

**“INTERGOVERNMENTALISM AND EUROPEANISATION IN
THE EU INTEGRATION PROCESS”**

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Declaration

I hereby declare that this dissertation is my original work.

A handwritten signature in black ink, appearing to read 'Wendy Zečić', written in a cursive style.

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ABSTRACT

Diplomatic and political communication between the European member-states in order to carry forward the process of European integration (in which development of EU institutions is still of crucial importance) is becoming an increasingly demanding task. Continuous enlargement, a large number of European policy initiatives as well as engagement of the public in policy building and ongoing debates are burdening the process. This challenges the national governments and creates pressures to communicate the concept of Europe in a slightly different manner in each particular layer of social and political life. Administrative and political tensions therefore are the main characteristics of the dominant European profile: Intergovernmentalism.

This paper aims to look closely into the theoretical, organisational and institutional developments of two EU intergovernmental policies, External Affairs and Immigration, in order to emphasise the great difficulty and many obstacles that officials and diplomats are facing in reaching a unison voice of the EU today or in practising their daily agendas. Since diplomats have been and still remain at the core of a creation of any public diplomacy, it is also logical to pay attention to the worldwide diffusion of the Internet, Web and associated information and communication technologies that call for structural and technological adaptations by national political actors (foreign services and relevant media agencies). These agencies have traditionally been responsible for political communication. Consequently, the management of outgoing political news will also be taken into account in this paper.

New forms of looking for optimum political decisions are being invented. While thinking about how to more efficiently relate with the European concept of intergovernmentalism, one should look into what the ongoing political communication looks like versus the present EU institutional structures and expected diplomatic practices.

INTRODUCTION

From the signing of the Treaty of Rome to the making of Maastricht, the EC has developed through a series of celebrated intergovernmental bargains, each of which set the agenda for an intervening period of consolidation. The most fundamental task facing a theoretical account of European integration is to explain these bargains. (Moravcsik 1993, p. 473)

For a long time, nation-states had their foreign services to communicate officially with other countries and nations. The political outlook of Europe and routine bilateral ways of political communication among nation-states had to change dramatically when the European Community, and later the European Union, was established. Policy decisions are increasingly carried out in the intergovernmental and supranational arenas. However, the nation-state has remained the key player in the conscience of any EU citizen participation. For the ordinary EU citizen it is easier to tie its own political perceptions to well-known national practices, national political recommendations and sometimes even national historical myths than to understand the newly constructed lines of the EU political responsibility and an often very bureaucratic decision making process. To be able to comprehend these phenomena of nation-state being crucial for the EU political life means to look deeper and closer, and to take a more analytical approach by exploring some of the crucial fields of political interaction such as (1) institutional structures of the EU, (2) EU policies, (3) national and public spheres.

The political presence of the EU creates new demands and changes at the national Ministries' level. It is significant for the EU to be able to create a greater national ability to absorb impacts, consequences and results that the EU presence and its political momentum are bringing into everyday national political life. That is particularly important for smaller transitional countries, like Croatia, which is currently a candidate country to join the European Union. Candidate countries are in a position to adopt in a short amount of time a whole range of new laws and legal provisions. Due to many noticed legal violations in the aftermath of past candidate countries' acquisition to the EU, it remains doubtful whether candidate countries are able to respect and implement new legal order and practises in their national practises or if their real political absorbance is of rather limited nature. The focal point is once again the national interest.¹

In order to examine what has changed in the last three decades in traditional diplomatic work and what has impacted public diplomacy, three relevant changes will be observed. Although they are considered as the main ones, there are more changes appearing and existing through which traditional diplomatic services have to be observed: the *Number of players involved*, their *expectations* (rights?) in relation to political communication and the *speed of interaction* between interested parties.

For a long period of time the main purpose of diplomatic work was to improve, safeguard and advance one country's external interests and objectives. Through that work involved collecting, processing and distributing information; it included many other, more or less sensitive procedures such as, for example, drawing up proposals in bilateral negotiations. Things have changed dramatically since the times of empires when the diplomatic representation abroad often consisted of well-connected royal appointees. To be the first one to possess political information meant almost everything at that time, the substance of that

¹ EU negotiations with Croatia were opened on October 3rd, 2005. The first phase of the accession process was completed in October 23rd, 2006. Negotiations on the 33 chapters of the *acquis* are proceeding. Out of 33, 21 has been opened so far. Further negotiations will proceed on the basis of Croatia's ability to meet its membership obligations. The process itself presents many new challenges for the Croatian society.

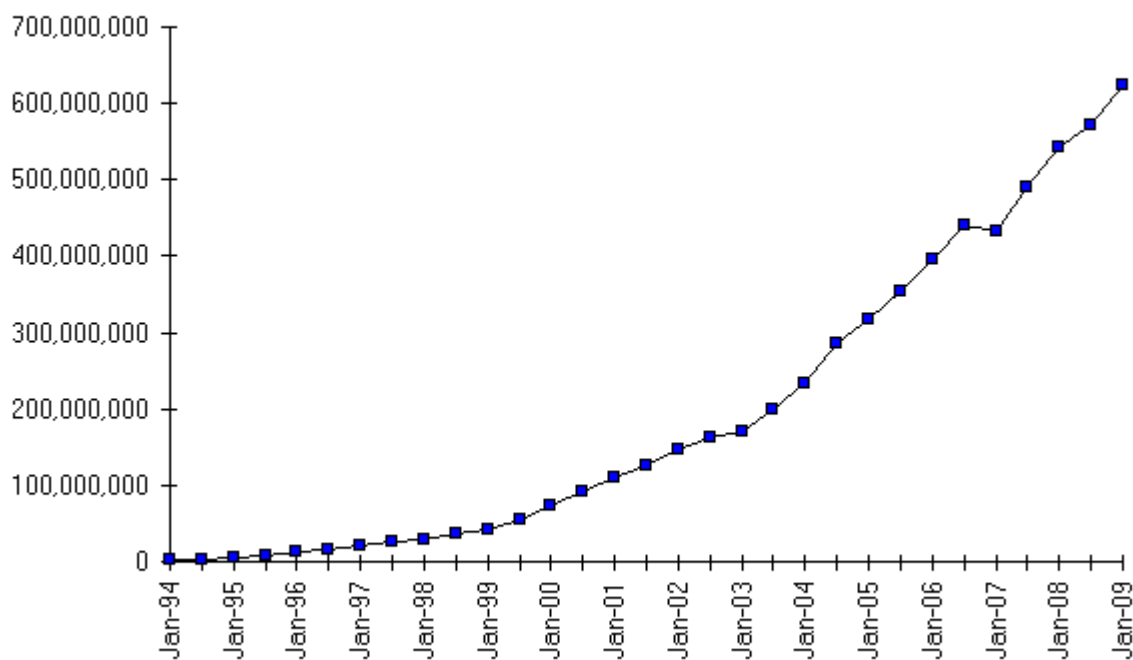
information often influenced the fundamental issues of the national sovereignty such as the state of war or peace. To be the first one to reach and provide the political information was in fact a privilege that characterized diplomats. Therefore they had a strong monopoly among civil servants' groups over providing the best of knowledge, almost exclusively for a very long time. The long way that telephony (including the use of telegraph, telex and telefax), the internet, worldwide web and many other digital tools for transferring information passed in a relatively short time, had significantly influenced the way diplomatic services gather and process information. Telephony did not make a big change as long as it was landline-based. The change in information distribution occurred when devices became powerful enough to have huge capacity to store data and when they became mobile. That influence increased access to information and the number of players involved in political processes in the global political arena, while costs of communication services were constantly dropping.

Number of players

A decrease in the cost and availability of access to information via personal computers enables more and more people in the EU to participate in decision-making processes by expressing their opinions and making them available online to other interested parties. A greater number of players creating political decisions worldwide takes the exclusive character of influence that diplomatic service and its information have traditionally had. Interest and lobbying groups, independent international bodies and think-tank organizations, in other words, many new non-governmental actors are only some of the new players. Their political influence and the created media pressure are pushing diplomats to take many new sources of information into account while creating their political attitudes and recommendations. The first thing that has changed in the traditional diplomatic work and in creating public opinion, is *the number of parties involved* in formulating political decisions, thus removing the customary exclusivity that the diplomatic service used to have in the past. The increased

number of political players and participants can be seen in the number of websites explosion and the greater number of people sharing information by using various networks, sometimes even closed for a selected audience. Following is the estimate from Network's World Metrix Service from March 2007, which indicates that the Internet reaches 747 million people worldwide (comScore, 2009), 1.3 million of which are in the top 15 countries ranked by the number of Internet users, or another significant comparison; when it comes to the increase of use, there were 12 million Internet hosts in January 1996, followed by 93 million in January 2000, and 233 million in January 2004. The number was growing until 2007, when for the first time a drop was registered (Internet Systems Consortium, 2009).

Internet Domain Survey Host Count



Source: Internet Systems Consortium (www.isc.org)

Internet use has more than doubled annually in the last couple of years whereby now there are an estimated 40 million users in almost every country. Connections are growing at an ever-increasing rate, with the Internet adding a new network about every 30 minutes. Starting from the sociological understanding of social network as a social structure of individuals or organizations that are tied up by particular individual interests, it was soon easily observed that exactly Internet provided a new powerful platform for *epistemic community*

establishment. “Epistemic community as a global network of knowledge-based professionals in scientific and technological areas often have an impact on policy decisions” (Department of Political Science, Lunds Universitet, 2009).

When it comes to Croatia, there are approximately 27,000 registered “udruga” (non-governmental associations). The number was provided by a research study done in 2005 by a team from the Faculty of Law in Zagreb. The huge number of relatively newly established interest groups does not indicate an equally huge activity, but points to the fact that citizens recognized the necessity of joining civil networks in order to fulfil their interests or fight for their civil rights. Those were neglected in the past by the state, that should now take more initiative in responding to the needs of its electorate.

The number of players in the global political arena and their influence on the traditional diplomatic service are triggering their own expectations in democratic processes. While offering their own opinions, new actors are expecting to be taken into account instantly and get valid responses from the final decision makers in real time. Due to raised expectations, diplomatic missions and political institutions in general are forced to provide information of interest on their web pages and interact with the public online. The rule is to conduct business electronically by having websites and using e-mails, but also to act in the traditional manner. Consular services should be available almost wherever tax payers show up. In addition to websites and email, there is interactive television, personal digital assistants and mobile phones whose fast penetration, in particular the wide range of highly innovative services, we have witnessed in the past ten years. From a device that was prohibitively expensive to a common-use item that everybody uses, even children and other non-working members of society and all that happened in the last ten years.

Increased public expectations

Unfortunately for diplomats, working on a virtual digital face of daily diplomatic activities is only one side of the coin when we speak about increasing *public expectations*. Much more personal and individually demanding is the requirement for excellent presentation skills that diplomats need to possess when performing their daily tasks. The traditional diplomatic role of processing political information received by various sources was added an extra task by creating an environment where diplomats can become exposed to the lights of TV cameras at almost any moment. Public expectations made diplomats new additional sources of information. Many old-style diplomats did not survive the pressure of the new public demands where, suddenly, there was no time left to prepare for public appearance. Even worse for most of those traditional ones is that this type of expectations is only growing because what used to be treated as private, individual life, suddenly became public property; Some new oil to the old fires was thrown by a growing number of numerous political appointees in the diplomatic service (the case with transitional countries) who gladly flirt with their potential voters by allowing them to interfere in their private lives and activities by an always open journalist eye of digital cameras.

Adaptations are necessary. Thus a regulation adopted by the Croatian Government in February 2007 proscribes that all state officials and government appointees in Croatia are to go through much different and longer obligatory professional development trainings with more demanding tailored courses than they could have ever imagined in previous times. Professional development for Croatian state officials these days contains learning and performing presentational skills, as it is finally acknowledged that no diplomatic service can be successful without acquiring basic skills in performing political communication (Central State Office of Administration, 2009). Preparation of the state administration for the responsibilities related to European integration is crucial for a successful completion of tasks

resulting from the membership in the European Union. In 2007, the Croatian Ministry of Foreign Affairs continued with the implementation and further development of the professional training programmes for state officials in the field of European integration. These consist of more than 220 different educational projects encompassing more than 4,500 participants from state administration bodies, regional and local government, NGOs chambers of trade and crafts, chambers of commerce, journalists, students, teachers, pupils and others (Ministry of Foreign Affairs and European Integration of the Republic of Croatia, 2009). As it can be observed in Croatia, Foreign Service is taking lead in providing domestic audience with European practices and knowledge, thus building broad public awareness among a large number of partners.

In the case of Estonia, we can see how Information and Communication technology (ICT) can help local government to provide better service to its citizens. Since May 1st, 2004 Estonia has been a full member of the European Union family. It didn't take long to Estonia as a full EU member to achieve the status of the brightest e-star when it came to providing public e-services. Estonian web pages make an excellent example how simple, yet interactive and informative, the digitalized content can be (The Government of the Republic of Estonia, 2009a). Bearing in mind the expectations (and rights) of the public, the Estonian Parliament in February 2000 made a decision to guarantee Internet access to all its citizens. In 2002 Estonia began an ambitious training project and by the end of the project in March 2004, 10% of the adult population passed the training. Today, the Estonian e-voting system and a new concept of ID cards are in place. Services are delivered electronically. The local government in Tallinn was the first to use the e-voting system for local government council elections in October 2005. As the website states, “electronic voting does not eliminate traditional voting, but certainly provides a convenient voting option” (The Government of the Republic of Estonia, 2009b). With time, there will be only more and more requests by the public to deal

with the public authorities in the virtual space; a demanding era for traditional diplomats is already approaching.

Speed of information spread

An interesting phenomenon to observe is also the *speed of digital interaction* and the capacity of constantly increasing software applications. Owing to huge geographical distances, diplomats need reliable, secure and fast communications, especially during crises periods. They have to follow, understand and react to the news reported through global media and react swiftly while security and protection of the content must be sufficient and guaranteed. Internet software links diplomats to information stored far away from their geographical location.

It is impressive to capture on the computer screen contents held in another computer or to switch from one distant geographical location to another in a split of a second. Hypertext language that makes our links possible has that great potential. One of examples was provided by Nye and Owens:

During the Dayton peace talks in Bosnia, discussions sometimes focused on geography. In the course of negotiations, computer graphics were used to provide a virtual model of the terrain in certain disputed areas that were then shown to the negotiating parties. The graphics combined satellite pictures and those taken from reconnaissance planes with elevation information provided stunning detail; One of the Balkan presidents spotted his grandparent's house, while another flew past a stream where he used to fish as a boy. (1996, p. 38).

