divided into zones where similar practices, technologies, and rules exist. Ukrainian border services administration is an example of incentivized and directed but voluntary transformation that allows the country and its border service to claim belonging to a certain zone with similar practices and rules.

On the other hand, the adaptation of migration policy has been less motivated and voluntary on part of Ukrainian authorities than has been the case with border management policy. Despite the practical assistance to Ukraine through various projects aimed at improving the country's capacity to regulate migration flows, the EU was less successful in making migration policy-making a priority in the reform process. Moreover, it took the EU to make institutional and legislative reforms conditional on something that Ukrainian politicians deemed important and wanted from the EU in order to facilitate meaningful migration reforms in Ukraine. With the exception of optimistic and active migration policy-making in the 1990s (when no rules and norms existed to regulate the movement of both nationals and foreigners) and migration policy-making on irregular immigration, the rest of the changes in migration law and policy in Ukraine were to a certain extent voluntary but also forced (for example, by the perception of negative externalities of European integration and enlargement) or strongly shaped by Ukraine's desire for the elimination of visa requirements for its citizens. As the capacity of the state authorities to control the inflow of foreigners into the territory of Ukraine increased in the early 2000s, migration management stopped being of interest and of priority to the government of Ukraine. Although during the period between 2003 and 2008, anti-immigrant sentiment and anti-immigrant populism increased in the country, actual policy development was stalled during that time, with only some punctual measures to enhance controls over foreigners introduced in the operations of the law enforcement authorities. However, the "policy conditionality" of visa liberalization started a new stage in the facilitation of a reform process in Ukraine with regard to migration. The ENP and EaP emphasized the institutional and legislative development of migration policy in the country. Motivated by a possibility of lifting visa

requirements to its citizens, the government has been creating the appearance of action and proactive adjustment to the European demands.

The more restrictive migration control regime of the EU has been used as a template for the policy in Ukraine when it comes to foreigners. Yet, the record of introducing reforms that would increase the state's control over its *own* population – through such measures as proper documentation and databases that register both Ukrainian citizens and foreigners present in the country – has been slow. Reforms of migration regulations towards nationals are less in agreement with European pressures and are more caught up in domestic politics.

CHAPTER 6. THE EU AND THE RUSSIAN FEDERATION: NEGOTIATING CITIZENS' MOBILITY IN TIMES OF (IN)SECURITY

Introduction

This chapter examines “migration” relations between the EU and Russia. It covers the interrelated questions of irregular migration co-operation and the freedom of travel between these two entities. Under what conditions does Russia co-operate with the EU on migration and what is the scope of this co-operation? Thus far, with the small exception (see Potemkina 2002, 2004, 2005, 2010; Hernández i Sagrera 2010), Russia has not been taken on as a case for analysis of the EU’s migration externalization strategy. I examine how the country in the EU neighbourhood that has challenged the European Union to be viewed as an equal partner with the EU, conducts its foreign policy toward the EU, and whether – and why or why not – it has been introducing internal reforms in line with the EU’s policy of control and prevention of irregular migration.

Russia seems to have an ambiguous place in the EU’s migration regime. In the European Commission’s “Communication on Strengthening the Global Approach to Migration” (2008), Russia is not even mentioned. In contrast, in its 2007 “Communication on the Extension of the Global Approach to Migration to the Eastern and South-Eastern Neighbours of the Union,” a separate section was dedicated to Russia and its place in the international migratory routes used by irregular migrants to enter the EU (see Commission 2007b). In 2011, EUROPOL still reported that Russia was one of the major transit routes for migrants entering the EU illegally (EUROPOL 2011). Russians are among the top ten nationals whose entry into the EU is being denied at the borders (FRONTEX 2011). Hence, practically, Russia continues to be perceived as a country of origin and of transit of irregular migrants into the European Union and hence should be studied as one of the countries towards which the EU’s externalization strategy is directed.

Moreover, considering that Russia and the EU have a declared goal to facilitate the mobility of their citizens as an integrating factor in their relations and that the EU collectively attaches great importance to questions of the security of travel, how visa relations between the EU and Russia have developed should also be accounted for.

Notwithstanding Russia's claims about its sovereign right to determine its internal policies and conduct its domestic politics, it is clear that there has been an adaptation of the Russian migration regime to the EU's migration control practices in the name of national interest. The latter are linked to the possibility of facilitated or liberalized travel for Russian citizens to which conditions are attached by the EU if Russian citizens are to enjoy the visa-free travel in Europe. The adaptation on Russia's part is both EU-induced and voluntary (or frequently presented as such by the Russian government), and it includes the incorporation of both *EU norms* and *international norms* on migration and mobility regulation. Thus, the EU and Russia have converged their migration control norms, despite the politically charged rhetoric of their incompatibility as two powers on the European continent. Notwithstanding its sometimes hostile rhetoric, Russia undertakes reforms that meet its interests in fostering co-operation with the EU, as well as in addressing domestic problems related to migration regulation. Although policy adaptations take place due to the incentive of liberalized visa regime for Russian citizens, in its official stances in negotiations, Russia seeks to break the EU's pattern of "policy conditionality" that has been applied to the Western Balkan and Eastern European countries. As a result, Russia poses more challenges to the EU's foreign policy and unanimity among its MSs than any other third country because it continuously insists on different modalities of co-operation than the EU has had with any of its neighbours since the end of the Cold War.

Through media and policy analysis, this chapter analyzes EU-Russia co-operation on migration in 1998-2010 against the broad-brush canvass of the internal debate on migration in Russia in 1991-2011 and the wider context of international relations between these two neighbours. One may distinguish two levels in their relations: (1) a high-level political dialogue (that takes places within the Partnership and Co-operation Agreement (PCA) Council and the Justice, Liberty and Security Council, and is accompanied by formal expert co-operation); and (2) a technical or operational level (that takes place at the level of joint monitoring of bilateral agreements, informal exchanges, and practical co-operation between agencies). The research findings illustrate that the JHA area of co-operation between the EU and Russia is a dynamic area that, despite the general rejection of the EU's influence on Russia, shows certain signs of the *Europeanization*, in particular, of Russian migration policy. As is highlighted below, the Russian government has introduced changes into its legislative and institutional structures in the area of migration in line with European and international practices.

The chapter proceeds as follows. First, I trace the formal stages in EU-Russia co-operation on internal security and, specifically, on irregular migration since the 1990s. As the research findings illustrate, despite the broad range of migration challenges in Russia in the 1990s, the initial scope of the EU-Russia migration co-operation was limited to the area of prevention of migration and asylum flows *into* EU territory, reflecting a limited and EU-focused interest. Secondly, I analyze EU-Russia co-operation on irregular migration and the consequent policy adaptations in Russia. The analysis highlights the acute junctures in EU-Russia co-operation on migration that influenced the intensity and quality of their co-operation. Lastly, I focus on the contentious issue of visa relations between Russia and the EU, which, in Prozorov's

(2009) interpretation, can even be called a “conflict,” considering the political significance that Russia has given to the visa question.

6.1 EU-RU Co-operation on Internal Security, 1994-2010: Towards a Common Space of Freedom, Security and Justice?

To the break-up of the Soviet Union and the fall of the Berlin Wall, the European Community responded with a new strategy of what was called four “neighbourhood policies:” “enlargement by admission of new members, association (with the perspective of membership), closer relations without a perspective of membership, and a special relationship with Russia” (Mahncke 2008, 19). The EU thus invented different models of relations for different neighbours, framing them in security terms. Russia, too, with its vast territories and poor government capacities to maintain public order, was viewed as a source of various transnational insecurities, such as organized crime, arms and drug trafficking, industrial waste, etc. With tumultuous years of early post-communist transition and civil and ethnic conflicts in countries such as Georgia, Azerbaijan, and Armenia, and the conflicts within Russia in Caucasus, Russia’s instability was perceived having a negative impact on the international security. In the 1990s, Russia became a destination point both for ethnic Russians and non-Russian asylum-seekers some of whom were believed to have travelled further west.

In 1994, the EU and Russia initiated their bilateral relations by signing the EU-Russia Partnership and Co-operation Agreement (PCA). The agreement set the legal basis and the objectives of EU-Russia relations and established the institutional framework for bilateral contacts in a number of policy areas, with the goal of promoting international peace and security and providing support for democracy and free market reforms in Russia.

The PCA (1994) contained three articles that showed the EU's interest in cooperating with Russia on matters of internal security. Two articles - Article 81 (Money Laundering) and Article 82 (Drugs) – were listed under the Title VII “Economic co-operation,” while a readmission clause was inserted into Article 84 with a title of its own – Title VIII “Co-operation on Prevention of Illegal Activities” (Official Journal 1997, L327, 26). Reflecting the interests of EU MSs, Article 84 listed a number of illegal activities that the EU and Russia were to address through co-operation. Among them, there was “illegal immigration and illegal presence of physical persons of their nationality on their respective territories, taking into account the principle and practice of readmission” (Ibid., 26).⁸⁵ The PCA contained the language of co-operation based “on mutual consultations and close interactions” and listed what kind of assistance the EU was willing to provide to Russia to address various illegal activities. Among them, one finds the “drafting of national legislation in the sphere of preventing illegal activities, creation of information centres,” improvement in the efficiency of relevant institutions, training of personnel, and development of research infrastructures (Ibid., 26). Through the TACIS funding, the EU provided Russians with financial and technical assistance, as well as expert advice in drafting migration laws and improving the efficiency of the institutions in charge of migration regulation.

Although the interest to co-operate with Russians on organized crime was first expressed by the Amsterdam Council in 1997, a more comprehensive position towards co-operation emerged in 1999 when member states ratified the EU's *Common Strategy on Russia* (1999). The text included a reference to the EU's and Russia's fight against “common scourges” such as

⁸⁵ A full list of activities dubbed “illegal” included: “illegal immigration and illegal presence of physical persons of their nationality on their respective territories, taking into account the principle and practice of readmission, illegal activities in the sphere of economics, including corruption, illegal transactions of various goods, including industrial waste, counterfeiting, the illicit traffic of narcotic drugs and psychotropic substances” (Official Journal 1997, L327).

organized crime, money-laundering, trafficking in human beings, drug trafficking, and illegal immigration (Council 1999g). The Strategy listed the measures that Russia was expected to implement as part of its commitment to stop irregular migration flows into the EU. These included: 1) harmonization of visa policies; 2) conclusion of a readmission agreement; 3) an enhancement of the security of national documents in order to prevent fraudulent activities; 4) changes to the institutional set-up of the migration system in Russia to increase the state's capacity to manage population flows; and, 5) opening up of border co-operation in order to reduce threats of a transboundary nature. EU MSs also called on Russia to harmonize its visa policy "through the introduction of visa requirements in accordance with the EC provisions and introduction of travel documents which are sufficiently fake-proof" (Council 1999c).

Harmonization of visa policies was to serve as a preventative measure against illegal immigration, both into Russia and transit migration through Russia. Therefore, the Russian government was expected to undertake a list of internal reforms to comply with the European norms.

Initially, migration discussions between the EU and Russian officials were embedded into the political and institutional framework of their co-operation against trans-border organized crime and were mainly initiated by the EU's interest in preventing irregular migration from Russia. Their first interactions on migration had an exploratory nature, allowing both the EU and Russia to better understand each other's migratory challenges.⁸⁶ While Europeans were interested in the increased capacity of the Russian government to regulate migration flows through its territory, for Russians, the major concern was population displacement, an inflow of

⁸⁶ In July 1999, the Finish Presidency organized an EU-Russia seminar on migration in Lappeenranta in order to promote co-operation between the EU and Russia in migration issues. Besides exploring the current situation and future prospects for migration co-operation, the seminar "aimed to give the participants an idea of the migration situation in Russia and of the pressure generated by illegal migration from the territory of Russia to the territory of the EU" (Council 1999h). Participants also observed how border control agencies co-operated in practice.

migrants and asylum seekers from ex-Soviet republics, and irregular labour migration *into* Russia.

In its 10-year *Strategy for Co-operation with the European Union for 2000-2010* (President 1999), the Russian Federation recognized the importance of co-operation with the EU in the area of law enforcement and of establishing operative contacts with EU bodies in charge of transnational organized crime. From the EU side, the *European Union Action Plan on Common Action for the Russian Federation on Combating Organized Crime* (2000) also recognized the importance and necessity of EU-Russia co-operation in the area of justice and home affairs. The Action Plan was accepted by both sides as a legitimate foundation to develop their relations. It initiated EU-Russia co-operation at the operational level and arguably helped to turn justice and home affairs (with the exception of judicial matters) into one of the most dynamic areas in their relations. Russian government has been interested in increasing its capacity to deal with security problems and establish a more efficient system of law enforcement institutions. The AP listed financial crime, trafficking in people, drugs, arms and explosives, corruption, stolen property, “illegal immigration,” and environmental crime among the priorities for co-operation.

The EU-Russia Action Plan (2000) had commonalities with the Pre-Accession Pacts on Organized Crime that were concluded by the EU with the candidate countries in May 1998 (Potemkina 2002). However, unlike with the accession countries where political conditionality of EU membership played a role, the EU had little leverage in its relations with Russia. The Plan’s implementation was largely based on the latter’s willingness and interest to co-operate with European counterparts. An extra incentive for tighter co-operation between the EU and Russia presented itself after the September 11, 2001 events. At the October 2001 EU-Russia summit, the two sides declared their intentions to step up co-operation against international terrorism, with

priority placed on increased police co-operation and information exchange (Potemkina 2002, 4-5). In addition, Russia's interest in securing visa-free travel for its citizens became an incentive for domestic reforms. The prominence of visa relations significantly increased with the eastern enlargement of the European Union. It was the search for solutions on transit travel for residents of Russia's Kaliningrad Oblast' (KO) that engendered a closer justice and home affairs co-operation between the EU and Russia. The visa relations are discussed in Section 6.3.

At the eve of the 2004 EU enlargement, Russian president Putin advocated the strategic relationship with the EU and called for a new framework of co-operation (Antonenko and Pinnick 2005). At the 2003 EU-Russia Summit in St. Petersburg, the two sides agreed to step up their co-operation in separate policy sectors using the concept of "common spaces." These included the Common Economic Space, the Common Space of Freedom, Security, and Justice (CSFSJ), the Common Space of External Security, and the Common Space on Research, Education and Culture. In 2005, the EU and Russia approved so called "Road Maps" which include a list of mutually agreed priorities and activities designed to implement the common spaces (Council 2005d). Common spaces target regulatory approximation between the EU and Russia and can be considered examples of incremental integration between Russia and the EU.

As far the CSFSJ is concerned, both in Russian and the EU official discourse it has been represented as a key component in developing a strategic relationship. In agreeing to the CSFSJ, Russians were motivated by the incentive of potential visa-free regime with the European Union, while also acknowledging the role and the importance of their contribution to the European security (Potemkina 2004). The Road Map contains a commitment to balance security, on the one hand, and justice and freedom on the other. It seeks to balance Russia's interest (i.e., lifting of visa requirements for its nationals) with the interest of the EU in prevention of irregular

migration. Thus, the “freedom” in the Road Map is conceptualized as promotion of personal contacts between citizens and the facilitation of travel opportunities, granted the two sides “work together to tackle illegal migration and illegal cross-border activities” (Council 2005d, 24). In the field of security, the parties agreed to co-operate on fighting terrorism and all forms of organized crime and illegal activities. Finally, in the area of justice, Russia and the EU agreed to establish closer judicial co-operation in civil matters, approximate their legislation where possible, and work together to increase the rule of law and legal culture in Russia.

The CSFSJ Road Map reflected Russia’s readiness to finalize the readmission and visa facilitation agreements, enhance co-operation on border management (including border and customs control), co-operate on the reconceptualization of its asylum policy and on improving the security of its identity and travel documents, as well as work with the EU to reduce “illegal migration” and human trafficking through Russian territory. The two parties also agreed to explore possibilities of sharing data and information between law enforcement agencies. As we can see, this list includes the areas that naturally would be perceived as sovereignty-sensitive, such as border co-operation or formulation of internal policies (such as asylum policy or proper identification documents). Clearly, the Russians were motivated by the possibility to establish a visa-free regime of travel for its citizens. Therefore, the implementation of the FSJ Road Map, especially in the portion that has to do with internal security co-operation aimed at establishing conditions for visa-free travel, allows us to theorize these relations in terms of *Europeanization* of the Russian domestic norms and practices (see also Potemkina 2010).

With the launching of the CSFSJ Road map, EU member states and relevant institutions gained an additional platform for internal discussions on how their individual and common relations on internal security co-operation with Russia may proceed. For example, during the

2006 Finish EU Presidency, MSs ratified an “Action-Oriented Paper (AOP) on Implementing with Russia the Common Space of Freedom, Security and Justice” (Council 2006d) aimed at keeping the development of relations with Russia in line with the EU’s ED-JHA Strategy (2005).

Since 2005, the EU and Russia have achieved a number of results in the common space of freedom, security and justice. The ratification of a readmission agreement and of a visa facilitation agreement in 2006 is the most obvious example. Since 2007, the two sides have had a formal Visa Dialogue. In May 2011, the EU and Russia launched a formal Migration Dialogue.

According to the Commission, co-operation with Russia on migration policy and movement of persons is “a matter of growing relevance” (Commission 2007b, 11). In their capacity of major destination points for irregular migrants, Russia and the EU exchange expertise, commonly train border and immigration specialists, and share their best practices and insights about policy decisions and solutions. However, the RF continues to be criticized by the EU for its poor record in asylum processing and in refugee integration (NIP 2004-06) that, according to the Commission, forces humanitarian migrants “move further westwards, often in an irregular manner” (NIP 2004-06). Considering that the development of the refugee regime during the Cold War was a western political response to the exigencies of the communist regimes, Russia’s resistance to implementing its international obligations with regard to refugees might be better understood, especially taking into account the importance for Russia of participating in the international norm making.

Thus far, I reviewed the formal side of political and sectoral co-operation between the EU and Russia. To answer the question of under what conditions and with what consequences for Russia migration co-operation between them takes place, I now turn to the analysis of their relations on irregular migration and visas.

6.2. EU-Russia Co-operation on Irregular Migration

The former fear of the Europeans that massive Soviet tank columns may one day reach the English Channel, has given way to a new fear: that a similar maneuver will be carried out by crowds of illegal migrants fleeing from Russia. This unfounded fear goes against obvious facts, against statistics which demonstrate that the main flow of illegal migrants to Europe arrive not from the eastern regions, but from the south. In any case, they are certainly not arriving from Kaliningrad (Chizhov 2003).

Concerned with irregular migration flows arriving from Russia, the EU emphasized the conclusion of a readmission agreement, harmonization of Russia's visa policy with the EU's visa policy, strengthening of border controls, addressing irregular migration, preventing border crossing into the EU territory, and increasing the security of Russian identity documents. As the Russian government was concerned with its internal situation with irregular migration, it was less concerned with transit flows that were not destined to Russia. Russia blamed other countries for not accepting migrants, thereby causing the accumulation of "transit" migrants on its territory. Under such circumstances, harmonizing visa policy or increasing border controls was less controversial than implementing the readmission clause of the PCA.

Russia – together with Morocco, Pakistan and Sri Lanka – was on the list of the first four countries for which, in September 2000, the Council authorized the Commission to negotiate an EU-wide readmission agreement. Although the PCA contained a readmission clause, the EU had no instruments to make the Russian government comply with it. Similarly, EU MSs had difficulties in getting Russia to negotiate bilateral readmission agreements with them. Russia was known – and still is – as a tough negotiator (Interviewee 28, in Brussels, July 2008). Member states' representatives selected the first four countries on the basis of the following factors: the appropriateness of concluding the readmission agreement; the recommendations of the High-

Level Working Group on Asylum and Migration (HLWG); MSs' challenges with bilateral negotiations; recommendations in the existing foreign policy instruments (i.e., the Common Strategy on Russia and the Common Strategy on Ukraine); the level of practical co-operation; and the existence of broader political relations (Coleman 2009, 141). Russia was included as a main source and transit country of immigration into several EU MSs, and because of its toughness in individual negotiations with MSs (Coleman 2009, 141).

Nevertheless, the Commission was unable to start negotiations with Russia at the time; Russia was not willing to accept the readmission obligations under the circumstances when it faced transit migratory flows from Africa, the Middle East and Asia, and had yet to establish migration controls, decrease the porosity of its borders with south-eastern neighbours, and increase the regulation of migratory flows from these countries. Nevertheless, the negotiations on the Kaliningrad transit arrangements and the formal launch of the Visa Dialogue are two important junctures in EU-Russia co-operation that facilitated Russia's willingness for closer co-operation on irregular migration and spurred the domestic policy adaptation to EU-encouraged migration regulation policies. There were two major discursive changes in the Russian official rhetoric on readmission and overall irregular migration co-operation with the EU. Whereas in the 1990s Russia interpreted the EU's pressure to readmit Russian citizens and transit migrants in terms of burden of migration control being transferred to it from the EU, in the context of negotiating a simplified regime of travel for KO residents, the government started to represent an EU-wide readmission agreement as Russia's policy choice. In the government rhetoric, taking on readmission obligations was the choice of a country that wanted to contribute to addressing the problem of unregulated migration internationally. In addition, the Russian government continuously reiterated the link between readmission co-operation and the potential visa-free

movement for its citizens within the Schengen zone. The latter turned into an internal foreign policy priority, making the relevant policy reforms in accordance with the EU and the Schengen norms more acceptable. I illustrate these claims below.

6.2.1. Irregular Immigration and Kaliningrad Transit

The EU-Russia negotiations on the Kaliningrad transit provide a good example of the EU's real and perceived concerns with irregular migration from neighbouring countries and their effects on the EU's external relations. As a result of Lithuania's accession to the EU, Kaliningrad oblast' (KO), a part of Russian territory, was to be surrounded by the territory of the Schengen countries and completely cut off from the rest of Russia. Visa requirements would apply to Kaliningrad residents en route to Russia. The negotiations became an instance when a third-country's request for a simplified regime of short-term travel (for Russians from Kaliningrad oblast') came to be linked to and conditional upon signing a readmission agreement with the EU (i.e., between Russia and Lithuania).

In the 1990s, KO was known as a source of organized crime and of trafficking of illicit goods and people into EU territory. The prominence of the Russian enclave on the EU's foreign policy radar increased significantly with the accession of Scandinavian countries in 1995. The latter pushed for the Northern Dimension in the European Union's foreign policy and placed greater emphasis on improving relations with Russia. Later, once the eastern EU enlargement became a reality, the geographical position of the KO between Poland and Lithuania and in the middle of the EU became a growing concern. In 2001 Chris Patten, at that time the EU Commissioner for External Relations, commented on the importance of the Kaliningrad region for stability and security of the continent and the need to tackle its existing problems:

The region suffers from appalling pollution, for example, and extensive drug and health problems, including a very high incidence of HIV and tuberculosis. It is also a centre of organised crime. Some estimates suggest that more than 50% of Kaliningrad's income now comes from "informal activity" (as it is euphemistically known) (Patten 2001).

The EU accession of Poland and Lithuania also created a list of practical problems for Russia's access to its enclave, such as transport links, trade, border controls, and visas, to name a few.

Therefore, both Russia and the EU were interested in addressing the possible negative effects of enlargement on the region. The EU's interest was largely determined by the desire to control and prevent the spill-over of insecurities from Kaliningrad – a region called “Russia's hell-hole enclave” in the centre of Europe (Patten 2001).

As far as people's movement was concerned, the EU's negotiating position was firmly rooted in the perception of the KO's “illegal immigration” potential. As members of the European Commission stated on the “related questions of transit of people and visa requirements” in EU-Russia co-operation on Kaliningrad:

In essence, our position requires citizens of Russia to have visas attached to a valid travel document when crossing the external borders of the EU Member States. The Russian position, as confirmed at the Moscow Summit, remains that the EU should allow visa-free transit through agreed motorways and railways between Kaliningrad and mainland Russia. Russia argues that visa requirements for travel between different parts of the territory of the Russian Federation would be an unacceptable violation of the Russian citizens' right to move freely throughout its country's territory. ... We believe that the Moscow Summit has not changed our basic premise: it would be inappropriate to grant exceptions from the basic visa requirement for travel to and from Kaliningrad, *particularly against the background of growing public anxiety in the EU over immigration questions* (Council 2002a, emphasis added).

The EU thus was unwilling to grant visa exceptions to Russian citizens. Moreover, it demanded signing a readmission agreement between Russia and Lithuania as a must condition in EU-Russian negotiations over KO transit. It would formalize a mechanism for return of Russian citizens in case they violated the rules of entry or stay in Lithuania or, for that matter, in other

EU countries by transiting through Lithuania. Notably, no EU country had a readmission agreement with Russia at that time. KO negotiations hence provided an opportunity for the EU to insist upon its internal security conditions in relations with Russia.

The Russian government was willing to sign a “package deal” (i.e., readmission agreement and an agreement on the multiple entry visas) with Lithuania, and it presented this deal as “absolutely required to achieve an agreement due to which the visa regime for travel between Russia and EU countries will be abolished” (Dmitriy Rogozin, quoted in Bonet 2002). Russia agreed to accept the regime of “authorization” that allowed Lithuanian and other EU countries’ authorities to control transit flows between Kaliningrad and the mainland Russia. It viewed this as a temporary solution before the visa-free travel between Russia and the Schengen countries would be introduced (Bonet 2002). According to Rogozin, a member of the Duma Committee on external relations and the President’s Representative in the Kaliningrad negotiations with the EU, “unlike the visa regime, which is single-sided, the regime of authorization is bilateral, and Russia accepts its obligations not to allow the movement of persons that are deemed dangerous from the point of view of criminality or emigration” (Bonet 2002). Thus, Russians shared the logic of regulating mobility by separating the “dangerous” and the “good” flows and agreed to meet the EU’s demands to the security of travel. The latter was viewed through the lens of their bilateral co-operation being based on the principles of reciprocity and equality and presented as their *common* co-operation against the *common* threats, with each party playing its role in addressing them (rather than Russia solely fulfilling the EU’s demands).

In the words of Dmitriy Rogozin, Russia shared the EU’s concerns with “illegal immigration” and agreed to co-operate on illegal immigration from its territory into the EU and

sign readmission agreement in order to solve the conflict around the transit arrangements for KO citizens. Rogozin pointed out: “Both Russia and the EU consider illegal emigration [sic] a common problem. Russia itself is an object of illegal emigration (sic), especially from the territories of our southern neighbours” (Bonet 2002). The politician was also quoted saying: “If Russia and Lithuania sign an agreement on multiple-entry visas, then Russia will take on obligations to control illegal emigration flows into this country” (Bonet 2002).

The EU and Russia announced their agreement on KO in May 2003: the Schengen requirements would not apply to transit between Kaliningrad and Russia and instead special facilitated travel permits were invented. As a concession, Russia agreed to sign a bilateral agreement on readmission with Lithuania and declared its readiness to negotiate an EU-wide readmission agreement, whereas the EU offered to liberalize its visa regime in “a long-term perspective.” In the meantime, the EU agreed to make an exception to KO residents and grant them facilitated travel permits (two types). A facilitated travel document (FTD) was established for non-railway travel, and a facilitated railway travel document (FRTD) was introduced for transit by train. The Commission monitored how these facilitated travel permits functioned. In its 2006 report, the Commission noted that facilitated arrangements for Russian citizens had been operating without problem for Europeans. It mentioned: “The FTD/FRTD system seems also to fulfil the requirements of the Schengen *acquis* as no illegal immigration under this scheme has been noted” (Commission 2006e).

