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A case of soft-Europeanisation?
The EU policy for the integration of third country nationals

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Abbreviations

AFSJ	Area of Freedom, Security and Justice
AMIF	Asylum, Migration and Integration Fund
AMPI	Athens Migration Policy Initiative
CBPs	Common Basic Principles on Integration
CSOs	Civil Society Organisation(s)
DG	Directorate General
EIF	European Integration Fund
ESF	European Social Fund
EU	European Union
EU+12	Designates the 12 member states that joined between 2004 and 2007
EU-27	Designates the EU without Croatia, with the United Kingdom
i.i.d.	Independent and identically distributed
JHA	Justice and Home Affairs
Lowess	Locally Weighted Scatterplot Smoothing
ML	Maximum Likelihood
MPI	Migration Policy Institute
NCPI	National Contact Points on Integration
OECD	Organisation of Economic Cooperation and Development
OMC	Open Method of Coordination
QMV	Qualified Majority Voting
REML	Residual Maximum Likelihood
SCIFA	Strategic Committee on Immigration Frontiers and Asylum
TEC	Treaty on the European Communities
TEU	Treaty on the European Union

List of EU member states and abbreviations

AT	Austria
BE	Belgium
BG	Bulgaria
CY	Cyprus
CZ	Czech Republic
DE	Germany
EE	Estonia
EL	Greece
ES	Spain
FI	Finland
FR	France
HU	Hungary
IE	Ireland
IT	Italy
LT	Lithuania
LU	Luxemburg
LV	Latvia
MT	Malta
NL	The Netherlands
PL	Poland
PT	Portugal
RO	Romania
SE	Sweden
SI	Slovenia
SK	Slovakia
UK	The United Kingdom

Introduction

Immigration is very trendy in the scholarship these days. Overloaded reception centres, repeated tragedies in the Mediterranean, populist parties in government, marches against immigrants in European cities with, on top of that, a permanent coverage in the press, have put the issue at the forefront of the academic production. One element is however overlooked in political science: the policies for the integration of foreigners. Yet, integration of migrants is what (inexorably) comes next.

Immigration to European countries has drastically increased over the last decades. More than one million immigrants come to the EU each year, more than to any other OECD country (OECD, 2016). In an ageing Europe, migration presents indubitable positive economic effects. By feeding the workforce, it alleviates the old-age dependency ratio (the number of workers compared to that of pensioners) and the risks looming over the European population's ability to sustain the economy (European Commission, 2011). But immigration also poses considerable socio-economic challenges to receiving societies. Firstly because migrants' contribution to the EU labour market and its economy in general is by no means immediate. Coming from different cultural, linguistic and institutional backgrounds, migrants need to adapt to a reasonable extent to the pre-existing structures of their receiving societies. They will need to acquire some command of the language, a basic understanding of how institutions work and, ideally, they would also need to have their skills and qualifications recognised. As a matter of fact, language is often a barrier to employment and migrants are overrepresented amongst the unemployed and are often overqualified for their job (OECD, 2016). On the social front, the increasing diversity within societies nurtures tensions between natives and new- (and old-) comers and thus threatens social cohesion (TNS Qual+, 2011). Social cohesion may also be in peril due to

unequal opportunities induced by the presence of foreigners less acquainted to the ways of doing things in their receiving society[1]. Resultantly, If European Union (EU) member states want to make the most of the potential migration holds, as constantly repeated in EU documents[2], integration is a key issue.

Aware of the advantages of migration but conscious of the challenges it poses, EU member states have seized the opportunity of the creation of an EU competence on immigration in 1999 to call for a "more vigorous integration policy" (European Council, 1999). But integration, in 1999 as in 2016, is by no means a competence of the EU; it pertains to the dominion of the state. The first reference to it in EU primary law came with the treaty of Lisbon that accorded the EU a role, however limited to support of national initiatives, excluding by the same token any legal harmonisation in this respect.