What real diplomatic adaptation means in practice is to be found at Foreign & Commonwealth Office website where “e-diplomacy: the FCO Information and Communication Technology strategy” from January 2004 is presented. This well prepared and structured written example shows what the goals of FCO will be in next period of time. By 2010, each FCO is expected to have “...a single phone number for mobile and landline, a single PC to access everything up to confidential... a single contact point for IT support, all material to be handled electronically... and a greater availability of video conferencing facilities”.

To quote Nick Westcott, Head of IT strategy:

The aim of the FCO’s 2000 ICT Strategy was to provide the FCO with the ICT it needed to operate as a single global online organization...The new FCO Strategy adds a new dimension: to provide greater flexibility in order to move scarce resources where they are most needed as swiftly as possible. Our present global infrastructure is good, but static. We need to respond to the challenge and, within the constraints of budget and security, make our ICT as flexible as our staff needs it to be, particularly in enabling remote and mobile working and improving the management of knowledge within the FCO (The European Archive, 2009).

Following the need for greater availability and faster access to information regarding the EU and the Croatian accession process, the Government has in the last two years initiated new projects. Free info phone line called “Hello, EU!” was officially inaugurated by the former Prime Minister Ivo Sanader on the EU day in May 2007. The number of calls per month was 14,842, of which 5,258 calls were connected to the pre-recorded information system and 9,548 were put through to operators. Cooperation with national and local media has

intensified both in regard to presenting topics related to Croatia's roads and the Croatian accession into the EU. Cooperation with national Television has intensified (Ministry of Foreign Affairs and European Integration of the Republic of Croatia, 2009b)

It is a fact that national diplomatic services, more than ever before, due to the speed of interaction and the spread of political news, need instant availability of human resources and knowledge only real people possess, and all that in real time. To comprehend today's political information and create relevant, valid interpretations of global political events useful for helping political leaders determine their activities requires real teamwork no matter where diplomats are posted. Foreign services are still balancing between their wish to maintain as much of their traditional role as possible and the projected role being a result of involvement of an increased number of players and high technology implementation. However, the speed of information exchange has another type of impact as well. The speed of global information spread and interaction with public in real time is evidently connected to the use of Internet. While it is a fact that almost anybody can get political news in real time because journalists publish their articles on the internet as they are written or that flash news frequently appear on mobile phone screens of millions of interested subscribers instantly, it is also a fact that speed works both ways. Although it can bring the outline of the event, it cannot bring immediate comprehension. Plenty of news that arrives quickly does not guarantee credibility. It is not always easy to understand political events. Sometimes time is needed for consultations. Sometimes time is needed to gain new information. Diplomatic activities do not necessarily need to get exercised quickly for the sake of their own success and here is why members of Foreign Services do need to create professional networks.

Inventor and futurist Ray Kurzweil suggests that in the near future "... computers will be embedded in clothing jewellery, cable connections will be disappearing, most texts will be created using continuous speech recognition, routine business transactions will take place

between a human and a virtual personality, and translating telephones will be in common use” (Kurzweil Technologies, 2009). Diplomacy, as a profession, is trying to respond to the needs of its time, national interests and Europeanised or global political environment, incorporating more tasks out of which a very important one is processing easily accessible political information. Globalization as a sociological process or Europeanisation as a political process, have each their methods to expose traditional diplomatic roles to new challenges, as it is the simple fact with the use of ICT tools. However, the volume or availability of information, the speed of interaction with interested audiences and the number of players involved in political decision making processes are only added demands of the new information age we are living in. The core task of diplomacy is to understand, interpret and recommend and that Globalization or ICT tools cannot change. What the present day diplomats need to do is to adapt.

As Barry Fulton said at the Conference on Information Technology and the Practice of Diplomacy organized on April 20th, 2001 by the Elliot School of International Affairs at George Washington University and the American Academy of Diplomacy:

“In summary, the thrust of my argument today is to gain your appreciation of the new technologies as efficient multiplied and international dialogue. We require well-trained public diplomats who will replace the megaphone with the network, whose motto might well be: Speak softly, but get well connected” (The American Academy of diplomacy, 2009).

This is perceived as the right direction for creating future political communications versus its own public, valid both for national, as well as EU officials and diplomats. The right direction is also to better understand and use more frequently existing communication channels, while taking into account all involved players, available web content and the speed of information

interaction. Within the EU arena, exactly communication channels became the main trigger for theoretical exploration. EU institutions, a legal framework for political communication, provide the best ground for studying internal political interactions and practises.

European “double loyalty issue”

Together with the technological advantages of the new digital era and increasing public needs and expectations, diplomacy in the current European political scene has another burden of necessity to perform both at the national and supranational levels since diplomats in the current EU institutional framework often have double standards and “wear two hats” at the same time.

The issue of loyalty remains the source of uncertainty in the EU political communication as well as the main obstacle for faster European integration, in other words faster establishment of efficient common European institutions. The division between national and supranational implied the division between the intergovernmental and the supranational within the EU. Four different chapters will elaborate the current developments of the EU integration process versus the often controversial dynamics between the intergovernmental and the supranational.

The first chapter will provide an attempt to analyse a fundamental competing relationship between two main EU institutions; the European Commission (supranational by political and theoretical nature) and the Council of Ministers (intergovernmental by nature) as two key platforms for diplomatic interactions in the EU today. Institutions are at the core of the EU project.

In the following chapter it will be elaborated on a very complicated institutional framework of the two emerging and interdependent intergovernmental (most nation-wise oriented) EU

policies of the Common European Defence and Security Policy (CESDP) and Immigration. Intergovernmental bargaining is slowing down the pace of the EU project.

The third chapter will provide information on how the two predominantly intergovernmental emerging policies interact with the everyday life of an ordinary citizen in the EU, and what are the current governmental, diplomatic and public responses in the EU bargaining processes. By being of intergovernmental nature, policies are left mostly in hands of national governments which are often applying different criteria in a concrete policy performance.

The final chapter will list various national examples of intergovernmental policy implications as well as the reaction from the public sphere.

Three layers of political and social life, going from supranational to national, are aimed to provide the picture of the EU complexity of today, looking predominantly at the external affairs and immigration field of member states' own and EU policy life, and providing a complexity of legal and practical obstacles that diplomats are facing in the EU. The EU intergovernmental institutions, policies and diplomatic behaviour slow down the pace of EU integration, but nation/member states are still predominant in creating a platform for the Europeanisation process leading towards a supranational character of the EU. Does the EU have a chance to become a coherent and sustainable political entity (without borders and army) and who is to contribute the most for this to happen? Will the citizens' support for the European integration in the long run be self-evident?

CHAPTER I: THE COMPETING RELATION BETWEEN THE EUROPEAN COMMISSION AND THE COUNCIL

Institutions, the core of the EU project

The relation between the supranational and the intergovernmental, two main theoretical frameworks, can be best observed through tensions resulting from the continuing diplomatic bargains. The issue of double diplomatic loyalty is reflected in the tension between key EU institutions and subsequently between the EU member-states. The bargains are reflected on the EU institutional effectiveness and its capability to respond to the need of current and emerging EU policies. At the core of the bargains lies the rational and often selfish interest of nation-states for economic and political benefits. Thus understanding intergovernmental EU dynamics is a precondition for understanding the member-states' need for a supranational EU and the only way to build a key argument for the Union's development towards a more federal structure of the Union.

Andréani has suggested that institutions have always been at the core of the European project: "the process of European integration is a joint exercise in norm-setting and institution-building" (cited in Cornish and Edwards 2001, p. 595). Each step of the integration is linked to changes in the institutional framework, but once the institutional framework has changed there will certainly be a political agenda behind it, i.e. a timetable for the new member states' issues to be resolved for global emergencies to be dealt with.

Key European institutions, the European Commission and the Council of Ministers and their protagonists, i.e. EU career diplomats and representatives of EU member states, are very much interdependent in today's European Union. They cooperate among themselves, and within their own groups depending on the policies that are on their daily agendas. Throughout the history of the EU, the internal institutional interdependence had a different pace of dynamics. It mostly depended on the main tasks and policies that had to be jointly performed at the time, the politicians' charisma leading the EU institutions and the relations between elected political leaders involved, decision making processes agreed upon and the number of member states in the current integration process. Regardless of the type of interaction or power key institutions were able to exercise at the time, they played a crucial part in formatting the political outlook of today's EU. Moreover, "the institutional reforms have produced a higher evolved system of rules and procedures governing how these powers are exercised by the EU institutions" (Hix, 2005, p. 3).

The following paragraphs will focus primarily on the Commission's and the Council's roles, responsibilities and decision-making process while observing the emerging of one of the youngest EU policies in the sphere of external affairs (CFSP) vis-à-vis the general debate on whether this ambiguous and complex relationship between the Commission and the Council of Ministers can lead toward partnership or an ever closer competition. At the Commission's side it is clear that a unison EU voice in the field of CFSP would mean stronger and more influential position of the EU at the global political scene. On the side of the Council, nation-states are not ready to approve the emergence of a common EU diplomatic service. That discrepancy in envisioning the CFSP future results with serious delays in CFSP policy formulation and the lack of concrete reactions on the ground when urgently needed on the European continent as it was the case with the former Yugoslav conflict during the early 90's. In order to better understand that institutional relationship, theoretical frameworks do provide an explanation for the nature and character of these two key institutions.

Differences in envisioning the EU

To Jean Monnet, the first President of the High Authority, the European Commission, like the High Authority, was aimed to be an independent arbiter of the European interest (Edwards and Spence, 1997, p. 1). For the first President, the European interest meant to put an end to an old and ongoing animosity among European nations and to create a win-win economic situation which would create social progress and prosperity in the long run. The European Steel and Coal Community, founded on pure economic interest, perceived the European Commission as the major arbiter whose unique position was to manipulate domestic and international pressures exerted upon national states to enhance the process of European integration (George, Bache 2001, p. 10). As Rometsch and Wessels noted, Monnet perceived the Commission as a dynamic and enlightened technocracy with the expertise and basic legitimation to dominate the decision-making of the Council (cited in Edwards and Spence, 1997, p. 215). In the middle of the Commission and the Council relationship is the Commission's sole right of legislative initiative (Westlake, 1995, p. 336).

In observing the continuous evolution of the EU political system, academic circles have identified two main theoretical frameworks in an attempt to understand and describe the interaction among the key institutions, the Commission and the Council of Ministers, the tensions that were evoked by their two competing positions and the dynamics of the European integration through their political involvement. Even since the Treaty of Rome in 1957, founded predominantly on the neo-functionalist approach to the EU integration, the role and responsibilities of the supranational Commission had changed due to the increasing assertiveness and interest of member states to control and actively participate in the process of policy shaping. As outlined by Dinan, the motor of the European integration in the capacity of the European Commission even these days takes over the huge responsibility of proposing and shaping legislation, initiating and managing the budget, executing and implementing

policy, policing EU law, conducting external relations, contributing to enlargement and treaty reform, monitoring and reporting on major EU developments thus pointing the way forward (Dinan, 2005, p. 210).

The academic debate on theoretical contribution and neo-functionalist support towards a supranational EU had resulted in what became the theory of intergovernmentalism. It highlighted the importance of a greater involvement of national governments. For the intergovernmentalists, national governments and nation or member states are the unique and powerful actors in the process of European integration: they control the nature and integration pace guided by their concern to protect and promote the “national interest”. Intergovernmentalism thus becomes the strongest excuse and argument of the slowdown in the EU integration process.

Interestingly enough, Stanley Hoffmann’s criticism of neo-functionalism argued already in 1964 and again in 1966 that national governments might accept closer integration in the technical functional sectors while the integration process would not spread to areas of “high politics” such as national security and defence (George and Bache, 2001, p. 12). The technical functional sector remained firmly in the first (Community) pillar where the Commission is responsible for producing proposals on which most Council debates are based, but it is reliant on the Council to adopt the measures it has proposed. The key institutions here, although each independent, are required to cooperate closely and they both need each other to fulfil their functions properly (cited in Peterson and Shackleton, 2002, p. 62).

Through their interaction over the time, the two key institutions had created rather controversial positions in managing the EU agenda. The distinction between supranational and intergovernmental approach has been additionally enriched by the work of Nugent and Paterson who identified the two so-called parallel and mutually reinforcing processes in order

to highlight the key features of the European-level political system: the extensive transfer of policy powers and responsibilities from national political systems to the European level had started at the very beginning, imposing virtually all spheres of public policy on the EU agenda to at least some degree. As for the second reinforcing process, Nugent and Paterson repeated the influence of the key European-level institutions and underlined the decision-making process as another important phenomenon within the policy creation domain (Nugent and Paterson, 2003, p. 92).

The interdependence or competing positions of the two institutions cannot be fully observed without looking into the process of policy shaping and decision-making process. The theoretical characteristics of interaction between the Commission and the Council of Ministers, though different at the time, the profile of the prime policies that are on their agenda and different methods on the decisions reached in the context of enlarging Europe will best be examined once negotiations about Treaties are completed.

The Commission through emerging Common Foreign and Security Policy

The need for a higher level of the EU (the Commission's) involvement within the creation and further joint implementation of the EU Common Foreign and Security Policy (CFSP) became quite important when the Treaty of the European Union, known as the Maastricht Treaty was negotiated in 1992. The European Union Treaty brought significant change into the EU by bringing in a new organization of three-pillar structure. The first, known as the European Community (EC) pillar, remained the ultimate legislative power for the Commission, while the appearance of the two new intergovernmental pillars of Common Foreign and Security Policy (CFSP) and Justice and Home Affairs (JHA) witnessed a much deeper involvement of all the member-states in policy creation. Although most of the policy decisions made in the first pillar are based on the Commission's draft proposal being sent to the Council of the

Ministers to be adopted by qualified majority, there is a significant trend of a growing number of draft proposals sent to the Council by the Commission every year. According to the empirical data, the Commission transfers every year between 600 and 700 proposals and recommendations for legislative acts to the Council (cited in Edwards and Spence, 1997, p. 223). Compared to the previous years, this growing trend has enlarged the legislative output of the Council and is also strengthening the Commission's initiator role.

As the most supranational EU institution, the Commission is often seen by the outside world as a focal point of common understanding, i.e. what the European Union is all about and whose voice has to be heard on its behalf. It is important to notice that the Commission had made the effort to impose itself worldwide by establishing and maintaining more than 150 delegations and offices around the world. That enabled the Commission to be very active in meeting other EU Ambassadors in third countries and to globally lobby for its own voice. Following the end of the Cold War in Europe, the Commission helped and implemented the coordination of supplying the new Central and Eastern European countries with humanitarian and other Western development assistance. Being successful and indispensable as the central point of newly gained activity, the Maastricht Treaty acknowledged a new dimension in the Commission's international involvement in spite of the fact that Common Foreign and Security Policy (CFSP) was primarily an intergovernmental activity which was again confirmed by TEU by separating the Commission's involvement in the process of final decision making from the second and the third pillar. Due to its intergovernmental character, common CFSP did not provide usual diplomatic status guaranteed by the Vienna Convention to its diplomatic missions or the EU diplomats around the world thus it is limiting the EU capacity to engage the host countries into political dialog. Diplomatically speaking, the EU worldwide is therefore taken for political consultancies, recommendation and as a project initiator rather than as a relevant superpower with concrete mechanisms to punish or award good bilateral relationships.