Since the EU countries did not experience an inflow of “illegal migrants” from KO since the facilitated travel was introduced, recently Poland, Lithuania, the European Commission, and Russia were able to argue for a simplification of the transit procedures for Kaliningrad residents, in particular, by making the so called EU’s “Local Border Traffic Regulation” apply to the whole

KO. The EU approved this Regulation in 2006 under the pressure of the new CEEC members who wanted to preserve their foreign relations with non-EU neighbours. In “the interest of the enlarged Community,” one of the principles of the adopted Regulation was pronounced as “to ensure that the borders with its neighbours are not a barrier to trade, social and cultural interchange or regional co-operation. An efficient system for local border traffic should consequently be developed” (Regulation (EC) No 1931/2006). The Regulation allowed bordering EU countries to negotiate bilateral agreements with their non-EU neighbours for facilitated travel, trade, and cultural exchange opportunities within a 30/50-km zone on both sides of the border. Unlike other neighbouring countries, as of May 2012, Russia had not had a single bilateral agreement on local border traffic with its EU neighbours.⁸⁷ In July 2011, the Commission’s Directorate-General for Home Affairs proposed EU MSs to pronounce the whole KO and territorially equivalent area on the Polish side as a “border zone.” This would allow residents on both sides to enjoy visa-free short-term travel in the border area. In its justification of such exception for the KO, the Commission mentioned: “the local border traffic regime makes life significantly easier for people living near the external land borders, while at the same time there is little evidence that the regime is being abused” (Commission 2011c, 2). Considering the geographical position of the oblast, the Commission sees it justifiable to extend the local border traffic regime to the KO: “In order to avoid Kaliningrad's isolation from its immediate neighbours, there is a need to facilitate travel for its inhabitants” (Commission 2011c, 2). To ensure the security of the whole Schengen area, all conditions of the Regulation will apply to Russia’s case; as well, the local border traffic permits will contain all necessary security features. Also, Poland committed to apply *proportionate* and *adequate* penalties, including the possibility

⁸⁷ In November 2010, Russia signed an agreement on the local border traffic regime with Norway, which is not a member of the EU but it is a party to the Schengen Agreement.

to cancel and revoke the issued local border permits. It also committed to “launch targeted information campaigns and to mark clearly the local border traffic area” (Commission 2011c, 3).

The Commission considers that such a proposal will contribute “to further promoting the strategic partnership between the EU and the Russian Federation, in line with the priorities set out in the Roadmap of the Common Space on Freedom, Security and Justice regarding cross-border co-operation and shall be considered in the context of the overall EU - Russian Federation relationship” (Commission 2011c, 3). Whether such an extension happens and under what conditions will be interesting to observe.

6.2.2. Negotiation of the EU-wide Readmission Agreement

The EU and Russia started their formal readmission negotiations in January 2003. Initially, the RF viewed this agreement to be purely in the EU’s interest. Because of that, it demanded a *quid-pro-quo* exchange for its co-operation on irregular migration flows in Europe. These demands covered the following aspects: 1) parallel negotiations of a visa-free regime; 2) adequate time for Russia to prepare its legislation and administrative and institutional capacities to readmit third-country nationals in accordance with the readmission mechanism; 3) EU assistance with the negotiation of readmission agreements with its neighbours; 4) EU assistance with the preparation to receive third country nationals; and 5) assistance with securing Russia’s southern border.

Russia strictly linked readmission negotiations with visa-freedom negotiations and rejected the Union’s attempt to place this topic into the political dialogue within the existing PCA structures (GAERC 2002). Rather, it insisted on parallel negotiations on readmission and visas. In October 2003, the Commission agreed to conduct ad hoc discussions on visas, with the negotiating mandate on visa facilitation from the Council to follow only in July 2004. Starting in

October 2004, Brussels and Moscow conducted “back-to-back” negotiations on the readmission and visa facilitation agreements. Notably, the “package deal” and the final texts were approved by a high level delegation of the European Commission, led by Vice-President Franco Frattini and by a Russian delegation led by Presidential aide Victor Ivanov. In October 2005, the European Community and Russia initialed both agreements, with the formal signing in May 2006. While the visa facilitation agreement simplifies the process of getting short-term Schengen visas for Russian citizens, the readmission agreement outlines the conditions and procedures for the return of Russian citizens and third-country nationals who had no authorization to enter or stay in any EU member state. Both agreements entered into force on 1 June 2007.

As a result of the negotiations, Russian diplomats succeeded in postponing the readmission of third country nationals by three years in order to prepare institutionally and legally for their now international obligations. Another contentious issue between Brussels and Moscow was time limits for return and for the handling of readmission applications. To allow individual MSs certain flexibility in negotiating specific bilateral timeframes for the processing of the readmission applications, the Commission agreed with Russia that the latter will conclude bilateral implementing protocols with each member state (Commission 2006c, 4). This clause was “a last-minute compromise in order to satisfy those Member States whose maximum detention period under their national immigration laws is equal or inferior to 60 calendar days” (Commission 2006c, 4). As of 1 January 2011, thirteen countries (Spain, Portugal, France, Finland, Slovakia, Belgium, Latvia, Italy, Austria, the Netherlands, Malta, Cyprus, and Luxembourg) concluded the implementing protocols with Russia. Denmark, Norway, Iceland and Switzerland concluded their own readmission agreements with Russia in accordance with the EU-wide agreement.

What is the significance of these negotiations and why did Russia accept the obligations to readmit third country nationals transiting through its territory? First of all, despite the Community's practice of separating migration and other external relations dimensions in its attempts to involve third countries into the inter-state regulations of irregular migration flows through the readmission mechanism (Coleman 2009), Russia firmly brought a foreign policy dimension into the negotiations with the European Union. Arguably, considering the policing emphasis in migration regulation that had become dominant in Russia in the early 2000s, the internal affairs officials were interested in concluding readmission agreement with the EU as a preventative measure to curb down transit migration flows through Russia. Nevertheless, the Russian diplomats linked the negotiations to overall foreign relations between the EU and Russia and sought to exert strategic political concessions (i.e., visa-free regime for Russian citizens) that went beyond home affairs interest. Such linking initially happened during the negotiations over the Kaliningrad transit arrangement and extended into further negotiations on irregular migration co-operation between Russia and the EU. In Russian official rhetoric, co-operation on Kaliningrad transit became a litmus test for overall EU-Russia relations. As visa requirements for Russians remain intact, for Russians, the EU's visa policy has been an example of hypocrisy and double standards on part of the European Union.

Secondly, despite the tensions between Russia and the EU during the negotiations, the EU reached the objectives of its common readmission policy with Russia. The EU received a mechanism for return of unauthorized migrants to the neighbouring country that was viewed as a significant "transit" country. Having accepted readmission obligations, Russia has improved its migration controls and built out its reception capacities. Finally, Russia accepted the readmission principle as an important part of its own external relations, as well as firmly rooted migration

into its external relations with third countries.⁸⁸ The EU's approach of promoting regional mechanisms for preventing uncontrolled migration flows has resulted in third countries such as Russia and its other "transit" neighbouring countries, seeking to adopt the readmission principle into their foreign policies and to conclude readmission agreements among themselves and with other countries of origin.

Evidently, the change in Russia's position on readmission co-operation with the EU became possible due to the list of internal reforms and changes that made it acceptable for Russia to see the readmission mechanism as favourable for its own policy. The 2003 Conception on migration management by the Russian government included a list of four main actions in the foreign policy of Russia, accomplishment of which, in the government's understanding, would lead to the realization of Russian migration policy's objectives. One of them was "conclusion of international agreements on return, reception and transit of persons present illegally on the territories of contracting parties (readmission agreement), on the fight against illegal immigration, encouragement of bilateral and regional dialogues on migration regulations, cross-border trade, tourism, cultural, sport and other exchanges" (Government 2003, my translation).⁸⁹

During the EU-Russia negotiations over the EU-wide readmission agreement, one could observe a reframing of the readmission debate internally in Russia. Rather than being pressed into responsibilities for transit migration that Russia did not want to have, incorporating the readmission principle into the internal legislation came to be understood as a civilizational choice and a "modernization" strategy for Russia's own immigration system and its fight against

⁸⁸ I should acknowledge that Russia placed migration issues into its relations with the CIS countries prior to launching its migration co-operation with the EU. Nevertheless, this principle did not apply to non-CIS countries. Therefore, it is possible to assume that the Russian migration authorities (FMS) have adopted such an approach considering the European practices of placing migration into the external relations paradigm.

⁸⁹ The other three goals were the following: protection of rights and freedoms of Russian citizens; development and implementation of inter-state mechanisms for providing targeted financial and other assistance to persons seeking temporary asylum in Russia; and development of the co-operation with other countries with the aim to prevent conflicts that cause massive migration flows.

illegal immigration (S. Riazantsev, in Moscow, June 2008). At the beginning of the 2000s, the internal discourse on immigration in Russia changed, with migration policy-making becoming viewed through the prism of national security and social order and security.

Unlike in Ukraine, both the readmission agreement and the visa facilitation agreement were unanimously approved⁹⁰ in the Russian Duma. Andrei Denisov, official representative of the President to the Duma on the ratification of the agreements with the EU, presented the readmission agreement with the EU as “a serious confirmation of Russia’s key role in the international fight against illegal migration.” In his presentation, he proclaimed that the agreement “will become, in our opinion, a weighty argument in favour of concluding similar agreements with dangerous countries from the point of view of migration, as well as will ensure additional preconditions for the dialogue with the European Union on the movement to visa-free regime for citizens to be efficient” (Duma 2007, my translation). A co-reporter in the Parliament, Andrei Klimov, who was a member of the Committee on foreign affairs, called both agreements “historical” as they represented a “real serious step” in the development of the four common spaces with the EU (Duma 2007). He added that the readmission agreement in particular “is a very important document that really cracks illegal migration, that indeed closes doors to various persons who are trying to remain on the territories of our countries with obscure, unclear goals, and which, by the way, will prompt us as the state to be more serious about the protection of our national borders” (Duma 2007, my translation).

One can distinguish two main positions in the Russian public discussion about the effect of the EU-Russia readmission agreement on Russia. Commonly, signing the readmission agreement was interpreted as a “must” condition on a path towards the visa-free regime with the

⁹⁰ The readmission agreement was ratified with 425 votes in favour, with no abstention or “against” votes. Similarly, the visa facilitation agreement was approved with 422 votes, with zero abstention and voting against the ratification.

EU. Some parliamentarians, however, held the view that Russia should have first signed readmission agreements with source countries, improved the security of its southern borders, and increased control over migration flows and criminal groups benefiting from migration within the country before taking on obligations for all illegal flows towards the EU from its territory. MP Vadim Solovjov, a member of the Committee on constitutional law and state building, was quoted as saying that “readmission will only add additional headache for our state” (quoted in Vasiljeva 2008). In contrast, some Russian migration experts supported the readmission agreement with the EU. Valeriy Tishkov, Director of the Institute of Ethnology and Anthropology, considered the agreement to be a formalization of the role that Russia had been playing for the EU: “Russia has always tried to contain flows of illegal migrants into Europe and has served as a settling pond” (quoted in Vasiljeva, 2008, my translation). In his opinion, the task for Russia now was to conclude readmission agreements with countries of origin of migrants. This expert’s position points to what can be called a “chain reaction” to readmission obligations that a country takes on, leading to a chain of readmission zones or regions aimed at blocking irregular migration flows. Since Russia signed the readmission agreement with the EU, it has signed similar agreements with Ukraine, Uzbekistan, Vietnam, and Armenia, as well as launched negotiations with Kirgizstan, Tajikistan, and Moldova. The Russian government is also working on concluding readmission agreements with Sri-Lanka, Pakistan, Libya, China, and Mongolia.

Considering the changing internal framing of the migration problematique in Russia (i.e., illegal immigration becoming a preoccupation for the Russian government in the 2000s), it is not possible to distil a direct and primary “Europe’s” effect on the Russian policy towards irregular migration and its migration regime *per se*. Rather, the increased internal importance of addressing the “problem” and national security “threat” of irregular migration necessitated and

made Russia's interest in more productive relations with the European Union possible. Such a change in domestic politics also helped to rhetorically reiterate the government record of cooperation with the EU on readmission, and of standing for the interests of its nationals in working towards a visa-free regime with the EU.

Substantial changes in Russian legislation and administrative practices happened after the EU-Russia readmission agreement started being implemented. Russia undertook a list of internal policy and institutional reforms in order to receive third country nationals returned from the EU. As per EU requirements, in July 2006 the Russian parliament approved a Law on Personal Data. This law allows the state to process personal data, including the processing of an individual's biometric data without his or her permission to fulfill Russia's readmission obligations. In April 2008, the Russian Duma changed the law that regulates the legal status of third country nationals returned to Russia – or by Russia to a third country – in accordance with international readmission agreements concluded by Russia. In July 2010, further legislative changes were introduced into the law on the legal status of foreign citizens in Russia, after the third-country nationals clause of the readmission agreement with the EU came into force on 1 June 2010. It should be noted that the norms introduced are more permissive for a foreigner who was deported *into Russia*, rather than for a foreigner who was deported *from Russia*. In addition, the law contains a new chapter that gives a detailed description of how and under what conditions transfer and reception of foreign nationals take place in Russia and the conditions and timelines according to which foreign nationals could remain in the reception facilities and on the territory of the RF.

In the Law on the entry and exit from the Russian Federation, a clause was inserted that allows the state an exceptional right to grant entry rights to a foreigner who is being returned to

Russia through the readmission procedure even if he or she has been considered or deemed inadmissible (Article 25-10, part 8). Article 26 part 7 stipulates that a foreign citizen or a stateless person whose previous stay in Russia was because of being returned in accordance with the readmission agreement, may not be allowed to enter Russia during the five years from the day of his or her transfer to Russia. Similarly, someone who was excluded, deported or returned from Russia is banned from entering Russia during 5 years after the removal or deportation (Article 27, part 2). Finally, in the law on the state fingerprinting registration, changes were introduced allowing fingerprinting of persons falling under the international readmission agreements signed by Russia.

All these legislative changes are significant because no other country went as far as Russia did in its attempts to formalize in law the return procedures. As one interviewee mentioned, “[With] previous readmission agreements – only Albania took concrete steps to implement the agreement. The Russian government is leading the process of implementation of this type of international agreements. ... From the EU side, I think, there is a recognition on the part of the Commission that the system is working well” (Interviewee 12, in Moscow, June 2008). After the readmission agreement with the EU was signed, the Federal Migration Services of Russia concentrated its attention on the establishment of the appropriate legislative framework, on the development of capacities and infrastructure to accept third-country nationals, and on the negotiation of readmission agreements with third countries. As the above quoted interviewee pointed out, “There is a big interest [on Russia’s part] to adhere to the obligations spelled out in the agreement, and a lot of efforts are [made] on the side of the Russian administration to adhere to those obligations. I would even say that the Russian Federation is

sometimes going even at a higher speed than the European member states” (Interviewee 12, in Moscow, June 2008).

The Russian government has been proactive in refurbishing reception facilities for returned migrants, developing and adopting legislation to regulate the status of returned persons, and in participating in training and information exchange activities (Interviewee 12, in Moscow, June 2008). Thus far, Russia has opened two reception centres for third country nationals returned in accordance with the readmission agreement – one in Pskov (close to the Latvian border, capacity – 82 people) and one in Rostov-on-Don (in the south of the country, close to Ukraine). While human rights activists call these centres “ghettos” and “prisons” for migrants, migration officials in Russia, as well as in other European countries where such facilities exist, deny such categorizations of the reception centres and point to their adherence to international norms and the involvement of international organizations in their construction and upkeep (Smolyakova 2009). We thus observe normalization and justification of internal practices through such appeals to international norms. The presence and participation of international organizations, such as the IOM or the European Commission, serve the purpose of normalizing practices that can be questioned from the human rights perspective.

In Russia, the IOM played an important role in normalizing and accommodating the Russian practices to the readmission obligations, and it was done through popularization of the information about existing “European” practices through training, information sharing, study missions (including to various temporary holding facilities in EU countries) and other forms of knowledge transfer for Russian migration officials. Since 2006, the IOM Mission in Russia has provided assistance to the Russian Federal Migration Service with the various aspects of return and readmission. At the request of the FMS (Interviewee 11, in Moscow, June 2008), in 2007-

2009, the IOM was implementing the Programme “Assistance to the Government of the Russian Federation in Establishing the Legal and Administrative Framework for the Implementation and Development of Readmission Agreements” (funded through the AENEAS thematic programme and by the Governments of Germany and Finland). The IOM assisted the Russian government with organizational, practical and legislative measures in order to create the capacities for the implementation of the readmission agreement with the EU. In particular, it had three components: legislative support, support with the institutional establishment and infrastructure development, and the support of the regional dialogue and practical exchange of experience of the Russian Federation with EU MSs and with countries of origin (targeting the readmission of migrants in unregulated legal status). The IOM project served as “a platform for the expertise and knowledge interchange between the EU and Russia in the field of migrants’ readmission and return” (IOM Moscow 2008). Notably, in its design, the project had a bilateral exchange of knowledge and expertise. According to one interviewee,

There is a lot of knowledge and experience on the Russian side to be transferred to the European counterparts. Readmission is actually a bilateral process, and it requires co-operation and exchange of information between partners. Russia supplied the verification of Russian citizenship that was useful for the Europeans to understand. ... So, this is a bilateral learning process for two sides (Interviewee 12, in Moscow, June 2008).

At the same time, the IOM presents its activities as ones that legitimize the actions and concerns of the Russian government, as well as contribute to the creation of a more positive international image of Russia in Europe. Consider the following excerpt from the project progress report:

[The program] not only is an instrument of attraction of the most qualified experts and practitioners from the EU, but also gives an opportunity to Russian representatives, at the technical level, to shed light on the most important moments and suggestions in order to develop practical readmission procedures in accordance with the signed agreement. Uncovering the existing objective gaps and inconsistencies leads to the expansion of the understanding of practical problems and, in this way, indirectly promotes the improvement of the image of the Russian Federation in EU countries, which on concrete examples are

being persuaded of the Russian Federation's aspiration to fulfill its international obligations (IOM Mission in Moscow 2008, 6).

In 2009-2011, the IOM Mission in Russia was implementing a follow-up project (to the above mentioned one) that further addresses the practical aspects of the readmission agreement implementation, such as development and functioning of reception centres, and development of training and regulation materials for the centres' personnel, in order to ensure Russia's compliance with international obligations in reception, accommodation and transfer of third country nationals and stateless people.⁹¹

As far as its nationals were concerned, Russia had no problems with accepting its own citizens, granted a proper identification procedure. In the words of one interviewee,

There is a big interest of the Russian side to ensure that the rights of their citizens are not breached. This is their priority to ensure that the human rights and the best interests of those citizens are not infringed upon. ... With the Russian Federation, the key priority [for the EU] was the return of Russian citizens rather than third country nationals. I do not think it is such a big issue to return third country nationals where no one knows what to do with [them]. The issue was return of Russian citizens who did not want to return. And because their [Russia's] interest has been key for the Russian government, the agreement now allows their return without consent or will" (Interviewee 12, in Moscow, June 2008).

Moreover, Russia accepted to readmit both its nationals and those illegally present or residing persons who possessed the Russian nationality when they entered the territory of the requesting state but later renounced their Russian citizenship and did not acquire the nationality or a residence authorization of that member state (Article 2 (1)). Interestingly, the will of the person to be readmitted is not taken into account if the Russian Federation has given a positive reply to the other state's readmission application (Article 2 (2)). Practically, this means that the person will be returned to Russia even if he or she has no desire to do so. This clause is reciprocal and applies to citizens of EU MSs who will be returned irrespective of their will, too.

⁹¹ IOM Mission in Moscow, http://85.21.179.94/activities_techcoop_readmission.html (accessed October 8, 2011).

By December 2009, the Europeans submitted about 3000 readmission applications for Russian citizens, with Russia granting positive response to fifty five per cent of the applications (Council 2009b). According to Potemkina (2010, 557), the applications were turned down when there was no adequate proof of a person possessing Russian citizenship. What is also important to note is that Russia views the readmission as a tool to return, either voluntarily or forcefully, some of its nationals. Having faced shrinking population, the Russian government views the readmission agreement as a positive vehicle for both the voluntary and forced return of Russian citizens to their “home.” The IOM Mission in Moscow works to increase the Russian government’s knowledge, understanding and capacity to reintegrate its citizens repatriated from abroad. It seeks to assist the Russian government in creating a system of effective return, including developing administrative mechanisms in support of Russian nationals returned from the EU. In March 2010, the IOM published a first “snapshot” study of citizens returned to Russia (see IOM 2010b).

There also have been changes in the FMS mandate as it is the main implementing body of the readmission agreement with the EU. Besides the creation of a separate department in charge of the implementation of the readmission agreement with the EU, the FMS received an additional dimension in its international mandate. In October 2009, in order to improve the state regulation of migration, the President of Russia transferred all functions related to Russia’s readmission obligations to the FMS, tasking it with “ensuring in the established order the realization of rights and responsibilities of the Russian Federation stipulated in its international agreements on readmission” (President of Russia 2009).

To sum up, Russia accepted the readmission principle as an important part of its own migration policy and endorsed the principle of migration being part of its foreign policy towards

third countries. Russia has accepted the principle of concluding mobility and readmission agreements as a “package” in its foreign relations with third countries, thus directly adopting “the EU experience of using conditionality in external relations” (Potemkina 2010, 558).

6.2.3. Modernizing the “Bridges:” Co-operation on Border Management⁹²

Increasing border controls has become an important and necessary part in state policies against irregular migration. The EU and Russia co-operate on border management, including border and customs control. Effective border management and border controls have been viewed by the EU as part of Russia’s obligations to contribute to common security in Europe, including its obligations to control migration flows through Russian territory into the EU. The EU has repeatedly, though not always successfully, reminded Russia to assure orderliness of its external borders.

The reality is that Russia borders 16 countries; five of them (Finland, Lithuania, Latvia, Estonia, and Poland) are now members of the European Union. Not all Russian borders have been ordered through bilateral agreements with the neighbouring countries. Thus, the borders with the Baltic states (Lithuania, Latvia and Estonia) and with Ukraine had long been or still remain undemarcated. Settling border and territorial disputes is one of the EU accession requirements. The Baltic states, however, were allowed to accede without the border demarcation agreements finalized with Russia. Lithuania signed a border agreement with Russia in 2003 as part of the deal on Kaliningrad oblast transit. Latvia finalized a Border Agreement with Russia in March 2007, and it was ratified in December of 2007 (Reuters 2007). The border agreements with Estonia and with Ukraine have not been ratified yet.⁹³ This situation

⁹² In this dissertation, only migration-related aspects of border co-operation were considered.

⁹³ Estonian Embassy in Russia, http://www.estemb.ru/eng/estonia_and_russia (accessed February 5, 2009).

complicates bilateral co-operation between border agencies of Russia and of the neighbouring countries and prevents them from establishing an effective system of border controls.

Besides border demarcation, the EU insists that Russia strengthen its control over the eastern and southern borders used by drug traffickers and human smugglers to get access not only to Russia, but to the EU territory as well. Russian south-eastern borders pose the most danger due to their length, complex terrain for border surveillance (i.e., mountains) and poor equipment and capacities. Russia's border with Kazakhstan stretches for about 7,500 kilometers and is considered to be the most porous one. For Russia, ensuring control over its southern borders means immense expenses. At the same time, Russia has no interest in imposing "hard" borders against citizens of its southern neighbours by introducing visa requirements. However, making border controls effective is in the interest of Russia that suffers greatly from narcotic trafficking and is sensitive to a possible terrorist threat from the south. But there are different views within the government concerning the direction for border openness. On the one hand, some experts favour a more open and liberalized border regime with Russia's neighbours to the south in order to facilitate the regionalization and integration processes around Russia. On the other hand, there are those experts who argue in favour of restricting and strengthening Russia's borders in order to reduce its security risks.

Since 1999, the Russian government has introduced many innovations with regard to border management. For example, the Strategy of Modernization of Border Equipment (2003-2010), new institutions responsible for borders (i.e., State Border Commission and the Federal Agency for Border Equipment of the Russian Federation), and the Conception for Implementation of the State Border Modernization (2008) were approved. The latter Conception uses economic imperatives of the current global economy, in particular, a need for "consistent

expansion of frontiers of national markets causing large-scale growth of transborder flows” – as the justification of its attention to ordering the Russian borders. As the Russian government prioritizes economic development of the country, it considers infrastructure development at the Russian borders as a first-hand priority (Government of Russia 2008). The creation of the Federal Agency for Border Equipment, Rossgranitsa, in 2007 was an expression of the state’s intention to modernize borders in line with the existing international practices and models.

A separate issue on the EU-Russia co-operation agenda, and the one that is emphasized as being of great importance by EU MSs, is the security of identity and travel documents. The sides exchange expertise on prevention of multiple identities and of falsification of travel documents through exchange of information on biometric features in travel documents, based on International Civil Aviation Organization (ICAO) standards. Under the Tacis programme, 2 million Euros have been secured to support the Russian government in improving travel and identity document security in accordance with the latest international standards. FMS officials have received expert assistance on the concept, design and safety of Travel Documents and visa in accordance with the new EU requirements and biometrics.⁹⁴

At the operational level, co-operation between the relevant border agencies has increased since the initial commitment to it was made in the 2005 CSFSJ Road Map. The Russian Federal Border Guard Service⁹⁵ was the first third country’s agency with which FRONTEX entered into

⁹⁴ In 2007-2008, Russian officials participated in the seminar on control free travel and had a study visit on biometric passports and document security (Paris, France) funded under the TAIEX instrument. TAIEX is the Technical Assistance and Information Exchange programme that “helps countries with regard to the approximation, application and enforcement of EU legislation. It is largely demand driven and channels requests for assistance and contributes to the delivery of appropriate tailor-made expertise to address problems at short notice.” Its application has been extended to include the ENP countries and Russia. In 2 years, Russian officials overall participated in 15 FSJ events organized with TAIEX, including seminars on human trafficking and workshops on border management. For more information, see <http://taiex.ec.europa.eu/> and <http://www.delrus.europa.eu>

⁹⁵ In the post-Soviet period, the Federal Border Guard Service of Russia (FBS) maintained its independent ministerial status until March 2003 when the Russian President Vladimir Putin changed a status of the Border Guard Service from an independent ministry into a branch of the Russian Federal Security Services (FSB). In 2003, the

the Working Arrangement and agreed on a co-operation plan for 2007-2010 to further enhance their border management activities in February 2006. Their co-operation plan covered activities such as risk analysis and information exchange, training and joint operation actions for border personnel, technical aspects of border controls, and joint operations against irregular immigration. In 2009-2010, Russia and FRONTEX conducted three joint operations. A joint operation, “Mercury 2009,” was the first operation with an active involvement of the Russian border guards, and its aim was to enhance the co-operation with the Russian Federation and establish information exchange between the FBS, EU MSs and FRONTEX. A so called “Good Will 2009” operation was aimed at strengthening the co-operation and enhancing mutual trust between Russia, EU MSs and FRONTEX, and exchanging information on illegal immigration between Russia and neighboring MSs and FRONTEX on a daily basis. Finally, operation “Unity 2010” involved some EU MSs, Russia and Belarus in an attempt to “strengthen the security of the eastern EU borders by exchanging operational information ... as well as by deploying MSs border check/border surveillance experts at the external EU land borders” (Frontex, operations database).

FRONTEX operations in third countries cover various aspects of risk assessment and threat prevention, information exchange, training and expertise exchange, and building of trust and cooperative culture between the bordering countries’ authorities. Although the eastern frontier of the European Union continues to be perceived in terms of threats and risks, the joint operation “Mercury” showed that the perception of the threat of illegal immigration can be dramatically exaggerated. Within two weeks of deployment of European experts to Lithuanian-Russian and Polish-Russian border crossing points and at the green border, there were “more than fifty refusals of entry, one illegal migrant apprehended, two cases of falsified documents

FBS also ceased to exist as a military structure.

and one stolen car detected,” and smuggling of cigarettes was “identified as one of the common illegal phenomenon at this particular border section” (Frontex 2009).

But the co-operation with FRONTEX is not the only evidence of operational co-operation and Russia’s openness to the EU’s/European model of border management and its role in prevention of irregular migration and establishment of the procedures and infrastructures for border crossing. Under the 2004 Tacis Programme, 4 million were secured for Russia for the project guided by the concept of Integrated Border Management (IBM) with focus on the Kaliningrad oblast. It was planned as a pilot project and an appropriate testing ground for the implementation of future IBM style projects, and its experience was planned to be used “in the course of the discussions on issues of common interest in relation to the strengthening of Russia’s southern border” (Ibid., 13). Another example of Russia’s sectoral interest in international and European expertise and practice on border management and illegal migration prevention is a project entitled “Enhancement of management of the Russian Federation border checkpoints” that is being implemented in 2009-2011 by the IOM Mission in Moscow and Rossgranitsa and funded by the European Commission.