Yet, from 1999 to 2016, an EU integration policy unfolded, uncovering a series of puzzles that can be summarised in a single question: can there be Europeanisation without an EU competence, and therefore without binding acts? A question little addressed by EU scholars. True, the integration of third country nationals, just like immigration, inevitably has transnational features justifying the Union's action in the policy realm. Failure to integrate may have adverse consequences for other member states and the EU as a whole. But was this sufficient to spur the creation of a common policy? As best summarised in the Conclusions of the Council in 2004, immigration is a permanent feature of European society from which member states may reap benefits if it is orderly and well managed. The effective management of immigration is in the interest of all member states and, in order to be effective, such management must ensure successful integration. Failure of an individual member state to develop and implement successful integration policy likely has consequences on European economies and labour markets, on social cohesion and security[3]. Such standpoint was already recognised by EU member states in the post-Amsterdam era, when they committed to addressing unequal treatment as a priority of the Community (see European Council, 1999; see also Kostakopoulou, 2002a). However, the objective existence of a common interest is by no means sufficient for the creation of an EU competence. Heeding transnationality, member

[1] The challenges immigration poses are plentiful, they range from discrimination on the labour market to spatial and residential segregation, racism, etc. It is not my purpose to treat these challenges. I will therefore not go further on this point.
[2] Realising the potential of migration has been a recurring theme of the EU integration policy from 2003 onwards; see notably European Commission (2003).
[3] See Council of the European Union 14776/04; recitals 4 to 8.

states and EU institutions started formal collaboration on the matter in a hitherto unseen manner, following an original pattern. Starting out without even a proper or explicit legal basis in the domain, collaboration transformed into a policy with potentially great effects on member states (see below) and foreigners' integration (European Court of Auditors, 2012). If the Tampere Programme, the first programme ever adopted for the implementation of the Area of Freedom Security and Justice (AFSJ) further to the adoption of the Treaty of Amsterdam in 1999, announced the need for a more vigorous policy at EU level, no legal basis was explicitly referring to integration until the adoption of the treaty of Lisbon. Even attempts to launch an Open Method of Coordination (OMC) touching upon integration failed. And yet, the policy developed during the 2000s', as a patchwork of soft instruments forming a fragmented, yet consistent, policy. Putting together a common acceptation of integration, benchmarks, networks of high ranking officials and systematic funding opportunities, this ensemble of instruments forms some sort of "quasi-Open Method of Coordination" (Carrera, 2008). Despite the softness of the policy, or because of it, this ensemble has had hard-to-fathom impacts so much they may range from far-reaching to inexistent according to what we look at and how we look at it. For instance, the EU integration policy has had a non-negligible impact on Central and Eastern member states, little acquainted with immigration at the time, even less so with integration of migrants. The advent of the European Integration Fund in 2007, because it provided funding opportunities, required national programmes be drafted and implemented, had a tremendous effect as it induced the creation of a systematic integration policy at national level. Conversely, the elaboration of a common set of principles supposed to guide member states' policies, principles very much praised by civil society actors and scholars in the domain, has had no effect whatsoever on member states' policies (Mulcahy, 2011).

The emergence of an EU integration policy uncovers many legitimate and worthwhile research themes such as normative considerations as to the legitimacy of a role for the EU in this field, or sociological approaches to the process of integration from migrants' perspective, or else the impact of the policy on the actual integration of migrants. But the way the policy unfolded decidedly sheds the light on the EU integration policy as an (odd) instance of Europeanisation. To put it differently, the emergence of an *ad hoc* competence on a highly sovereignty-related policy field was unlikely and the manner this policy made its way through is inevitably puzzling. How and why did an

integration policy develop at EU level, despite the absence of a clear mandate? What were the factors and actors that eased or hampered the passage of a sensitive policy onto the EU agenda? What are the consequences on policy making rules and patterns? What are the effects on the contents, both procedural and substantive, of the EU outputs adopted accordingly? Do these outputs have any effect on member states? If yes, what are they and why?

Over the pages of this dissertation, I consider that the way a policy field emerges at EU level affects the outputs adopted thereafter throughout the policy cycle. I thus look into the development of the EU integration policy and examine its main policy device, the European Integration Fund, throughout its policy cycle. In the backdrop, the question guiding the chapters to come is: is there Europeanisation of integration policies through soft law? And the answer to it, without keeping the suspense any longer, is indeed: it depends[1]… That said, the questions as I posed them raise a series of other questions as to integration and Europeanisation that the remainder of this introduction is aimed at answering. I thus provide a general frame supposed to help the understanding of the five chapters that follow. Firstly, I draw the reader's attention on integration-related matters such as why integrating, who integrating, how to integrate, who has the competence to integrate and integrating into what. Secondly, I shift to the nexus integration-Europeanisation. I propose a selective review of the literature on integration at EU level, followed by a specification of what is meant by soft-Europeanisation and a refinement of this dissertation's purposes. I conclude the section with the plan of the dissertation.

Integrating migrants. Why? Who? How? By whom? Into what?