Bearing in mind its rather limited resources in Brussels and the constant wish to expand its role, two Commission's presidents, both Prodi and Santer during the 90's had to take various steps toward reorganization of the Commission's internal structure in order to provide the best office support for implementing the growing number of tasks in managing external affairs. Being policy of a rather intergovernmental nature, the Council of Ministers continued to keep a close eye on what the Commission was producing in the sphere of external affairs. To make sure both institutions knew exactly what sort of activities are taken, more than 130 Committees of member state civil servants meet regularly with the Commission officials to overlook and ultimately approve the Commission's negotiating strategies and proposals. The Commission had tried to extend its mandate during the Intergovernmental Conference on treaty reform in 1996 and 1997 in an attempt to secure more autonomy in the decision-making process within intergovernmental pillars, but was unsuccessful in convincing its member states partners to do so (Dinan, 2005, p. 217-219). As Kassim noticed, the role of the member states has therefore been enhanced by the Commission's structural weaknesses (cited in Hayward and Menon, 2003, p. 151).

Fighting the Commission's structural weaknesses

Many obstacles that the Commission has met on its way to manage the support structure for external affairs resulted in a growing dissatisfaction of member states and the establishment of the Office of the High representative for Common Foreign and Security Policy (CFSP) within the Council of Ministers in 1999. Personalities, when they go well together, are helpful to reach the common agenda, both for the Commission and for the Council of Ministers. The High Representative, and past and present Commissioners for external affairs, managed to create a united voice, although some observed that much was made of the purported jockeying for position between Javier Solana (the Council's "Mr. CFSP") and Chris Patten (ex.

Commissioner for External Relations) in the months after they took up their positions in 2000 (cited in Peterson and Shackleton 2002, p. 62).

Despite the Commission's structural weaknesses, limited resources or the occasional lack of a united voice in terms of policy implementation within the second intergovernmental pillar, it is unlikely that member states represented in the Council would easily renounce from strengthening the Commission's role and position. For wise national diplomats a strong EU Commission represents an extra diplomatic channel for national interests' enforcement. In addition, four reasons for strengthening the Commission's position are given by Kassim and Menon here are worth mentioning: the possibility to reach goals collectively, to avoid ineffective and slow mechanisms of decision-making process within the intergovernmental pillar, the possibility to use technical expertise and the knowledge of policy state and processes in all the member states included in the negotiations and finally, to avoid the complexity of enlargement consequence in which the Council is often suffering from the internal co-ordination. Here the stabilizing role of the Commission is essential. (cited in Dimitrakopoulos 2003, p. 102,103).

Ever competing institutional relation

The complexity of the Commission-Council relationship within the scope of intergovernmental pillars proves itself as an alternative to the technocracy model dominant in the first pillar: The Commission can also be perceived as an expert and administrative secretariat to the Council where the last responsibility lies with the member states. Here the number of interactions between the Commission and the Council has increased by far as well as the number of institutions involved in the decision-making process. The procedures include the European Council (heads of member states), where this institution became the centre of

decision-making and the decisions are taken on the basis of unanimity. Orchestrated by the Council's Secretariat from the top down, the Council of Ministers itself meets in the form of numerous working groups at the bottom level (where experts, officials are representing particular member states positions), to the COREPER I + II (permanent member states representatives or member states Ambassadors) before the proposal reaches the ministerial level. As a matter of fact, Westlake has observed that 90 percent of the Council decisions are taken by COREPER and simply rubber stamped afterwards by the ministers (Westlake, 1995, p. 370). The Commission's involvement is rather low profiled when it comes to creating the final say, although both the European Council and the Council of the Ministers are heavily relying upon the neutral and expert information on which basis both Councils are making decisions (cited in Edwards and Spence, 1997, p. 219). To quote Moravcsik, "...As a reliable source of independent proposals, the Commission assures that technical information necessary for a decision to be available. More importantly, as a neutral arbiter, it provides an authoritative means of reducing the number of proposals to be considered..." (cited in Nugent 2001, p. 1993).

Speaking from the outset over time, many of the roles and responsibilities of the Council of the Ministers, one could observe, are closely tied to the existence of the European Council. These are as follows: to acquaint heads of states and governments with each other and with each other's views on economic, social, and political issues, discussing current international developments and issuing important foreign policy statements and declarations, reconciling differences between the nation-states' foreign policies and the EU's external economic relations, resolving extraordinary budgetary disputes and reaching agreement on the multi-annual budgetary framework, setting the agenda for further integration and negotiating key treaty revisions during intergovernmental conferences (Dinan, 2005, p. 239).

Searching for its own legitimacy within the EU, the Council of the Ministers while dealing on CFSP matters, readily transferred its own ultimate right to make a final decision to the higher national level. Although both institutions are independent, in some of the countries heads of states and ministers of foreign affairs are coming from different political and ideological backgrounds, in particular when political coalitions are to be made in order to form national governments. From time to time that might create an area of possible conflicts where one or the other national representative would eagerly search for the coalition with the Commission representative. Generally speaking, the greater involvement of the European Council within CFSP would mean, just at first sight, undermining the Commission's leadership capacities (Nugent, 2001, p. 214). That would be so if Heads of State could reach a decision easily. In reality, their discussions at summits are prepared and briefed in advance by the Commission's officials, their agendas set up by the Commission and if further clarifications are needed it would be the Commission again to prepare the detailed reports on pending issues.

Although the member states have kept the Commission outside of reach of decision making in the field of external affairs, the introduction of qualified majority voting (QMV) in the second pillar within the Council of the Ministers has proved the member states' intention to minimize the possible negative effects of further insisting on unanimity while reaching the decisions within scope of CFSP. The time for reaching decisions in some of the past (war) conflict situations in Europe exceeded by far the expectations the need on the ground. Clearly, there are variations in the extent to which policies have a supranational or an intergovernmental character. As Nugent and Paterson pointed out (2003, p. 95), when the Council of the Ministers votes by QMV the policy concerned is more of the supranational in character. Although adamant to keep its autonomy in the field of external affairs, the Council of Ministers and its member states are in reality practising voting related to many aspects of CFSP by unanimity only to show its united position toward issues on the agenda. However the supranational character of an agreed method on practicing the QMV is on purpose hidden

by the member states in a constant effort to reach the consensus behind closed doors. As George and Bach pointed out, it is legally correct to speak of “EC law” not “EU law”, because it is only in the EC first pillar that law can be made (George and Bach, 2001, p. 215). Until CFSP finds its way to the first pillar, there will be no binding obligation for member states to implement EU CFCS toward the third countries.

As it can be observed, in the formation of the European political system, the relationship between the Commission and the Council is based on their mutual interdependence. Although independent institutions and of different theoretical frameworks, one institution cannot act without the other. Since there is no danger for any of them to lose their importance in the future, their roles will have to be shifted toward more effective and operational forms. The two institutions’ behaviour within the second pillar in respect to the creation of the common EU CFSP policy is indicating that both are seeking a stronger involvement. However, the Commission was of a secondary importance within the second pillar. Its role in implementing the policies and overlooking the process is of an undisputable value for the member states in the European Union. Without the Commission’s involvement as a neutral initiator, political circumstances and different political and ideological perspectives in exercising particular member states views in European Union and international politics could have had a much bigger negative impact on the pace of the European integration process and would slow it down significantly.

It is worthwhile concluding the chapter about controversial and intriguing relation between those two key EU institutions with the theoretical model that Rometsch and Wessels by quoting Bulmer (from 1994) brought while discussing the opportunities for positioning the Commission within the Council: The Commission can act as the “promotional broker”. In the “multi-tiered system of government” (cited in Rometsch and Wessels, 1997, p. 220), the Commission becomes more than a “neutral broker”, but rather a co-player and interlocutor for

the Council with given certain procedural rights, as might be the right of initiative and the right to call for a vote within the Council. The Commission's future power should be based on providing expertise by its own high quality administrative infrastructure in the complex bargaining central to a multi-tiered system and while extensively using all other available European institutions. In case of an obviously justified Commission's higher and more powerful involvement, what diplomatic influence would remain for the national diplomatic and political elite?

CHAPTER II: INTERGOVERNMENTAL POLICIES

The EU project is widening its scope

The European integration process has been unpredictable and changeable in its dynamics due to an increased number of actors, institutions and policies involved in the process during the last decade. A continuous EU enlargement is positioning the EU political system into a somehow unfavourable stage of constant challenge: supranational institutions, such as the European Commission continue to be the main responsible for ensuring that the civilian power side of the EU remains alive. It is of the ultimate importance to maintain alive the core idea of the EU political system which positions the EU as a stable guarantor for liberal society values and economic standards as a *conditio sine qua non* for the well-being of its own citizens.

As it was observed throughout the first chapter, behind the EU integration lies an ongoing struggle between the member states' need for a faster transfer of authority to the supranational level and the member states' urge to keep control of the policy shaping processes and outcomes which further more reflects the complexity of today's EU political environment. This struggle reflects a competing relation between the Commission and the Council of Ministers.

By continuing to look at the two main theoretical approaches outlined in the first chapter, the following chapter will examine and assess challenges related to the two intergovernmental policies: the second intergovernmental pillar's Common European Security and Defence

Policy (CESDP) and Immigration policy originally operated from the third pillar, Justice and Home Affairs (JHA), by predominantly looking their recent emergence through the EU institutional and treaty developments. The chapter will also provide examples where between the various policies a clear necessity for a more coherent institutional coordination persists in order to speed up the EU integration process in a more effective and quality oriented way.

Relevant theoretical approaches

From the very beginning, the process of European integration has been perceived as a trend from which there will be no receding. Although it has been associated with the elimination of animosity, the state of war between Europe's nations and the idea of the generation of collective prosperity, last decade of intergovernmental bargaining within the EU institutions appears to leave the room for the general question whether the process of European integration could continue to be seen as a generally positive one or if it is on the way to lose its progressivism (Gilbert 2008, p. 642,643).

The given theoretical framework is helpful when there is need to provide some light to key EU institutional positions toward evolving policies in the process of European integration. Over the past decades, the understanding of European integration process has advanced substantially due to the work of scholars who observed the past EU internal integration dynamics and who, by establishing their studies on empirical researches, offered sounded new theoretical approaches in order to understand the development of the EU political system. Therefore, three basic theoretical approaches will be explored in this chapter in an attempt to understand the pace of two intergovernmental policies toward the EU integration and the internal dynamics of the EU political system itself.

The first theoretical approach, already mentioned, saw the light of the day at the early time of the Community establishment. It is found in Haas' published work in 1958. This paper set out the ground for neo-functionalism whose "central prediction was that European economic integration would be self-sustaining". More importantly, neo-functionalism offered explanations for the meaning of functional and political spillovers which are important when scholars want to explain the segmentations of policies or the change of their character from intergovernmental to supranational. As neo-functionalists predicted, "sectoral integration would produce the unintended and unforeseen consequence of promoting further integration in additional issue areas" (Wallace, Wallace and Pollack, 2005, p. 15).

The second theoretical approach named intergovernmentalism represents a reaction to the neo-functionalist approach and clearly appeared to criticise the supposed primacy of the supranational organizations within the EU integration process. During the 90's intergovernmentalism of Hoffmann (1966), Wallace (1982) and Taylor (1983) adjusted to the new developments in the integration dynamics and evolved by the work of Moravcsik (1993, 1998) who argued for a revised intergovernmental theoretical model: Moravcsik named his approach "liberal intergovernmentalism". Moravcsik's three-step model combines "(1) a liberal theory of national preference formation; with (2) an intergovernmental model of EU-level bargaining; and (3) a model of institutional choice emphasizing the role of international institutions in providing *credible commitments* for member governments" (Wallace, Wallace and Pollack, 2005, p. 18).

The third and one of the latest well accepted theoretical approach is the so-called governance approach. The governance approach is "neither a traditional international organization nor of a domestic political system, but rather a new system of *governance without government*". As Pollack quotes Hix (cited in Pollack, Wallace and Wallace, 2005, p. 36), "the governance approach theorizes EU governance as a non-hierarchical, mobilizing network of private as

well as public actors who engage in deliberation and problem-solving efforts guided as much by informal as by formal institutions.” Governance in the EU is, in a large part, governance by committees. Working groups and committees are an essential part of the Council and Commission substructures and are responsible for providing transparent, sound judgements and recommendations that reflect member states’ different styles and practices which are incorporated by the EU institutions into common policies (cited in Wallace, Wallace and Pollack 2005, p. 488).

Moravcsik’s liberal intergovernmentalism, combined with the governance way of formulating political decisions leads into so-called transintergovernmentalism, very much present in the discussions about the theoretical outlook of the EU integration process of the last decade and primarily when two intergovernmental policies are observed. Between the neo-liberal school and their neo-realist opponents, Moravcsik sees the EU “as being a development of great theoretical importance”. For him “the EU is a global harbinger of future attempts to establish supranational political structures elsewhere in the world” (1998, p. 500). Since the European integration has been often characterized as a process of gradual erosion of national sovereignty, for Moravcsik “the evolution of new, post-national institutions at the European level are to appear”.

All three main theoretical approaches (neofunctionalism, intergovernmentalism and governance) are important when rational explanations are provided for the emergence of the new EU policies.

The nature of new threats

Internal market provisions as a precondition for the EU integration process in the sense of a free movement of goods, capital, people and services, together with the enlargement process

that is widening the territory of the EU, do possess neo-functionalist political and functional spillover that leads into the creation of the new policies. Enlargement, which operationally falls under the scope of the European Commission, is essential for the further growth of the EU. In his article "European Defence and the Changing Politics of the European Union" published in 2001, Howorth perceives that the result of the December 1998 Franco-British summit in Saint-Malo is "derived less from any neofunctionalist logic but more from the simple reality that politics of security and crisis management demand rapidity and efficiency of decision-making". The European integration process in the area of security policy-making started from an intergovernmental cooperation. In other words and in those particular circumstances of the Saint-Malo meeting, EU integration benefited significantly from the unblocking of the United Kingdom veto on defence matters negotiations within the EU, UK acceptance of the legitimacy of a EU security capacity, both at the political and military level and the French acceptance to sit at the common table with the UK and who have never had hidden the fact that had continuously advocated for NATO's involvement in the EU security area. It became obvious that both UK and France, historically considered as states of past imperial status, are countries which are now looking to the EU to deal with the problems that are exceeding the capacities of their individual control. Indeed, the international relations prior to 1989 were predominately of the bipolar confrontation and therefore much less complex (Howorth, 2001, p. 769).