6.3. EU-Russia Visa Dialogue: “How Long is ‘Long’?”

Whereas visa harmonization between the EU and Russia (one of the preventative measures in their common “fight” against irregular migration) was discussed in the previous section, this section addresses the existing visa regime between the EU (specifically, the Schengen countries) and Russia that applies to their citizens. The accession of the Central and Eastern European countries into the EU meant, among other things, the gradual introduction of visas to Russian citizens. As was mentioned earlier, Russia’s Kaliningrad oblast’ became cut off from the rest of

Russia, and its residents were supposed to get Schengen visa in order to travel to Russia. The Russian government protested against what it called these discriminatory measures against the freedom of movement and mobility *within the Russian territory* for citizens residing in the KO. As a solution, it proposed to lift visa requirements for Russians completely. The EU member states, concerned with potential and real security threats coming from the Russian enclave, were only open to offer a special regime of travel for KO residents (discussed above). For Russians, the solution to the problem of the Kaliningrad transit became “a pilot project” to test the possibility of visa-free movement of Russian citizens. Moreover, the Russian side considered the Kaliningrad solution a test to the overall relations between the EU and Russia (Potemkina 2004). Table 6.1 shows the timeline of the visa discussions between the EU and Russia.

In 2005, the EU and Russia declared an objective to build “a new Europe without dividing lines.” In addition, the principle of the EU’s openness to interactions with citizens and cultures of neighbouring countries has been proclaimed as one of the priorities of the Union that seeks to stretch its global presence and influence. Evidently, the EU’s visa policy has been a major hurdle to such people-to-people exchange and contacts.⁹⁶ Russian diplomats in particular have repeatedly pointed to the hypocrisy and inconsistency between the EU’s principles of openness to the neighbours and of visa policy as a major instrument to address unauthorized immigration. The Russian government interpreted the EU’s visa requirements as evidence of the EU’s double-standards towards Russia and its citizens. For fairness sake, it should be recognized that scholars and politicians in some European countries have pointed to a lack of political will in the EU to lift visa restrictions for Russians (Salminen and Moshes 2009). We can observe a divergence of views between the security-oriented and the foreign policy-oriented policy-makers and

⁹⁶ See Guild (2010), on the impact of the EU’s visa policy on citizens of the Southern Mediterranean countries.

Table 6.1. The Negotiation of the Visa Regime between the EU and Russia

Date	Proposal
2000	Russia proposed the EU to begin working on a visa agreement in order to ease travel for their citizens (Chizhov 2003).
August 2002	Vladimir Putin offered the heads of European governments to reciprocally remove visas for their citizens and extend the Schengen rules to Russia.
18 February 2003	Vladimir Putin and Romano Prodi, the President of the Commission, agreed to set up a working group to study the prospects and measures necessary to achieve visa-free travel for their citizens.
May 2003	The EU side formally agreed to examine the possibility to lift visa requirements for Russians in “a long-term perspective,” within the Common Space of Freedom, Security and Justice. Russians consider this date to be a start of their visa negotiations with the EU.
May 2003	The EU and Russia agreed on transit arrangements for Russians in the Kaliningrad oblast’. Russia signed a readmission agreement with Lithuania.
2003-2005	The readmission negotiations between the EU and Russia. The EU Council gave the Commission a mandate to negotiate a visa facilitation agreement with Russia.
12 October 2005	The visa facilitation and readmission agreements were initialled at the EU-Russia Permanent Partnership Council (JHA) in Luxembourg.
25 June 2006	The visa facilitation and readmission agreements signed in Sochi.
1 June 2007	The two agreements came in force.
2007	A formal launch of the EU-RU Visa Dialogue to examine the conditions for visa-free travel for their nationals: exploratory stage at the expert level.
February 2010	Russian Foreign Minister Sergei Lavrov said that Russia was ready for a visa-free travel with the EU -- “the main objective in the bilateral relations.”
June 2010	Russian diplomats handed in to their European counterparts a draft agreement on visa-waiver for citizens of the RF and EU (<i>Kommersant</i> May 2011)
November 2010	Norway and Russia signed an agreement about local border traffic – 30-km visa-free zone for residents of the border regions from two countries.
November 2010	EU-Russia Permanent Partnership Council agreed to launch “the joint elaboration of an exhaustive list of common steps” the implementation of which may lead to negotiations on an EU-Russia visa waiver agreement.
February 2011	The EU and Russia start discussing a special regime of travel for the Kaliningrad region. A possible first exception to the EU’s local border traffic Directive.
April 2011	The two sides started negotiations over a list of common steps to undertake in order to cancel the visa regime reciprocally.
11 April 2011	The JHA Council authorized the Commission to open negotiations with Russia to revise the existing visa facilitation agreement.
May 2011	EU-Russia migration dialogue was launched at the Permanent Partnership Council (PPC) on Justice, Freedom and Security in St Petersburg.

institutions who influence the EU's political agenda. Whereas some European politicians (for example, Alexander Stubb, Jacques Chirac, and Silvio Berlusconi) have been vocal about the importance of lifting visas for Russians, agencies such as EUROPOL have constantly warned about the dangers to the EU's internal security if the EU lifts visa restrictions for Russians.

Considering the interest of the Russian government in increasing visa-free travel opportunities for its citizens, visa co-operation is an opportunity for the EU to increase its leverage over Russia. Although we can arguably talk about the Europeanization of the Russian rules on mobility, the ability of the EU to dictate to Russia is diminished because of the latter's principal insistence on equal concessions by both sides on the path to a visa-free regime. It is important to emphasize that Russia insists on reciprocity and symmetry in their visa relations, and it has sought to delink visa relations from its migration relations with the European Union. In turn, Brussels' bureaucrats in charge of Russian affairs understand Russia as an important international partner to which concessions in the form of visa liberalization may be made in exchange for other important matters for the Europeans (Interviewee 24, in Brussels, June 2008). Unlike with other Eastern European countries who voluntarily removed visa requirements for EU citizens, Russia keeps visa requirements for Europeans. In Brussels, there is a certain mistrust towards Russia's willingness to reciprocally cancel visa requirements for EU citizens, and no automatic lifting of visas by Russia is expected if Europeans willingly remove the Schengen requirements for Russians. Therefore, in the case of Russia, the EU is less of a Europeanizer *per se* and more of a motivator or facilitator for Russia's acceptance of international norms and practices.

6.3.1 The EU's Eastern Enlargement and the Visa Question

Both in policy and academic circles, the negative effects of the expansion of the Schengen rules towards Central and Eastern Europe on economic and trade relations between the EU and Russia were extensively analyzed in the pre-accession and the post-accession stages of the eastern enlargement (e.g., Potemkina 2002). Nevertheless, some additional observations can be made about their effects on citizens' mobility. Rather than analyzing the internal tensions in the formulation of the Russian foreign policy positions, I explore the significance of the official rhetoric of the Russian state with the EU and analyze them against the background of internal reforms stimulated by the EU-Russia relations on visas.

The expansion of the exclusionary Schengen policy towards the CEES countries, that used to have visa-free travel with their neighbouring post-Soviet countries, was viewed by citizens and officials in these countries as the reincarnation of the Iron Wall in Europe at a time when the (western) Europeans spoke about Europe being ever open and free. Also, the Schengen has been viewed as “a paper curtain” and visas as “brands” that divide post-Soviet European countries from the rest of Europe. Russian politician Vladimir Lukin, a prominent member of the left-liberal Yabloko party, who also served as the Russian Ombudsman for Human Rights, compared the EU bureaucratic visa practices to the Soviet-style migration controls, arguing that the European officials had replaced the Soviet authorities who used to restrict and control the travels of Soviet citizens abroad (cited in Prozorov 2009, 137). While EU officials frequently talk about visa requirements as simply “technical solutions” to ineffective border controls of EU neighbours and the migration potential of their populations, for these neighbours it is a question of their populations being stigmatized as “threats” and as a “third class” Europeans, restricted from freely traveling in Europe. Since Central and Eastern European countries introduced visa

requirements, the governments of Russia, Ukraine, and Moldova have been campaigning for visa liberalization for their citizens with the EU.

According to Chizhov (2003), an ex-Deputy Foreign Minister of the RF and currently the Head of the Russian Delegation to Brussels, it was in the year 2000 when Russia proposed the EU begin working on a visa agreement in order to ease travel for their citizens. Chizhov says: “Our proposal, frankly speaking, did not arouse much enthusiasm, although such an agreement would be of tremendous benefit to both Russians and Europeans, on whose behalf EU officials and politicians speak. Statistics gathered by the Russian consular departments in the EU member states, as well as in countries wishing to join the EU, demonstrate a growing tendency for Europeans travelling to Russia” (Chizhov 2003). Already in August 2002, as an attempt at a resolution of the Kaliningrad transit problem, Vladimir Putin personally addressed the heads of states and governments of EU countries with a proposal to introduce visa-free travel between Russia and the EU on a reciprocal basis and to create a common space of free movement of people between Russia and the EU. Putin’s proposal was supported by all political parties in Russia (Prozorov 2009, 137). For example, Grigory Yavlinsky, the leader of the left-liberal opposition party, rejected any restriction of the right of Russians to travel freely in Europe by stating that “Russians are Europeans too,” hence any restriction of their right to travel freely in Europe is an unwarranted exclusionary gesture, which jeopardizes the entire policy of intensifying EU-Russian co-operation” (Yavlinsky 2003, quoted in Prozorov 2009, 137).

Putin’s proposal went against the EU’s approach of treating Kaliningrad as a “special case.” The Kaliningrad negotiations revealed the major paradigmatic differences in how Europeans and Russians viewed the symbolism of visas in their relations. Whereas for the European Union the major issue was to prevent illegal transit from and through Russia, for

Russians, finding a solution was a matter of addressing unfair exclusion of its citizens from enjoying the freedom of movement in Europe. The Kaliningrad negotiations did not challenge but rather stabilized and normalized such different interpretations of visas by the two sides, which can be seen in the various policy solutions proposed.

In the negotiations, the EU side has focused on the technicalities of visa and offered solutions to ease up the process of issuing visas to Russians, whereas Russians referred to the politics of exclusion of their country from Europe. The Russian government insisted that the EU visa policy for Russian citizens was a matter that required *political* decision on the EU's part – to remove Russian nationals from its “black” visa list. To that, EU member states were ready to ease up the process of getting visas, first of all, for citizens of Kaliningrad, and then, possibly, for all Russians. They were ready to offer “compensatory measures” of a technical nature. EU MSs agreed to invest resources into increasing their technical capacities to issue visas by building additional consulates in the KO, modernizing or building new border-crossing check points, investing in border equipment, and other relevant measures. At the same time, the EU was willing to assist the Russian government with increasing its border management capacities, modernisation of its border-control equipment and capacities to speed-up border-processing time, and the issuance of foreign passports for Russian nationals in accordance with international document security requirements (i.e., ensuring the security and authenticity of individual IDs). In turn, Russia would have to build service roads and overpasses to service the border-crossing facilities on its side of the border (Prodi 2002). The EU, therefore, emphasized the possibility of facilitating mobility and expediting border crossing for *wanted* flows of people and goods, if both sides increased their capacities to control and seal the border to illicit flows.

It should be mentioned that Russians have elevated the visa issue to the highest importance in the EU-Russia foreign relations and have adopted an approach of seeking political decision on part of the EU politicians to stop excluding Russians from European space of free movement. Putin's proposal in 2003 to create a Common Space of Freedom, Security and Justice should be viewed in this light. Russians agreed on the EU's rules for the Kaliningrad transit in hopes and on the promise of the future gradual removal of visa requirements for Russian citizens and their inclusion into the common space of freedom, security and justice.

In 2002-2007 negotiations on visas, one could observe the continuation of these paradigmatic differences between Russia and the EU in how they interpret their visa relations and the importance of visa as an instrument of foreign and security policy. For the EU bureaucrats who were representing the EU in external relations, maintaining visa regime for Russians was a technical question of increasing the security of travel accompanied by measures to increase the control over movement from and through Russian territory. These measures included: the conclusion of a readmission agreement, the introduction of better functional and less corrupt system of issuance of national identification documents, and the increased state capacity to control the movement of foreigners (e.g., through construction of border crossing points, better border controls and identification processes, internal controls over residence, effective system of deportation). In the meantime, Europeans conceded to working on measures to make the issuance of visas more efficient and simplifying the border crossing procedures for Russian citizens.

Russian politicians and diplomats tend to present the EU's visa requirements for Russians as something that complicates relations between the EU and Russia. Chizhov mentioned:

Obviously, the enlargement of the Schengen zone due to the inclusion of new EU members, and the toughening of visa restrictions on its external borders, create additional

barriers to free travel and people-to-people contacts on the European continent. This is a matter not so much of business, or even tourism, as it is a simple respect for human rights. Many people in Russia believe that the Schengen agreement is in direct conflict with one of their most basic freedoms – the freedom of travel. This was one of the most important achievements of the democratic reforms in Russia” (Chizhov 2003).

In this short excerpt we see how a high-level politician interprets the effect of the internal policies of the EU on the Russian citizens as a violation of their human rights – in particular, their right to travel. The parallel is also made with the democratic reforms in Russia, implying that visas jeopardize or negatively affect these reforms and their perception by Russian citizens. In his speech, Chizhov also indicated the price that Russia was ready and willing to pay to remove visa barriers for its citizens, with the expectation of clearly outlined rewards:

There is no denying that transition to a visa-free travel regime between Russia and the European Union is a difficult problem which will take much financing, as well as the settlement of numerous legal and organizational issues. We do realize how much effort a visa-free environment will cost Russia in order to tighten control along its borders. This effort may cost Russia billions of rubles, but to pay this money, we must first understand the rewards which will be gained in the end, as well as how much time the realization of this goal will actually require (Chizhov 2003).

In February 2003, Putin and Romano Prodi, the President of the European Commission, agreed to set up a working group to study the prospects and measures necessary to establish visa-free travel. In May 2003, the EU side agreed to examine the possibility to lift visa requirements for Russians in “a long-term perspective” within the CS FSJ, after Russia signed a readmission agreement with Lithuania. Russia’s firm position in the negotiations was to tie the readmission agreement with the cancellation of the visa regime for its citizens. Despite this, Russia had to take what the EU offered: the EU agreed to offer Russia a visa facilitation agreement as a package deal with the readmission agreement signed with the EU.

Despite the declared objective of “building a new Europe without dividing lines,” the EU and Russia continued to differ in their interpretation of the visa questions. The EU was only

ready to offer simplified rules for visa issuance for certain categories of Russian citizens, rather than to move to visa-free regime. According to the visa facilitation agreement, such categories of Russian citizens as business people, researchers, journalists, people taking part in cultural or sport events, or officials participating in government activities were allowed to go through a less burdensome process of acquiring visas. They may also get multiple-entry short-stay visas (up to 90 days in total) into the EU. Only holders of diplomatic passports are exempted from visa requirements. To oversee the implementation of the visa facilitation agreement, a Joint Committee was established, and Common Implementing Guidelines were agreed upon to ensure harmonized implementation of the agreement by EU MSs' visa consulates and by the Russian Federation.

6.3.2. Getting Formal: Introducing a Visa Dialogue, 2007-2010

Once the readmission agreement and visa facilitation agreement were approved by both sides and started to be implemented on 1 June 2007, the EU and Russia initiated the Visa Dialogue aiming to examine the conditions for establishing visa-free travel for their nationals. Under the auspices of the Visa Dialogue, in 2007-2009 a number of expert meetings between Europeans and Russians took place. Their focus was on document security (including biometrics), irregular migration (including readmission), public order and security, and external relations. Senior officials from both sides participated in these meetings in order to establish the compatibility between the European and Russian practices in visas and security of travel.

Notably, the two sides disagree on the starting date of their visa dialogue. The EU dates it from its formal launch after the readmission and visa facilitation agreements came into effect in June 2007. Moreover, it views this dialogue as “an open-ended” one. Unlike the EU, Russian

diplomats date the start of the dialogue from the time when the EU made a formal commitment in May 2003 to liberalize travel for Russians over the long term. The Russians have been insisting that the time lag since 2003 should allow the negotiations on visa liberalization to be reclassified from “a long-term perspective” to a short- or medium-term goal of EU-Russia co-operation. In addition, they argue that Russian citizens no longer present a risk of illegal immigration to EU MSs. Here is the position of the Russian Ministry of Foreign Affairs on the Visa Dialogue with the EU as expressed by its spokesperson:

We started discussion with the European Union on the possibility of abolishing the visa regime way back at the Russia-EU summit in St. Petersburg in 2003. In 2007-2009 our Ministry held a series of extensive consultations within the framework of the visa-free dialogue, during which we discussed all EU concerns. Based on their results, we can safely say that no objective obstacles exist for visa abolition. Reasons of a political rather than a technical nature stand in the way of a visa-free regime.

...

However, our EU colleagues have shied away from specific agreements in this regard. It is regrettable that, having coped 20 years ago with the Berlin Wall, Europe – not our fault – still cannot part with such a rudiment of the past as the visa regime. Incidentally, this is an obvious non-fulfillment by our EU partners of their commitments under the Helsinki Final Act of the CSCE (OSCE) on freedom of movement, as well as the CSCE (OSCE) Vienna Document of 1989, which speaks of “the reciprocal abolition of entry visas” by participating states of the CSCE (OSCE) (Nesterenko 2010).

As can be seen from this quote, an appeal to international norms and to reciprocity in visa questions underpins the Russian arguments. In the description of visa co-operation, the Russian Permanent Representation to Brussels notes that EU countries and Russia

are bound by OSCE commitments to “gradually simplify and to administer flexibly the procedures for exit and entry,” and to “consider possibilities for the reciprocal abolition of entry visas on the basis of agreements between them.” They recognize that “freer movement and contacts among their citizens are important in the context of the protection and promotion of human rights and fundamental freedoms.”⁹⁷

In its statements the EU, however, rarely, if ever, appeals to the OSCE commitments; rather, it firmly places their relations into the bilateral format.

⁹⁷ Permanent Mission of the Russian Federation to the European Union, <http://www.russianmission.eu/en/visa-issues> (accessed October 11, 2011).

Another point of disagreement is Russia's readiness to ensure the security of travel. The EU cites the continuous security threats of a transnational nature (e.g., drugs) and points to potential criminal groups that may penetrate the EU if the borders with Russia stop being visa-proofed. In the words of the ex-head of the EU delegation to Russia, Fernando Valenzuela, "There are certain things you must not forget. These are related to organised crime, to terrorism and illegal immigration. ... For the time being we are not so much trying to set a time frame, but settling issues that need to be solved" (Valenzuela, quoted in Russia Today 2010). The EU's reiteration of the open-ended nature of the EU-Russia visa relations has been met with more pressure by the Russian side. As the EU, especially organizations like EUROPOL, still focus their attention on the poor internal security situation in Russia and view the state's limited capacity to deal with organized crime as potentially posing a threat to EU citizens, Russians emphasize the absence of the "migration" threat from its nationals and advocate the separation of the two areas of co-operation.

The governments of EU MSs expect "flows" of criminal groups and migrants into their territories if the visa restrictions for Russians are lifted. They frequently shift the blame to the Russian government for not doing "enough" to create the secure regime of travel from and through its territory towards the EU. This includes implementing reforms to increase the security of its borders, of travel and identity documents of its citizens, and stepping up its efforts to stop corruption, organized crime, and drug and human trafficking – all issues that are also on the EU's technocratic "good governance" agenda. There is also a certain degree of mistrust in the EU capital, Brussels, that Russians "may not reciprocate" by lifting visa restrictions on EU citizens (Interviewee 24 and Interviewee 27, in Brussels, June-July 2008).

The EU's visa policy towards Russia rests on a list of assumptions and beliefs about potential flows of immigrants and criminals who will wander freely in the common European space if the borders are opened. Assumptions range from "Russia may need visa freedom more than Europe does," and "Russia does not want to open its territory to foreigners," to "Russians will try to cross the border," and "Masses of people from the Caucasus region would flood into the European Union territory", "Third country nationals would travel through Russia to the European territory in droves" (quoted in Salminen and Moshes 2009, 12-13). It is clear that the assumptions are deeply rooted in the perception of Russia's foreign policy and its relations with other countries as being closed and unpredictable ("Russia does not want to open its territory to foreigners"), of its system of governance being backward and in need of transformation ("The EU could use visa freedom as a leverage point to demand Russia's internal transformation"), as well as its territorial size and the insecurity of the country's borders. Russians are still perceived as seeking to "vote with their feet" in search of a better life, and as presenting a certain "threat" to European societies ("In the event of visa freedom with Russia, all Russians will try to cross the border" (Salminen and Moshes 2009). Such assumptions dominate the European discourses on the immigration "threat" that European societies face from the East. These assumptions feed into and at the same time reflect the discursive process of the construction of the other in foreign policy discourses of EU MSs.

As a result we have the situation when the EU is unwilling to liberalize visa requirements for Russian nationals before adequate measures are taken to secure the second level of migration controls at the EU borders and before Russia complies with the EU's requirements on the security of travel (such as security of travel documents, control over illegal migration, fighting corruption in document-issuing authorities, border controls etc.). At the same time, Russia has

reinforced its politicization of the situation and increased its insistence on the principle of reciprocity in its internal treatment of foreigners, in particular, with regard to visa and migration control requirements toward EU citizens present in Russia on a short- or long-term basis.

Pointing to Russia's narrative of self-exclusion from the European political and normative space, Prozorov (2009) observes: "The narrative of Russia's exclusion from Europe descends from the technical issue of the expansion of the strict visa regime for Russians in the course of EU enlargement, which both complicates the existing EU-Russian co-operation arrangements, particularly on the local and regional levels and contradicts both parties' declared ambitions of ever-greater and ever-deeper integration." He further points out that the visa issue acquired and presently retains an intensity that transcends its original locus of articulation. Instead, this problematic has developed, in Russian political and academic discourse, into an identity conflict about Russia's thoroughgoing exclusion from Europe in the political, if not cultural, sense, whereby Russia becomes the only "non-European" European country (Trenin 2004). Prozorov concludes: "We thereby observe the spillover of a conflict issue, originally articulated in a narrow discursive arena of visa policies, into a wider space of the discourses of identity and difference, that ultimately connects with the century-old debates on Russia's relation to "European civilization" (Neumann 1996)" (Prozorov 2009, 135). His research shows that the exclusion from Europe is characteristic to the discourses of the entire political spectrum in Russia, "from the liberal minority, which posits as axiomatic Russia's belonging to "European civilization," to the conservative, "left-patriotic" forces, who find in European practices the vindication of their principled opposition to Russia's integrationist orientation" (Prozorov 2009, 135).

The EU tries to apply its external strategy of JHA to Russia, that is, to impose the EU's "good governance" norms and practices through co-operation on justice and home affairs, in particular, by linking visa negotiations to practical and operational changes and reforms on justice, freedom and security, encouraged through financial assistance and/or other perks of closer co-operation with the European Union. Russia, however, in its rhetoric rejects such linking and rejects the EU's external strategy. Unlike other third countries that are in asymmetric power relations with the EU, Russia reiterates its demands for equal treatment and mutual adjustments of their policies in order to establish a common visa-free travel zone between the EU and Russia.

The EU has little internal agreement on how to proceed with Russia on visa liberalization. It is interesting to note that in May 2010, European diplomats reached an agreement on the next steps towards visa liberalization with Russia. The major disagreement arose around the naming of the document to be adopted with Russia: Germany, which in general favours stepping up talks with Russia on a visa-free regime, strongly opposed the term "road map", due to some "negative political implications" (Sopinska 2010). Germany opposed any association with fixed "timelines" and "automatism" that are associated with the visa liberalisation road maps that were proposed to current and potential accession countries in Western Balkans. As a result of internal negotiations, EU diplomats agreed to offer Russia and the EU's eastern neighbours "action plans," with no promise of when and under what conditions the visa-free regime will be granted.

Taking the initiative into its own hands, during the EU-Russia Permanent Partnership Summit in June 2010 the Russian diplomats handed in a new proposal – "An Agreement on the Cancellation of visa requirements for Citizens of Russia and the EU." The European side was not commenting on the proposal but already in April 2011, the two sides announced that they were

close to adopting a list of “common steps” that would lead to signing a visa liberalization agreement. According to the Russian Representative in Brussels, Vladimir Chizhov, the document entitled “Common steps towards a visa-free regime of short-term travel for citizens of Russia and the EU,” opens up the way towards the agreement on a visa-free regime of travel between the EU and Russia (Kommersant.ru 2011). This commonly agreed document is the result of the exploratory work initially undertaken by senior officials in the framework of the Visa Dialogue, and it is a document that contains a list of steps the fulfillment of which would lead Russia and the EU to sign an agreement on the removal of visa requirements for their citizens (Solovjev 2011). Vladimir Voronkov, the head of the Department of All-European co-operation of the Russian Ministry of Foreign Affairs, called this document an innovative one for both Russia and the EU. He was quoted as saying: “We together determine the parameters that should be met by both sides. In the development of these steps and in the development of the future agreement on visa-free regime, both the EU and Russia act as partners enjoying absolutely equal rights. This is a novelty both in the EU practice and in the Russian practice, with the latter working on common steps with all EU countries” (Solovjev 2011, my translation).

According to Voronkov, unlike other non-EU countries, Moscow has not been offered an action plan, and it does not accept receiving “some instructions” from the EU to fulfill. Stefano Manservigi, the former Commission’s Director General for Home Affairs, pointed out that the EU-Russia plan has the same four blocks as the working arrangements of the Visa Dialogue. The first block covers document security and technological requirements to national passports (i.e., biometric passports), border equipment for passport reading, and the procedure for information sharing about lost or stolen documents. The second block includes questions of irregular migration co-operation, with the emphasis made on the need to formulate a common approach to

border protection and common control over the human cross-border movement. The third block covers questions of coordination of security and common steps against organized crime groups seeking to potentially exploit the visa-free regime. Finally, the fourth block stipulates the so called “external relations” measures and foresees the realization of anti-discrimination policy for the freedom of movement of citizens (e.g., access to documents for travel, conditions for the freedom of movement within the country of residence).

Conclusions

Having examined the co-operation between Russia and the EU on migration, the following conclusions can be made about the scope and the level of their co-operation. First of all, we observe a growth in the interaction between the EU and Russian officials on migration questions. The number of venues and activities where EU and Russian leaders and officials and experts interact and share their views on migration regulation has increased dramatically due to the formal introduction of the CSFSJ. The meetings take place within biannual Permanent Partnership Council (PPC) of Justice and Home Affairs Ministers, Visa Dialogue, the joint committees on visa facilitation and on readmission, and the Migration Dialogue. The interaction among experts take places both formally and informally, and this arguably is favourable for the establishment of transnational expert networks. One can add interaction of Russian officials and experts within the multilateral intergovernmental platforms and international organizations in charge of migration management, as well as joint participation in specific training, educational and information exchange activities organized for Russian officials. These interactions arguably increase socialization, lesson-drawing, and norm-sharing between European and Russian decision-makers and migration management officials.

Secondly, although the EU has no positive or negative conditionalities built into its co-operation with Russia, visa liberalization partially serves the role of a leverage in the EU-Russia dialogue on internal security measures, even if international norms serve as reference points to encourage policy change in Russia. In Russia's case, the EU serves a role of a socializer, motivator, and facilitator of the international norm adoption by Russia that declares its readiness and willingness to be a responsible security actor in Europe and in the world.

Thirdly, EU-Russia co-operation on migration and border management shows certain incremental integration through dialogical co-operation in the sector where the sides have common interests and concerns. While challenging the pedagogical stances in the EU's position, Russia has nevertheless adopted and/or followed the European migration regulation practices where the government saw the benefit for its domestic policy or foreign policy in the relations with the EU.

Will the border between the EU and Russia become common frontier or will it be hardened into the lines of difference? Borders perform many functions, and they have different symbolical, physical and geopolitical meanings. With the end of the Cold War and the fall of the Iron Curtain between communist and capitalist Europe, the European Union has engaged in a gradual expansion of its influence over its borders. Such a frontier-type policy-making of the European Union, however, has met its limits which are expressed in conflicting rhetoric of (1) openness and support for increased people-to-people contacts between citizens of the EU and of third countries, on the one hand, and of (2) closure expressed in policed external borders through Schengen, Frontex, visa policies that all together have exclusionary nature. The EU's interest in stable neighbourhood and Russia's interest in establishing visa-free regime with the European Union may play a significant role in integrating peoples and spaces of these two partners if the

EU and Russia overcome their disagreements. The shared “neighbourhood,” that is also highly contested, with internally split loyalties between the European and the Russian ways of modernization, – will most likely influence the future of EU-Russia relations.