Integrating migrants: a normative imperative

There is little doubt nowadays that immigration has become a permanent feature of European societies. Recognised in the political discourse[2], it is confirmed by the figures that show a steady increase in the years 2000s (OECD, 2016: 83), or by the projections

[1] For an interesting approach to the "it depends" answer, see Tilly and Goodin, 2011.
[2] See above; or see Council of the European Union 14776/04.

for the decades to come (Lanzieri, 2010). In 2008, 15 % of the population in the European Union was foreign-born or had at least one foreign-born parent (Lanzieri, 2010). Considering only non-EU-born migrants, the OECD estimates the share of foreigners to be 6% for the EU-27 (8% in the EU-15; 2% in the EU+12) in 2010-2011 (OECD, 2016).

In an ageing Europe, immigration helps alleviate the old-age dependency ratio (people aged 65 or above relative to those aged 15-64) and the risks looming over the European population's ability to sustain the economy (European Commission, 2011). For several years, it has been the main driver of population growth in an ageing Europe (Lanzieri, 2010). But the ageing Europe issue cannot only be solved by immigration; as much as immigration cannot only serve as a way to sustain member states' labour markets and social policies. It is nowadays little debatable that migrants shall be entitled to rights; but it has not always been the case. From a normative standpoint, the idea of liberal democracy and rights denial can hardly be reconciled (Kostakopoulou, 2002a). Exclusionist models of interpreting the role of foreigners (see Castles, 1995) are no longer sustainable. As a matter of fact, the heydays of utilitarian immigration philosophies, such as the *Gastarbeiter* policy (see Chapter 2), are long gone. After WWII, many European democracies resorted to guest worker policies, importing workforce for a time, expecting migrants go away once the job done. The very idea behind the guest worker policy is best summarised by Walzer (1983: 58): "They can quit their jobs, buy train or airline tickets, and go home; they are citizens elsewhere". Whatever their working or living conditions were, the state had no duty towards them. As free men, it was for them to decide whether to accept the conditions offered or leave. That said, fleeing poor economic conditions and leave in hope of a better life is a legitimate goal that does not only rely on free will but also on the scarcity of resources at the world scale and their unequal and blind distribution at birth (Carens, 2000; Shachar and Hirschl, 2007). The premise of a choice holds all the less when the second and then the third generation of migrants is on the territory. From a liberal egalitarian perspective, maintaining unequal opportunities between natives and foreigners is hardly justifiable when the state grants a permits to stay within its territory (see *inter alia* Miller, 2008). So recognized EU member states when they adopted the Tampere Programme in 1999. They declared:

> "The European Union must ensure fair treatment of third country nationals who reside legally on the territory of its Member States. A more vigorous integration policy should aim at granting them rights and obligations comparable to those of EU citizens. It should also enhance non-discrimination in economic, social and cultural life and develop measures against racism and xenophobia." (European Council, 1999)

Aiming at comparable rights between natives and foreigners is morally laudable. It however begs more questions than it provides answers. Who is it that EU member states should integrate? What does integrating foreigners mean? Into what should they be integrated? And who has the competence and capacity to do that? These questions shall be addressed in turn.

Who is a migrant in the EU? A legal definition

At the time of writing, the EU officially counts 28 members; unofficially 27. The United Kingdom (UK) has recently held a referendum to exit the EU after a long campaign marked by hostility to immigration and immigrants. Such hostility however pointed at EU nationals and non-EU citizens indistinctly. But since the Maastricht treaty, there exists an EU citizenship, a citizenship subsidiary to that of the member states, which grants rights to EU citizens across EU member states, notably that of going and staying in another member state freely. Are EU-citizens migrants, as the Brexit campaign suggested?

At the time of writing, the EU is also undergoing a critical time as regards asylum and international protection policies. Political instability in Northern Africa (the Arab Spring) and the Middle East (the ongoing war in Syria) since the mid-2000s' spurs thousands of people on the road in search of protection or better life conditions, some of them intended to knock on the EU's doors. Are asylum seekers and refugees migrants?