The common European Defence and Security Policy (CEDSP), did not emerge due to the political pressure stemming from the nature of the military staff suddenly involved in the EU agenda, but from the change of the nature of threat in the period after the fall of the Iron Curtain. The threat itself changed in nature. If security threats are multi-dimensional, many different instruments to deal with them need to be easily available (Deighton, 2002, p. 728). As Tietje pointed out, at the EU level there is a need for adjusting Union foreign policy activities with those of the member states (cited in Deighton 2002, p. 728). In addition,

different policy instruments need to be merged in their implementation in order to give more effective results on the ground. In the aftermath of the Maastricht Treaty of 1992 it became clear that new models of cooperation are to emerge. Among the Maastricht Common provisions it is written that the EU “shall in particular ensure the consistency of its external relations, security, economic and development policies. The Council and the Commission shall be responsible for ensuring such consistency” (TEU, Title I, Article C, cited in Cornish and Edwards 2001, p. 601).

Prior to Saint-Malo there was for some decades an established institutional framework for EU cooperation in the field of foreign and security policy. The vanguard of CESDP was CFSP, Common Foreign and Security policy which inherited, in an enlarged capacity, the European Political Cooperation (EPC) from 1970. CFSP has been in operation since the ratification of the Treaty on European Union (Maastricht Treaty) in 1992. It was agreed in the Maastricht Treaty and confirmed in the Treaty of Amsterdam 1997 that the area of foreign and security policy will be operated under a special (second) intergovernmental pillar. The second intergovernmental pillar of the EU remained under exclusive supervision of the Heads of States who voted unanimously in order to reach decisions. Since the Maastricht Treaty, in particular France and UK were incontestably rejecting a series of efforts performed by some other EU countries to “communitarize” this policy area by placing it into the first pillar and by making CFSP decision-making to qualified majority voting in the first pillar (Howorth, 2007, p. 63).

Institutional battle

During that period of time there were already nine institutional mechanisms in dealing with CFSP in the EU. Under the highest level of the European Council meetings of Heads of States was the General Affairs Council (GAC) who meets on a monthly basis and comprises today

of the EU 27 foreign ministers. Due to an overloaded agenda in 2003, GAC was renamed the General Affairs and External Relations Council (GAERC). GAERC's sessions became divided into two parts covering separately general and external affairs. The sessions of GAERC have been prepared by the Committee of Permanent Representatives (COREPER) that traditionally enjoyed high influence over policy shaping due to the fact that it consists of permanent representatives at the ambassadorial level who meet regularly once a week in Brussels. Furthermore, a Political Committee at the level of political directors of the member states' Ministries of Foreign affairs was established and, in addition, it was to meet once a month. The fifth institution dealing with CFSP was the Council Secretariat whose origin lies in the Single European Act from 1985 when, in attempt to create a permanent secretariat, EU wished to coordinate its own increased trade and economic exchange with the rest of the world. Following the fifth mentioned, the rotating Presidency of the EU comes with all the political consequences that Presidency Conclusions, prepared and presented at the European Council meeting at the each end of the six month term can have for the progress of the CFSP scope and acquis. Seventh and eighth institutions are the supranational European Commission and the European Parliament (the European Commission established in addition a Conflict Prevention and Crisis Management Unit). The ninth institution was established by the Amsterdam European Council in June 1997, but it waited until the summer of 1999 for its first incumbent to occupy it in the capacity of the High Representative for the Common Foreign and Security Policy (Howorth, 2007, p. 64,65). Interestingly, the Amsterdam Treaty was negotiated as the UK was changing its government in May 1997. The new Labour government, elected on a pro-European platform, came too late to contribute to more changes as far as CFSP was concerned (cited in Cini, 2007, p. 243).

The commencement of CESDP after the Saint Malo aftermath is marked with the involvement of a number of new policy making institutions whose scope of work and influence is partly overlapping with the existing EU structures. Its institutional authority and competence is not

yet clear and it remains to be seen who will emerge as a key decision-maker among the existing institutions. The overlapping of the CESDP competences makes third parties' position in bilateral talks with EU very difficult and slows down their mutual potential for cooperation within the area which is often characterized as the one of crisis management. Perhaps the traces of the theoretical explanations for the emergence of a number of new institutions can be found in the work of the rational-choice approach to the study of politics, namely in the work of Shepsle who (during 1979 and 1986) argued that:

US Congressional institutions, and in particular the committee system, could produce a *structure-induced equilibrium* by structuring the voting power and the veto power of various actors in the decision-making process. For the rational-choice approach scholars it became important to observe how actors choose or design institutions to secure mutual gains and how those institutions change or persist over the time (Wallace, Wallace and Pollack, 2005, p. 19).

CESDP is a new EU emerging sensitive policy area. As a policy making process CESDP nevertheless remains to date a domain in which both traditional intergovernmentalism and perhaps more significantly, intensive transgovernmentalism remains the dominant mode (Wallace and Wallace 2000 in Howorth 2001, p. 766, 2007, p. 66). Frequent communication between national officials, extensive exchange of diplomatic visits and information on security policy issues and not to forget the Europeanisation of the national official administration practises does play an important role in shaping EU foreign policy agendas.

Institutional weak spots

In an attempt to create a new institutional framework and to facilitate the call from Saint Malo for the "appropriate structures", instead of reducing the number of institutions, three new

institutions were proposed and discussed within CESDP during the European Council in Cologne in June 1999 and, the Helsinki European Council in December 1999 and those were finally consolidated as institutional framework between the Nice in December 2000 and the Gothenber European Councils in June 2001. In an attempt to create an united voice for CESDP, the position of the High Representative for CFSP was finally occupied and its first incumbent was chosen to be the prominent politician Javier Solana who as is common knowledge, happened to have all the desired criteria set up by the leading member states; French seniority, British user-friendly Atlanticism and German Europeanism.

The most important institution of the new ones was the Political and Security Committee (referred to by its French acronym COPS) with the task (Treaty of Nice, Article 25), in short, of monitoring the CESDP area, at the Council's request to contribute to the definition of policies and to exercise (under the Council's responsibility) the political control and strategic direction of crisis management operations. Its 27 permanent representatives at the ambassadorial level meet twice to three times per week in Brussels. As Howorth stated, despite COPS's centrality to the decision making process, it can easily be short-circuited by national capitals in the occasion of major crisis which rules out member-state consensus, pointing out the case over the Iraq crisis of 2002-2003 when COPS ambassadors received strict instructions to keep Iraq out of the agenda (Howorth, 2007, p. 68). Another weak spot for COPS lies in the relations between itself and COREPER who was originally judicially responsible for the preparation work prior to the Council's sessions. It was not long before the tension between COREPER and COPS arose. The problem had to be solved at the Seville European Council in June 2002, but only partially; the agenda of the General Affairs and External Relations Council (GAERC) was divided into the internal for which COREPER remained in charge and the external part where COPS, in cooperation with COREPER, was given a task of preparatory work for the sessions. The meetings of COPS are prepared by a

preparatory group unofficially referred to as the “Nicolaidis group” after its first chairperson during the Greek Presidency in early 2003 (Howorth, 2007, p. 71,72).

Two other institutions, created after 1999, were the European Union Military Committee (EUMC) and the European Union Military Staff (EUMS). EUMC is established within the Council and consist of the Chiefs of the Defence Staff (CHOD’s). They meet twice a year accompanied by their military representatives (MILREPs) who mostly play a double role by being the state’s representatives to NATO as well. The EUMS works under the political direction of the European Council and it falls under the military direction of EUMC (Howorth, 2007, p. 74, 75). The future developments will show whether the appearance of the military staff and actors within the institutional framework of the EU might have a stronger neofunctionalist spillover effect into the political life of the EU, which was perceived for a long period of its life as a predominantly civilian power.

Apart from the obvious anomaly present at the scale between intergovernmentalist institutions tightly connected with their national capitals, the General Affairs and External Relations Council (GAERC) and the Political and Security Committee (COPS), and on the other side the two Brussels based and oriented like the European Commission and COREPER, the common task of COPS and COREPER in preparatory work for the GAERC sessions is complicating the CESDP daily performance. To quote Howorth: the tense and increasingly counterproductive division of foreign policy responsibilities between pillars one and two, and the awkward hierarchical relationship between COPS and COREPER suggest that, sooner or later, a new division of labour will have to emerge (Howorth, 2001, p. 775).

However, the current CESDP institutional framework is a result of intensive mutual work of officials and diplomats from various EU national foreign ministries. Career diplomats happen to share the same professional profiles and their approaches to everyday work rely on

Vienna's convention that is for all of them always the same "instruction manual" to follow. Thus, they were able to construct significant structural obstacles that the current CESDP institutional framework is envisaging. Pressures coming from the EU capitals are not always constructive².

The situation within the scope of the third intergovernmental pillar is even more complex. Starting from loose intergovernmental structures, officials that participated in the area of JHA came from different interior or judicial/law ministries from the countries that carried quite distant legal tradition, judicial trainings or court procedures and where the concepts of crime and penalties varies from country to country (Wallace, Wallace and Pollack, 2005, p. 462).

Migration as a foreign policy threat

The time of the Cold War, when threats were predominantly coming from state controlled actions performed by national military forces and when borders were fixed, has added a new dimension; i.e. a threat that is now potentially coming from an individual who is by far more difficult to control than it was possible to control state armies. Waiving the internal borders within the EU in order to facilitate the EU internal market, brought to a certain extent an internal free movement of goods and people, but also the illegal trafficking of goods (such as narcotics and cars) and has opened the space for illegal immigration and trafficking of human beings. It became clear, both for the EU and for the new member states who, through the accession process had to accept a set of firm EU *acquis* standards related to the border security, that the EU borders became multi-functional; they are seen as "a discriminatory division between peoples by imposed visa regimes", and also by means of potential cross-border cooperation, performed through the neighbouring policies. As Grabbe (2000, p. 520)

² Latest developments over settling Croatian and Slovenian sea border disputes are indicating that bilateral issues has become a valid argument to block the negotiations on chapters within the process of accepting one candidate country into the EU. The spirit and the past practice of the EU to leave the bilateral issues outside of the process of negotiations has no longer its importance.

stated, “distinctions between defence, security and internal affairs have become increasingly blurred, as border policies become a new armoury to supplement military means of defence”.

The Polish border and its border with three countries that are not members of the EU presents a valid example of a country that, by erecting an external Schengen border, found itself facing new challenges to its own foreign policies toward its Eastern neighbours. Although the EU provided Poland in the preaccession period with substantial financial and technical means to upgrade the Polish border infrastructure, the EU requirement to impose visa regime on the Ukrainians brought Poland new challenges in its external relations. Many Ukrainian families are highly dependent on the income their families are making in Poland and, in return, Poland is Ukraine’s significant trade partner. Visa regime measures that were introduced 1997 to impose a stricter control with Ukraine had a dramatic effect on mutual trade which decreased by 30% in trading immediately after the measures were imposed (Grabbe, 2000, p. 530). Since then, there has been some criticism directed toward the meaning of the Schengen Agreement which is advocating the return to its original purpose of enabling the free movement of goods, capital, services and people. Leonid Kuchma, the President of Ukraine stated at the Baltic-Black Sea Cooperation Conference in Yalta on September 1999 that “the EU is replacing the Iron Curtain with a paper curtain across Europe” (Grabbe, 2000, p. 533).

Spain, in particular, is another example where policy developments indicate links between migration and foreign policy. Movement of people from one state to another affects national politics between states. To quote Geddes (2003, p. 165), what is new is “the changed geopolitical configuration, the altered perceptions of security, migration’s entry into the realm of high politics, and the impact of European integration.”

Multigovernance à la intergovernmental carte

State borders represent the traditional dividing lines between domestic jurisdiction and external affairs. As identified by Krasner during 1999 and 2001, “one of the meanings of sovereignty represents so-called interdependence sovereignty, which addresses the ability of public authorities to control cross-border and transnational movements” (cited in Messina 2007, p. 11). Border policies in the EU have been going through many changes within its internal security acquis since the first intergovernmental cooperation during the 1980s when almost everything between the EU states was agreed outside of the EU institutional framework through the networks of member-states’ police, law and interior ministry’s officials.

The liberalisation of border control enabled people to move freely, but increased significantly in a very short period of time cross-border movements by both EU citizens and third-country nationals. Increased cross-border crime and terrorism threat pushed the EU governments to informal cooperation among security services and law enforcement agencies. Several working groups were established outside of the EU institutional framework: in 1972, the Pompidou Group on drugs within the wider Council of Europe (later moved within the framework of the European Political Cooperation) and in 1975, the Trevi Group, created by the Rome European Council in order to cooperate on anti-terrorist work. In 1985 the mandate of the Trevy Group was enlarged and the group continued to monitor and coordinate the member-states’ activities in the area of cross-border public order and within international crime, and continued to take care of problems such as bank robbery, and arms and drugs trafficking.

During the same period of time, five EU governments negotiated and signed the Schengen Agreement to remove border controls among their countries. The Schengen Agreement from 1985, under the pressure from the business circles of societies and partly in order to promote

the single market area, brought the Benelux countries, France and Germany under one border. Interestingly enough, even after the Amsterdam Treaty, the Schengen Agreement was kept away from the pillar structure. Tensions that are occasionally created between the different groups of professionals involved in the policy-making are vividly expressed by Guiraudon when writing about developments concerning the Amsterdam Treaty framework: “Nevertheless, the Amsterdam agreement was far from simple or clear-cut.” First, the scope of policy competence delegated to the EU in this area was much wider than external border policing measures. It included the development of a common asylum policy and the harmonization of rules of entry and residence for non-EU citizens. According to Guiraudon, “*foreign ministry officials, shunted aside during the Schengen negotiations but at the heart of the Amsterdam negotiations, took their revenge*” (cited in Cowles and Dinan, 2004, p. 165).

Over the time, it became clear that the consequences of keeping migration agenda outside of the EU institutional framework might become too costly even for member states, such as Germany, who did not want to communitarize the matter, but could not on its own deal with the accumulated problems. The idea that emerged was that in a turbulent global political environment, it would be essential to at least share the burden of sudden and unexpected flows of migrants, and still to try to keep tight control over migration issues within the national arena.