Clearly, as the EU tries to outreach its influence towards Russia, the logic of external governance collides with the sovereign power logic of Russia, heightened by Russia’s perception of its “big power” status in international relations. Arguably, justice and home affairs cooperation between Russia and the EU reveals the conversation of two sovereigns, concerned with the security of their “identities, borders, orders” (Albert, Jacobs and Lapid 2001), with a certain degree of suspicion expressed to each other. Nevertheless, we still can argue that the EU’s governance “at the distance” takes hold, at least minimally, in Russia as well, through activities of the international migration organizations and operational cooperation of their security agencies.

CHAPTER 7. RESEARCH FINDINGS AND THEORETICAL IMPLICATIONS

Introduction

In the course of European integration, the EU has become an active policy-maker and trend-setter in inter-state migration relations. Since the Tampere Justice and Home Affairs Council proclaimed the EU to be the area of freedom, security and justice, the salience of migration and internal security issues in the EU's relations with its neighbouring countries has increased, with greater emphasis attached to the external dimension of Justice and Home Affairs. The AFSJ gives the Union an opportunity to both construct itself as an entity with a unique identity, and to portray itself as a normative power. The linking of security reforms to the ideas of "good governance," democracy and the rule of law has served to expand the realm of the applicability of the EU's normative power, adding a new dimension to the EU's image in the world. Through the construction of the AFSJ, the EU differentiates itself from its periphery and conveys its supreme standing in relation to other countries in the region as a civilizing power. The EU behaves like a norm-setter in the region, both by means of co-operation with non-EU European countries, and by working in and through intergovernmental organizations.

This study examined the options and actions of an individual state (Russia and Ukraine, respectively) in response to the EU's pressure concerning the prevention and control of unregulated migration towards EU territory. It problematized the role of non-EU countries in establishing and maintaining the EU's regime of migration controls. Although the EU acts as the facilitator and promoter of norms in the area of migration, ultimately, the decision to pursue – or not – certain policy directions is made and justified by the government of a given country, either in accordance with its domestic interests (in a *quid-pro-quo* manner) and/or under external pressure. I treated each of the relationship between Self/Other as being dynamic, rather than

simple, one-way processes in which the all-powerful EU imposes its interests upon neighbouring countries. The examination of how the external pressure (of the EU) plays out domestically allows us to deepen our understanding of why the inter-state system of migration management in Europe has been developing the way it has been. In addition, examining the externalization practices in migration management in Europe allows us to contemplate the current significance of borders, territories and migration controls for the exercise of sovereign power.

I studied the two cases to understand: (1) factors that facilitate or impede the simple transmission of EU norms, and (2) the implications for citizens of these countries of the migration regime – and the identities – that are being constructed. In this concluding chapter, I will make a series of observations about the nature of the EU’s migration diplomacy, its effects on the EU’s relations with Eastern European countries and on the international governance of migration. I will also compare the conditions under which countries co-operate with the EU – and to what extent – on international migration management. Besides summing up the research findings and highlighting the contributions of this thesis, I will sketch further research projects stemming from this study.

To remind the reader, this study evaluates the cumulative effect of “Europe” on the cases under study in the area of international migration management. Whether it is the Commission that implements the EU’s foreign policy towards third countries, or it is a project funded by the Commission and implemented by a group of EU members (with only EU members’ representatives partaking in the project and delivery of its goals in line with the Commission’s funding guidelines) or by international organizations (e.g., IOM, ICMPD) is less relevant; the effect is perceived by elites and the public in third countries as “European” and is associated with “European” experiences, traditions and practices.

7.1 Evaluating the EU's Externalized Management of Migration

What kind of international migration governance does the EU produce by seeking co-operation on migration with non-EU countries? We observe the construction of a multilayered migration management regime in Europe that remains focused on control and policing, with government resources dedicated in the first place to irregular migration and other migration-related phenomena associated with (in)security (such as counter-trafficking). Regionalization of control practices is accompanied by the official discourses that construct the categories of legitimate travelers. Because of non-EU countries' interest in increased capacities to control migration flows, the EU is successful at expanding its externalization agenda to those countries. Its record is less impressive and its influence is less significant in the humanitarian aspects of migration phenomena and in increasing third countries' adherence to international human rights norms of migrants, including the treatment of foreign labour and the integration of immigrants into local societies. The latter is largely one of the consequences of the control- and security-oriented migration governance regime – to the detriment of human rights of irregular migrants – that the EU has established internally and expanded beyond its borders through co-operation with non-EU countries (see Düvell 2011).

Although the EU's migration regime impacts the countries of origin and other countries of destination by virtue of the EU being a magnet for migrants (the changes made in the EU's migration regime affect the migration flows, depending on the permissiveness or restriction of the EU's migration policy) (Lavenex and Uçarer 2004), the EU has also had a deliberate strategy of managing migration flows indirectly, by influencing third countries' capacities to manage migration to, from and through their territories. This dissertation interrogated these indirect

mechanisms of rule by studying migration co-operation between the EU and the two case studies, and by exposing the EU's discursive construction of its normative power. I focused on instruments and means through which the EU has been discursively presenting itself and acting as a hegemonic power equipped to establish a "comprehensive migration management" in Europe. I add to the understanding of the EU's external governance by treating it as a governmentality project and analyzing it with the help of the governmentality toolbox. The analysis of the EU's governance of its eastern neighbourhood (with migration management being one aspect of these relations) in terms of political rationalities and technologies offers students of politics a deeper understanding of the EU's governance regime through trial and error (as expressed in its continuous refinement of the neighborhood policy) in an attempt to bring proper governance to the populations of these countries. Russia's resistance to the EU's influence, which, as this thesis shows, has been less pronounced in the area of migration management, shows the limits of the EU's attempts to "conduct the conduct" when it meets the sovereign power logic characteristic to Russia's governing elites (Prozorov 2006).

The EU's strategy of externalizing migration controls has caused the expansion of the migration control regime to the countries that partake in the common logic of management of migration to Europe. In the global migration system there exists a hierarchy of power among nation states with regard to the capacities to control population movements, to maintain the integrity of their borders and to shape the structure of international migratory flows (Held et al. 1999). As non-EU countries adopt the practices and norms of the Union, we see the spatial extension of the EU's political authority beyond the perimeter of its member states towards neighbouring countries. There, the EU's power is expressed in 1) policy transfer; 2) expertise and knowledge transfer, and; 3) operational co-operation with the relevant government

authorities that are induced or elect to follow the European practices of migration and border control. The Union's governance combines both inclusionary and exclusionary techniques in relation to its partner countries and their populations, constructing the EU as an empire with fuzzy borders (Zielonka 2006).

As Chapters 5 and 6 show, the EU's migration relations with its immediate neighbours focus, first of all, on control measures. Despite the various dimensions of the GAM, neither labour nor development aspects have yet been introduced into the EU's migration co-operation with Ukraine and Russia. The emphasis has been squarely on *mobility* of their nationals, but not on *labour* migration. This situation is paradoxical considering that the political rationality of the EU's "comprehensive migration management" formally includes an increase in legal channels for labour migration to counter irregular migration. Ukrainian and Russian nationals are rewarded with greater access to the Schengen territory once the security of travel of foreigners and citizens is guaranteed by their governments. Hence a security-driven and policing logic towards immigration becomes normalized thanks to EU policies on irregular migration.

This study, however, shows a more complicated picture of the role of the EU's periphery in the construction and maintenance of the control-oriented migration regulation system. In particular, I have shown that the "periphery" has its stake in the redefinition of the European space of human mobility. For example, the processes in Ukraine – of the incorporation of the EU's internal rules and norms – reveal a willing gradual adoption of the migration norms because they suit the domestic political agenda. To the initial EU pressure for greater control of population movement from its territory, Ukraine responded with calls for international support of the so-called "transit" countries and succeeded in making its international migration challenges a European problem. The sovereign play is also visible in Ukraine's adoption of the EU's border

management practices and in its discourse that portrays the importance of “transit” countries in filtering migration flows towards the EU. Similarly, Russian official discourse constructs Russia’s prominent role in the European security agenda and in the European effort on irregular migration regulation and transnational organized crime (see Russia’s position in the readmission and visa negotiations with the EU).

As states retain a degree of autonomy in determining their migration policies, the resulting policies in non-EU countries are the combination of the external pressure and domestic interests. The EU acts as a Europeanizer of these countries’ migration policies, while it simultaneously monitors these countries’ compliance with international migration norms. Clearly, the EU’s migration politics in non-EU countries is advanced by such international organizations like IOM, ICMPD and UNHCR as they implement the EU-funded projects in these countries. In particular, the IOM has been actively promoting the agenda of “global migration management” for the benefit of all, and it has been working with state governments to meet their interests (Georgi 2010; Geiger 2010; Hess 2010). ICMPD, in turn, frequently implements projects that have been initiated by EU countries’ governments for “the benefit” of their eastern partners (e.g., the Budapest Process and the Prague Process). Since the European Commission funds those projects and determines the guidelines for implementation, these organizations may be viewed as agents of Europeanization of the countries where they implement EU projects (see Geiger 2010 on IOM efforts in Albania). Lavenex (2007) also points out that the EU actively uses its foreign policy instruments in order to bind third countries and international organizations to EU policy-making through such mechanisms as: positive incentives in intergovernmental negotiations; policy transfer through transgovernmental networking; and the mobilization of migration IGOs (such as IOM and the UNHCR) (2007, 247).

The EU also facilitates and creates what has been called “multi-level migration governance” (Betts 2008, 2011) or “multilayered migration governance” (Kunz, Lavenex and Panizzon 2011) by expanding the venues where states can engage in creating ad hoc or permanent migration partnerships on bilateral, regional or inter-regional bases. While internationally we have been observing an emergence of fragmented and incoherent governance of migration in specific categories (e.g., refugees, workers, irregular migrants, tourists) and issue areas (e.g., remittances), in Europe this regime is more structured thanks to the activities and interests of separate states (such as the Switzerland-initiated Geneva Process or the Sweden-initiated Söderköping Process) and organizations like the EU and Council of Europe. This all has effects on the international politics of migration. As Betts (2008) rightly points out,

with little coherence in migration governance... some states retain a significant degree of autonomy in determining their own migration policies. Relatively powerful, predominantly migrant receiving states, are able to accept migrants they regard to be a net benefit and to reject those they regard to be a net cost. Meanwhile, other less powerful states are compelled to accept the implicit regulatory framework that emerges from the constraints created by the policies of other states. The fragmented nature of global migration governance serves to reinforce the centrality of power in the international politics of migration, allowing relatively powerful states to engage in forum-shopping, choosing between different institutions that selectively include and exclude partner states from cooperation on a pragmatic basis (Betts 2008, 2).

Clearly, the inconsistency between EU rhetoric and actions regarding the comprehensiveness of its migration policy can be noted. Although the European Commission has sought to enhance the EU’s migration management regime with the development component, the latter remains secondary to the security component (Lavenex and Kunz 2008). The normative position of the Commission and the EU are also questioned by the reality of EU states’ discussion of a need to build broad partnerships with countries, while at the same time authorizing the Commission to advance negotiations only on security and control-oriented agreements. Whereas the Council

gave an extensive number of mandates to negotiate readmission agreements, its record of mandates for mobility partnerships has been rather slim (four agreements thus far).

Like the international migration discourses (Kalm 2010), the EU institutions present migration in their policy documents as a normal and positive process when managed properly. In the 2010-2014 Stockholm Programme, this proper management is expressed in the Commission's and member states' emphasis on the importance of "flexible immigration policy" that accounts for the needs of the job market, supports the integration of immigrants, and addresses the issue of irregular migration. In its attempt to create a comprehensive EU migration policy, the Commission emphasizes the importance of accurate knowledge about member states' labour market needs, so the EU collectively may benefit from migration under the Commission's watch. Labour migration, however, is linked to irregular migration, and becomes part of the EU's migration control strategies (Walters 2010). As part of its migration diplomacy, the EU thus normalizes these practices regionally, depoliticizing migration policy-making in the countries for which the EU has migration policy prescriptions. Its migration policy discourse, equipped with "expert knowledge" on various aspects of migration regulation, presents normative assumptions for third countries to follow or orient towards in order to be considered part of the space where migration is properly ordered.

7.2. The EU's Governing of Immigration "at a Distance"

As Miller and Rose state, "If the conduct of individuals or collectivities appeared to require conducting, this was because something in it appeared problematic to someone" (2008, 14). Forming a particular knowledge of what is to be governed is characteristic of political rationalities, as is expressing certain convictions concerning the proper exercise of government

(Miller and Rose 2008). In the late 1980s, calls were made to extend the governance of migration towards the countries of origin of immigrants into European countries. Such a move, it was believed, would increase the success of the migration policies of the EC countries. Chapter 2 showed how the problematization of “transnational” threats in the 1990s made it “common sense” for EU member states to engage the countries and regions perceived to be the areas from which these threats to the EU’s internal stability emanated. The problematization of the neighbouring countries in security terms has rendered these countries visible for governmental intervention. Interestingly, the first formal calls for the *external* action came from the European Community’s supranational institutions (i.e., the European Parliament and the European Commission), responding to the growing “problem” of irregular migration. The formulation of the “problem” of irregular migration turned the countries of origin and “transit” of migrants into places in need of intervention and steering. Representation of irregular migration made both the behaviour of individuals and the role of the countries of origin “problematic.”

As a result, the EU has sought to increase the capacities of governments in transit and source countries to better control migration: (1) of their populations across borders (such as through better identification and protection of the documentation and exit-entry controls), and (2) of the foreigners transiting through or entering their territory (for example, by means of technically equipped border protection services). Notably, the EU agenda expanded from irregular immigration to include the issues of migrant integration, freedom of movement within third country territories, and external relations on migration. Such conditionalities became possible within the context of the visa liberalization negotiations with the non-EU countries.

In the EU’s representation of international migration, two issues deserve particular attention. The first is the EU’s language of a “triple-win” scenario – that is, the involvement of

both sending and receiving countries and migrants, for the benefit of all. The second issue is the EU's language of "migration partnership." Any governmental activity is inherently built on relations of power. Unmasking how the relations of power are implicated in the processes of governing international migration is key to exposing the constitution of migration as a governmental project in Europe. The elaboration of this claim follows.

Global migration management can be interpreted as a "political rationality" as it relies "on a specific knowledge about the object of government (i.e., migration), establishes appropriate roles for authorities, and defines governmental goals" (Kalm 2010, 23). In international policy discourse, international migration has become something that should and can be "managed," rather than "controlled," with a correct mixture of incentives and controls (Kalm 2010, 21-22). The EU's discourse on migration management should be viewed as part of this wider political rationality that simultaneously feeds global policy discourses and finds its inspirations in them. Nevertheless, it has its regional expression and specifics that reflect "the given social and political compromise of migration" and the ways of governing it (Karakayali and Rigo 2010, 129).

The political rationality of the migration field represents international migration as something that is amenable to management and that can be "improved" for the benefit of sending and receiving states, and migrants themselves. Representation of the "solutions" to international migration problems through a "triple-win" scenario creates the continuum of territories and populations to which governmental technologies may be applied. I used the concept of governing "at a distance" in order to capture how the governance of these territories is being exercised indirectly by the EU, through the production of knowledges about these countries (e.g., migration profiles, study missions, twinning projects) and the spread of various security-related

expertise (e.g., surveillance technologies for border management, creation and exploitation of databases with personal data of the border-crossers, twinning, and police and border guards training manuals). Other examples are the activities of intergovernmental platforms like the Söderköping Process or the Budapest Process, and the activities of the European Union Border Assistance Mission (EUBAM) whose main objectives are to popularize the information or to assist the participating countries in improving their internal policies with regard to migration and borders. Clearly, the EU's border mission to Moldova and Ukraine is an example of the external governance that has no analog in the Russian case. With Russia, the EU influence is limited to what the Russian governing elites are willing to co-operate on.

Since the early 1990s, the visibility of “transit migration” and of “irregular migration” has been increased through the accumulation of knowledge about these phenomena. Studies have been conducted by international organizations in charge of migration, by various think tanks, and by academic researchers in an attempt to count these “uncountable” flows, give them presence by naming their directions (e.g., the language of “migration routes”), and map them for a better visual representation. Such representation served to instrumentally link countries “along the route” into an organized action to solve the “common” problem of irregular migration. Representation of irregular migration as a threat to all societies consolidated governments “along the routes” into actions, as none of the countries wished to look as if it were covering up or supporting “illegal” migration. Because of their geographical proximity to the (prosperous) EU, co-operating with the EU – particularly for the “transit” countries – became obvious and expected because of the wide-spread understanding of the problem being “imported.”

Another cultivated “common sense” belief was the representation of “illegal” migration as a problem that required *concerted* actions by governments, both internally within the EU and

outside of its membership confines. Since it received the competence to conduct external relations in the immigration area, the Commission has been advocating for transnational solutions to Europe's migration problem. The EU, as a result, has acted to facilitate various bilateral and multilateral cooperation platforms in order to "solve" the irregular migration problem through co-operation. The EU's "government at a distance" takes place through the inculcation of its ideas and norms in non-EU countries, popularized by the Commission's support of such mechanisms as the sharing of expertise and "best practices," shaping of the governments' capacities, the spread of the EU's training manuals (as in the case of the Schengen border code trainings), or the practical on-the-job training (for example, of the border and migrant officials in non-EU countries). Instruments such as study missions and expert exchanges are other governmental technologies enabling the EU to produce and accumulate knowledges about a given country's migration situation and later to claim that it offers a "tailor-made" approach with a partner country's migration challenges taken into account when it proposes its solutions to the "common" problem of irregular migration. I claim that these various mechanisms and technologies allow the EU to indirectly govern populations of these countries, in this case, depending on their "migration profile" and their importance to the EU's regulation of its immigration flows.

In turn, the EU's language of "migration partnerships" masks the reality of diverging interests among the sending and receiving countries and of migrants, and underplays the asymmetries of power that exist between categories of states, or between states and individual migrants. Migration partnerships, a formal declaration for which was signed by forty-nine states from Europe and Central Asia in May 2009, have been presented as one solution for the management of migration flows. By their design, the EU claims, these partnerships are meant to

balance the responsibility and benefits of migration between sending and receiving countries and link migration to such policy areas as development, trade, finance, external relations, and security. The “Building Migration Partnerships” declaration states that “well-designed and coordinated migration policies” are “beneficial to all parties involved, including individual migrants, not only in response to demographic developments, but also in contributing to social and economic development” (EU Presidency 2009, 2). Further on, however, the needs and priorities of the destination countries are singled out as far as the benefits of the labour migration are concerned:

well-managed labour migration can represent not only one of the sources of economic and social *prosperity* not only (sic) in countries of destination, particularly when labour migration policies are implemented in full compliance with *the labour market needs, reception capacities and priorities of countries of destination*, but also a force for economic, cultural and social *development* in countries of origin (EU Presidency 2009, 3, emphasis added).

Thus, labour migration is viewed as a source of *prosperity* for destination countries, while it may act as a force for *development* for countries of origin. According to the declaration, the partnership promotes “mobility and ‘brain circulation’ between countries of origin and destination, avoiding the loss of skills and know-how in the countries of origin (‘brain drain’), as well as the loss of added value of migrants’ skills and know-how for countries of destination (‘brain waste’)” (EU Presidency 2009, 3). But, to be “well managed,” labour migration may be restricted if it does not meet the needs of the destination countries (see italics in the excerpt above). A partnership approach between the EU and third countries supports the circulation of labour between states, rather than a permanent migration of those seeking employment abroad.

As in any other political declaration the EU signs with third countries, the intention to implement the mechanisms of return and readmission of third country nationals is mentioned. The undersigned states support “the further development of policies on return, readmission and

reintegration in *a spirit of partnership* among the countries involved” as such that is “a subject of common interest and is a fundamental part of well-functioning migration policies, including fight against illegal migration” (Ibid, 3). The inclusion of the migrant re-integration component is noteworthy; it reflects the EU’s recent policy of encouraging countries of origin to dedicate resources to keep their population “in” (particularly those individuals who were “irregulars” in the EU). All the above listed policy initiatives reaffirm states’ claim to the management of their populations along the nation-state lines, with the EU acting to facilitate the upkeep of national divisions while seeking to foster a *supranational* citizenship within the EU.

Besides masking the diverging interests and needs of countries of origin and destination, the partnership language also depoliticizes migration policy-making referring to policy coordination when the process is really one of policy convergence toward European migration norms, especially when the relations are asymmetrical. One could also mention the multiplication of the depoliticization effect, which is engendered in the very notion of (migration) “management,” with “its apolitical and technocratic nature, and its popularity (to the detriment of other notions such as ‘the politics of migration’)” (Geiger and Pécoud 2010, 11). But ultimately the discourse of migration management in partnerships creates a particular discursive field, which makes exercising power in a certain way to regulate migration “rational,” and also makes the inter-state migration co-operation “rational.” The invention of the “migration partnership” notion produces an additional reality that contributes to the government of the world population in accordance with national priorities.

States are not the only objects whose conduct requires intervention. Governmental technologies are also directed at softly steering the migrant and diasporic communities (as shown in Chapter 3). The political rationality of global migration management, which in the EU has

irregular migration and migrant integration as the core problems to address, is meant to influence individual behaviour. Ultimately, interstate regulations on migration are directed at disciplining an individual potential migrant. It creates a system of discourses, actors (state agencies, IGOs, NGOs), expert knowledges, and personnel exercising power over these people and implementing government decision, – that, all together, constitute governing directed at addressing something that is being problematized in terms of its conduct. The “conduct of conduct” includes both the measures that are meant to affect one’s behaviour directly, and the indirect techniques that target an individual’s capacity to self-regulate. Such measures as “the militarization of borders, the forcible deportation of irregular migrants, or the enclosure of asylum seekers in camps” (Kalm 2010, 26) are examples of the direct forms of exercising sovereign power within migration politics. The less visible and indirect techniques are measures such as information campaigns or job banks in sending countries, as they are meant to empower an individual migrant to make an informed decision for him/herself and bear responsibility for such choice. With no explicit emphasis on control, the indirect measures work to self-control migrants from undertaking risky journeys to European shores, while presenting the EU as taking actions to address the negative consequences of its migration control policies.

We thus can observe that some of the practices emerging within the governmental project of international population management are the expression of the enduring sovereign power of the state. Rather than being replaced by the governmental power, the sovereign power either co-exists with (Walters 2012) or is being re-instated (Butler 2004) by and within the governmental state power. Nested within governmental power, sovereign rule is exercised by the bearers of executive power, and it turns the managerial “official” into someone who possesses the sovereign power (Butler 2004, 62). In particular, without appealing to any exceptional

circumstances, border guards especially – but also all those who are related to the exercise of control over the borders and territories (such as those who maintain personal databases of foreigners crossing the borders, or immigration police) – act to preserve the sovereign rule of the state. Border administrations in the cases under study and in the EU exercise their discretionary power over foreigners wishing to enter the territory. In a seemingly global world, this return to a sovereign logic of border controls became especially pronounced after the September 11 events, with multiple technologies introduced to make the borders “smart” (Bigo 2011). Migration partnerships can be viewed as another expression of the sovereign power converging with the governmental power, or better, of the governmental power giving birth to or rationalizing the exercise of sovereign power over populations and their movement. Migration partnerships are inter-state arrangements whose actions are directed at regulating former, current or future international migrants within the confines of national borders. With instruments such as re-integration policies for irregular migrants returned from the EU, the EU’s governmental power expands the applicability of the sovereign power towards national populations. The persistence of the sovereign power thus is notable.

I have also hinted at the incompleteness of some states’ claims to sovereignty over their borders and territories when they agree to host detention and refugee centres. Their sovereign power may also be interpreted as diminished in the area where these states claim a monopoly over determining the legitimacy of those crossing their borders. Whereas technically, countries like Ukraine and Russia control the definition of who is viewed as a legitimate traveller/foreigner crossing their borders, the formulation of their policies and bureaucratic procedures has been influenced by demands placed on these countries’ border agencies by their Western neighbours in the context of irregular migration co-operation. Similarly, external pressure affects

the format of their national identification documents. While these documents must be in compliance with international standards, there is also the EU requirement of what type of documents are viewed as acceptable by its border agencies if (European) countries want to proceed to a visa-free travel regime. The legal state definitions are accompanied by a system of registration and the production of various identity documents ensuring that “other states recognize those documents as evidence of the status of their citizens’ identity claims” (Guild 2009, 11). When the EU stipulates that only bearers of biometric passports in compliance with the EU norms will be able to receive visa-free access to its territory, it implicitly imposes its will and challenges the sovereign right of those states to unilaterally regulate what identity documents are issued by the state. Thus, we observe the incompleteness of the sovereign claims of non-EU countries to document their citizenry, as document issuance procedures are dependent on the recognition of these documents by the EU, or any other state that is higher up in the hierarchy of security arrangements practised at international borders.

Arguably, the externalized management of migration – with the externalization of migration controls as one example of it – is not being interpreted as the erosion of the states’ sovereign power because the externalization and delinking between migration controls and national territory and borders are also accompanied by the re-insertion of sovereign logic at the borders and within territories through new techniques, such as surveillance measures. The governmental project of global migration management also enables the sovereign power to emerge anew in the policies of migrant re-integration in home countries, or the policies of detention, incarceration and further transportation of irregular migrants. Similarly, international policing of potentially dangerous categories of citizens and foreigners remains national by its

nature (Valverde and Mopas 2004), showing the competing logics within the global governmental power.

7.3 Factors Determining EU/Third Country Migration Co-operation

It has been suggested that “a relatively high level of compliance can be expected” in the JHA co-operation with ENP countries because

by taking aim at organized crime and terrorism, many objectives endeavor to strengthen state control, which is accepted as legitimate by the ENP participants. JHA cooperation with the EU is an obvious interest of ENP countries whose governments are interested to increase the capacities of their law enforcement agencies pointing out to the leverage the EU has over these countries (Occhipinti 2007, 114-5).

However, the EU is also perceived to be in an asymmetrical, disadvantaged position in relation to third countries concerning its internal security or issues related to human rights (Occhipinti 2007, 115). When their security or economic well-being are at stake, the argument goes, third countries may not be willing to accept the EU’s rules and may resist the externalization of controls and may heavily insist upon compensation for something that can potentially jeopardize their domestic situation (for example, readmission) (Lavenex and Whichmann 2009). Clearly, there are mutual dependencies, and power positions shift depending on the issue under discussion. States’ elites are socialized in accordance with the dominant discourse that portrays challenges as transnational, requiring concerted actions on the part of various states to deal with them. Some states, however, have less say in determining international regulations or accepted “best practices” in addressing those security challenges. Rather, they are under external pressure to set priorities domestically in accordance with the international agenda in order to be perceived as “good” and “responsible” actors in the system.

What does this study tell us about the ways in which Ukraine and Russia have responded to EU pressures with regard to international migration management? What are the programmes, experts and knowledges that enabled this co-operation? Does this study of inter-state migration co-operation show the changing meaning of sovereignty regarding migration management practices? I made some comparisons and conclusions about the specifics of the migration politics and policy-making in Ukraine and Russia in Chapter 4 (see conclusions of chapter 4). In this section, I will highlight the explanations that are to be found in the international/foreign policy dimensions of these countries' politics.

Ukraine and Russia are two cases to which different political frameworks and expectations on the part of the EU are applied – the ENP in the case of Ukraine, and “strategic partnership” and the four common spaces in the case of Russia. Both political platforms have built-in expectations concerning legal approximation to EU norms. However, relations on migration and border management are characterized by more operational and inter-agency co-operation and have less emphasis on legal approximation. Despite differences in Ukraine's and Russia's positions towards the EU, their responses to the EU's migration diplomacy have been similar. Factors such as the state's interest in greater control capacities over immigration and borders, the dominant position of the security-oriented domestic elites, the international environment of states “fighting” “illegal” migration, and developed countries interest in increasing the capacities of “weaker,” “new” states to control their borders and territories – are some of the observed factors that have caused the similarity of outcomes in these two differently positioned cases.