In common parlance, EU citizens and international protection seekers surely are migrants. For the purpose of scientific research, this is debatable as who is regarded a migrant changes according to who is speaking (Anderson and Blinder, 2015). Integrating migrants implies a clear distinction between who is a migrant and who is not be made. This exercise necessarily occurs through the categorization of the "migrant" (Müge and

van der Haar, 2016). Such categories are indeed constructs that do not necessarily reflect the objective needs for integration of specific groups[1]. They are potentially normatively loaded and may consequently create inequalities (Anderson and Blinder, 2015). They are however crucial for policy formulation. For the purposes of an EU integration policy, a legal definition needs to be found so that the policy has its target. The term "migrants" in this instance considers third country nationals legally resident in any of the EU member states. Such definition *de jure* excludes from its scope EU citizens; including them would be inconsistent with the idea of an effective European citizenship. It also excludes irregularly staying migrants; including them would be practically sensible but theoretically inconsistent with the principle of Rule of law. Finally, such definition also excludes asylum seekers and those who have been granted the refugee status; they fall under a different regime ruled by the EU asylum policy. I shall endorse the same definition.

In summary, to the question "who is it that should be integrated?", the appropriate answer for the purpose of this study is: i) people who are not nationals of any member state; ii) who hold a legal resident permit; iii) that is not a refugee status permit[2]. Over the pages that follow, I will indifferently refer to migrants, foreigners, third country nationals and so forth, without ever departing from this definition.

What definition of integration for the EU?

The concept of integration has been widely discussed in the specialized literature, resulting in innumerable definitions. Generally, the concept refers to the way a migrant becomes part of a society (Castles *et al.*, 2013). Becoming part of a society may however imply very different understandings of where the process should lead: removal or acceptance of differences? The term integration commonly ranges from the most assimilationist to the most multicultural acceptations (see Kostakopoulou, 2002a for a typology of models and their respective goals). In order to place the boundaries of the

[1] In fact, a Spanish worker in Germany may need German courses; or a member of the Roma community may need to attend integration practices in the country she or he is a citizen of.
[2] The refugee status stems from the 1951 Geneva Convention. There exist other protection permits granted by member states that do not fall under the Geneva Convention. These are permits defined under national law and thus fall within the definition of migrant endorsed here.

concept, let us define assimilation as a one-sided process of adaptation whereby migrants are to be incorporated into the host society (see *inter alia* Brubaker, 2005). At the other end of the continuum, one can define multiculturalism as the acceptance and (sometimes) promotion of long-term cultural differences (Kymlicka, 1995).

Beyond scholarly definitions, political systems tend to have different conceptions of integration, mirrored in their legal framework and policies (see for instance Carrera, 2006; Murphy, 2009; Schain, 2010; Castles *et al.*, 2013). Such conceptions are not fixed; they may change over time (see *inter alia* Schain, 2010; Kundnani, 2012) or across policies. Despite the fact that the EU has no legal competence on integration[1], a similar logic is applicable to it through the policies it adopts (Kostakopoulou, 2002a; Groenendijk, 2004; Murphy, 2009). In 2004, the EU was equipped with a more coherent, yet loose, framework within which policies in this domain would be inserted; this is the Common Basic Principles on Integration (CBPs; see Box 2.2 for a complete list), a set of 11 short-worded non-binding principles intended to guide policy-making. These CBPs echo to the definition of integration advanced in the integration scholarship by Penninx (2013) who simply defines it as the process of becoming an accepted part of society. Such a definition places at the core of the process the interaction between two actors: the migrants themselves, and the receiving society (Penninx *et al.*, 2014). In these terms, it precisely matches CBP 1 defining integration as "a dynamic, two-way process of mutual accommodation by all immigrants and residents of Member States"[2]. From this point on, integration refers to the latter acceptation.

Integration of migrants into what?

Murphy (2009) raises a question (however without answering it) quite interesting in the case of an EU integration policy. Integrating migrants, yes, but integrating them into what? There are at least two ways to understand the question and consequently two ways to answer it: one is spatial; the other is conceptual.

[1] A role was eventually granted with the Treaty of Lisbon but the policy evolved without a legal basis, notably from 2002 to 2007 (date of the adoption of the European Integration Fund).
[2] See Box 2.2.

In spatial terms, an EU integration policy would suggest migrants are to be integrated into an "EU society"; so to speak, and would therefore amount to consider the EU as an entity (or society) in its own right, independent of the member states. CBP 2, reading "integration implies respect for the basic values of the European Union", would corroborate such acceptation. Nonetheless, at least three factors prevent such understanding: i) true, the EU is endowed of a basic set of values, shared by the member states, but this does not prevent individual member states to have their own, refined, system of values to which migrants must abide by to obtain a right to residence or citizenship[1]; ii) in a similar fashion, the competence on integration remains mainly that of the member states, so that there cannot be integration into the EU without having first integration in the member state; iii) finally and perhaps most importantly, there is no absolute and automatic right for third country nationals to move and stay in a member state that has not issued the residence permit. Entry remains a competence of the state; the latter must therefore agree to the residence of a third country national on its territory. If the EU is a (somewhat) unified area for EU citizens, it is not for third country nationals, even when they hold a legal residence permit[2].