Since the Maastricht Treaty the policy-making infrastructure has been enlarged by far more than in any other EU policy. The intergovernmental Justice and Home Affairs (JHA) cooperation found its home for further concrete activities within the third intergovernmental pillar, named Justice and Home Affairs (JHA). The JHA pillar became quickly overloaded with a wide range of highly sensitive and domestically politicized issues such as refugee protection, organized crime, asylum rights, citizenship, minority rights, immigration, labor and illegal migration.

Moravcsik's model of liberal intergovernmentalism raised concern over complex national preferences; member-state participation is determined domestically and it is not shaped by participation in the EU. This statement fits well when migration issues are concerned; the extent of national public reactions on immigration issues expressed domestically has to a large extent shaped national politicians' involvement regarding the EU immigration cooperation in the last decade. Immigration issues, and a subsequently emerging xenophobia within the EU electorates, became prime topic driving agendas for many right wing political parties around Europe (e.g. late Heider's popularity in Austria). And yet, one could see a dichotomy appearing in understanding the EU politicians involvement over the immigration impact on domestic political agendas; the fragmentation of migration issues, in particular after the 1997 Amsterdam Treaty showed that some of the burning issues urgently needed a common EU position and settlement. Amsterdam Treaty created a new *acquis* for migration and asylum while matters related to the movement of persons, such as border's control, asylum, visas, immigration and cooperation on civil justice, have been transferred from the third to the first Community pillar. Although there will be a long way before the Lisbon Treaty's provision on the "Area of Freedom, Security and Justice" will see the light of the day, this institutional changes prove the urgent need to do so.

At least, fragmented migration issues in the form of an emerging EU policy have found its way to the first pillar where the Commission should have a greater role than in previous times. Immigration policy in particular is creating its institutional structure in a very rapid way; "in total 39 measures were agreed in the five-year period from the ratification of Amsterdam in 1999 to May 2004" (Geddes, 2005, p. 797).

Looking from the geo-political widening of migration, southern, eastern and central European countries have all become migrant receiving, sending, and/or transit countries (Geddes, 2005, p. 790). The 1999 Tampere European Council called again for a common

migration and asylum policy. The need to communitarize immigration issues from the third pillar were formulated by the Dutch government concrete initiative to establish the High Level Working Group on migration and asylum (HLWG) in order to “make migration management a cross-pillar issue, with implications for foreign and security policy, trade and development and justice and home affairs” (Geddes, 2005, p. 792). Since the HLWG was composed of mainly JHA officials, the group was criticized for the lack of the experience in dealing with the third countries. The criticism came mainly from those External Relations Units’ representatives within the European Commission who were in a position to have more expertise in the area, but were not consulted at the time. However imperfect the work of the HLWG was, it directed attention to the newly developing interdisciplinary approach that has to be taken into account when dealing with policies, its tools and instruments.

To continue the process Spain was very much in favour of pushing immigration on the EU agenda: since 2000, the Barcelona Process has evolved to include Justice and Home Affairs issues. In June 2002, the Seville European Council summit called for “an integrated, comprehensive and balanced approach to tackle the root causes of irregular immigration” (Geddes, 2005, p. 792).

Lack of supranationality

When it comes to supranationality in servicing the policy-making process within the EU, over the years there has been lots of criticism about the Commission’s role. Leaving aside the immigration policy that has yet to stabilize itself under the Commission’s roof, the critics are pointing out that the Commission, when involved in CESDP, is a source of leaking information. The Commission still operates on two tracks and separates activities for CFSP and ESDP, rather than dealing with one CESDP. The crossover between those two is confusing (cited in Cini, 2007, p. 242).

Certain aspects of external policies are still characterized by multiple overlapping institutional jurisdictions. In June 2000, Chris Patten, Commissioner for the External Affairs, argued that civilian and military sides of CESDP can no longer be kept in, he said, neatly separated boxes (cited in Howorth, 2001, p. 777). Since the European Commission is the key implementator of the CESDP soft policy tools and is responsible for implementing the external affairs budget, its frustration over the lack of its own involvement within the scope of CESDP is only getting bigger over time. The example Howorth provided, witnesses an ongoing anomaly when the institutional framework is concerned: during the accession negotiations with some of the member-states candidates, officials from the Directorate General for Enlargement were not aware of the parallel talks on CESDP issues between the same very countries and the COPS within the Council. Sometimes they did not know of the substance and sometimes they did not know about the talks at all (2001, p. 777).

The greater role of supranational institutions always needs to be created by the member states' consensus. But, this is hard to reach when the policies are expected to stay under the tight national government control. It is difficult to practice supranationality for the multilevel governance theorists because changes to the role of supranational institutions require unanimous agreement, hard to reach among so many different member states (George and Bache, 2001, p. 26).

CHAPTER III: INTERGOVERNMENTAL POLICIES' IMPACT ON EVERYDAY LIFE - DEMOGRAPHIC AND SKILL SHORTAGES

Burdening national needs

Over the recent decades, free movement of capital, goods, services and people across national borders has created intensive international competition for skilled labour. In order to maintain the level of industrial productivity and economic competitiveness, developed countries are relying on the so-called human capital which, apart from the technology, creates an added value that can ensure economic success and global market positioning for nation states in today's highly competitive world. The European Union faces a great challenge to provide a solution for growing skill shortages in order to keep up with the rapidly growing economies of India, China and the United States. Simultaneously, national diplomatic services are bound to provide export opportunities for their domestic companies and ambassadors are often appointed with clear instructions to lobby for their trade associations and national companies.

An additional on-going problem of the European Union is ageing. Skills and demographic shortages are endogenous variables that are exposing national states to a range of common pressures (Green, 2007, p. 96). Interaction among four demographic factors (fertility, mortality, emigration, immigration) is influencing the population decline and the population ageing. Primarily, it is low fertility and ageing of the population that are causing demographic shortages. If fertility per woman is below the so-called replacement level of 2.1, scholars argue that in the long run there will be not enough working age population to maintain the

desirable production level of one country. Thus, at the same time when there is a decrease of the working population, there is an increase of the pension age population. Retired people are relying on the welfare state, the one that is supported directly by the working age population's financial contributions. This raises the "dependency ratio".

The success of the CESDP and the EU immigration policy closely depend on the impact that member states are creating by either transferring part of their sovereignty to the supranational European Commission or by imposing their own regulations and national laws without consultations at the EU level. There is huge interaction and interdependence between national and supranational levels in dealing with the present day European burdening economic needs.

Legal provisions of the *acquis communautaire* taken and promoted by the supranational EU have affected social changes in different member states. The EU policy of internal market has caused a spillover effect by promoting free movement, thus greatly provoking further migrations within the EU as "part of its market-building efforts (pursued by the Commission since the late 1980s and conditioned by the European Court of Justice jurisdiction), while external labour recruitment from third countries was left entirely to member states on the basis of bilateral treaties" (Menz, 2002, p. 724).

As Lahav points out, on immigration related issues, each particular member state keeps its own self-interest and is driven by different policy goals. Even when they share similar interests or policy goals, their order of priorities differ significantly (cited in Messina, 2007, p. 140). Immigrant receiving states have shown an inclination to communitarize some parts of the immigration issues, such as asylum or visa rules, leaving the labour migration and family reunification policies firmly in their own hands. In other words; Although the progress within the policy has been achieved mostly through the method of intergovernmentalism where the European Commission has become one of the key initiators of common policy initiatives,

much of legal immigration policy still remains within the jurisdiction of national governments (Messina, 2007, p. 140).

The enlargement policy, combined with the effects of an internal market, provides the EU citizens with an opportunity to advance economically by moving from one country to another, though so far it has not been sufficient in solving the burning issues of individual member states. Regardless of the nature of policies or their legal origin, the language barriers among Europeans, the cultural differences and a traditional lack of readiness to move from places of birth are still some of the main obstacles in a quick and effective response to shortages at the EU labour market, when and where they occur. The implications of the appearance of those two endogenous variables have lately pushed the EU governments to perform new initiatives and implement new national policy measures.

It has been already noticed that the policy of immigration was characterized by the path dependence problem. For example Germany, one of the oldest European immigration country, was always a very much involved policy actor. Germany had been actively recruiting foreign workers already during the 1960's and permitted immigration to continue through 2009. The permanent settlement of millions of foreign workers and their families as well as immigration that occurred after the 1989 fall of Berlin wall, led German policy makers to face the outcomes of immigration policy measures that had been taken in the past. As Brubaker stated, German immigration policies produced unintended consequences. German people did not expect that labour migrants, mainly of Turkish origin, recruited a generation ago would become the settlers of today (cited in Messina, 2007, p. 134).

In order to avoid path dependence, governments are no longer in a position to deal with issues behind closed doors. Migrations are international; they became too complex to be handled nationally and to deal with demographic changes and skill shortages has become an effort for multilateral flora. No matter how international, some of the EU member states are responding

with „opting-out methods” from treaties providing newcomers within the EU family with in-depth knowledge of diplomatic skills in practice.

Throughout history, migrations were predominantly an economically driven process. Thus in this third chapter, whenever migration is mentioned, the term will refer to labour migration (to differentiate between migrations in general and labour migrations makes sense only when referring to some of the recent government measures to attracting highly skilled labour in some states).

The general overview will provide the definition and theoretical framework in an attempt to understand what migration represents. Furthermore, the chapter will elaborate on governments and intermediaries as the main participants in the process, and will bring up the main negative trends and public perceptions (cultural, political and economic) taking place in Europe and presenting an obstacle for governments to accurately and safely respond to their needs.

Migrations

There is no single general theory about migrations, because this multifaceted and interdisciplinary phenomenon is too diverse to be explained in a single theoretical framework. The first theoretical attempt to explain migration was given by Lewis’s model of “Economic Development with Unlimited Supply of Labour” (1954). His model referred to the so-called “dual economies” which were described as economies in development, usually in a post-colonial context, in which a modern sector, connected with the outside world, coexisted with a traditional one relying on a subsistence agriculture for survival. When the modern sector expands, it draws labour from the traditional sector. Both sectors, the traditional and the modern one, greatly benefit from sending labour and receiving it. The first theory about

migration emanated from neo-classical economics during the 1960s. It was based on the paradigm that spillover from human behaviour to social sciences was causing a variety of effects on rational choice, utility maximisation, expected net returns, factor mobility and wage differentials. The origin of migration is to be found in disparities in wage rates between countries (Arango, 2000, pp. 283-285).

In the focus of every debate on the phenomenon of labour migration is the question of rights of the existing domestic work population. These rights are the result of negotiations that place the working population in a stage of contracting its own labour force, mainly with governments. Governments represent relevant authorities and speak on behalf of sovereign states. Western workers enjoyed some rights at the national scale prior to 1900, but the majority of Europe's developed countries improved and expanded those rights through World War II. The capacity of states to pursue social policies in order to guarantee their citizens or subjects citizenship and to ensure democracy depended on the creation of substantial and effective control over the migration of persons, as well as on the flows of technology, information, cultural and political practices. While prior to WWII it seemed that national states were in control of the global exchange of people, goods, services and information, the post WWII period, characterized by high technology involvement in every niche of an individual's life, witnessed a quick loss of that same control. Globalization threatened the established rights of labour and it is undermining the state capacity to guarantee those rights (Tilly, 1995, p. 1).

In the post WWII period immigration was regarded as the motor of post-war growth. Although receiving states did benefit from the inflows of labour migration, some economists of the time already argued about the impact that migrants were causing on the native working population. Some would say that natives gained an opportunity to grow professionally and obtained more highly skilled jobs due to the migrants who occupied low-skilled positions,

while others have argued that labour migration reduced the incentive for rationalization, keeping low-productivity firms viable and holding back the shift to more capital-intensive forms of production (Castles, 2003, p. 77).

The flow of people or migration has nearly always been a market-driven phenomenon. Europe has for centuries been defined by a complex interplay of inward and outward migration, but the most numerically significant migration to Europe occurred after 1945. The post WWII migration to Europe occurred in three phases: (1) colonial and guest worker migrants from 1950 to 1973, (2) family migrants from the 1960s to date, and (3) asylum-seekers from the 1990s to date (Cini, 2007, p. 334). From the view of a member state, the latest category represents the most sensitive group of migrants to deal with legally. Regardless to the fact that in all pluralist societies cultural diversity is tolerated or even celebrated, in practice successful multiculturalism depends on the composition of the indigenous population. Although claiming that asylum seekers from less developed countries are looking for the political protection due to uneven social conditions in their own countries, in the overwhelming majority of cases they are looking for better economic opportunities. Those two factors create enough suspicion for national policy makers thus creating often long and expensive asylum legal cases. Immigration states might look favourably into permitting an asylum seeker to settle only sporadically due to positive public or political visibility they could gain. But more often, they are afraid of the fast growing numbers of those with whom they might share their national wealth. Thus the asylum issue remains the most sensitive one for national policy makers and member states are keen to keep the issue firmly in their own hands.

It did not take too long until the national governments lost control over the quantum of inflow and outflow of migrating people. It was never entirely possible to keep control of spontaneous migrations, often illegal or with sharply increasing numbers of dependents who, through family reunion rights, exceeded the governments' predictions over what the nation

state had envisioned at first. As a result, citizens and subjects (including workers united in Trade Unions) demanded that nation states implement programs which would further guarantee their achieved working rights, thus subsequently imposing even greater state control over migration (Tilly, 1995, p. 3). Immigrant receiving states thus often ignore the consequences of vulnerable “push-pull framework”, where the pull factor is deliberately neglected while without it there might be no migration at all.

The implementation of new policy measures opens the question whether nation states are really capable of controlling the influx of labour migration in order to improve the conditions of their own societies or increase their own labour productivity. In response, it has to be evaluated who, apart from the nation state and respective governments, is in charge of labour migration and what are the general obstacles for implementing pro-immigration measures in order to secure more labour on member state markets.

Governments are not alone

Private employers and intermediaries, such as lawyers or recruitment agencies, do play a significant role in organizing migrations. They provide legal documents and work permits for workers as well as legal advice to workers engaged in the process of obtaining employment. Intermediaries are often well-connected with business companies which are recruiting labour through them. Business companies, especially those with international reputation, are creating a pressure on local and state governments for adjusting their labour migration quotas or relevant legal provisions to their needs. In return for financing and donations for their domestic political activities, local politicians often close their eyes to potential irregularities. The growing number of trans-national businesses has led to increases in company-linked labour migration (Ley cited in Bedford, 2003, p. 66).

Recruitment agents are active not only in employing unskilled labour, but also in attracting and facilitating recruitment of highly skilled labour. Although Western governments are reducing their engagement in attracting unskilled labour (because this type of migration is happening anyway), they exponentially share their work with intermediaries in the area of attracting highly skilled labour. The fact that governments are not the only source and provider of legal advice makes it harder for them to control the labour migration process and more difficult for their national diplomats to create common statements when it comes to joint EU directives and measures. In this awkward relationship between governments and intermediaries there is a potential of abuse; some agents are operating in a grey area of legal framework often interpreting legal opportunities to organize and facilitate migrations by means of gaining financial profits for themselves thus migrants are sometimes turning into victims of human trafficking.