The initial willingness of the eastern neighbouring countries to co-operate with the EU on migration management was spurred by the reality of increasing migration flows through their

territories in the 1990s due to their geographic proximity to the EU. Whether and how co-operation evolved was also influenced by: the state's foreign policy orientation; the state organizational and political culture (in particular, its openness to foreign influences); the acuteness of the perception of sovereignty issues in relations with the EU, and, predisposition of the domestic politics to the EU's influence.

The EU's leverage over a given country is one important variable that determines that country's response to EU pressure. This leverage can be expressed in economic (e.g., trade relations, financial and technical assistance), political (e.g. membership aspiration) or diplomatic terms. Additional leverage exists if a country has EU membership aspirations. It has also been argued that variables such as intra-EU coherence on a specific issue and on its foreign policy stance, the structure of incentives between the EU and its neighbours, and mutual perception of legitimacy are important in determining the degree of policy convergence intended by a third country (Barbé et al 2009b). Moreover, policy convergence can have a different basis than the EU's norms; namely, it can be a convergence towards international and bilaterally developed norms (Barbé et al 2009a).

The ENP has an expectation of policy convergence on the part of the ENP countries. The principle of "everything but institutions" proclaimed by then European Commission President, Romano Prodi, implied close co-operation with neighbouring countries in exchange for their legislative and regulatory approximation. The EU's principle of "more for more" is a rhetorical device that creates additional incentives for ENP countries to express "willingness" to undertake economic and political reforms in line with EU demands. Nevertheless, the foreign policy orientation of the governing elites affects the EU's ability to exert influence over the country.

In the case of Russia, we observe regulatory approximation in the four common spaces that resemble the EU's influence over ENP countries. Despite a lack of direct EU leverage, we observe partial adaptation of Russia to the EU's normative framework. This is particularly evident in cases where European and international norms coincide, or when what the EU requires from Russia resembles, or is being institutionalized through, other international platforms in which Russia participates. On irregular immigration co-operation, the ability of the EU to promote its norms at the international level increases its chances of being successful in pressuring some third countries, which otherwise might not be willing to co-operate with the EU. While the rhetoric of the governments may differ, the policy outcomes are comparable.

On the other hand, as foreign policies fluctuate and develop in relation to each other, the scope of what the EU has to offer and how it corresponds to what a given country expects from the EU plays an important role in determining the climate of co-operation and the willingness of a particular government to comply with EU pressure. This directly affects the sensitivity to the question of sovereignty in the relations between the EU and a particular third country on issues such as governing borders and control of population movement.

A given state's response to the EU's migration diplomacy is also dependent on the domestic situation regarding migration, and the priority that the government gives to migration-related questions. Ukraine, despite the pressures from the EU, was not complying with all the migration-related requirements of the EU Action Plan but sought closer co-operation on "illegal immigration" and border management – the priorities aligned with the government's domestic agenda. In the case of Russia, the level and intensity of co-operation with the EU increased once the security communities in Russia acquired a greater degree of control over the political agenda in the country. Arguably, the response to the external EU pressure increased once similarly-

mindful individuals – i.e., law-enforcement agencies and national-security-oriented individuals – were able to steer domestic attention to questions of policing and law enforcement in relation to foreigners/immigrants.

Another important factor, especially for the successes of the EU’s governance “at the distance,” is the role of non-governmental sector and expert communities, as well as of individual citizens, in speaking the language of the EU. As Miller and Rose (2008, 34-35) point out, “language... plays a key role in establishing these loosely aligned networks, and in enabling rule to be brought about in an indirect manner.” The existence of “shared vocabularies, theories and explanations,” while letting each participant remain autonomous, enables governing “at the distance”. If the actors speaking the EU’s language are present and influential, more pressure is placed on the government to introduce reforms that the EU requires. This is a dimension that differs between the two cases studied. In my research, I did not detect the presence of the EU language among Russian experts, migration policy makers, or governing elites. While in Ukraine there are expert communities seeking to hold the government accountable for fulfilling – or not – the requirements of the bilateral agreements leading to visa liberalization with the EU, no similar pressure was noticed in Russia. As migration co-operation is an important dimension of the EU-Ukraine Visa Liberalization Action Plan, experts play an important role in enabling the transfer of EU norms and practices to Ukraine.

7.4. The Consequences of the EU’s Migration Diplomacy for Ukraine and Russia

The case studies explored in this dissertation allow us to observe some of the consequences of the EU’s migration diplomacy for third countries’ migration, foreign and security policies. There are some institutional, administrative, discursive and normative influences of the EU on its

eastern neighbouring countries (for a short overview, see Table 7.1). As the case studies show, Ukraine and Russia show a varying degree of European influence in the development of their migration policies. Nevertheless, both are under the normative and institutional influence of “European” practices of migration management through EU-funded training programs for civil servants for migration and border control authorities, counter-trafficking programmes, foreign expert knowledge transfer, and readmission policy development, to name a few areas. As mentioned in Chapter 6, Russia even copies some elements of the EU’s migration policies into its own migration regulation framework, in particular, by giving a greater role to migration questions in its external relations.

We can talk about direct/indirect and intentional/unintentional impact of the EU on third countries, as well as about voluntary and involuntary adaptation on part of non-EU countries (Lavenex and Uçarer 2004). The indirect impact of the EU is associated with the externalities of the European integration process and its impact on the countries outside of the EU’s territory, and it has been expressed in the neighbouring countries’ voluntary and necessitated reactions to the policy changes that have taken place in the EU. The EU’s immigration control policies caused its eastern neighbours to follow its lead, insofar as they, too, did not want to bear the pressure of immigration unwanted in the EU. These policy changes occurred prior, or in parallel, to Ukraine’s and Russia’s negotiation of readmission agreements with the EU, and they were meant, among other things, to minimize the expenses associated with detention and deportation of irregular migrants. These countries also had turned to restrictive migration control policies in order to decrease their attractiveness as transit zones for EU-bound human smugglers and irregular migrants.

Table 7.1 Europe’s Impact on Ukraine and Russia

	Ukraine	Russia
EU-influenced institutional changes in migration area	<p>No and yes, in terms of institutional architecture; No and yes, with regard to capacity-building of existing institutions.</p> <p>Strong internal disagreements and no political will to create workable institution(s) in charge of migration; no external motivation provided by the EU to create one comprehensive institution in charge of migration. More recently, such motivation was provided by the EU in the context of the visa negotiations with Ukraine. The creation of an institution in charge of migration was listed as one of the conditions Ukraine must meet to move closer to the visa free regime for its citizens.</p>	<p>No, in terms of institutional architecture; Yes, in terms of assisting with capacity-building of existing institutions.</p>
Assistance with drafting legislation	Yes – both direct and indirect (through international organizations the IOM and UNHCR, with the activities funded by the EU)	Yes – indirect (through international organizations like the IOM and UNHCR, with the activities funded by the EU)
Administrative capacities of migration agencies	<p>Yes – the law enforcement and border protection agencies. Indirect assistance with refugee issues – through funding of projects of domestic and international non-governmental organizations working with refugees and asylum seekers in Ukraine, and to human rights organizations.</p>	<p>Yes – migration agency, the law enforcement, and border protection agencies. Indirect assistance with refugee issues – through funding of projects of domestic and international non-governmental organizations working with refugees and asylum seekers in Russia, and to human rights organizations.</p>
Technical assistance and equipment (for borders guards and police)	Yes	Yes – technical assistance for border management
Knowledge transfer through personnel training and expertise sharing	Yes	Yes
Assistance with the construction of physical migration-related infrastructure	Yes	Yes but limited
Presence in the national discourses	Yes	Yes

In turn, the direct impact takes place through migration diplomacy and internal security conditionality attached to other spheres of co-operation, and its intention usually extends to policy transfer and offloading of migration responsibility for the migration flows to other countries. The impact – that is, approximation of norms and practices in the third country towards the European ones – is greater when the country's and the EU's interests coincide or are two-directional (i.e., can be satisfied simultaneously through closer co-operation), or when the EU has a political (i.e., membership prospect) or policy leverage (i.e., visa).

The cases show that the Europeanization of non-EU countries consists of processes, rather than outcomes. The notion of “Europeanization” includes both “domestic impact of Europe” and creative usage of Europe for domestic consumption (Jacquot and Woll 2004, as quoted in Radaelli and Exadaktylos 2010, 193). Europeanization takes place in a creative manner and not as a unidirectional process, and both politics and policies are Europeanized. Both the “EU” and “Europe” are used in national discourses in whatever ways to justify the policy choices of the domestic actors promoting change. On the one hand, politicians might reject the pressure from the EU; on the other hand, they might use Europe creatively to legitimate change they seek. Whereas policy actors in EU member states can use the perceived threat of action by the European Court of Justice against their country to shape the domestic debate on a given policy issue (Radaelli and Exadaktylos 2010), policy actors from non-EU countries may use the argument about the credibility and importance of their relations with the EU, or the necessity to appear as a credible partner in bilateral relations in order to steer the policy debate and legislative processes in a desired direction (e.g., the debate about adopting readmission and visa facilitation agreements in the Ukrainian parliament, or the border-related reforms in Russia). Europeanization takes place incrementally (Ladrech 1994), and it is not

necessarily a progressive process with no return. It affects national politics and policies when the mainstream discourse is about “progressing” towards the “modern” European ways of doing things.

Establishing a direct causal relationship is difficult, considering the complexity of Europeanization processes, as well as the impact of both global processes and domestic forces also seeking reforms. Irregular migration, border protection and biometric surveillance technologies are the latest obsession of states in their attempts to show that they are security providers to their populations, and to create the illusion of being in control of various flows, including human flows. As hinted at in this study, the EU is not the only agent of Europeanization. There are also the Council of Europe, other European intergovernmental fora, IGOs, and separate states that collectively or unilaterally act to advance their policy agenda or solve a given problem at hand. I was primarily concerned with the impact of the EU on domestic politics and policies in non-EU European countries. Although it has not been investigated in this study, it is right to suggest that separate EU member states co-operating with non-EU countries may greatly shape the process of policy learning and policy transfer in a given non-EU country (for example, the Ukrainian authorities learning from the Polish example of the accession process), thus impacting the Europeanization processes there (see Featherstone 2003). Even in the cases of bilateral influences, the EU still arguably provides the architectures and the procedures for reforms, because it was the pressure from the EU that affected the practices and processes in justice and home affairs in EU member states in the accession process in the first place.

The institutionalization of readmission practices in Europe

This research revealed the adaptation and spread of the readmission principle in Europe. Facing the Union's pressure, Ukraine and Russia incorporated the principle of readmission into their relations with third countries and sought to sign readmission agreements with the major source countries of unauthorized migration. With its international influence and "big power" status, Russia has been especially active in adapting the principle of readmission in its foreign policy.

Besides normative adaptation, there is a material side to the functioning of the readmission space in Europe. Thanks to EU assistance, third countries develop their readmission infrastructure (e.g., the erection of reception centres, designation and training of the personnel) and adopt new procedures in order to be able to deal with their now international readmission obligations. Although the EU plays the role of a motivator and facilitator for the establishment of the readmission realm in Europe, third countries also play their role in how this space functions as they introduce policies and practices to implement the readmission. Therefore, all states in Europe – both the sending and the receiving ones – play their role in establishing the readmission space. The transit countries invest (whether from their own budget funds or with funding from the EU) in the development of physical structures and training of the personnel of the centres where third country nationals are kept before they are sent further. Even in their sovereign realm of internal policy implementation, they are affected by European readmission practices, because they follow – or are informed by – the European "best practices" manuals compiled especially for them (for example, by the IOM or ICMPD). These manuals contain detailed information concerning the proper functioning of the centres and 'correct' detention of foreigners, based on practices of detention and reception centres in EU member states. Ultimately, such readmission co-operation maintains the international system in which states – both sending and receiving –

seek to increase their sovereign power over mobile subjects and claim control over their territories and populations.

In inter-state relations, the understanding of readmission is quite technical. Readmission agreements specify the procedure by which nationals and third country citizens are transferred. For the country signing a readmission agreement with the EU, the priority is to determine what to do with a returned foreigner. How the readmission cases will be handled is thus determined by the domestic experts participating in the negotiations, in accordance with the sensitivities and imaginaries they might have with regard to the application of sovereign power to these foreigners. The discussion may centre on questions of institutional and financial capacity to accept such individuals. But disagreement usually centers upon the acceptable pieces of identification of one's transit through, or origin from, a given country (e.g., bus or airplane tickets, a piece of clothing made in a country).⁹⁸ For a requesting country, the number of positive responses to its readmission applications, and the consequent transfers of individuals to a requested country measure the success of readmission. Effectiveness is also measured by decreased interceptions of irregular migrants and/or traffickers in a particular country, or a list of countries, within one "route."

Readmission and visa facilitation agreements institutionalize the European practices of mobility regulation. At the core is the EU's approach to countering the "illegal" movement of foreigners into its territory. This leads to strengthened state capacities, bound into the EU's migration regime, to regulate and track the movement of their own citizens through new systems of identity documents and databases, entry and exit system, etc. These different practices shape the EU-centred zone of security that is regulated by EU demands regarding the security of travel documents (e.g., biometric passports that are read by the machines installed at the EU external

⁹⁸ As pointed out by one interviewee (V. Chumak, in Kyiv, June 2008).

borders), acceptable border technologies (e.g., infrared detectors of human movement), and tools (e.g., interviewing at border crossing points) to detect “unwanted,” potentially “illegitimate” travelers. Countries co-operating with the EU must ensure compliance, lest their citizens not be able to travel into the EU. Security professionals in third countries are thus motivated to increase their capacities and modernize their own migration control technologies in order to monitor the movement of foreigners and separate the flows into ‘good’ and ‘bad’ ones.

Evidently, visa facilitation agreements are instruments to counter the negative perceptions of the exclusiveness of the “EU club” that is perceived or experienced by third country nationals facing EU consulates. Nevertheless, they do not erase the outsider status of these nationals; rather, this status is modified in a way that removes just one layer of the insecurity and “threat” perception attached to these nationals. Simultaneously in the EU, we observe the implementation of technological innovations at the borders to compensate for the removal of the visa/consulate pre-screening as an important security mechanism. Borders are becoming biometric, with “dataveillance” (Bigo 2011) used as a compensatory measure – a process that simply transfers the power to exclude from EU consulates in foreign countries to border agencies. The burden of screening is partially shifted to the countries of origin that have to introduce these biometric passports and upkeep the databases that contain personal data. The policing function increases in the case of countries of origin, and hence the state’s responsibility for its own citizens and the potential security threats coming from them to other states increases. The registries and databases are important vehicles for the orderly regulation of people’s movement. The states of origin bear the pressure for creating systems of population management that would allow screening against any potential danger coming from their individual citizens. The trade-off for better travel options is a suspicious treatment of everyone, and restricting travel

for those deemed risky or dangerous. In the domestic debates, some of the reforms in the internal security sector are justified by the EU's requirements as part of visa negotiations (Russia) and/or as part of the country's EU integration strategy (Ukraine). The conditionality that the EU attaches to lifting visa requirements plays an important role in stimulating third countries to undertake reforms in line with requirements of the European Union. In practice, this leads to what William Walters dubs "the zones of security" that are composed of the states that maintain a certain standardized level of security and co-operate with each other. These "zones" share similar border technologies and the knowledge of how these technologies should be used to monitor borders, and the bodies and goods crossing them. They also include the standardization of personal identification documents, the absence of which may prevent citizens of a given country from entering the space where a certain degree of document protection is practiced and expected.

7.5. The Possibilities for Future Research

To provide a more nuanced picture of inter-state migration relations, one may bring in the individual into the investigation of inter-state cooperation as such to whom the governmental power is being applied. An interesting question is whether migrant actions and lives either disrupt, or conform to, the regime of migration regulation advanced through inter-state co-operation. Guild (2009), for example, has paid attention to the construction of the individual as a security threat and has examined how the individual – in particular, the foreigner – and his or her movement are being framed and categorized by the state. Guild has emphasized the importance of moving away from the state-centric frameworks, which position the state as the sole and legitimate definer of what is political, and what is security or insecurity. Instead, she has

presented her interpretation of the struggles and resistances by individuals, positioned by the state as “foreign” or “immigrant”, as the process of the deconstruction of the state’s claims to be “the determiner of the international borders” and to be entitled to control the movement of persons across borders (Guild 2009, 10). Following Guild, one may seek to disturb the statist assumptions and presuppositions by showing how migrants manipulate or add to the meanings attached to concepts of migration, identity and security.

While undertaking this research, I observed that within inter-state co-operation and negotiations, migrants are viewed in very technical terms. As an example, when going through the readmission process, migrants become bodies to be transferred from one state to another, with the discussion focused on the technicalities of such transfer. To disrupt the states’ narrative and claims of being in charge of migration regulation, it would be interesting to investigate what resistance, if any, individual migrants pose to the state and its ability to organize and undertake readmission transfers. Similarly, research into the cases when non-EU nationals challenge the visa practices of EU consulates may potentially provide insights into personal struggles against the negative identity construction of certain nationalities. I believe adopting such a perspective will also allow students of international relations and migration studies to better understand the meaning of the political that exists in inter-state, or transnational, spaces and the resistance to power that individuals make. In addition, it will allow us to better understand how the security of citizens is privileged over the security of foreigners, and what the trade-off is, or whether this security can actually be achieved to the degree claimed by the state “in charge” of irregular migration. Some studies conducted from the sociological perspective may give solid guidance for such research (see, for example, de Genova and Peutz 2010).

Another possibility for developing the lines of inquiry of this study is to focus on what happens to people who are returned to their home and/or transit countries in accordance with the readmission mechanism. Deportation of “illegally” residing foreigners is one of the most problematic and controversial practices that liberal democracies use to expel foreigners. Nonetheless, governments present the return of an “illegal” foreigner as central to the integrity and viability of their immigration and asylum systems. In the past two decades, return migration has been used by governments, especially in Europe, as an important part of effective migration management (IOM 2004). In the heightened security environment since the September 11, 2001, attacks, countries in Europe and North America have formalized immigration-related detentions and deportations in order to deter immigrants from entering and remaining in their territories without proper authorization. Arguably, the success of deportation hinges upon integration of the deportees “at home.” Strikingly, migration scholars have long neglected studying deportation beyond the point of expulsion.

What policy responses have countries of origin and of transit of irregular migrants introduced in response to the EU’s policies and practices of deportation? To bring the experiences of migrants back into the picture of inter-state migration management regimes, it would be interesting to examine what happens to returnees following expulsion. Studying the post-return conditions of those forced to return can contribute to our understanding of migrants’ experiences and of migrants’ attempts to undertake a repeat emigration after a deportation.

Deportation may be examined as a continuum between departing and receiving states in order to develop a systematic account of how deportation, and the support infrastructure created by departing and receiving states affect an individual’s reintegration in her country of origin and the intention to re-emigrate. Such a project would investigate the phenomenon of the assisted and

forced removal of foreigners that are deemed to be illegally present on the EU territory, and how such removals affect an individual's reintegration in a country of origin and his or her intention to re-emigrate for work or residence abroad. As the figures of "a foreigner" and of "a citizen" are at the centre of any migration management policy and the security concerns built into it (Guild 2009), investigating the effect of the EU's migration control policies on the relations of the countries of origin towards their own citizens could shed light on emerging categories of citizenship.

Conclusions

Andrew Geddes rightly argues that international migration is an integral process to "the development, consolidation and transformation of European states; the underlying motives for European economic and political integration; the international system within which European integration is embedded; the ways in which organizational and institutional processes at national, European and international levels 'make sense' of the complex human material that comprises international migration flows" (2008, 3). Importantly, it is in relations to the borders that the categories associated with international migration (for example, as "legal" or "illegal," a "threat" or "opportunity," "bogus" or "genuine") are being constructed (Geddes 2008). What happens to borders, and how borders get shifted to where the difference is constructed, are matters affecting the political landscape of inter-state relations in Europe.

The changing meaning of borders on the European continent points to the emergence of a multilevel system of governance of population – one directed at citizens and non-citizens alike, with actors at various levels exercising their influence over how mobility is being governed. This occurs when various levels of government participate in governing human mobility for the sake

of bona fide travelers – both citizens and foreigners alike. The mobility of individuals is being managed through increased control over both immigration and emigration. This takes place, at least partially, because of the pressure placed by the EU upon sending and transit countries to control immigration into the EU territory. Importantly, non-EU countries that choose to cooperate also have their interests and play active roles in managing migration towards Western Europe. The model is being presented as a form of a “global” migration management, shaped by concerted government actions on both sides of the borders and is employed towards or against non-nationals. How states deal with international migration illuminates the changing territorial and sovereignty boundaries of contemporary nation-states.

In response to the EU’s pressures to increase their control of irregular migration flows, third countries politicize the absence of freedom of movement for their nationals while downplaying the restrictive measures introduced and implemented to control the movement of foreigners towards the EU territory, and to regulate the mobility of their own citizens. Loss of control over people’s movements at state borders is interpreted as a threat to national sovereignty and security. Such discourse constructs the need to re-insert the state’s control over its territory and borders by investing into new surveillance technologies and the discretionary power of border guards to prevent a foreigner from entering the territory. As a result, the sovereign logic is being re-inserted at the borders. In such an environment, migration control and assumption of responsibility for migration control by non-EU countries happens both voluntarily, and due to the EU’s pressure. The governmental project of migration management around the EU core contains a logic of strengthening sovereign power over populations in the countries to which migration controls are being extraterritorialized. In addition, in its push for return and re-integration policies in the countries of origin, the EU stimulates third countries to be “good” sovereigns

(especially towards those citizens who were in irregular status in EU countries) and to invent policies that will keep their populations in.

Bibliography

- Agreement between the European Community and Ukraine on the facilitation of the issuance of visas. 2007. *Official Journal L 332*, 18/12/2007 P. 0068 – 0076.
- Albert, Mathias, David Jacobs, and Yosef Lapid, eds. 2001. *Identities, Borders, Orders: Rethinking International Relations Theory*. Minneapolis, London: University of Minnesota Press.
- Alexseev, Mikhail A. 2006. *Immigration Phobia and the Security Dilemma: Russia, Europe, and the United States*. Cambridge: Cambridge University Press.
- Andreas, Peter. 2003. "Redrawing the Line: Borders and Security in the Twenty-First Century." *International Security* 28: 78-111.
- Antonenko, Oksana, and Kathryn Pinnick. 2005. "The Enlarged EU and Russia: From Converging Interests to a Common Agenda." In *Russia and the European Union: Prospects for a New Relationship*. London and New York: Routledge.
- Apap, Joanna, ed. 2004. *Justice and Home Affairs in the EU: Liberty and Security Issues after Enlargement*. Edward Elgar.
- Ashley, Richard K. 1987. "Foreign Policy as Political Performance." *International Studies Notes* 13 (2): 51-54.
- Babaeva, Svetlana, and Svetlana Popova. 2001. "Dahe nelegaly mogut byt' grazhdanami Rossii." *Izvestiya*, 5 November.
- Balzacq, Terry. 2008 *The External Dimension of EU Justice and Home Affairs: Tools, Processes, Outcomes*. CEPS Working Document No. 303. Brussels: Centre for European Policy Studies. Accessed November 7, 2008, <http://www.ceps.eu/book/external-dimension-eu-justice-and-home-affairs-tools-processes-outcomes>.
- Balzacq, Terry. 2009a. "The Frontiers of Governance: Understanding the External Dimension of EU Justice and Home Affairs." In *The External Dimension of EU Justice and Home Affairs: Governance, Neighbours, Security*, ed. T. Balzacq, pp. 1-32. Basingstoke, New York: Palgrave Macmillan.
- Balzacq, Terry, ed. 2009b. *The External Dimension of EU Justice and Home Affairs: Governance, Neighbours, Security*. Basingstoke: Palgrave Macmillan.
- Barbé, Esther, Oriol Costa, Anna Herranz Surralles, and Michal Naturski. 2009a. "Which rules shape EU external governance? Patterns of rule selection in foreign and security policies." *Journal of European Public Policy* 16 (6): 834-52.
- Barbé, Esther, Oriol Costa, Anna Herranz, Elisabeth Johansson-Nogués, and Maria A. Sabiote. 2009b. "Drawing neighbours closer ... to what? Explaining emerging patterns of policy convergence between the EU and its neighbours." *Cooperation and Conflict* 44 (4): 378-99.
- Basaran, Tugba. 2008. "Security, Law, Borders: Spaces of Exclusion," *International Political Sociology* 2 (4): 344.
- Belasheva, Irina. 2001. "Odobrena kontsepsiya migratsionnoy politiki." *Vremya novostej online*, 20 July.

- Betts, Alexander. 2008. *Global Migration Governance*. Oxford: Global Economic Governance Programme Working Paper 43. Accessed May 10, 2012, <http://www.globaleconomicgovernance.org/wp-content/uploads/BettsIntroductionGEGWorkingPaperFinal.pdf>.
- Betts, Alexander. 2011. "Introduction: Global Migration Governance." In *Global Migration Governance*, ed. A. Betts, pp. 1-33. Oxford: Oxford University Press.
- Bigo, Didier. 2001. "The Möbius Ribbon of Internal and External Security(ies)." In *Identities, Borders, Orders: Rethinking International Relations Theory*, eds. Mathias Albert, David Jacobs, and Yosef Lapid, pp. 91-116. Minneapolis, London: University of Minnesota Press.
- Bigo, Didier. 2005. "Frontier Controls in the European Union: Who is in Control?" In *Controlling Frontiers: Free Movement Into and Within Europe*, eds. Didier Bigo and Elspeth Guild, pp. 49-99. Burlington, VT: Ashgate.
- Bigo, Didier. 2011. "Freedom and speed in enlarged borderzones." In *The Contested Politics of Mobility: Borderzones and Irregularity*, ed. Vicki Squire, pp. 31-50. London and New York: Routledge.
- Bigo, Didier, and Elspeth Guild. 2005a. "Policing at a Distance: Schengen Visa Policies." In *Controlling Frontiers: Free Movement into and within Europe*, eds. Didier Bigo and Elspeth Guild, pp. 233-263. Burlington, VT: Ashgate.
- Bigo, Didier, and Elspeth Guild, eds. 2005b. *Controlling Frontiers: Free Movement Into and Within Europe*. Ashgate.
- Birchfield, Vicki L. 2011. "The EU's Development Policy: Empirical Evidence of 'Normative Power Europe'?" In *Normative Power Europe: Empirical and Theoretical Perspectives*, ed. Richard G. Whitman, pp. 141-60. New York and Basingstoke: Palgrave Macmillan.
- Bobyts'kyy, Nazar. 2005. "Do Evropy bez viz. Chy e dlya ukrainsiv perspektyva?" *Dzerkalo tyzhnya*, No. 26 (554), 9-15 lypnya. Accessed September 19, 2009, <http://www.dt.ua/1000/1600/50599>.
- Bonet, Pilar. 2002. "Trying to stop illegal emigration, Russia undertakes radical measures." *El Pais*, 16 September. Accessed September 17, 2011, <http://demoscope.ru/weekly/2002/081/gazeta01.php#5>.
- Borisova, Nina. 2006. "Nevidimye Moldavane."// Invisible Moldavians. *Korrespondent*, 24 June, pp. 58-59.
- Börzel, Tanja A., and Thomas Risse. 2007. "Europeanization: The Domestic Impact of EU Politics." In *The Handbook of the European Union Politics*, eds. by K.E. Jørgensen, M.A. Pollack, and B. Rosamond, pp. 483-504. London: Sage.
- Boswell, Christina. 2003a. *European Migration Policies in Flux: Changing Patterns of Inclusion and Exclusion*. The Royal Institute of International Affairs, European Programme. Blackwell Publishing.
- Boswell, Christina. 2003b. "The 'external dimension' of EU immigration and asylum policy." *International Affairs* 79 (3): 619-38.