Scholars supporting the critics of labour migrations such as Borjas (1994) and Chiswick (1986 and 2000) do point out even more problems that societies are facing when new migrants enter a new labour market. Pedersen, Pytlikova and Smith conducted a study on immigrants' performance in a number of European countries. There are some indicators showing that immigrants as a group tend to be more welfare-dependent than natives. Furthermore, labour migration from the 60's and 70's is still resulting in family reunion migrations. Newer immigration flows are imposing a higher fiscal burden for the receiving economies. New immigrants are showing lower rates of social mobility, skills transferability and acquisition, and eventually have more difficulties to penetrate the labour market (cited in Parsons and Smeeding, 2006, p. 43).

It is obvious, the fears that labour migration is harmful because it reduces wages and increases unemployment of native workers, are widespread in receiving countries and subsequently there are many hidden practices in the natives' behaviour undermining new migrants' real

chances to reach a desirable social status and standard in their newly acquired society. Migrants' behaviour might be coming from prejudices, often gained prior to settling in a third country. Sometimes the relationship between migrants and the receiving state becomes more complicated due to the well-known exploitation practised by the new employers. Even at the level of the receiving state, there are standards often out of reach for new migrants: for example, university degrees or educational diplomas are not recognized because migrants often come from less qualified schools than natives. Poor language skills prevent them from getting better paid positions. Natives protect their working places by involving local and state governments who, in return, impose measures eliminating migrants from competitions for particular jobs. Labour migration affects income, wages, distribution of income and unemployment.

Since the EU acknowledges the principle of equal treatment and guarantees migrants the same access to welfare benefits as natives, migrants are sometimes better off because they use these privileges. This is not good for the host society. Scholars are showing interest to find out whether international labour migration is a zero-sum game or it yields a net welfare gain for the economies involved. The combination of the presence of both skilled and unskilled migrants and their contribution to one society creates the impression of the usefulness of the government measures applied. That is the reason why nation states, prior to attracting skilled labour, should take into account the existing demographic, cultural and religious structure in their own societies and should also explore the readiness of different cultural groups to adopt the values of the receiving society, apart from taking business needs into account.

When it comes to recruitment of highly-skilled labour, scholars are divided into two pools: the "expansionists" argue that this is a positive process that contributes to the domestic economy while the "restrictionists" view skilled migrants as a threat that takes native jobs away (Bedford, 2003, p. 65).

National responses to labour shortages

The European industry cannot operate without the possibility of filling the gaps in labour shortages. In the United Kingdom, the “Learning and Skills Council identified some 679,000 vacancies in the UK economy for 2003, mainly in the health and social sectors, business services and hotels and catering” (Green, 2007, p. 102). Similar situation persists in all other EU countries. Governments do not have the alternative but to create favourable legal frameworks for bringing new labour. Absence of relevant labour migration measures might only mean business’ withdrawal from the nation state territory with a clear loss of jobs as a consequence.

Despite a negative public opinion against immigration, Europe shifted in silence towards a pro-immigration stance after the 1990s. In two countries that were affected the most, the UK and Germany, obvious labour shortages in information and technology industries had to be filled up quickly and sufficiently in order not only to enable the countries to compete with other developed markets such as Japan or the USA, but to sustain their economic development. Germany’s SPD/Green coalition announced in May 2000 a “Green Card” visa programme, granting well-paid workers temporary visas. This was followed during the next year by the German interior minister’s proposal to allow a set number of skilled applicants to migrate to Germany every year, according to a quota and based on the Canadian point system. Skilled migrants would be offered permanent residence, but the total number of quota was never announced.

The UK soon followed the German struggle with the shortage of skilled labour and the British Department of Education and Skills announced in May 2000 that British businesses would be allowed to employ non-European workers in case of labour shortage. The measure was aimed to fill the labour shortage primarily in health and IT industries. Following the introduction of

the Canadian-style points system, the British Home Office allowed in January 2002 skilled foreign nationals to enter Britain, rewarding their education, past work experience and earning. In 2002 and 2003, the number of work permits granted in the UK reached a number of 135,000, including dependents. It is important to mention that the UK and Ireland were the only EU countries that allowed the immediate right to work for workers from the 10 new member countries, following their accession in May 2004 (Cini, 2007, p. 334-335).

Although open for EU enlargement, the British Government was “taken by surprise by the extent of labour migration from the EU internally: between May 2004 and June 2006, some 447,000 workers, mainly from Poland, were registered in the UK and that made the UK Government limit the access to the UK labour market to self-employed workers prior to the accession of Bulgaria and Romania in January 2007” (Green, 2007, p. 105).

Point style system

One of the well-known consequences of attracting and importing skilled labour into developed countries such as Germany or the UK is the so-called brain drain. To substitute the lack of skilled professionals, British and German governments have developed a point style system of assessing potentially highly educated individuals. The point style system, after its success in Canada, has proved to be the best way so far to accurately assess potential candidates and to ensure the fairness of the process. However, by introducing more advanced measures, governments are positioning new mechanisms for targeted skilled labour migration through which inequalities between the developed and underdeveloped world are reinforced. German and British governments have joined the race for human capital that might bring an uncomfortable sentiment to the less developed states of the EU. It is hard to believe that this new competition for human capital in the developed world is going to bring positive impact on the world progress in general.

What might come as a result in the long run is only a sharper and more obvious division between rich and poor societies; therefore, this lack of solidarity coming from developed countries will consequently create an extra burden on their own shoulders to deal with the progressively underdeveloped economies in the future. An example of Indian IT specialists outlines that some other forms of human capital utilization are possible among the wealthiest, and is therefore worth to be pointed out here: After working in the United States, Indian IT specialists return to India where they continue doing jobs which do not require their presence in the host country. From India's perspective, the initial outward migration and the loss of human capital (brain drain) has transformed into profit (brain gain). This brain circulation brought India a registered revenue of 10 billion US dollars from the export of technology products and IT services in 2002 (Parsons and Smeeding, 2006, p. 135).

New emerging immigration countries

When it comes to the European Union, developed countries such as Germany or the UK have always been, regardless of their self-perception, nothing but immigration and multicultural countries. Their governments have a tradition of dealing with immigration issues even if applied policies are not meeting the demand on the ground or if they are proven to be insufficiently implemented due to a lack of legal framework at the time. Apart from those traditional immigration countries, new member states that joined the EU in the last two waves are increasingly becoming the EU "soft points" of entry for labour migrants. What makes them suddenly very attractive is their grey market where jobs are easily found. Their political systems are relatively stable, and even though wages are lower than in the more developed western countries of the EU, there is no sufficient police control that would upset their stay or work within the EU. The immigrants' economic incorporation in the informal labour market happened to be perceived as a distinctive feature of southern European migratory processes (Bommes and Geddes, 2000, p. 170). Irrespective of the Hollifield's "liberal paradox" (2000)

of open markets and relatively closed states (cited in Geddes, 2003, p. 20) it is possible to predict that it is only a matter of time when newcomers from Southern and Eastern Europe will have sufficient funds and documents to freely move to other developed areas of the EU. The EU made new member states accept the Schengen Agreement and its migration acquis. However, the current absence of the points system or similar migration regulations in SEE is not preventing more developed parts of the EU from unwanted future migrations, no matter how strict their own national systems to select labour migrants are. “Old immigration nation states” and their governments are simply not in the position to control their own national territories.

As Baganha perceives, another problem is the existence of commercial companies that are functioning in a dual manner: while entrepreneurs and firms functioning only in the informal economy generate unprotected, unregistered and undeclared jobs (cited in Bommers and Geddes, 2000, p. 176), there are many companies, both in the SEE area or in the developed EU member states, which are operating in the formal economy while at the same time they are hiring or subcontracting labour force informally.

Demographic change in Europe

In the last couple of decades the demography of the European Union has been dramatically and continuously changing. The United Nations, the OECD and Eurostat regularly carry out population projections on a country-by-country basis:

The UN projections from 2004 are forecasting that fertility in all countries will converge to a long-run fertility rate of 1.85 births per woman (the base period for these projections being July 1, 2005 until 2050). Related to the EU, projections show that population will grow from the current EU 25 ...460

million to about 466 million by 2025, after which it is expected to decline by about 2%. (Lisiankova and Wright, 2005, pp. 74-76)

The internal situation within the EU is different from country to country: Some of them like Germany, Italy, Belgium, Greece and Spain being already exposed to a significant decrease in the population size. The population above 65 years of age in all 25 countries, the research estimates, "...will increase by 67% from 76,5 million in 2005 to about 128 million in 2050" (Lisiankova and Wright, 2005, p. 74-76). The expected future changes in mortality have a positive effect on the population size as life expectancy will rise from 74 years to about 81 years by 2050. However, Europe's population will reach some 653 million in 2050 and that is approximately 75 million less than its current 2005 level (Parsons and Smeeding, 2006, p. 33).

Due to the demographic changes in the EU, the United Nations have calculated what they considered a necessity for a net international migration. It is, thus, assumed that Germany will have to take in 9.1 million migrants, the United Kingdom some 5.9 million, Italy 5.4 million and France some 2.7 million migrants during the next 45 years in order to maintain their current production levels and desired economical growth. Forecasts summed the total of the top eight EU-25 at the time and came up to 28.4 million of new migrants. However, there is a concern that even scientific forecasts are not able to predict accurately what is inevitable: Europe's continuous demographic marginalization persists. Europe cannot engage in a demographic race with China or India. Immigration is not a solution for the EU problems related to a demographic shortage. If Germany's projected population for 2050 was correct after taking in new 9.1 million immigration during the next 45 years, Germany will have a population of 78.8 million. If Germany does not take new migrants, it will yield (according to current rates of fertility and mortality) a 2050 population of 65.6 million which makes a 13.2

million difference between the two projected figures, which is much more than the UN prognosis.

Looking from that perspective immigration is not a solution for a demographically marginalized Europe, though one can hardly point out to an alternative. The European Union is in a very difficult position. On the one hand, it has to open its borders and on the other, this opening is creating a demand for new and urgent measures to deal with new flows of people internally. In those circumstances, focusing on labour migration might seem like a good solution for governments. If new migrants are to be taken, it would be much better to take those that are young and skilled. Although youth appears as a straightforward precondition, it has only a temporary effect because the immigrants also age and become dependent (Parsons and Smeeding, 2006, p. 38, 39).

New forms of family unions

The March 2005 Green Paper on demographic change, issued by the Commission of the European Communities, warns of negative fertility trends: In some Southern and Eastern European countries, fertility of even less than 1.3 children per woman is below population replacement. The idea to increase the percentage of labour population by immigration and thus subsequently create a positive impact on future fertility rates might be a good one “if there were no fundamental changes in family formation that took place in Europe during the last three decades”. Billari (2005, p. 56-63) argues that Europe’s negative fertility trend creating a new demographic regime is likely to persist. The first factor analysed is the so-called postponement transition. While adolescent childbearing is decreasing in the whole of Europe, the timing of demographic events has postponed the motherhood to the age above 40. The postponement is combined with the novelty starting from the 1990s, known as the emergence of lowest-low fertility rate. It became fashionable to have only one child per

family. The same pattern of behaviour spread quickly throughout Southern and Eastern Europe that were always traditional pools of labour shortage of Western European countries. While in the past it was almost a rule to have children in the family where parents were married, new forms of partnerships are creating new relations toward fertility. The general trend is towards less stable unions.

Marriage is no longer a core form of partnerships and there is less social and religious pressure towards marriage. It has also become less common to experience marriage without premarital cohabitation. However, this cohabitation has a depressing effect on fertility. Studies done to explore this relationship between cohabitation forms of partnership and fertility ratios have shown that "...expected fertility in European countries is lower for cohabitating couples compared to married couples" (De Rose and Racioppi, 2001, p. 17-20).

It is important to bear in mind that equality in gender relationship in labour markets as well as in families and households is shaping the female behaviour with respect to potential parenthood. Billari's study has shown that:

Non-marital childbearing as a percentage of all births rose during the 1990s. With the exception of Denmark where non-marital family was already at levels close to 50% in 1980, in Iceland about two thirds of all births were to unmarried parents in 2003. The similar (56%) was registered in Sweden. (2005. p. 60)

Cultural shock

In the last couple of decades migration of people has become global and heterogeneous in its composition. Traditional pools of labour from Southern and Eastern Europe have been replaced by migrations from Asia, Africa and Latin America. Illegal migrations that have

proven to be difficult to stop are creating new communities not always inclined to adopt values and social standards of the receiving countries. Social integration in the receiving societies has become less linear (Arango, 2000, p. 287). Governments are faced with hard bargaining at the bilateral level to restrict the quotas and are proliferating new restrictive admission policies in order not to upset their public electorates.

Massive movements of foreign low-skilled labour migration within Europe in the last decades have raised a negative public opinion perception. Many right-wing political parties are openly using negative public sentiment to get more votes on the election days. The most recent example comes from Rome, Italy, where on April 27, 2008, Gianni Alemanno, the leader of the right-centre political party Alleanza Nazionale won in a mayor race. As the BBC reported, Alemanno campaigned “on the ticket of a tough approach to crime, after a series of attacks blamed on immigrants”. The negative public sentiment tends to have an impact on the government measures within the migration policy-making.

As quoted by Messina, “Givens and Luedtke (2005) verified empirically by a public opinion survey conducted in 1997 the strength of anti-immigrant public feeling across the EU”. The sentiment is differently perceived and expressed within Europe and ranges from the majority of 53% in Finland that claims tolerance toward immigrants, to 71% in Greece where people thought there were too many foreigners (cited in Messina, 2007, p. 163). It takes a systematic approach and the involvement of all levels of a country’s public institutions to change the negative public opinion once it is there. In those circumstances it is difficult to advertise for labour immigration, even if there is need for highly profiled labour. However hidden, illegal migration is continuously taking place; pull factors driven by the economic reasons are obviously stronger than the fear of anti-immigrant sentiment.