- Boswell, Christina. 2008. "Evasion, Reinterpretation and Decoupling: European Commission Responses to the 'External Dimension' of Immigration and Asylum." *West European Politics* 31 (3): 491-512.
- Braichevska, O., Volosyuk G., Malynovska O., Pylynskyi Y., Nancy Popson, and Blair Ruble. 2003. *Non-traditional immigrants in Kyiv*. Kyiv: Stylos.
- Bretherton, Charlotte, and John Vogler. 2006. *The European Union as a Global Actor*. 2nd ed. London and New York: Routledge.
- Browning, Christopher S., and Pertti Joenniemi. 2008. "Geostrategies of the European neighbourhood policy." *European Journal of International Relations* 14 (3): 519-551.
- Buckel, Sonja, Jens Wissel. 2010. "State Project Europe: The Transformation of the European Border Regime and the Production of Bare Life." *International Political Sociology* 4: 33-49.
- Bugaenko, Marko. 2006. "Grozit li Ukraine migratsionnyy vzryv?" *Glavred: Nezavisimoe Analiticheskoe Agentstvo*, 25 October. Accessed October 27, 2006, <http://www.glavred.info/print.php?article=/archive/2006/10/25/134029-0.html>.
- Bull, Hedley. 1982. "Civilian Power Europe: A Contradiction in Terms?" *Journal of Common Market Studies* 21(1): 149.
- Butler, Judith. 2004. *Precarious Life: The Powers of Mourning and Violence*. London and New York: Verso.
- Byrne, Rosemary, Gregor Noll and Jens Vedsted-Hansen, eds. 2002. *New Asylum Countries? Migration Control and Refugee Protection in an Enlarged European Union*. The Hague, London, New York: Kluwer Law International.
- Cabinet of Ministers, Ukraine. 1993. Decree "On the Temporary Order of Visa Issuance to Foreign Citizens for a Stay in Ukraine," #137, 26 February 1993.
- Cabinet of Ministers, Ukraine. 1996. Postanova No 83 "Pro zatverdzhennya Programy borot'by iz nelehalnou mihratsieu na 1996-97 roky." 15 January.
- Cabinet of Ministers, Ukraine. 1998. Postanova No. 829 "Pro zahody schodo zapobihannya nelehalniy mihratsii hromadyan v Ukrainu." 8 June.
- Cabinet of Ministers, Ukraine. 1999. Postanova No. 273 "Pro zatverdzhennya Prohramy borot'by z nelehal'nou mihratsieu na 1999-2000 roky." 27 February.
- Campbell, David. 1998. *Writing Security: United States Foreign Policy and the Politics of Identity*, Revised Edition. Minneapolis: University of Minnesota Press.
- Carling, Jørgen. 2007. "Migration Control and Migrant Fatalities at the Spanish-African Border." *International Migration Review* 41 (2): 316-343.
- Carrera, Sergio. 2007. "The EU Border Management Strategy: FRONTEX and the Challenges of Irregular Immigration in the Canary Islands." CEPS Working Document No. 261. Brussels: Centre for European Policy Studies. Accessed November 7, 2008, <http://www.ceps.eu/book/eu-border-management-strategy-frontex-and-challenges-irregular-immigration-canary-islands>.

- Cassarino, Jean-Pierre. 2007. "Informalising Readmission Agreements in the EU Neighbourhood." *The International Spectator* 42 (2): 179-196.
- Cassarino, Jean-Pierre. 2009. *EU Mobility Partnerships: Expression of a New Compromise*. Migration Information Source, September 2009. Accessed September 2, 2012, <http://www.migrationinformation.org/Feature/display.cfm?ID=741>.
- Checkel, Jeffrey T. 1999. "Social Construction and Integration." *Journal of European Public Policy* 6 (4): 545-60.
- Checkel, Jeffrey T. 2001. "A Constructivist Research Programme in EU Studies?" *European Union Politics* 2 (2): 219-49.
- Checkel, Jeffrey T. 2005. "It's the Process Stupid! Process Tracing in the Study of European and International Politics." ARENA Working Paper #26, October 2005. Accessed November 20, 2011, http://www.sv.uio.no/arena/english/research/publications/arena-publications/workingpapers/working-papers2005/wp05_26.pdf.
- Chizhov, Vladimir. 2003. "From Utopia to Reality." *Global Affairs online*, 20 June. Accessed May 15, 2010, <http://eng.globalaffairs.ru/numbers/3/472.html>.
- Chumak, Viktor. 2003. "Zaprovdzhennya Shengens'koi Ugody v Krainax CSE ta Baltii: Naslidky dlya Natsional'noi Migratsijnoi polityky Ukrainy' (Accession to the Schengen Agreement by the CEECs and the Baltic States: Consequences for the National Migration Policy of Ukraine)." *Perspektyvni Doslidzhennya* 20: 2-18.
- Chumak, Viktor. 2010. "Ne taka strashna readmisiya, yak ii maluut." *Dzerkalo tyzhnya*, No. 40, 30 October. Accessed January 2011, http://dt.ua/POLITICS/ne_taka_strashna_readmisiya,_yak_yiyi_malyuyut-61347.html.
- Coleman, Nils. 2009. *European Readmission Policy: Third Country Interests and Refugee Rights*. Leiden, Boston: Martinus Nijhoff Publishers.
- Collett, Elizabeth. 2009. "Beyond Stockholm: Overcoming the Inconsistencies of Immigration Policy." European Policy Centre Working Paper No. 32, December 2009.
- Commission of the European Communities. 1991. Communication to the Council and the European Parliament on Immigration. SEC (91) 1855 final, 23 October.
- Commission of the European Communities. 2002a. Communication "Integrating Migration Issues in the European Union's Relations with Third Countries." COM (2002) 703 final.
- Commission of the European Communities. 2003a. Communication "Wider Europe – Neighbourhood: A New Framework for Relations with Our Eastern and Southern Neighbours." COM (2003) 104 Final.
- Commission of the European Communities. 2003b. Proposal for a regulation of the European Parliament and of the Council establishing a programme for financial and technical assistance to third countries in the area of migration and asylum. COM (2003) 355 final.
- Commission of the European Communities. 2003c. TACIS Russia Action Plan 2004.
- Commission of the European Communities. 2004a. Communication "European Neighbourhood Policy Strategy Paper." COM (2004) 373 Final.

- Commission of the European Communities. 2004b. "The EU's priorities in the development of a common readmission policy" Report on the priorities for the successful development of a common readmission policy," SEC (2004) 946 final, 26 July.
- Commission of the European Communities. 2005a. Communication "Migration and Development: Some concrete Orientations." COM(2005) 390, 1.9.2005.
- Commission of the European Communities. 2005b. Communication "On a strategy on the external dimension of the Area of Freedom, Security and Justice." COM (2005) 491 final.
- Commission of the European Communities. 2005c. Communication "On the Monitoring and Evaluation Mechanism of the Third Countries in the Field of the Fight Against Illegal Immigration," COM (2005) 352 final, 28 July.
- Commission of the European Communities. 2005d. Communication "Priority actions for responding to the challenges of migration: first follow-up to Hampton Court." COM (2005) 621 final, 30 November.
- Commission of the European Communities. 2005e. The EU-Ukraine ENP Action Plan. Accessed November 10, 2006,
http://ec.europa.eu/world/enp/pdf/action_plans/ukraine_enp_ap_final_en.pdf
- Commission of the European Communities. 2006a. Communication "The Global Approach to Migration one year on: Towards a comprehensive European migration policy." COM (2006) 735 final, 30 November.
- Commission of the European Communities. 2006b. Communication "Thematic programme for the cooperation with third countries in the areas of migration and asylum." COM (2006) 26 final.
- Commission of the European Communities. 2006c. Proposal for a Council Decision concerning the signing of the Agreement between the European Community and the Russian Federation on readmission, Brussels, 27 April 2006, COM (2006) 191 final, 2006/0064 (CNS).
- Commission of the European Communities. 2006d. Communication "On Policy priorities in the fight against illegal immigration of third-country nationals." COM(2006) 402, 19 July.
- Commission of the European Communities. 2006e. "Report from the Commission on the functioning of the facilitated transit for persons between the Kaliningrad region and the rest of the Russian Federation." COM (2006) 0840 final, 22 December.
- Commission of the European Communities. 2007a. Communication "On circular migration and mobility partnerships between the European Union and third countries." COM(2007) 248 final, 16 May.
- Commission of the European Communities. 2007b. Communication "Applying the Global Approach to Migration to the Eastern and South-Eastern Regions Neighbouring the European Union." COM (2007) 247 final/2, 8 June 2007.
- Commission of the European Communities. 2008a. Communication "A Common Immigration Policy for Europe: Principles, actions and tools." COM (2008) 359 final, 17 June.

- Commission of the European Communities. 2008b. Communication “Strengthening the Global Approach to Migration: Increasing coordination, coherence and synergies.” COM (2008) 611, 8 October.
- Commission of the European Communities. 2008c. Communication “Eastern Partnership.” COM(2008) 823 final, 3 December.
- Commission of the European Communities. 2008d. Communication “Preparing the next steps in border management in the European Union.” COM (2008) 69 final, 13 February.
- Commission of the European Communities. 2009. Commission Staff Working Document “Mobility Partnerships as a tool of the Global Approach to Migration.” SEC (2009) 1240 final, 18 September.
- Commission of the European Union. 2010a. *EU-Ukraine Action Plan on Visa Liberalisation*. 22 November. Last accessed September 1, 2012, <http://visa-free-europe.eu/wp-content/uploads/2012/03/EU-Ukraine-Action-Plan.pdf>.
- Commission of the European Union. 2010b. “List of the EU-Ukraine Association Agenda priorities for 2010.” Agreed by the Joint Committee at Senior Official’s Level of EU-Ukraine Association Agenda on January 26, 2010. Accessed December 1, 2010, http://ec.europa.eu/external_relations/ukraine/index_en.htm.
- Commission of the European Union. 2010c. DG Home Affairs web-site, Section ‘External Relations’, http://ec.europa.eu/home-affairs/policies/external/external_intro_en.htm.
- Commission of the European Union. 2011a. “EU-Russia Common Spaces Progress Report 2010.” Accessed June 13, 2011, http://www.eeas.europa.eu/russia/docs/commonspaces_prog_report_2010_en.pdf.
- Commission of the European Union. 2011b. Communication “The Global Approach to Migration and Mobility.” COM(2011) 743 final, 18 November 2011.
- Commission of the European Union. 2011c. Proposal for a Regulation of The European Parliament and of The Council Amending Regulation (EC) No 1931/2006 as Regards the Inclusion of the Kaliningrad Area and Certain Polish Administrative Districts in the Eligible Border Area,” COM(2011) 461 final, 27 July 2011. Last accessed November 2, 2011, http://ec.europa.eu/home-affairs/news/intro/docs/110729/1_EN_ACT_part1_v6.pdf
- Commission. y. u. AENEAS Programme: Programme for financial and technical assistance to third countries in the area of migration and asylum. Overview of projects funded 2004-2006. Last accessed February 3, 2012, http://ec.europa.eu/europeaid/what/migration-asylum/documents/aeneas_2004_2006_overview_en.pdf.
- Conway, Martin. 2010. *Europeanization in the twentieth century: historical approaches*. New York: Palgrave Macmillan.
- Council of the European Union. 1992. Edinburgh European Council Conclusions, 11-12 December. SN456/92. Annex 5 – Declaration on Principles of Governing External Aspects of Migration Policy. Accessed January 30, 2011, http://www.europarl.europa.eu/summits/edinburgh/a5_en.pdf .
- Council of the European Union. 1999a. Note from Danish Delegation, “Readmission Agreements concerning third-country nationals.” 7669/99, 26 April.

- Council of the European Union. 1999b. *Presidency Conclusions, Tampere European Council*, 15-16 October 1999.
- Council of the European Union. 1999c. 'A' note from the Presidency "Common Strategy of the European Union on Russia: visas." 10810/99, 6 September.
- Council of the European Union. 1999d. Note "EU-Ukraine Common Strategy/ Justice and Home Affairs." 10830/99, 8 September.
- Council of the European Union. 1999e. Minutes of the first meeting of the EU-Ukraine Co-operation Council (Luxembourg, 9 June 1998). UE-UA 1051/99, 14 January.
- Council of the European Union. 1999f. Note "EU-Ukraine Common Strategy/ Justice and Home Affairs." 11202/99, 22 September.
- Council of the European Union. 1999g. COMMON STRATEGY OF THE EUROPEAN UNION on Russia, of 4 June 1999, 1999/414/CFSP. Accessed September 1, 2012, http://trade.ec.europa.eu/doclib/docs/2003/november/tradoc_114137.pdf.
- Council of the European Union. 1999h. "Note to Strategic Committee on Immigration, Frontiers and Asylum, CIREFI, Migration, Expulsion, Frontiers and Visa Working Parties." 10798/99, 9 September.
- Council of the European Union. 2000a. 'A' Item Note, "European Union priorities and policy objectives for external relations in the field of justice and home affairs." 7653/00, 6 June.
- Council of the European Union. 2000c. "Regulation on the provision of assistance to the partner states in Eastern Europe and Central Asia," No 99/2000.
- Council of the European Union. 2000d. "Presidency Conclusions, European Council in Santa Maria da Feira", 19-20 June.
- Council of the European Union. 2000e. "European Union Priorities and Policy Objectives for the External Relations in the Field of Justice and Home Affairs", 7653/00, 6 June.
- Council of the European Union. 2001a. Relations with Ukraine: Establishment of the position of the European Union for the fourth Co-operation Council with Ukraine. 10125/01, 19 June.
- Council of the European Union. 2001b. Note "EU Action plan on Justice and Home Affairs in Ukraine." 14228/01, 23 November.
- Council of the European Union. 2002a. A Letter from Mr. G. Verheugen, Mr. C. Patten and Mr. Antonio Vitorino, Members of the European Commission, to the President in office of the Council of the EU. 9805/02, 7 June.
- Council of the European Union. 2002b. "Presidency Conclusions, Seville European Council." 21-22 June 2002, 13463/02.
- Council of the European Union. 2002c. "'A' Item note: Criteria for the identification of third countries with which new readmission agreements need to be negotiated – Draft conclusions." 7990/02, 16 April 2002.
- Council of the European Union. 2002d. "Note: Draft Council conclusions on intensified cooperation on the management of migration flows with third countries," 13754/2/02, 11 November 2002.

- Council of the European Union. 2003a. *European Security Strategy – A Secure Europe in a Better World*, 12 December.
- Council of the European Union. 2003b. *Presidency Conclusions, Thessaloniki European Council*, 19-20 June 2003.
- Council of the European Union. 2005a. Presidency Conclusions, Brussels European Council, 15-16 December 2005, Doc. 15914/1/05 Rev 1, 30 January 2006.
- Council of the European Union. 2005b. “A Strategy for the External Dimension of JHA: Global Freedom, Security and Justice.” 14366/3/05, 30 November.
- Council of the European Union. 2005c. *The Hague Programme: Strengthening Freedom, Security and Justice in the European Union*, 3rd March, 2005. *Official Journal of the European Union*, 2005/ C53/ 01.
- Council of the European Union. 2005d. Press Release, 15th EU-Russia Summit, Moscow, 10 May 2005. 8799/05 (Presse 110).
- Council of the European Union. 2006a. Note “Ministerial Conference on the ‘Role of internal security in relations between the EU and its neighbours,” (Vienna Declaration on Security Partnerships, 4-5 May 2006, Vienna). 8501/06, 8 May.
- Council of the European Union. 2006b. “Press Release, Justice and Home Affairs Council Meeting,” Brussels, 4-5 December 2006. Press Release 15801/06 (Presse 341).
- Council of the European Union. 2006c. “Strategy Paper for the Thematic Programme of Cooperation with Third Countries in the Areas of Migration and Asylum 2007-2010.” Last accessed September 27, 2012, <http://ec.europa.eu/europeaid/how/finance/documents/eidhr/strategy-paper2007-2010.pdf>.
- Council of the European Union. 2006d. “Action-Oriented Paper (AOP) on Implementing with Russia the Common Space of Freedom, Security and Justice.” 15534/1/06, 2006.
- Council of the European Union. 2008a. “Report on the Implementation of the European Security Strategy – Providing Security in a Changing World.” 8407/08, 11 December.
- Council of the European Union. 2008b. JHA External Relations Multi-Presidency Work programme, 10546/08, 1 July.
- Council of the European Union. 2008c. Draft Council conclusions on the evaluation of the Global Approach to Migration and on the partnership with countries of origin and transit, 16041/08, 28 November.
- Council of the European Union. 2008d. “European Pact on Immigration and Asylum.” 13440/08, 24 September 2008.
- Council of the European Union. 2009a. *The Stockholm Programme – An open and secure Europe serving and protecting the citizens*, Document 17024/09, 2 December. Accessed December 15, 2009, http://ec.europa.eu/home-affairs/doc_centre/docs/stockholm_program_en.pdf.
- Council of the European Union. 2009b. “Outcome of the Eleventh EU-Russia Permanent Partnership Council meeting on Justice and Home Affairs,” 2 December 2009, Stockholm, 17483/09, 15 December.

- Council of the European Union. 2009c. Revised note “Ministerial Conference “Building Migration Partnerships” (Prague, 27-28.4.09),” 6093/1/09 REV 1, 11 February 2009. Draft Joint Declaration “Building Migration Partnerships.” Prague Ministerial Conference. Accessed 10 June 10, 2012, <http://www.statewatch.org/news/2009/feb/eu-conf-migraiton-partnerships-6093-rev1-09.pdf>.
- Council of the European Union. 2009d. Joint Declaration of the Prague Eastern Partnership Summit, Prague, 7 May 2009. 8435/09 (Presse 78), 7 May.
- Council of the European Union. 2010a. “Draft Internal Security Strategy for the European Union: ‘Towards a European Security Model’.” Document 5842/2/10, 23 February.
- Council of the European Union. 2010b. *The Joint Report by EUROPOL, EUROJUST and FRONTEX on the State of Internal Security in the EU*, Document 9359/10, 7 May 2010.
- Council Secretariat. 2000. *The Joint Report of the EU-Ukraine PCA Sub-Committee on Illegal Immigration and Trafficking in Human Beings* (2000). EU-Ukraine Partnership Co-operation Council. UE/UA 1054/00, 16 May 2000.
- Cowles, Maria Green, James A. Caporaso, and Thomas Risse, eds. 2001. *Transforming Europe: Europeanization and Domestic Change*. Ithaca, New York: Cornell University Press.
- CSES (Centre for Strategy and Evaluation Services LLP). 2007. *Evaluation of Preparatory Actions B7-667 – Cooperation with Third Countries in the Area of Migration*. Final Report, November. Last accessed, February 3, 2012. http://ec.europa.eu/home-affairs/funding/2004_2007/cooperation/docs/evaluation_final_report_en.pdf.
- De Genova, Nicholas, and Nathalie Peutz, eds. 2010. *The Deportation Regime: Sovereignty, Space, and the Freedom of Movement*. Durham and London: Duke University Press.
- Dean, Mitchell. 1999. *Governmentality: Power and Rule in Modern Society*. London: SAGE.
- DeBardeleben, Joan, ed. 2005. *Soft or Hard Borders? Managing the Divide in an Enlarged Europe*. Burlington, VT: Ashgate.
- Debrouwer, Jean-Louis. 2008. “External Relations and Immigration and Asylum Policy.” Public lecture delivered at the 8th Odysseus Network Summer School titled “European Union Law and Policy on Immigration and Asylum,” 8 July 2008, Brussels, Belgium.
- Deutsche Welle, Ukrainian Service, “Ukraina – ES: Znovu pro Readmisiyu,” <http://www2.dw-world.de/ukrainian>. Downloaded from Ji-Magazine, <http://www.ji-magazine.lviv.ua/kordon/migration/2005/dw27-02.htm> (accessed October 15, 2008).
- DG JLS (Directorate-General Justice, Liberty, Security). y.u. “The Global Approach to Migration: A Chronology.” Accessed February 10, 2010, http://ec.europa.eu/justice_home/fsj/immigration/relation/docs/ga_chronology_en.pdf.
- Diez, Thomas, and Michelle Pace. 2011. “Normative Power Europe and Conflict Transformation.” In *Normative Power Europe: Empirical and Theoretical Perspectives*, ed. Richard G. Whitman, 210-25. New York and Basingstoke: Palgrave Macmillan.
- Diez, Thomas. 2005. “Constructing the Self and Changing Others: Reconsidering ‘Normative Power Europe.’” *Millennium* 33(3): 613-36.

- Doty, Roxanne Lynn. 2006. "Sovereignty and the nation: constructing the boundaries of national identity". In *State Sovereignty as Social Construct*, eds. Thomas J. Biersteker and Cynthia Weber, 121-147. Cambridge: Cambridge University Press.
- Duchêne, François. 1972. "Europe's role in World Peace." In *Europe Tomorrow: Sixteen Europeans Look Ahead*, ed. Richard J. Mayne, 32-47. London: Fontana.
- Duma of the Russian Federation. 2007. Duma transcript. Plenary Session, 14 February 2007.
- Düvell, Franck. 2006. *Illegal Immigration in Europe: Beyond Control?* New York: Palgrave Macmillan.
- Düvell, Franck. 2008. *Transit, migration and politics: Trends and constructions on the Fringes of Europe*. IMISCOE Policy Brief #12, August 2008.
- Düvell, Franck. 2011. "Irregular Migration." In *Global Migration Governance*, ed. Alexander Betts, 79-108. Oxford: Oxford University Press.
- Dzerkalo tyzhnya. 2000. "Kraina-vidstijnyk." *Dzerkalo tyzhnya* #29 (302), 22-28 July. Accessed September 10, 2010, <http://www.dt.ua/1000/1050/27901>.
- ECRI (European Commission Against Racism and Intolerance). 2012. *ECRI Report on Ukraine* (fourth monitoring cycle). Accessed September 6, 2012, <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Ukraine/UKR-CbC-IV-2012-006-ENG.pdf>.
- Ekho Moskvyy, Radio station. 2003. News coverage from 19 September 2003. Accessed September 10, 2011, <http://demoscope.ru/weekly/2003/0127/gazeta010.php>.
- Ette, Andreas, and Thomas Faist. 2007. "The Europeanization of National Policies and Politics of Immigration: Research, Questions and Concepts." In *The Europeanization of National Policies and Politics of Immigration: Between Autonomy and the European Union*, eds. Thomas Faist and Andreas Ette, 3-31. New York: Palgrave MacMillan.
- EU Delegation to Ukraine. 2009. "EU-Ukraine Visa Facilitation Agreement Works Well." 27 March. Accessed October 19, 2011, http://eeas.europa.eu/delegations/ukraine/press_corner/all_news/news/2009/20090416_01_en.htm.
- EU Presidency. 2009. "Prague Ministerial Conference 'Building Migration Partnerships': Joint Declaration." Accessed September, 10, 2012, http://ec.europa.eu/home-affairs/doc_centre/immigration/docs/bmp_jointdeclaration_en.pdf
- EUBAM. 2005. Memorandum of Understanding between the European Commission, the Government of the Republic of Moldova and the Government of Ukraine on the European Commission Border Assistance Mission to the Republic of Moldova and to Ukraine. Accessed December 13, 2011, http://www.eubam.org/files/memorandum_of_understanding_en.pdf.
- Europe without Barriers. 2012. "Summary of the civil monitoring of The Visa Liberalization Action Plan implementation by Ukraine." Accessed May 15, 2012, http://novisa.com.ua/upload/Full%20monitoring_UKR_6-26.pdf.

- European Council. 2003. *A Secure Europe in a Better World: European Security Strategy*. Brussels, 12 December 2003, accessed October 10, 2010, <http://www.consilium.europa.eu/uedocs/cmsUpload/78367.pdf>.
- Europol. 2010. *OCTA 2009: EU Organized Crime Threat Assessment*. European Police Office. Accessed May 30, 2011, [http://www.europol.europa.eu/publications/European Organised Crime Threat Assessment %28OCTA%29/OCTA2009.pdf](http://www.europol.europa.eu/publications/European_Organised_Crime_Threat_Assessment_%28OCTA%29/OCTA2009.pdf).
- Europol. 2011. *OCTA 2011: EU Organized Crime Threat Assessment*. European Police Office. Accessed May 30, 2011, <https://www.europol.europa.eu/sites/default/files/publications/octa2011.pdf>.
- Faist, Thomas, and Andreas Ette, eds. 2007. *The Europeanization of National Policies and Politics of Immigration: Between Autonomy and the European Union*. New York: Palgrave MacMillan.
- Featherstone, Kevin, and Claudio M. Radaelli, eds. 2003. *The Politics of Europeanization*. Oxford: Oxford University Press.
- Featherstone, Kevin. 2003. "Introduction: In the name of 'Europe.'" In *The Politics of Europeanization*, eds. Kevin Featherstone and Claudio M. Radaelli, 3-26. Oxford: Oxford University Press.
- Flynn, Moya. (2004) *Migrant Resettlement in the Russian Federation: Reconstructing Homes and Homelands*. London: Anthem Press.
- Foreign Affairs Council. 2010. "Conclusions on Eastern Partnership," Luxembourg, 25 October.
- Foucault, Michel. 1984. "Truth and Power." In *Foucault Reader*, ed. by Paul Rabinow, 51-75. New York: Pantheon Books.
- Foucault, Michel. 1991. "Questions of Method." In *The Foucault Effect: Studies in Governmentality*, eds. Graham Burchell, Colin Gordon and Peter Miller, pp. 73-86. Chicago: The University of Chicago Press,
- Foucault, Michel. 2003. "Governmentality." In *The Essential Foucault*, eds. Paul Rabinow and Nikoas Rose, 229-45. New York, London: The New Press.
- Foucault, Michel. 2007. *Security, Territory, Population: Lectures at the Collège de France, 1977-78*. Ed. by Michel Senellart, General Editors: François Ewald and Alessandro Fontana. Translated by Graham Burchell. London and New York: Palgrave Macmillan.
- Frattoni, Franko. 2007. Press Release, IP/07/849, 18 June 2007. Accessed September 10, 2011, <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/07/849&format=HTML&age>
- Friis, Lykke, and Anna Murphy. 1999. "The European Union and Central and Eastern Europe: Governance and Boundaries." *Journal of Common Market Studies* 37 (2): 211-32.
- Frontex. 2007. Frontex Annual Report 2006. Accessed September 10, 2007, http://www.frontex.europa.eu/annual_report.
- Frontex. 2009. News Release "Mercury Joint Operation Concluded." 11 February.
- Frontex. 2011. *Annual Risk Analysis, 2011*. Frontex Risk Analysis Unit. Accessed May 10, 2011, <http://www.frontex.europa.eu/news/annual-risk-analysis-2011-IsVGtW>.

- Future Group. 2008. *Freedom, Security, Privacy – European Home Affairs in an open world, Report of the Informal High Level Advisory Group on the Future of European Home Affairs Policy* ('The Future Group'), June 2008, <http://www.statewatch.org/news/2008/jul/eu-futures-jha-report.pdf>, accessed 10 February 2010.
- GAERC (General Affairs and External Relations Council). 2002. Press release 12945/02 (Presse 315).
- Gammeltoft-Hansen, Thomas. 2008. "The Refugee, the Sovereign and the Sea: EU Interdiction Policies in the Mediterranean." DIIS Working Paper #2008/6. Danish Institute for International Studies. Accessed March 15, 2010, http://www.diis.dk/graphics/Publications/WP2008/WP08-6_Refugee_Sovereign_Sea_EU%20Interdiction_Policies_Mediterranean.pdf.
- Gamov, Aleksandr. 2002. "Nanimaya inostrannykh zemlekovov, my roem sebe yamu." *Komsomol'skaya Pravda*, 17 April.
- Gänzle, Stefan. 2008. "The EU's Policy toward Russia: Extending Governance Beyond Borders?" In *The Boundaries of EU enlargement: Finding a Place for Neighbours*, ed. Joan DeBardeleben, 53-69. New York: Palgrave Macmillan.
- Gawrich, Andrea, Inna Melnykovska, and Rainer Schweickert, "Neighbourhood Europeanization through ENP: The Case of Ukraine," *Journal of Common Market Studies*, 48 (5) (2010): 1209-1235.
- Geddes, Andrew. 1999. "The Development of EU Immigration Policy: Supranationalisation and the Politics of Belonging." In *The Politics of Belonging: Migrants and Minorities in Contemporary Europe*, edited by A. Geddes and Adrian Favell. Aldershot: International Centre for Comparative Cultural Research/Ashgate.
- Geddes, Andrew. 2003. *The Politics of Migration and Immigration in Europe*. London, Thousand Oaks, New Delhi: SAGE Publications.
- Geddes, Andrew. 2005. "Europe's Border Relationships and International Migration Relations." *Journal of Common Market Studies* 43 (4): 787-806.
- Geddes, Andrew. 2006. "Migration and the Study of Politics." *British Journal of Politics and International Relations* 8: 611-620.
- Geddes, Andrew. 2008. *Immigration and European Integration: Beyond Fortress Europe? 2nd* Ed. Manchester: Manchester University Press.
- Geiger, Martin, and Antoine Pécoud. 2010. "The Politics of International Migration Management." In *The Politics of International Migration Management*, eds. Martin Geiger and Antoine Pécoud, pp. 1-20. Basingstoke, New York: Palgrave Macmillan.
- Geiger, Martin. 2010. "Mobility, Development, Protection, EU-Integration! The IOM's National Migration Strategy for Albania." In *The Politics of International Migration Management*, eds. Martin Geiger and Antoine Pécoud, pp. 141-59. Basingstoke, New York: Palgrave Macmillan.
- Georgi, Fabian. 2010. "For the Benefit of Some: The International Organization for Migration and Its Global Migration Management." In *The Politics of International Migration*

- Management*, eds. Martin Geiger and Antoine Pécoud, pp. 45-72. Basingstoke, New York: Palgrave Macmillan.
- Ginsberg, Roy H. 2001. *The European Union in International Politics: Baptism by Fire*. Lanham, Boulder, New York, Oxford: Rowman & Littlefield Publishers.
- Górny, Agata, and Paolo Ruspini, eds. 2004. *Migration in the New Europe: East-West Revisited*. London, New York: Palgrave Macmillan.
- Government of Russia. 1994. Cabinet Decree #474 "On the approval of the main directions of the Social Policy of the Russian Government for the year 1994," 6 May 1994.
- Government of Russia. 1997. Cabinet Decree #1414 "On Federal Migration Programme for 1998-2000," 10 November 1997.
- Government of Russia. 2003. *The Concept of Regulation of Migration Processes in the Russian Federation*. #256, 1 March.
- Government of Russia. 2008. "Kontseptsia realizatsii gosuderstvennoi politiki v sfere obustroistva gosudarstvennoi granitsi Rosiiskoi Federatsii". Accessed January 28, 2009, <http://www.rosgranitsa.ru/about/regulatory/resolutions>.
- Grabbe, Heather. 2000. "The sharp edges of Europe: Extending Schengen eastwards," *International Affairs* 76 (3): 519-36.
- Grabbe, Heather. 2003. "Stabilizing the East While Keeping Out the Easterners: Internal and External Security Logics in Conflict." In *Migration and Externalities of European Integration*, eds. Sandra Lavenex and Emek M. Uçarer, 91-104. Oxford: Lexington Books.
- Grabbe, Heather. 2006. *The EU's Transformative Power: Europeanization through Conditionality in Central and Eastern Europe*. New York: Palgrave Macmillan.
- Grafova, Lidiya. 2002. "Who profits from the war with migrants?" *Literaturnaya gazeta//Литературная Газета*, 13-19 March.
- Gritsenko, V.V. 1999. *Russkie sredi russkix: Problemy adaptatsii vynuzhdennykh migrantov I bezhentsev iz stran blizhnego zarubezhya v Rossii (Русские среди русских: Проблемы адаптации вынужденных мигрантов и беженцев из стран ближнего зарубежья в России)*. Moskva: Institut ethnologii i antropologii RAN.
- Guild, Elspeth, and Joanne van Selm, eds. 2005. *International Migration and Security: Opportunities and Challenges*. London and New York: Routledge.
- Guild, Elspeth. 2003. "The Border Abroad – Visas and Border Controls." In *In Search of Europe's Borders*, eds. Kees Groenendijk, Elspeth Guild, and Paul Minderhoud, 87-104. The Hague, London, New York: Kluwer Law International.
- Guild, Elspeth. 2006. "Danger – borders under construction: assessing the first five years of border policy in an area of freedom, security and justice." In *Freedom, Security and Justice in the European Union: Implementation of the Hague Programme*, eds. Jaap W. de Zwaan and Flora A.N.J. Goudappel, pp. 45-72. The Hague: T-M-C Asser Press.
- Guild, Elspeth. 2009. *Security and Migration in the 21st Century*. Cambridge: Polity Press.

- Guild, Elspeth. 2010. "When even Machiavelli's Prince needs a Visa – Migration, Euro-Mediterranean Relations and Intercultural Dialogue." *European Foreign Affairs Review* 15: 367 – 384.
- Guiraudon, Virginie, and Christian Joppke. 2001. *Controlling a New Migration World*. London and New York: Routledge
- Guiraudon, Virginie. 2003. "Before the EU Border: Remote Control of the "Huddled Masses." In *In Search of Europe's Borders*, eds. Kees Groenendijk, Elspeth Guild, and Paul Minderhoud, 191-214. The Hague, London, New York: Kluwer Law International.
- Guiraudon, Virginie. 2006. "Drawing the EU's Borders: Immigration Policy." In *The State of the European Union*, Vol. 7, eds. Nicolas Jabko and Craig Parsons, 325-344. Oxford: Oxford University Press.
- Hansen, Lene. 2006. *Security as Practice: Discourse Analysis and the Bosnian War*. London, New York: Routledge.
- Haukkala, Hiski. 2011. "The European Union as a Regional Normative Hegemon: the Case of European Neighbourhood Policy." In *Normative Power Europe: Empirical and Theoretical Perspectives*, ed. Richard G. Whitman, 45-64. New York and Basingstoke: Palgrave Macmillan.
- Held, David, Anthony McGrew, David Goldblatt, and Jonathan Perraton. 1999. *Global Transformations, Politics, Economics and Culture*. Stanford, California: Stanford University Press.
- [Hernández i Sagrera](#), Raúl. 2010. "The EU-Russia readmission-visa facilitation nexus: an exportable model for Eastern Europe?" *European Security* 19 (4): 569-584.
- Hess, Sabine. 2010. "'We are facilitating States!' An Ethnographic Analysis of the ICMPD." In *The Politics of International Migration Management*, eds. Martin Geiger and Antoine Pécoud, 96-118. Basingstoke, New York: Palgrave Macmillan.
- Hill, Christopher. 1993. "The Capability-Expectations Gap, or Conceptualizing Europe's International Role." *Journal of Common Market Studies* 31(3): 305-328.
- Hotsulenko, Nadiya. 2003. "Plata za prozorist': Lzheturysty – Vashi, Vytraty – Nashi." *Dzerkalo Tyzhnya*, No. 3 (428), 25-31 January 2003. Accessed October 11, 2010, <http://www.dt.ua/1000/1050/37436/?printpreview>.
- Hryhorash, Anna. 2010. "Ukrains'ki nelehaly u Pol'schi: vyjty z tini." *Ukrains'ka Pravda*, 26 May. Accessed December 14, 2011, <http://life.pravda.com.ua/technology/2010/05/26/49245/>.
- Hryshenko, Kostyantyn. 2003. "Foreign Minister Hryshchenko speaks up at informal ministerial meeting to tackle central-east European cooperation through EU's common frontier." *Ukrinform*, 10 November 2003. Accessed October 10, 2010, http://www.kmu.gov.ua/control/publish/article?art_id=3327088.
- Hutsul, Evhen. 2004. "Trudovi "pryhody" ukraintsiv v Italii..." *Dzerkalo tyzhnya*, No. 47 (522), 20-26 November. Accessed January 19, 2009, <http://www.dt.ua/2000/2675/48413>.

- Huysmans, Jef, and Francesco Ragazzi, eds. 2009. *Liberty and Security. Multi-media Teaching and Training Module*. Challenge, 2009. Accessed June 15, 2010, <http://www.libertysecurity.org/module>.
- Huysmans, Jef. 2000. "The European Union and the Securitization of Migration." *Journal of Common Market Studies* 38 (5): 751-77.
- Huysmans, Jef. 2006. *The Politics of Insecurity: Fear, Migration and Asylum in the EU*. London and New York: Routledge.
- ICPS/IPA (International Centre for Policy Studies (Kyiv)/Institute of Public Affairs (Warsaw)). 2006. *Ukraine's Policy to Control Illegal Migration*. Kyiv: ICPS.
- IOM, Mission in Moscow. 2008. Program Implementation Report, "Development of the effective mechanisms in the implementation of the readmission procedures in the Russian Federation on the basis of practical cooperation and flexible approach." Assessment of achieved results in the first year of implementation of the EC AENEAS Programme." Accessed November 25, 2011, http://85.21.179.94/russian/documents/DIRA_overview_ru.pdf.
- IOM. 1994a. *Transit Migration in Ukraine*. Geneva: IOM.
- IOM. 1994b. *Transit Migration in the Russian Federation*. Geneva: IOM.
- IOM. 1997. *1996 CIS Migration Report*. Geneva: IOM, Technical Cooperation Centre for Europe and Central Asia.
- IOM. 2004a. *Problem of Irregular Migration in Russia: International Organization for Migration, Office in Russia, Reality and Search for Solutions* (Results of the Sociological Survey). Moskva: Gendal'ph.
- IOM. 2004b. *Return migration: policies and practices in Europe*. Geneva: IOM International Organization for Migration.
- IOM. 2010a. *World Migration Report 2010. The Future of Migration: Building Capacities for Change*. Geneva: IOM. Last accessed September 2, 2012, http://publications.iom.int/bookstore/free/WMR_2010_ENGLISH.pdf.
- IOM. 2010b. *Migration between Russia and the European Union: Policy Implications from a small-scale study of irregular migrants*. IOM Moscow.
- Iontsev, Vladimir, and Ivan Aleshkovski. 2007. "International Migration, Globalization and Development." In *Migration and Development: Collection of papers of session chairs and key speakers of the International Conference "Migration and Development,"* Moscow, 13-15 September 2007, ed. Vladimir Iontsev, 53-80. Moskva: SP Mysl', BL Print.
- IPA/ICPS (Institute of Public Affairs (Warsaw)/International Centre for Policy Studies (Kyiv)). 2009. *Coordinating Migration Policy in Ukraine: Lessons from Poland*. Accessed May 10, 2010, http://www.icps.com.ua/files/articles/55/1/Migration_UP_ENG_Last.pdf.
- Ivakhnyuk, Irina. 2007. "Eurasian Migration System: Theoretical and Political Approaches." In *Migration and Development: Collection of papers of session chairs and key speakers of the International Conference "Migration and Development,"* Moscow, 13-15 September 2007, ed. Vladimir Iontsev, 81-99. Moskva: SP Mysl', BL Print.

- Ivakhnyuk, Irina. 2008. "Transit Migration Through Russia." Paper Presented at the International conference "(Irregular) Transit Migration in Europe: Theory, Politics, and Research Methodology," 18-20 April 2008, Koc University, Istanbul, Turkey.
- Jileva, Elena. 2003. "Larger than the European Union: the Emerging EU Migration Regime and Enlargement." In *Migration and the Externalities of European Integration*, eds. Sandra Lavenex and Emek M. Uçarer, 75-90. Lanham, Boulder, New York, Oxford: Lexington Books.
- Jorry, Hélène. 2007. "Construction of a European Institutional Model for Managing Operational Cooperation at the EU's External Borders: Is the FRONTEX Agency a decisive step forward?" Research Paper No. 6, CHALLENGE Program. Available at <http://www.libertysecurity.org> (accessed on 13 September 2007).
- Juncos, Ana E. 2011. "Power Discourses and Power Practices: The EU's Role as a Normative Power in Bosnia." In *Normative Power Europe: Empirical and Theoretical Perspectives*, ed. Richard G. Whitman, 83-99. New York and Basingstoke: Palgrave Macmillan.
- Kalm, Sara. 2010. "Liberalizing Movements? The Political Rationality of Global Migration Management." In *The Politics of International Migration Management*, eds. Martin Geiger and Antoine Pécoud, 21-44. Basingstoke, New York: Palgrave Macmillan.
- Karakayali, Serhat, and Enrica Rigo. 2010. "Mapping the European Space of Circulation." In *The Deportation Regime: Sovereignty, Space, and the Freedom of Movement*, eds. Nicholas De Genova and Nathalie Peutz, 123-144. Durham and London: Duke University Press.
- Kelly, Judith. 2006. "New Wine in Old Wineskins: Promoting Political Reforms through the New European Neighbourhood Policy." *Journal of Common Market Studies* 44 (1): 29-55.
- Keukeleire, S. and MacNaughtan J. (2008) *The Foreign Policy of the European Union*. New York: Palgrave Macmillan.
- Kommersant. 2011. "Kak Rossiya borolas' za bezvizovyy rezhim s Evropoj." #93 (4634), 26 May 2011. Accessed August 2, 2011, <http://www.kommersant.ru/doc/1647680>.
- Kommersant.ru. 2011. "Rossia i ES soglasovali perechen' mer po perekhodu k bezvizovomu rezhymu." 10 October. Accessed October 11, 2011, <http://www.kommersant.ru/news/1792346/rubric/2>.
- Kopinina, Helen. 2005. *East to West Migration: Russian Migrants in Western Europe*. Aldershot, Hants, England ; Burlington, VT : Ashgate.
- Koslowski, Rey. 2009. "Global Mobility Regimes: A Conceptual Reframing." International Studies Association Conference, New York, NY, February 14-17.
- Krasinets, E. S. 1997. *Mezhdunarodnaya migratsia naselenia v Rossii v usloviyax perekhoda k rynku*. (Международная миграция населения в России в условиях перехода к рынку). Moskva: Nauka.
- Kravchenko, Volodymyr. 2005. "Kudy pryde nelehal? Rosiya zatyahue z pidpysannam uhody pro readmisiu," *Dzerkalo tyzhnya*, 34 (562), 3-9 September 2005, <http://www.dt.ua/1000/1600/51108> (accessed 10 September 2010).

- Kroeger, Alix. 2007. "Malta Struggles with migrants." BBC News Europe, 9 July. Accessed October 13, 2007, <http://news.bbc.co.uk/2/hi/europe/6283736.stm>.
- Kruse, Imke. 2007. "Driven From the Outside: the EU's impact on Albanian Immigration and Asylum Policies." In *The Europeanization of National Policies and Politics of Immigration: Between Autonomy and the European Union*, eds. Thomas Faist and Andreas Ette, 223-45. New York: Palgrave MacMillan.
- Kuchuruk, Valeriy. 2001. "Skil'ky protrymaet'sya ostanniy forpost?." *Dzerkalo tyzhnya* 41(365), 20-26 October. Accessed September 19, 2010, <http://www.dt.ua/1000/1600/32642>.
- Kunz, Rahel, Sandra Lavenex, and Marion Panizzon. 2011 "Introduction: Governance through Partnerships in International Migration." In *Multilayered Migration Governance: The Promise of Partnership*, eds. Rahel Kunz, Sandra Lavenex, and Marion Panizzon. [pages] London and New York: Routledge.
- Ladrech, R. (1994). "Europeanisation of Domestic Politics and Institutions: The Case of France." *Journal of Common Market Studies* 32(1): 69–88.
- Larner, Wendy, and William Walters. 2004. "Introduction: Global Governmentality." In *Global Governmentality: Governing International Spaces*, eds. Wendy Larner and William Walters, 1-21. London: Routledge.
- Larner, Wendy. 2008. "Spatial Imaginaries: Economic Globalization and the War on Terror." In *Risk and the War on Terror*, eds. Louise Amoore and Marieke de Goede. London and New York: Routledge.
- Latsis, Otto. 2002. "Kogo Gospod Zakhochet Nakazat'..." *Novye Izvestiya*, 20 February.
- Lavenex, Sandra, and Emek M. Uçarer. 2003. "The Emergent EU Migration Regime and Its External Impact." In *Migration and Externalities of European Integration*, eds. Sandra Lavenex and Emek M. Uçarer, 1-13. Oxford: Lexington Books.
- Lavenex, Sandra, and Emek M. Uçarer. 2004. "The External Dimension of Europeanization: The Case of Immigration Policies." *Cooperation and Conflict: Journal of the Nordic International Studies Association* 39 (4): 417-443.
- Lavenex, Sandra, and Frank Schimmelfennig. 2009. "EU Rules Beyond EU Borders: Theorizing External Governance in European Politics." *Journal of European Public Policy* 16(6): 791- 812.
- Lavenex, Sandra, and Nicole Wichmann. 2009. "The external governance of EU internal security." *Journal of European Integration* 31(1): 83–102.
- Lavenex, Sandra, and Rahel Kunz. 2008. "The Migration—Development Nexus in EU External Relations." *European Integration* 30 (3): 439-457.
- Lavenex, Sandra, Dirk Lehmkuhl, and Nicole Wichmann. 2009. "Modes of external governance: a cross-national and cross-sectoral comparison." *Journal of European Public Policy* 16(6): 813–33.
- Lavenex, Sandra. 1999. *Safe-third Countries*. Budapest: CEU Press.
- Lavenex, Sandra. 2001. *The Europeanisation of Refugee Policies: Between Human Rights and Internal Security*. Aldershot, U.K.: Ashgate.

- Lavenex, Sandra. 2004. "EU external governance in 'wider Europe'." *Journal of European Public Policy* 11 (4): 680-700.
- Lavenex, Sandra. 2005a. "Justice and Home Affairs and the EU's New Neighbours: Governance Beyond Membership?" In *The Area of Freedom, Security and Justice in the Enlarged Europe*, ed. Karen Henderson, 89-109. Houndmills: Palgrave Macmillan.
- Lavenex, Sandra. 2005b. "The Politics of Exclusion and Inclusion in 'Wider Europe'." In *Soft or Hard Borders? Managing the Divide in an Enlarged Europe*, ed. Joan DeBardeleben, 123-43. Aldershot: Ashgate.
- Lavenex, Sandra. 2006. "Shifting Up and Out: The Foreign Policy of European Immigration Control." *West European Politics* 29 (2): 329-350.
- Lavenex, Sandra. 2007. "The External Face of Europeanization: Third Countries and International Organizations." In *The Europeanization of National Policies and Politics of Immigration: Between Autonomy and the European Union*, eds. Thomas Faist and Andreas Ette, 246-64. New York: Palgrave MacMillan.
- Lavenex, Sandra. 2008. "A Governance Perspective on the European Neighbourhood Policy: Integration Beyond Conditionality?" *Journal of European Public Policy* 15 (6): 938-55.
- Lavenex, Sandra. 2011. "Concentric circles of flexible 'EUropean' integration: A typology of EU external governance relations." *Comparative European Politics* 9 (4/5): 372-393.
- Léonard, Sarah. 2010. "EU border security and migration into the European Union: FRONTEX and securitisation through practices." *European Security* 19 (2): 231-254.
- Lindstrøm, 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 and Justice?" *Social Policy and Administration* 39 (6): 587 – 605.
- Mahncke, Dieter. 2008. "The Logic of EU Neighbourhood Policy." In *Europe's Near Abroad: Promises and Prospects of the EU's Neighbourhood Policy*, eds. Dieter Mahncke and Sieglinde Gstöhl, pp. 19-46. College of Europe Studies No. 4. Brussels: Peter Lang.
- Maier, Sylvia, and Frank Schimmelfennig. 2007. "Shared values: Democracy and human rights." In *Governing Europe's Neighbourhood: Partners or Periphery?*, eds. Katja Weber, Michael E. Smith, and Michael Baun, 39-57. Manchester: Manchester University Press.
- Malynovska, Olena. 2004. *Ukraina, Evropa, Migratsiya: Migratsii Naselelnyya Ukrainy v Umovakx Rozshyrennya EC.// Ukraine, Europe, Migration: Migration of Ukrainians under the EU Enlargement Conditions*. Kyiv: Blank-pres.
- Malynovska, Olena. 2006. "Caught between East and West, Ukraine Struggles with Its Migration Policy." *Migration Information Source*, January. Accessed April 1, 2007, <http://www.migrationinformation.org/Profiles/display.cfm?ID=365>.
- Malynovska, Olena. 2011. "Zavdannyya mihratsijnoi polityky Ukrainy v svitli vizovoho dialohu z ES." Accessed June 25, 2011, <http://novisa.com.ua/upload/file/MalynovskaMigrationPolicyUKR.pdf>.
- Manners, Ian. 2002. "Normative Power Europe: A Contradiction in Terms?" *Journal of Common Market Studies* 40(2): 235-258.

- Mansoor, Ali, and Bryce Quillin, eds. 2007. *Migration and Remittances: Eastern Europe and the Former Soviet Union*. Washington, DC: The International Bank for Reconstruction and Development/The World Bank.
- MIGREUROP. 2009. “‘Foreigners’ Camps in Europe and in Mediterranean Countries.” In *Liberty & Security. Multi-media Teaching and Training Module*, eds. Jeff Huysmans and Francesco Ragazzi, Challenge, 2009. Accessed June 15, 2010, <http://www.libertysecurity.org/module>.
- Miller, Peter, and Nikolas Rose. 2008. *Governing the Present: Administering Economic, Social and Personal Life*. Cambridge: Polity Press.
- Mitsilegas, Valsamis, Jorg Monar, and Wyn Rees. 2003. *The European Union and Internal Security: Guardian of the People?* New York: Palgrave MacMillan.
- Mitsilegas, Valsamis. 2002. “The Implementation of the EU Illegal Immigration Acquis by the Applicant Countries of Central and Eastern Europe: Challenges and Contradictions.” *Journal of Ethnic and Migration Studies* 28: 665-682.
- Monar, Jörg. 2005. “The European Union’s ‘Integrated Management’ of External Borders.” In *Soft or Hard Borders? Managing the Divide in an Enlarged Europe*, ed. Joan DeBardeleben, 145-61. Burlington, VT: Ashgate.
- Monar, Jörg. 2006. “The External shield of the Area of Freedom, Security and Justice: Progress and Deficits of the Integrated Management of External EU Borders.” In *Freedom, Security and Justice in the European Union: Implementation of the Hague Programme*, eds. Jaap W. de Zwaan and Flora A.N.J. Goudappel, 73-90. The Hague: T-M-C Asser Press.
- Moravcsik, Andrew. 2002. “The Quiet Superpower.” *Newsweek*, 17 June, Atlantic Edition.
- Mounier, Gregory, Nicole Wichmann, and Sarah Wolff. 2007. “Report: The Justice and Home Affairs External Dimension,” 29 October 2007, http://www.libertysecurity.org/iprimer.php?id_article=1681 (last accessed 28 January 2008).
- Hotsuenko, “Plata za prozorist’: Lzheturysty – Vashi, Vytraty – Nashi,” *Dzerkalo Tyzhnya*, No. 3 (428), 25-31 January 2003. Available at <http://www.dt.ua/1000/1050/37436/?printpreview>, accessed October 11, 2010). Suc
- Nadruga, Vasyl. 2011. “Trudova migratsiya: Vykyky Dlya Ukrainy” (“Labour Migration: Challenges for Ukraine”). *Dzerkalo Tyzhnya*, No. 5, 11 February 2011. Accessed February 13, 2011, <http://www.dt.ua/newspaper/articles/75323>.
- Naryshkina, Anastasiya. 2002. “Legalizatsiya sootechestvennikov otmenyaetsya: Odobrena kontseptsiya migratsionnoy politiki.” *Vremya novostej*, 20 December.
- Nesterenko. Andrey. 2010. Press Briefing by Russian Foreign Ministry spokesperson Andrey Nesterenko, “No objective obstacles exist for visa abolition [between Russia and EU].” *Russia Today*, March 9. Accessed April 20, 2010, <http://rt.com/Politics/2010-03-09/visa-eu-obstacles-nesterenko.html>.
- Neumann, Iver B. 1995. *Russia and the Idea of Europe: A Study in Identity and International Relations*. London and New York: Routledge.

- Nikonova, Larysa. 2004. "Zaxyst poterpiltx vid tovgivli lyud'my zalezhyt' vid mizhnarodnoi spivpratsi Ukrainy." *Dzerkalo tyzhnya* (Mirror Weekly), No. 46 (521), 13-19 November. Accessed October 11, 2010, <http://www.dt.ua/3000/3855/48340/?printpreview>.
- Novynar. 2008. "Zakordon nam dopomozhe: Vzhe za chvert' stolittya immihranty ryatuvatymut' ukrains'ku ekonomiku." No. 20 (39), 30 May-5 June.
- Occhipinti, John D. 2003. *The Politics of EU Police Cooperation: Toward a European FBI?* Boulder, London: Lynne Rienner Publishers.
- Occhipinti, John D. 2007. "Justice and Home Affairs: Immigration and Policing." In *Governing Europe's Neighbourhood: Partners or Periphery?*, eds. Katja Weber, Michael E. Smith, and Michael Baun, 114-133. Manchester and New York: Manchester University Press.
- Official Journal of the EC. 1997. EC, ECSC, Euratom: Council and Commission Decision of 30 October 1997 on the conclusion of the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Russian Federation, of the other part. 28 November 1997, L327.
- Official Journal of the EC. 1998. Partnership and Cooperation Agreement between the European Communities and their Member States, and Ukraine. 19 February, L49.
- Official Journal of the EC. 2000. "European Union Action Plan on Common Action for the Russian Federation on Combating Organised Crime." 2000/C 106/02.
- Orbie, Jan. 2008. "A Civilian Power in the World? Instruments and Objectives in European Union External Policies." In *Europe's Global Role: External Policies of the European Union*, ed. Jan Orbie, 1-33. Ashgate.
- Orbie, Jan. 2011. "Promoting Labour Standards Through Trade: Normative Power Europe or Regulatory State Europe?" In *Normative Power Europe: Empirical and Theoretical Perspectives*, ed. Richard G. Whitman, 161-84. New York and Basingstoke: Palgrave Macmillan.
- Orlova, I. B. 1994. *Sovremennye migratsionnye protsessy v Rossii* (Современные миграционные процессы в России). Rossijskaya Akademiya Nauk. Otvetstvennyy redactor – Orlova I. B. Moskva: Institut sotsial'no-politicheskikh issledovaniy.
- Papagianni, Georgia. 2006. *Institutional and Policy Dynamics of EU Migration Law*. Leiden and Boston: Martinus Nijhoff Publishers.
- Parkes, Roderick. 2009. "EU Mobility Partnerships: A Model of Policy Coordination." *European Journal of Migration and Law* 11: 327-345.
- Parliament of Ukraine, and European Parliament. 2010. *Joint Report*. EU-Ukraine Visa Working Group, Inter-parliamentary Committee on Co-operation between Ukraine and the EU. 4 November, Kyiv.
- Parliament of Ukraine. 1994. Law "On The Legal Status of Foreigners and Stateless Persons," N 3929-XII. Accessed March 10, 2010, <http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=3929-12&fpage=1&text=%ED%E5%EB%E5%E3%E0%EB%FC%ED&x=10&y=7>.
- Parliament of Ukraine. 2001. Law "On the Legal Status of Foreigners and Stateless Persons," N

- 2247-III, 18 January 2001. Accessed March 10, 2010, <http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=2247-14>.
- Parliament of Ukraine. 2002. Explanatory Note to a bill of the Law of Ukraine “On the adoption of the Statute of the International Organization for Migration and its changes.” Signed by Foreign Minister Anatoliy Zlenko, May 2002.
- Parliament of Ukraine. 2010. Project Decree № 7504 “About the EU and Ukraine co-operation on visas.” 22 December.
- Pashkov, Mykhajlo, and Valeriy Chalyy. 2001. “Ukraina I Rozshyrennya EC: Problemy, naslidky, perspektyvy.” *Dzerkalo Tyzhnya*, No. 45 (369), 17-23 November. Accessed January 19, 2009, <http://www.dt.ua/1000/1600/32932>.
- Patten, Chris. 2001. “Russia’s hell-hole enclave: There is a centre of organised crime in the middle of Europe.” *The Guardian*, Special Report: Russia, 7 April. Accessed October 7, 2011, <http://www.guardian.co.uk/world/2001/apr/07/russia.politics>.
- Pavlyukh, Volodymyr. 2002. “Ne kozhen nelehal dijde do Evropy... prote bazhayuchykh – tysyachi.” *Dzerkalo tyzhnya*, No. 12 (387), 29 March-5 April. Accessed November 17, 2006, <http://www.zn.kiev.ua/ie/print/34298>.
- Pécoud, Antoine. 2010. “Informing Migrants to Manage Migration? An Analysis of IOM’s Information Campaigns.” In *The Politics of International Migration Management*, eds. Martin Geiger and Antoine Pécoud, pp. 184-201. Basingstoke, New York: Palgrave Macmillan.
- Peers, Steven. 2006. *EU Justice and Home Affairs Law*. Oxford: Oxford University Press.
- Picard, Elisabeth, Anna Charpin, Luca Aiolfi, and Alessandro Simoni. 2009. “Evaluation of the AENEAS Programme – Financial and Technical Assistance to Third Countries in the Area of Migration and Asylum AENEAS – Programme 2004-2006.” Final Report. Letter of contract 2008/171096. December.
- Pilkington, Hilary. 1998. *Migration, Displacement and Identity in Post-Soviet Russia*. London and New York: Routledge.
- Polyakov, Leonid. 2004. “Illegal Migration: Ukraine.” *European Security* 13: 17-33.
- Potemkina, Olga. 2002. “Russia’s Engagement with Justice and Home Affairs: A Question of Mutual Trust.” CEPS Policy Brief #16, March.
- Potemkina, Olga. 2004. “Ramifications of Enlargement for EU-Russia Relations and the Schengen Regime.” In *Justice and Home Affairs in the EU: Liberty and Security Issues after Enlargement*, ed. Joanna Apap. Edward Elgar.
- Potemkina, Olga. 2005. “A ‘friendly Schengen Border’ and Illegal Migration: The Case of the EU and Its Direct Neighbourhood.” In *Soft or Hard Borders? Managing the Divide in an Enlarged Europe*, ed. Joan DeBardeleben, 165-182. Burlington, VT: Ashgate.
- Potemkina, Olga. 2010. “EU-Russia cooperation on the common space of freedom, security and justice – a challenge or an opportunity?” *European Security* 19 (4): 551-568.
- President of Russia. 1992. Decree #627 “About the Ministry of Labour of the Russian Federation,” 14 June.