Governments are trying to adopt measures that would impact both the demographic shortage and increase the fertility rate, thus eventually affecting the national labour population numbers. In general, national policy measures can redirect or sometimes reverse social trends. If governments include new forms of non-marital partnership, adjust the tax system or provide housing or child allowances to the new forms of partnerships in the legal framework, they will influence societal trends by providing more flexibility to individuals in order to make them decide in favour of parenthood. Measures and policies may interfere with current societal patterns, but they do not provide any guarantee in the long run that the national societies will change in the desired direction. Furthermore, national territories are no longer closed or controlled only by their own governments. By enabling their citizens, services and capital to move freely within the EU, the provisions of the EU internal market have influenced all fields of national political and societal life and, through the concept of neo-functionalist spillover, hugely increased internal member-state interdependence in every scope of each particular emerging intergovernmental policy. Moravscik is referring to the functional and political spillovers as follows:

“The functional spillover, occurs when incomplete integration undermines the effectiveness of existing policies, both in areas that are already integrated and in related sectors of the economy, thereby creating pressure for deepening and widening policy co-ordination. Functional spillover is of economic nature: it reflects the tightly interlinked nature of modern economies in which government intervention in one sector engenders economic distortions elsewhere. The second is the political spillover which occurs when the existence of supranational organizations sets in motion a self-reinforcing process of institution-building. The regulation of a modern integrated international economy requires technocratic oversight by supranational authorities. (1993, p. 475)

Both intergovernmental policies, CESDP and Immigration policy, evolved beneath the impact of neo-functionalist spillovers. The reasons for policies' emergence were indeed, more than anything else of an economic nature, to benefit from enlarged trade between countries by imposing ideological or political western world domination or to be the best in attracting skilled labour whose engagement would maximize industrial profits at the national level. At the same time, the national capacity of controlling the policy outcomes decreased in front of increased influence of supranational authorities. Subsequently, the transfer of sovereignty from the national to the supranational level rose in order to keep up national pace with the endogenous and exogenous economic and political dynamics leading to further co-operation. According to Moravscik, “choices to pool and delegate sovereignty to international institutions are the best explained as efforts by governments to constrain and control one another: in game-theoretical language, by their effort to enhance the credibility of commitments”. States are interested, while they are giving up some parts of national sovereignty over policy issues, to gain other member states' recognition for doing so; that can be done only through the play of political loss and profits (Moravscik, 1998, p. 9).

Though it has become obvious that national governments are no longer in control of their policy's performance, it is likely they would achieve better results by dealing with each particular phenomenon directly, both at national and supranational level. For example, fertility should be increased by measures related to the problem itself. The influence of high technology and science in the scope of healthy reproduction methods, the availability of modern methods for women after 40 years of age that governments can encourage combined with a higher flexibility within the legal framework of the working environment (such as availability of part-time jobs, professional trainings while on maternity leave in order to diminish the potential of lagging behind in the career, equal wage level while on maternity leave, various maternity allowances offered by the state, etc.) could be a viable solution and a perfect incentive. The EU institutional framework has to become unified and consistent in its

actions and able to provide the national level with a common guidance, recommendations and even binding directives in order for member-states to adjust and synchronize their national policies. Discrepancies at national level policies' implementation are leading to an unsatisfying feeling of unfairness in some of the societal groups or might lead to unacceptable member-state exclusion from the desired EU set of values and standards.

Rather than being an ideal solution, filling the demographic and skill shortages in the European Union by opening up to labour immigration could only reveal itself as a temporary remedy. Most recent European national experiences are not encouraging. In a globalized world, nation-states are not capable of controlling the effectiveness of their measures and outcomes because they do not fully control the environment in which they are being implemented. In relation to fertility, substitution of immigrants for home-grown births is only a continuing excuse for failing to deal with the fertility deficit problem using direct measures. As Borsch-Supan (1994), Straubhaar and Zimmerman (1993) are pointing out, migration can help mitigate the effects of population ageing only to some degree (cited in Parsons and Smeeding, 2006, p. 136).

CHAPTER IV: POLICIES' IMPLICATIONS – NATIONAL AND PUBLIC RESPONSES

For all the current EU member states, and those still negotiating their future membership, accession requires an adaptation of EU laws and policies. The 80,000 pages of the EU law, dictate free movement of capital, goods, people and services as a precondition for membership. All previous and current applicants are placed at the same learning curve where they look toward practices and ideas in order to implement policy requirements.

As far as the EU immigration policy is concerned, in many of its fields deeply enrooted in a wider and older intergovernmental EU foreign policy, current member states are at different levels of policy acceptance. Generally speaking, it can be said that applicant countries, such as Croatia, are at the beginner level of policy implementation; they are creating public awareness and adopting necessary legal changes to promote and regulate EU policies at home. The situation is more advanced with the member states of the fifth enlargement (such as Slovenia, Bulgaria or Romania), but does not substantially differ due to the constant lack of law implementation.

Member states, such as Italy, Portugal, Spain or Greece are part of the second group of countries whose administrative activities are focused on firm policy implementation: those are searching for the best concrete ideas and not saving public money to implement EU policy in full capacity.

The third group of countries are the members of the “Old EU club” such as Britain, Denmark or France, where the implementation of EU policies depends largely on the results of intergovernmental and bilateral negotiations within supranational EU institutions. In fact, they are the only real creators of EU intergovernmental policies and inventors of sophisticated diplomatic practises to protect their national interests and priorities.

The Croatian case

As a result of the 2004 (5th) enlargement and rejection votes at the Constitutional referenda in Netherlands and France “communicating Europe” has become one of the main tasks within the EU institutions. According to the previous Commissioner for External Relations and the current for Enlargement, Olli Rehn, this task has to be based on consolidation of the enlargement agenda and better communication. As stated in his speech in Berlin 2005 at the Institute for European Policy, a bigger effort should be made to involve citizens in a true dialogue and to combat prejudices and myths about the enlargement, especially among the older member states, often tired of the enlargement process.

In January 2006, Croatia adopted a new Communication strategy to inform the Croatian public about preparations for EU membership. It provides objectives and methods for informing the public about the integration process. There are several main goals of the Government’s communication:

- 1) to provide easily accessible and understandable information, 2) to inform the public about the progress of negotiations, and inform in a timely manner about all the implications for individuals, social groups and Croatia as a whole, 3) to rebut unfounded and erroneous stereotypes about matters related to the integration process and the EU, and to emphasize the responsibilities and

obligations accompanying the benefits of the membership while diminishing unrealistic expectations. (MFAEI Yearbook, 2007)

A set of activities towards involving a range of stakeholders into debates on Croatia's EU accession process have been undertaken by the Ministry of Foreign Affairs and European Integration (MFAEI), particularly through the establishment of the National EU Accession Forum. In its efforts the MFAEI is joined by other Governmental bodies, as well as by the involvement of the EU info centre of the Delegation of the European Commission in Zagreb, Croatia. From November 2007, Croatia has become eligible for participation in the Community Programme "Europe for Citizens (2007-2013)". This programme offers new opportunities for local and regional governments and Croatian NGOs to establish a link with their EU counterparts in order to get involved in debating the impact of various EU policies.

Although some Croatian scholars argue that the impact of the National EU Accession Forum has up to now been limited, primarily due to its unclear structure, vague criteria for choosing its participants and a very weak media coverage, some valuable processes have been initiated, namely the preparatory work for the harmonization with the EU immigration policy. This currently ongoing process should be looked firstly through the Croatian efforts to harmonize its labour legislation with the *acquis* and secondly, through the Croatian efforts to strengthen the area of social dialogue.

The European social dialogue is a driving force behind all economic and social reforms in the EU. It is supposed to be an efficient mechanism of policy formation which includes discussions, consultations, negotiations and information-sharing as well as joint actions undertaken by the social partner organisations representing both management and labour.

The process of transition introduced deep changes in the area of industrial relations and brought new challenges into the social order of the Croatian society. As opposed to other socialist countries, the social dialogue was not deeply enrooted in the Croatian society. A first step toward a creation of institutional framework of social dialogue was done during 1994 when the Croatian Economic and Social Council was created (CESC). It is the main forum where social partners (trade unions, employers' associations and Government representatives) debate and negotiate key economic and social issues. All the main issues related to the future of the Croatian labour market are to be discussed at this forum. It is of prime importance for new member state to strengthen its institutional capacities in order not to become a new European soft spot for irregular immigration no matter what particular national economic interests might bring in the future.

During 2001, the Croatian Government founded the Office for Social Partnership in order to provide additional support for social dialogue. The Office organizes meetings of the CESC, seminars, lectures and round tables and is in charge for providing guidance for cooperation with more developed European regions.

In November 2008, the Croatian Government established an advisory board comprised of 15 national experts and a number of CESC members. As for the Croatian citizens expectations from the newly founded Economic Council were huge due to the global financial crisis where social dialogue became of enormous importance.

During the month of July 2009, two major cuts of national budget were done by the Croatian Government thus witnessing an extremely difficult financial crisis the country is going through. Global economic crisis and bilateral border disputes over border with Slovenia have slowed down and challenged the ongoing Croatian efforts in speeding up the process of integration with the EU. Due to present political circumstances, the Office of the Prime

Minister, Jadranka Kosor, is currently taking lead in overcoming all the obstacles to speed up the negotiation process with the EU, rather than the MFAEI itself. However, it is up to Croatian negotiators, mainly Croatian MFAEI diplomats based in Brussels, to continue to direct Croatian official efforts toward further compliance with the *acquis*, the EU policies and practices.

More advanced implementation of intergovernmental policies

In Southern Europe, within the countries of the fifth enlargement, the EU obligations have been an important part of the debate about domestic migration policy in such a way that the EU policy ideas and practices have had crucial effects on the development of a national policy framework. Such an approach can be explained by the fact that these are frontline countries receiving illegal migrants, interested to resettle to the Northern Mediterranean. During the early 1980's, European migration boundaries were moved South, thus southern countries have become soft points for entering the EU.

Links between migration and security represent a threat to borders and internal cohesion of those states. As Geddes pointed out, the politicisation of migration as security problem has provoked emergency responses with an emphasis on external frontier control and the co-optation of neighbouring and sending countries into these control measures: 1) With EU support the Spanish police is developing a \$150 million "electronic wall" that will cover 350 miles of Spanish coastline from Huelva in South-West Spain to Almeria in the South-East. The latter will be able to detect boats (mainly from North Africa) at approximately 7 miles from the coast and dispatch police to intercept them; 2) In Italy, more money and a reorganisation of the frontier police has been put in effect in order to increase the capacity of controlling the state's external frontiers at vulnerable points such as the land border with Slovenia and the coastline of the southern region of Puglia; 3) Although considered a country

with a high level of “informal economy”, Portugal had launched a new regularisation programme which by August 2001 had issued 90, 700 new work permits, out of which around 30% for Ukrainians (Geddes, 2003, pp. 150, 162).

Although Spain saw its political relations with Mediterranean states as a foreign policy opportunity, it has been a leading player in cooperation organised within the Barcelona process involving 15 EU member states and 12 Mediterranean states. Spain is an excellent example of a state that initiated negotiations for bilateral agreements with countries of third country nationals (TCNs). The agreement signed with Marocco in 2001 set an annual quota of up to 20 000 immigrants and provided that irregular migrants deported within 72 hours. Italy initiated and negotiated an agreement with another immigrant sending country, Albania. Greece and Turkey signed a bilateral agreement that allows Greece to repatriate illegal immigrants within 14 days of arrival (Geddes, 2003, p. 165).

As it seems, all southern European countries adopted their national legislation to comply with the EU requirements. Through its intergovernmental policies, the EU had exerted influence upon its member-states’ national legislation by inclusion of rather repressive elements, all aimed to the utmost of control of their external borders.

Diplomatic response in opting out strategy

No matter how big the need for supranational decision-making within the EU in regulating intergovernmental policy outcomes is (and in particular within the third JHA pillar), not all the EU member-states had chosen a total involvement in accepting the outcomes of a full European integration. In the last decade, some member states negotiated the so-called opt-outs, thus creating a rather controversial diplomatic position for themselves, either in their daily diplomatic involvement with the Council of Ministers or in the perception by other

member states. It is obvious that the heavy burden that intergovernmental policies do have on everyday life of EU citizens has a direct impact on diplomatic activities in Brussels. Two champions in national opt-outs within the EU are considered to be the UK and Denmark, which demonstrated that being legally exempt from the negotiations is nationally preferred to full involvement in integration. Their examples are, the supranational EU is afraid, to be more used as the EU expands geographically or new policies are introduced.

Like with all diplomatic activities, it is always difficult to find exact empirical research to support the examination of current opt-out diplomatic practices. The Adler-Nissen (2008) research is in that sense valuable since it indicates that “the UK and Denmark diplomatically compensate for the exclusionary effects of their exemptions, employ various sophisticated strategies to overcome the dilemma between autonomy and influence”. While implementing specific diplomatic strategies those states are able to *reduce marginalization* and by using some other strategies they can *enhance it*. An opt-out is by definition “an exemption from a treaty provision or a directive granted to a member state that does not wish to join other member states in a particular area of community cooperation. An opt-out can be opposed to a temporary exception to, or exemption from, a regulation, directive or treaty provision, for example, as part of transitional arrangement when a new state joins the EU. When the Maastricht Treaty (1992) granted the United Kingdom and Denmark opt-outs with far-reaching consequences not only for their own position in the EU but also for the entire Union, legal scholars (such as Curtin, 1993) described it as a *hijacking* of the *acquis communautaire*” (cited in Adler-Nissen, 2008).

The Maastricht Treaty granted the UK an opt-out, meaning that “the state would not be obliged to take part in the third stage of the European Monetary Union (EMU)”. This automatically meant that the Euro currency would not be introduced on the territory of the UK. Furthermore, during the negotiations of the Amsterdam Treaty (1997), the UK negotiated

a case-by-case opt-in (decided to participate in the Social Protocol and the provisions of the Protocol were inserted into the Treaty of Amsterdam) in the chapter on “freedom, security and justice”, thus enabling itself to take part in some portions of Schengen, while maintaining its own national border control. While negotiating the Maastricht Treaty, Denmark, with a territory and population significantly smaller than Britain, first accepted the protocol on European Monetary Union, though the text was later rejected in a June 1992 national referendum. Denmark therefore asked for and obtained three additional opt-outs, excluding itself from the areas of European citizenship, common defence policy, supranational judicial cooperation on asylum, immigration, civil law and from some elements on visa cooperation. The direct outcome of the negotiated opt-outs was that British and Danish diplomats and their ministers and officials were not formally taking part when the Council adopted measures in policy issues related to opt-outs, and therefore the directives and regulations adopted in the Council were not binding for the two countries. The opting-out strategy brought new changes and a need for adaptation for foreign ministries themselves as well. For the Danish foreign ministry, the opt-out on European defence matters does not make European defence a non-issue. As Jørgensen pointed out, Danish Foreign ministry needs more resources to obtain information because the information flow is less automatic for observers than for members (cited in Hocking and Spence, 2005, p. 79).