- President of Russia. 1993. Decree #2145 “On Measures for Introduction of Immigration Control,” 16 December 1993.
- President of Russia. 1994. Decree #1668 “On Federal Migration Programme,” 9 August 1994.
- President of Russia. 1999. Strategy for Developing Relations of the RF and the EU for 2000-2010.
- President of Russia. 2002. Decree #232 “On streamlining state management in the sphere of migration policy,” from 23 February.
- President of Russia. 2009. Decree #1232 “On Federal Migration Service,” 31 October.
- President of Russia 2001. Decree # 236 “On the representation of the Ministry of Federation Affairs and National and Migration policy of the Russian Federation abroad”, 24 February 2001.
- President of Ukraine. 1997. Presidential Decree #1167 “On the main directions of social policy for 1997-2000,” 18 October.
- President of Ukraine. 2000. Presidential Decree # 717/2000 “On the Main directions of the social policy until 2004,” 24 May.
- President of Ukraine. 2011. “The Concept of state migration policy,” Decree #622/2011, 30 May.
- Prodi, Romano. 2002. Mr. Romano Prodi letter to Mr. Vladimir Putin, “EU-Russia Co-operation on Kaliningrad: 2002 and beyond,” 9299/02, 28 May 2002.
- Prozorov, Sergei. 2006. *Understanding Conflict between Russia and the EU: The Limits of Integration*. New York: Palgrave Macmillan.
- Prozorov, Sergei. 2009. “In and Out of Europe: Identity politics in Russian-European relations.” In *Identity and Foreign Policy: Baltic-Russian Relations and European integration*, eds. Eiki Berg and Piret Ehin, 133-159. Surrey, England: Ashgate Publishing Limited.
- Pylynskyi, Yaroslav. 2008. *Undocumented Migration: Counting the Uncountable. Data and trends across Europe*. Ukraine Country Report, CLANDESTINO Project.
- Pyrozhkov, Serhiy, Olena Malynovska, i A. Khomra. 2003. *Ukrainian Labour Migration: Socio-Economic Dimension*. Kyiv: NIPMB.
- Pyrozhkov, Serhiy, Olena Malynovska, i N. Marchenko. 1997. *Zovnishnya Migratsiya v Ukraini: Prychyny, Naslidky, Strategii*. Kyiv: Akadempres.
- Radaelli, Claudio M. 2003. “The Europeanization of Public Policy.” In *The Politics of Europeanization*, edited by Kevin Featherstone and Claudio M. Radaelli, 27-56. Oxford: Oxford University Press.
- Radaelli, Claudio M., and Theofanis Exadaktylos. 2010. “New Directions in Europeanization Research.” In *Research Agendas in EU Studies: Stalking the Elephant*, eds. Michelle Egan, Neill Nugent, and William E. Paterson, 189-215. New York, London: Palgrave Macmillan.
- Razumkov Centre. 2001. “The enlargement of the EU and Ukraine.” Analytical Report of the Ukrainian Centre for Economic and Political Studies. *National Security and Defence* 11:

2-42.

- Rees, Wyn. 2008. "Inside Out: The External Face of EU Internal Security." *Journal of European Integration* 30(1): 97-111.
- Regulation (EC) N° 491/2004 of the European Parliament and of the Council of 10 March 2004 establishing a programme for financial and technical assistance to third countries in the areas of migration and asylum (AENEAS). Last accessed February 3, 2012. Official Journal of the European Union, 18 March 2004. L80/1-L80/5. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:080:0001:0005:EN:PDF>.
- Regulation (EC) No 1931/2006, of the European Parliament and of the Council, laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention. The Official Journal of the European Union, 30.12.2006, L405/1-22, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:405:0001:0022:EN:PDF>.
- Regulation (EC) No 491/2004, of the European Parliament and of the Council of 10 March 2004 establishing a programme for financial and technical assistance to third countries in the areas of migration and asylum (AENEAS). *Official Journal* L 80, 18/03/2004 p. 0001 - 0005.
- Renner, Stephan, and Florian Trauner. 2009. "Creeping EU Membership in South-east Europe: The Dynamics of EU Rule Transfer to the Western Balkans." *Journal of European Integration* 31(4): 449-65.
- Reuters News Agency. 2007. "Russia, Latvia finally seal border treaty." Reuters, 18 December. Accessed February 5, 2009, <http://www.reuters.com/article/idUSL185044920071218>.
- Riazantsev, Sergey. 2007. "Labour Migration in the Russian Economic Community Member-States," August 31. Accessed January 28, 2009, <http://www.eurasianhome.org/xml/t/print.xml?lang=en&nic-expert&pid=1224>.
- Rieker, Pernille. 2005. *Europeanization of National Security Identity: the EU and the Changing Security Identities of the Nordic States*. New York and London: Routledge.
- Russia Today. 2010. "Drug dealers standing in the way to visa-free Russia." 23 March, 2010. Accessed April 20, 2010, <http://rt.com/prime-time/2010-03-23/drugs-prevent-visa-free.html#>.
- Ryan, Bernard, and Valsamis Mitsilegas, eds. 2010. *Extraterritorial Immigration Control: Legal Challenges*. Leiden: Martinus Nijhoff Publishers.
- Salminen, Minna-Mari, and Arkady Moshes. 2009. "Practise what you preach: The prospects for visa freedom in Russia-EU relations." Report 18 (2009)/Briefing Paper 26. Finish Institute of International Affairs. Accessed April 20, 2009, http://www.fiia.fi/en/publication/65/practise_what_you_preach/.
- Sasse, Gwendolyn. 2008. "The European Neighbourhood Policy: Conditionality Revisited for the EU's Eastern Neighbours." *Europe-Asia Studies* 60 (2): 295-316.
- Sassen, Saskia. 1996. *Losing Control? Sovereignty in the Age of Globalization*. New York: Columbia University Press.

- Scheipers, S., and D. Sicurelli. 2008. "Empowering Africa: Normative Power in EU-Africa Relations." *Journal of European Public Policy* 15(4): 607-23.
- Schimmelfennig, Frank, and Ulrich Sedelmeier. 2004. "Governance by Conditionality: EU Rule Transfer to the Candidate Countries of Central and Eastern Europe." *Journal of European Public Policy* 11 (4): 661-79.
- Schimmelfennig, Frank and Ulrich Sedelmeier, eds. 2005a. *The Europeanization of Central and Eastern Europe*. Ithaca: Cornell University Press.
- Schimmelfennig, Frank and Ulrich Sedelmeier. 2005b. "Introduction: Conceptualizing the Europeanization of Central and Eastern Europe." In *The Europeanization of Central and Eastern Europe*, eds. Frank Schimmelfennig and Ulrich Sedelmeier, 1-28. Ithaca: Cornell University Press.
- Schimmelfennig, Frank, and Wolfgang Wagner. 2004. "Preface: External governance in the European Union." *Journal of European Public Policy* 11(4): 657-660
- Schmidtke, Oliver, and Constantin Chira-Pascanut. 2011. "Contested Neighbourhood: Toward the 'Europeanization' of Moldova?" *Comparative European Politics* 9 (4-5): 467-485.
- Simanovsky, Stanislav, Margarita P. Strepetova, and Yuriy G. Naido. 1996. *Brain Drain from Russia: Problems, Prospects, and Ways of Regulation*. New York: Nova Science Publishers, Inc.
- Sjursen, Helene. 2006. "The EU as a 'normative' power: how can this be?" *Journal of European Public Policy* 13(2): 235- 251.
- Smirnov, Andrej. 2006a. "Trudovye rezervy"// "Labour Reserves." *Korrespondent*, 24 June, p. 50-51.
- Smirnov, Andrej. 2006b. "Evropejtsi iz Azii."// Europeans from Asia. *Korrespondent*, 24 June, pp. 52-53.
- Smith, Julie, and Charles Jenkins. 2003. *Through the Paper Curtain: Insiders and Outsiders in the New Europe*. London: The Royal Institute of International Affairs, Chatham House; Oxford: Blackwell Publishing Ltd.
- Smith, Karen E. 2005. "The Outsiders: The European Neighbourhood Policy." *International Affairs* 81(4): 757-73.
- Smith, Karen E. 2008. *European Union Foreign Policy in a Changing World*. 2nd ed. Cambridge: Polity Press.
- Smith, Karen E. 2009. "The Justice and Home Affairs Policy Universe: Some Directions for Further Research." *Journal of European Integration* 31(1): 1-7.
- Smith, Michael E., and Webber M. (2008) "Political Dialogue and Security in the European Neighbourhood: The Virtues and Limits of 'New Partnership Perspectives.'" *European Foreign Affairs Review* 13: 73-95.
- Smith, Michael. 2006. "Comment: Crossroads or cul-de-sac? Reassessing European Foreign Policy." *Journal of European Public Policy* 13 (2): 322-27.
- Smolyakova, Tatjana. 2009. "Peremeschenie lits: V Rossii otkroutsya spetsialnye tsentry dlya dlya migrantov, vysylaemykh iz Evrosoyuzha." *Rossijskaya gazeta*, 26 November.

- Accessed October 7, 2011, <http://demoscope.ru/weekly/2009/0401/gazeta025.php#1>.
- Solomko, Irina. 2006. "Vnuki dedushki Ho."//Grandchildren of Grandfather Ho. *Korrespondent*, 24 June, pp. 54-56.
- Solovjev, Vladimir. 2011. "Rossiya i ES rasstavili otmennye punkty: Dogovorivshys' sovместno idti k bezvizovomu rezhymu." *Kommersant.ru*, №72/Π (4613), 25 April.
- Sopinska, Joanna. 2010. "Visa liberalisation: "Action Plan" instead of "Road map." *Europolitics.info*, 25 May. Accessed October 11, 2011, <http://www.europolitics.info/visa-liberalisation-action-plan-instead-of-road-map-art272670.html>).
- Soronevych, Marianna. 2009. "Khresna doroha nelehala v Italii." *Leleky: Portal Ukrainsiv v Italii*, 7 June. Accessed December 14, 2011, <http://www.leleky.org/2009-05-01-13-22-24/25-2009-05-10-10-13-39/199-2009-06-07-19-22-01.html>.
- Soysal, Yasemin N. 1994. *Limits of Citizenship: Migrants and Postnational Membership in Europe*. Chicago: University of Chicago Press.
- Squire, Vicki. 2011a. "The contested politics of mobility: politicizing mobility, mobilizing politics." In *The Contested Politics of Mobility: Borderzones and Irregularity*, ed. V. Squire, 1-25. London and New York: Routledge.
- Squire, Vicki, ed. 2011b. *The Contested Politics of Mobility: Borderzones and Irregularity*. London and New York: Routledge.
- Starodub, Andriy. 2005. "'Mertvi dushi' trudovykh mihrantiv. Chy spradvdi za kordonom pratsue ojat' milioniv ukrainsiv?." *Dzerkalo tyzhnya*, No. 22 (550), 11-17 June. Accessed January 19, 2009, <http://www.dt.ua/3000/3050/50266>.
- Sterkx, Steven. 2008. "The External Dimension of EU Asylum and Migration Policy: Expanding Fortress Europe?" In *Europe's Global Role: External Policies of the European Union*, ed. Jan Orbie, 117-138. Ashgate.
- Stewart, Emma J. 2011. "Mind the Normative Gap? The EU in the South Caucasus." In *Normative Power Europe: Empirical and Theoretical Perspectives*, ed. Richard G. Whitman, 65-82. New York and Basingstoke: Palgrave Macmillan.
- Sushko, Irina, et al. 2010. Шенгенські консульства в оцінках та рейтингах. Візова практика країн-членів ЄС. в Україні 2010 р. http://novisa.com.ua/upload/file/Viza_Monitor_Pravl-2.pdf
- Sylina, Tetyana. 2001a. "Afghans'ki khvyli" ("The Afghan Waves"). *Dzerkalo Tyzhnya*, 13-19 October. Accessed October 11, 2010, <http://www.dt.ua/1000/1030/32552/?printpreview>.
- Sylina, Tetyana. 2001b. "Kyiv-Zheneva: Scho v pidpysi moim? Pro i contra pryednannya Ukrainy do Konventsii OON pro Status bizhentsiv." *Dzerkalo tyzhnya*, #44 (368), 10-16 November.
- Sylina, Tetyana. 2001c. "Khto mae vukha, toj pochue." *Dzerkalo tyzhnya*, No.48 (372), 8-14 December. Accessed September 19, 2010, <http://www.dt.ua/1000/1600/33160/>.
- Sylina, Tetyana. 2002. "Tse strashne slovo 'readmisiya.'" *Dzerkalo tyzhnya*, No. 11 (386), 23-29 March. Accessed September 19, 2010, <http://www.dt.ua/1000/1600/34229>.
- Sylina, Tetyana. 2003. "Oleksandr Chalyy: "My – xoroshi uchni evropejs'kogo soyuzu."

- Dzerkalo Tyzhnya*, No. 44 (469), 15-21 November. Accessed September 19, 2010, <http://www.dt.ua/1000/1600/43781>.
- Sylina, Tetyana. 2006. "Dysbalans interesiv." *Dzerkalo tyzhnya*, No. 2 (581), 21-27 January. Accessed September 10, 2010, <http://www.dt.ua/1000/1600/52382>.
- Tansey, Oisín. 2007. "Process Tracing and Elite Interviewing: A Case for Non-Probability Sampling." *PS: Political Science and Politics* 40 (4): 765-772.
- Tishkov, Valery, Zhanna Zayonchkovskaya, and Galina Vitkovskaya. 2005. "Migration in the Countries of the former Soviet Union." A paper prepared for the Policy Analysis and Research Programme of the Global Commission on International Migration. Accessed April 10, 2008, http://cms.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/policy_and_research/gcim/rs/RS3.pdf.
- Trauner, Florian, and Imke Kruse. 2008. "EC Visa Facilitation and Readmission Agreements: A New Standard EU Foreign Policy Tool?" *European Journal of Migration and Law* 10 (4): 411-438.
- Trauner, Florian. 2009a. "Deconstructing the EU's Routes of Influence in Justice and Home Affairs in the Western Balkans." *Journal of European Integration* 31(1): 65-82.
- Trauner, Florian. 2009b. "From membership conditionality to policy conditionality: EU external governance in South Eastern Europe." *Journal of European Public Policy* 16(5): 774-790.
- Trenin, Dmitri. 2004. "Identichnost' I integratsia: Rossiya u Zapaz v 21 veke." *Pro et Contra* 8 (3).
- Tsoukala, Anastassia. 2005. "Looking at Migrants as Enemies." In *Controlling Frontiers: Free Movement Into and Within Europe*, eds. Didier Bigo and Elspeth Guild, 161-192. Aldershot, England: Ashgate Publishing.
- Uehling, Greta. 2004. "Irregular and Illegal Migration Through Ukraine." *International Migration* 42 (3): 77-109.
- Uglanov, Andrey. 2003. "Boris Gryzlov: Immigration: for whom to open the doors?" *Argumenty I Fakty*, 27 August.
- Vachudová, Milada Anna. 2000. "Eastern Europe as Gatekeeper: The Immigration and Asylum Policies of an Enlarging European Union." In *The Wall Around the West: State Borders and Immigration Controls in North America and Europe*, eds. Peter Andreas and Timothy Snyder, 153-71. Oxford, England: Rowman & Littlefield Publishers.
- Vachudová, Milada Anna. 2005. *Europe Undivided: Democracy, Leverage, and Integration after Communism*. Oxford, New York: Oxford University Press.
- Valverde, Mariana, and Michael Mopas. 2004. "Insecurity and the Dream of Targeted Governance." In *Global Governmentality: Governing International Spaces*, eds. Wendy Larner and William Walters, 233-50. London: Routledge.
- Van Selm, Joanne. 2003. "Immigration and Asylum or Foreign Policy: The EU's Approach to Migrants and Their Countries of Origin." In *Migration and Externalities of European*

- Integration*, eds. Sandra Lavenex and Emek M. Uçarer, 143-160. Oxford: Lexington Books.
- Vasilenko, Kirill. 2004. "Shtamp I Mech: President zovet kontrazvedchikov na bor'bu s nelegal'noj migratsiej." *Время новостей*, 16 января. Accessed September 27, 2011, <http://demoscope.ru/weekly/2004/0143/gazeta010.php#1>.
- Vasileva, Katya. 2011. "6.5% of the EU population are foreigners and 9.4% are born abroad." Eurostat Bulletin: Statistics in focus, 34/2011. Population and social conditions. Accessed August 24, 2011, http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-SF-11-034/EN/KS-SF-11-034-EN.PDF.
- Vasiljeva, Kira. 2008. "Vozvratu podlezhat: Prinyat zakon o readmissii nelegalov iz stran Evrosoyuza." *Novye izvestiya*, 21 April. Accessed 7 October 2011, <http://demoscope.ru/weekly/2008/0331/gazeta024.php#1>.
- Vitkovskaya, Galina, ed. 1998. *Migratsiya naseleniia v postsovetskikh gosudarstvakh*. Moskva: Moscow Carnegie Centre.
- Vitkovskaya, Galina, G. Platonova, and V. Shkol'nikov, eds. 2008. *New Migration Legislation in the Russian Federation: Enforcement Practices*. Moscow: IOM, FMS, OSCE.
- Vorobjova, O.D. 2001. *Migratsia Naseleniia*. Vyp.2: "Trudovaya Migratsiya v Rossii." Prilozhenie k zhurnalu "Migratsiya v Rossii." Moskva.
- Vyatkin, A.R., N. P. Kosmarskaya, and C.A. Panarin. 1999. *V dvizhenii dobrovol'nom i vynuzhdennom: Postsovetskie migratsii v Evrazii* (В движении добровольном и вынужденном: Постсоветские миграции в Евразии). Moskva: "Natalis."
- Wæver, Ole, Barry Buzan, Morten Kelstrup, and Pierre Lemaitre. 1993. *Identity, Migration and the New Security Agenda in Europe*. London: Pinter Publishers Ltd.
- Wæver, Ole. 1996. "European Security Identities." *Journal of Common Market Studies* 34 (1): 103-131.
- Wallace, Claire, and Dariusz Stola, eds.. 2001. *Patterns of Migration in Central Europe*. London: Palgrave Macmillan.
- Walters, William, and Jens Henrik Haahr. 2005. *Governing Europe: Discourse, Governmentality and European Integration*. London and New York: Routledge.
- Walters, William. 2002. "Deportation, expulsion, and the international police of aliens." *Citizenship Studies* 6 (3): 265-292.
- Walters, William. 2004. "The Political Rationality of European Integration." In *Global Governmentality: Governing International Spaces*, eds. Wendy Larner and William Walters, 155-73. London: Routledge.
- Walters, William. 2006. "Rethinking Borders Beyond the State." *Comparative European Politics* 4 (2-3): 141-59.
- Walters, William. 2008. "Putting the Migration-Security Complex in its Place." In *Risk and the War on Terror*, eds. Louis Amoore and Marieke de Goede, 158-77. New York: Routledge.

- Walters, William. 2010. "Imagined Migration World: The European Union's Anti-Illegal Immigration Discourse." In *The Politics of International Migration Management*, eds. Martin Geiger and Antoine Pécoud, 73-95. Basingstoke, New York: Palgrave Macmillan.
- Walters, William. 2011. "Rezoning the global: technological zones, technological work and the (un-)making of biometric borders." In *The Contested Politics of Mobility: Borderzones and Irregularity*, ed. Vicki Squire, 51-73. London and New York: Routledge.
- Walters, William. 2012. *Governmentality: Critical Encounters*. London and New York: Routledge.
- Weber, Katja, Michael E. Smith, and Michael Baun, eds. 2007. *Governing Europe's Neighbourhood: Partners or Periphery?* Manchester and New York: Manchester University Press.
- Weinar, Agnieszka. 2011. "EU Cooperation Challenges in External Migration Policy." EU-US Immigration Systems 2011/12. Robert Schuman Centre for Advanced Studies, San Domenico di Fiesole (FI): European University Institute.
- White, Gregory W. 2007. "Sovereignty and International Labour Migration: The 'security mentality' in Spanish-Moroccan Relations as an Assertion of Sovereignty." *Review of International Political Economy* 14 (4): 690-718.
- Whitman, Richard G. 2011. "Norms, Power and Europe: A New Agenda for Study of the EU and International Relations." In *Normative Power Europe: Empirical and Theoretical Perspectives*, ed. Richard G. Whitman, 1-22. New York and Basingstoke: Palgrave Macmillan.
- Wichmann, Nicole. 2007. "The Intersection between Justice and Home Affairs and the European Neighbourhood Policy: Taking Stock of the Logic, Objectives and Practices." CEPS Working Document No. 275. Brussels: Centre for European Policy Studies. Accessed November 10, 2008, <http://www.ceps.eu/node/1375>.
- Williams, Lucy, with Serhan Aktoprak. 2010. *Migration between Russia and the European Union: Policy implications from a small-scale study of irregular migrants*. Study prepared for the International Organization for Migration, Moscow office. IOM: Moscow. Accessed April 25, 2010, <http://www.iomrussia.ru>.
- Wolff, Larry. 1994. *Inventing Eastern Europe: The Map of Civilization on the Mind of the Enlightenment*. Stanford: Stanford University Press.
- Wolff, S., Wichmann Nicole. and Mounier G. 2009. "The External Dimension of Justice and Home Affairs: A Different Security Strategy for the EU?" *Journal of European Integration* 31 (1): 9-23.
- Zaiotti, Ruben. 2009. "The ENP and Security: Creating New Dividing Lines in Europe?" In *The External Dimension of EU Justice and Home Affairs: Governance, Neighbours, Security*, ed. Thierry Balzacq, 187-204. New York: Palgrave Macmillan.
- Zaxid.net. 2010. "MZS: Vykonannya Planu Diy nablyzyt' Ukrainu do ES." 29 November. Accessed December 1, 2010, <http://eu.prostir.ua/news/244381.html>.
- Zhurnal rossijskogo prava 2002. *Immigratsionnoe zakonodatel'stvo: problemy stanovleniya*, 26 August. Accessed September 17, 2011,

<http://demoscope.ru/weekly/2002/079/gazeta01.php#4>.

Zielonka, Jan. 2006. *Europe as Empire: The Nature of the Enlarged European Union*. Oxford: Oxford University Press.

Zielonka, Jan. 2008. "Europe as a Global Actor: Empire by Example?" *International Affairs* 84 (3): 471-84.

Zolberg, Aristide R. 1989. "The Next Waves: Migration Theory for a Changing World." *International Migration Review* 23 (3): 403-30.

Zubar, Mykhailo, and Oleksandr Fomin. 2001. "'Zelenyy kordon' Ukrainy: Yak zakryty jogo dlya nezakonnnykh mihrantiv? ('Green border' of Ukraine: how to close it for illegal migrants?)." *Den'*, No. 31, 16 February. Accessed December 13, 2011, <http://www.day.kiev.ua/78353#>.

Appendix I. List of Interviewees

Institutional Affiliations of Interviewees whose anonymity is preserved:

Delegation of the European Commission to Ukraine, Moldova and Belarus, in Kyiv, Ukraine
Interviewee 1, June 2008

Delegation of the European Commission to Russia, in Moscow, Russia
Interviewee 2, June 2008

Permanent Mission of the Russian Federation to the European Union, in Brussels, Belgium
Interviewee 3, June 2008

Mission of Ukraine to the European Communities, in Brussels, Belgium
Interviewee 4, July 2008

Ministry of Internal Affairs of Ukraine, in Kyiv, Ukraine
Interviewee 5, May 2008
Interviewee 6, May 2008
Interviewee 7, May 2008

Ministry of Justice of Ukraine, in Kyiv, Ukraine
Interviewee 8, May 2008

IOM office in Ukraine, in Kyiv, Ukraine
Interviewee 9, May 2008
Interviewee 10, May 2008

IOM Office In Russia, in Moscow, Russia
Interviewee 11, June 2008
Interviewee 12, June 2008

UNHCR office in Ukraine, in Kyiv, Ukraine
Interviewee 13, June 2008

UNHCR office in Russia, in Moscow, Russia
Interviewee 14, June 2008

GDISC ERIT project, ICMPD Office in Ukraine, in Kyiv, Ukraine
Interviewee 15, June 2008

Administration of the State Border Guards of Ukraine, in Kyiv, Ukraine
Interviewee 16, June 2008
Interviewee 17, June 2008
Interviewee 18, June 2008

The Executive Committee on European Integration and International Co-operation, Office of the Vice-Prime Minister of Ukraine, Government of Ukraine, in Kyiv, Ukraine
Interviewee 19, June 2008

State Committee on Nationalities and Religions, Government of Ukraine, in Kyiv, Ukraine
Interviewee 20, May 2008

Directorate-General Justice, Freedom, and Security, European Commission, Brussels, Belgium
Interviewee 21, June 2008
Interviewee 22, June 2008
Interviewee 23, June 2008
Interviewee 24, June 2008
Interviewee 25, July 2008
Interviewee 26, July 2008
Interviewee 27, July 2008
Interviewee 28, July 2008

External Relations, General Secretariat, Council of the European Union, in Brussels, Belgium
Interviewee 29, July 2008

Migration experts interviewed for this study:

1. Olena Malynovska, doktor nauk, state expert of the National Institute of International Security Problems, the Council of National Security and Defence of Ukraine, in Kyiv, Ukraine, May 2008
2. Viktor Chumak, major-general (r), Director, Political Analysis and Security Programs, International Centre for Policy Studies, in Kyiv, Ukraine, May 2008
3. Yaroslav Pylins'kyy, Director, Kennan Institute Kyiv Project, the Woodrow Wilson International Centre, in Kyiv, Ukraine, May 2008
4. Irina Ivakhnyuk, Deputy Head of the Department of Population, Moscow Lomonosov State University, in Moscow, Russia, June 2008
5. Zhanna Zayonchkovskaya, Head of Laboratory of Migration; Director of Migration Research Centre, Institute for Economic Forecasting, Russian Academy of Sciences, in Moscow, Russia, June 2008
6. Sergei Riazantsev, Director, Centre of Socio-Demographic and Economic Sociology, Institute of Socio-Political Investigations, Russian Academy of Sciences, in Moscow, Russia, June 2008

7. Sergio Carrera, Head of Section and Research Fellow, Justice and Home Affairs Section, Centre for European Policy Studies, in Brussels, Belgium, July 2008
8. Phillipe de Bruycker, Faculty of Law and Criminology, Free University of Brussels, Director of the Odysseus Network, in Brussels, Belgium, July 2008