The implementation for Mouritzen and Wivel of opting out strategies has opened space for questioning “whether the price for autonomy means a loss of influence, because a member state cannot participate in the policy-making process and does not make an attractive coalition partner” (cited in Adler-Nissen, 2008, p. 666). Or for Wallace, an opt-out may guarantee “immunity from disliked European legislation” (cited in Adler-Nissen, 2008, p. 666). As Adler-Nissen pointed out by quoting Kelstrup (2006, p. 668), this issue has been formalized with the concept of “an integration dilemma” because, the author explains, “it is an uncomfortable dilemma between being entrapped in the integration system by giving up

substantial parts of political authority and being abandoned by the integration system by insisting on preserving formal state-based sovereignty”.

Diplomats negotiate in the Council of Ministers, Adler-Nissen describes as a key decision-making forum whose organizational structure, with a limited number of participants and “...a relatively homogenous international group of bureaucratic and political elites where nothing is more important than a fundamental adherence to the game itself”. Adler-Nissen quotes Beyers who refers to the character of day-to-day work in the Council and particularly in COREPER and Council working groups “...where a distinct method of bargaining is an ongoing process and joint problem-solving a prominent feature”.

“Diplomats from new member states need to learn how to operate in small and politically powerful groups such as COREPER. Diplomatic skills include its intricate codes where credibility needs to be built and an understanding of how the other members of the club operate must be developed” (Kassim and Peters, 2001, p. 207). Being of the same opinion with Trondal, Adler-Nissen states that most studies about opt-outs “...support that national representatives overtake supranational allegiances during participation in Council working groups and COREPER meetings; officials develop dual loyalties” (cited in Adler Nissen, 2008, p. 670).

Since the archives of British and Danish ministries do not contain a lot on the issue of diplomatic practices related to the management of opt-outs or there is very little material to be found there, Adler-Nissen, although it is generally considered as a very expensive method, conducted 53 in-depth interviews in the period from December 2005 to January 2008 with 33 middle and high ranking officials from the UK and Danish ministries, Permanent Missions of the UK and Denmark to the EU, 20 interviews with the Council Secretariat and the European Commission representatives, as well as with representatives from the Permanent

Representations of France, Germany, Poland, Spain and Sweden. The main criteria for respondents' selection were their involvement on a daily basis with policy areas covered by the opt-outs (17 with EMU, 20 with JHA affairs, 16 horizontally involved). All interviews were, as one could expect, anonymous. On the basis of conducted interviews, the author identified three main sets of diplomatic strategies practised by opt-outs on a daily basis in an attempt to relate to the negative consequences that might have an excluded status of opt-out at the negotiating table. The first group, to which the author refers as to "*compensatory strategies*" group is the one where diplomats are aiming to create a harmonious environment with other member states and hope to be recognized as professional diplomats. Example 1 is a statement from an interview from August 2006, given by the official from the Danish Ministry of Refugees, Immigrants and Integration Affairs. The interviewed official participated actively in all meetings where he tried to further Danish interests in areas covered by the opt-outs. He stated:

We follow the unwavering principle that we participate in entirely the same manner as we would have done if we did not have an opt-out. This may also contribute to strengthen the impression that we are serious and have an interest in the European cause, which means that the other member states will not hold the opt-outs against us in the day-to-day management.

The second set of strategies named as *missionary strategies* are exclusionary in their nature and they engage diplomats in practices to win over other member states. Officials here perceive opt-outs as a way of showing the rest of the member states that they have a good reason for opting out. Here the size of the state matters: it was noticed that the UK was much less reluctant to practice the second set of strategies than the smaller Denmark. Example 2 is a statement taken from the interview from April 2007:

We have a lot of experience in dealing with illegal migration and a unique position in the world. I cannot see how the other member states can do without our knowledge; stated by senior British diplomat while rejecting to change British stance on Schengen.

The third set of strategies Adler-Nissen refers to as *self-censorship* group of diplomatic practices. As described:

They occur due to the belief, particularly among Danish officials, that they are “less worthy” because of their opt-out and are afraid of making mistakes such as overstepping their competences because of their constant diplomatic self-monitoring, the complex legal nature of the opt-outs and the threat of having to face the eurosceptics Parliament and media back home.

Self-censorship is mostly present in the JHA area. Example 3, interview from August 2007:

Personally, I think that it is embarrassing when member states argue by referring to national interests and problems instead of trying to find common ground; stated an official from the Danish Ministry of Refugees, Immigration and Integration Affairs when he explains why mentioning the Danish opt-out during the Council meetings was to be avoided.

Based on his own collected data, the author of the research described all three sets of diplomatic strategies to Opting Out in the following table:

	Compensatory strategies	Missionary strategies	Self-censorship strategies
Perception	Perceived loss of influence and status due to opt-outs	EU goals in an area covered by opt-out are against national interests	Serious loss of status or bad reputation among other member states
Strategy	Play a “good pupil”, help others, hide opt-outs	Teach EU the lesson through examples and threats	Stay silent, be more careful with legal interpretation
Outcome	Reduce exclusionary effects of opt-outs	Change direction of integration process	Enhance exclusionary effects of opt-outs
State	The UK and Denmark	United Kingdom	Denmark

(Source: Adler-Nissen, 2008, p. 680)

Feedback from the public sphere

After examining the political dynamics and interaction between key actors (political institutions, political elites and recent societal developments coursed by intergovernmental policies' implementation), it is worthwhile analysing the public sphere.

At the end of the queue there is always a small, but important voice of each EU citizen whose participation in the EU decision-making was always questioned (it created many academic debates regarding the EU's democratic deficit). The fact is that trust in the EU institutions has declined during the last decade and support for the EU integration process has dropped as per the last parliamentary elections in 2004 when a shift toward eurosceptic parties and low turnout were registered. It is also a fact that the main mediatory role between the EU, the national governments and the public in general falls under the scrutiny of mass media. A thorough insight into the communication channels between the key actors is always an important factor.

In his research published in 2007, Koopmans collected and analysed approximately 20,000 political claims (defined as *public articulation of political demands, calls to action, proposals, criticisms or physical attacks, which affect the interests or integrity of the claimants and/or other collective actors*) by a variety of collective actors (such as *executive actors, government, legislative and party actors, actors from the civil society*) drawn from 28 newspapers (*transnational media e.g. CNN, BBC World, International Herald Tribune, Le Monde diplomatique, Financial Times, national and regional written newspapers*) in 7 European countries (*Germany, France, the United Kingdom, Italy, Spain, the Netherlands, Switzerland*) in the period from 1990 to 2002, across seven different issue fields (*monetary politics, agriculture, immigration, military troop deployment, pensions, education and the meta-issue of European integration*) with different degrees of EU policymaking power. This research was prompted by a desire to contribute to a more empirically grounded view on the Europeanisation of public spheres.

Koopmans (2007, p. 184) analysed “the communication flow between the EU and other European-level institutions” and indicated:

A strong dependence on mass media fulfilling four functions in the European policy process: (1) *Legitimation function* enables European actors and policies to be perceived by the public, (2) *Responsiveness function* stresses the need of European actors for the citizens’ concerns and political priorities, (3) *Accountability function* enables public to understand the EU based on media created perceptions, (4) *Participation function* enables nongovernmental sector to express their civic initiatives and social movements through medias in order to influence political decision-making.

Concerning all nationally based mass media, the research revealed that “there are three main forms of Europeanisation of public debates and claims: (1) *Supranational Europeanisation:*

an increased role for actors and institutions from the European level in public debates in national news media, (2) *Vertical Europeanisation*: when national actors address or refer to European institutions, issues, legal frameworks, norms and identities, (3) *Horizontal Europeanisation*: increased attention for actors and institutions from other European countries in national news media” (e.g. if Germany liberalises its naturalisation policies, immigrants from Germany can freely travel and take up work in another EU country therefore this becomes quickly important for the rest of the EU member states) (Koopmans, 2007, p. 186).

The research confirmed that “the share of Europeanised claims diverges across issue fields”. The agricultural policy or the EMU strongly influence national public debates due to the fact that, by operating from the first pillar, the EU’s directives are binding for member states. On the other hand, Europeanisation tendencies are much less strong if the claim comes under the scope of immigration, military troop deployment, pensions, retirement or education. Being intergovernmental in their nature, those fields of policies are left within the EU in national hands and subsequently this has an impact on the public debates (Koopmans, 2007, p. 187).

The study was also focused on who benefits the most from Europeanisation measured by the involvement in the public debates. It was shown that “...government and executive actors are... the most important beneficiaries of Europeanisation of public debates in comparison with legislative and party actors and even more so compared to civil society actors, *who are extremely weakly represented in Europeanised public debates*” (Koopmans, 2007, p. 183).

CHAPTER V: CONCLUSION

I

Nation state boundaries, the way we accepted and understood them during the late 19th and 20th century in Europe, are no longer definite borders in the modern electronic distribution of political news and information, even more importantly, in the way in which the EU integration process influences the lives of citizens. The free flow of people, goods, services and information requested by the EU Treaties and implemented by the intergovernmental EU policies, combined with the use of high technologies, clearly indicates that geographical borders of nation states do not determine the ongoing political international communication the way they did in the past.

Moravscik and Hix (2005, p. 15) both agree that the EU “integration is driven through intergovernmentalism by the interests and actions of European nation-states”. For the EU integration project, intergovernmentalism had a push effect in terms of creating new policy areas for member states' cooperation and subsequently a number of new institutions, working groups and committees. According to Moravscik (1993, p.474), “the EU can be analysed as a successful intergovernmental regime designed to manage economic interdependence through a negotiated policy co-ordination”. European intergovernmental policies, CESDP and Immigration, both had evolved through intensive intergovernmental cooperation strictly outside the EU institutional framework due to the diplomatic efforts and national agencies' cooperation. Once established by the Maastricht Treaty, both policies were given pillars, the

second (CFSP) and the third (JHA), in order to maximize the involvement of nation-states and minimize the EU supranational institutions' involvement regarding the two policy issues.

From this point of view, "the main aim of governments is to protect their geopolitical interests, such as national security and national sovereignty, while decision-making often remains a zero-sum game". For Hocking (2005, p. 273), national foreign policy administration has confronted several "layers" of change as it has sought to adapt to internal and external pressures. A complex intergovernmental and EU supranational interaction in decision-making resulted in a significant enlargement of the EU institutional framework in a short amount of time moving toward inefficiency of the EU apparatus and unorganized use of policy tools and human resources available.

II

Due to the globalized environment, the observed intergovernmental policies are increasingly becoming interdisciplinary in the core of their nature. The EU Immigration policy can no longer be treated as a separate field from wider CESDP. Its mechanisms at the level of national implementation cannot remain an exclusive right for member-states' authorities due to increasing political costs that national governments are paying for occupying the right not to Europeanize the matters of common interest.

The phenomena of illegal and large uncontrolled migrations are often the cause of an external affairs crisis leading into diplomatic and political conflicts or particular national resistance toward constructive political co-operation. For EU's nation-states it might be, a solution to transfer part of their immigration or external affairs problems to the supranational level, but one cannot expect that this would take care of the demographic and skill shortages or bring the institutional clarity over national jurisdiction, or that nation-states would easily refrain

from competing economically or politically among themselves. Interstate bargaining outcomes are decisively shaped by the relative power of nation-states. That intergovernmental view draws on Moravcsik's general theories of bargaining and negotiation who argues that relative power among states is shaped above all by asymmetrical interdependence, which dictates the relative value of agreement to different governments. Intergovernmentalism as a method of reaching clear cut solutions for member states exposes the limits to the EU integration itself.

Although it is clear that full control over intergovernmental policy outcomes at the national level does not exist, intergovernmental cooperation at the EU level has already reached the stage where supranational institutions must have much stronger influence than today. The EU institutional supervision can help to ensure a better coordination between the nation-states in order to harmonize labour immigration policies or create a unison voice for the EU external policy's points of view to be represented. The CESDP and Immigration policies need supranational institutions able to respond accurately to the needs of EU citizen, in an efficient and more coherent way by using all relevant instruments available. Only firm EU member states' commitment for joint cooperation in the above mentioned policy areas can enhance chances for a synchronized supranational activity at the EU level.

The EU has the responsibility to care about the rest of the developing world because its growth has always relied on the use of human and natural resources from the developing world. By a continuous one-way exploitation of human capital through sophisticated national programmes for attracting highly skilled labour from the developing world, the EU will not be able to help itself in the long run. In respect to the migration policy, the EU bears the responsibility to take steps in favour of creating a common EU welfare state in which, irrespective of future enlargements or path dependence in the past implementation of the EU neighbouring policy, all EU citizens would enjoy the same social rights and benefits

regardless of their actual place of work within the EU. The win-win situation between the sending and receiving migration countries will be achieved only when a free and ongoing flow of brain drain and brain gain has reached its equilibrium.

III

Efficient political communication and faster Europeanisation among EU member states is not possible at a desirable EU integration pace due to the double role of member state diplomats' involvement at the national and the EU level. This ongoing tension has its roots in the struggle between the two main characters of the EU: Intergovernmentalism and Supranationalism.

Both CESDP and Immigration policies are highly exposed in electronic and written media due to their political sensitiveness. The EU is encouraging the participation of the NGO sector in the decision-making process because it wants to create a favourable political environment, open for citizens' participation. Domestic audiences (expressed through an emerging NGO sector) are occasionally exerting political pressure thus creating a huge impact on the capacity of each particular member-state political elite to get proactively involved in policy-making at the EU level. As a result of interaction between medias, NGO's and political elites, domestic member-states' debates are slowing down the potential for common decisions at the supranational EU level to be reached. Although Europe needs a free flow of people, the pro-migrant NGO sector is rather weak due to an anti-immigrant public opinion across the EU and limited access to national political circles.

The European Union's prime responsibility is to ensure for their citizens to be persistent in their liberal and democratic values by taking advantage of a free market economy. The real impact on the EU standard of living and its own growth and prospects, will only become

apparent when the Union manages to create an equally distributed set of mechanisms and tools available through the EU institutional framework. The EU is destined to continue searching for optimum solutions while accepting all the changes in the global environment.

The observed asymmetry in the social, economic and internal political attributes among the EU member-states leads them toward an intergovernmental attitude. Intergovernmentalism as a manner of reaching a common EU decision will clearly not diminish. However, it cannot be a preferred societal way out because it blocks coordination and communication within the EU system. Whether it is for the control over national territories or national businesses/profits, the cost of keeping matters of common European interest outside of supranational EU institutions is getting only more important over the time.

The supranational character of the EU that used to be a driving idea for the establishment of the EU did not take over the management of intergovernmental policies yet. Supranational institutions have so far largely contributed to the success of intergovernmental policies. The current European integration will get its chance only after fully accepting European political diversity coming from the national level through a constant search for a common institutional and policy consensus and an active involvement of all interested stakeholders.

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