The spatial definition is the most obvious understanding of the integrating-into-what issue. The second one is more conceptual (even though it is somewhat linked to the spatial approach) and requires we distinguish between three spheres of migration-related policies: entry, settlement, and citizenship (Hammar, 1990; Hebling, 2013; Hebling *et al.*, 2013; de Haas and Czaika, 2013). Only one of these three is related to integration. Entry is indubitably connected to immigration policy: the member state (and not the EU) grants or not the right to enter the territory. Where the distinction is subtler is between settlement and citizenship. Settlement concerns the rights and obligations of those that have been granted a right to stay in the territory. By the granting of civil and social rights, the foreigner is integrated into the physical community. This situation corresponds to the "denizenship" coined by Hammar in the 1990s' to describe the status of long term residents (Hammar, 1990; Baubock, 2005). Policies in this respect are what is generally referred to as policy for the integration of third country nationals (Hebling, 2013; Hebling *et al.*, 2013; de Haas and Czaika, 2013) in that they aim at easing the presence of the

[1] The existence of national criteria to be fulfilled to be granted a legal residence permit bears witness of that.
[2] This is also the case for the long-term residence permit.

foreigner and her/his interaction with the receiving society but does not provide for her/his integration into the political community, which falls under citizenship policies. Integration into the political community refers to political rights, to the right to participate in the collective definition of the future of a society (see Van Wolleghem, 2014 for a discussion).

In definitive, integration of migrants aims at their integration into a community of rights and obligations, not into a political community. This has consequences on the definition of the authorities that may undertake integration policies. Whereas the physical community may be governed by a series of policy making levels, the definition of the political community rests with the state alone.

Integration in a multilevel system: who has competence over what?

From a number of perspectives, studying the EU policy for the integration of third country nationals necessarily emphasizes the role of the states: i) historically, integration is strongly related to nationally specific models of identity and belonging (Castles *et al.*, 2013; Scholten and Penninx, 2016); ii) member states, as the primary subject of EU law, vote EU law outputs and are legally responsible for their implementation within the frontiers of their territory (see Chapter 4 and 5); iii) the EU has no formal competence on the matter so that integration at EU level is vested with the member states and displays intergovernmental features (see Chapter 2); iv) when a stretched competence at EU level is found on immigration (until 2004; see Chapter 1) or integration (until 2010; see Chapter 2 and 3), decision is to be taken at the unanimity of the member states; v) integration funding is mostly decided and co-ordinated at national level (and then reaches subnational bodies) (Collett, 2011). It is evident, therefore, that the interaction between the EU and its member states is the motor of the policy development at EU level.

Integration is nevertheless a policy field counting a variety of actors located at different levels of policy making. Since I am concerned with policy making, I here leave aside private organisations and focus on policy making actors, namely cities and regions (Penninx, 2009; Penninx *et al.*, 2014). Firstly, cities have been primary policy actors since at least the 1990s' if one considers the wealth of research in this domain at the time (Penninx *et al.*, 2014). At the forefront of integration's daily challenges, the city is where

migrants work, send their children to school, access services and so on (see Penninx, 2005; 2009). The role cities play is nowadays expanding. The most diverse cities such as London, Berlin, Barcelona and Rotterdam are now developing their own philosophy of integration, sometimes departing from national philosophies, thereby generating a decoupling of the two levels (Scholten and Penninx, 2016). Poppelaars and Scholten (2008) showed that, in the Netherlands, national level and local level are "two worlds apart" when it comes to integration policies. Whereas the issue is politicized at national level, it appears to be more of a pragmatic, problem-solving approach at local level (see also Keating, 2009).

Secondly, regional authorities may also have a say in the matter, if not the exclusive competence of integrating foreign citizens. Italian *Regioni*, German *Länder,* Spanish *Comunidades Autonomas* or else Belgian *Communautés* all have a legal competence, either shared with national authorities or exclusive, on integration (Hepburn, 2010; Thränhardt, 2014). Regional authorities may also be deprived of such competence in cases of strong centralist tradition (Scholten and Penninx, 2016).

In light of the foregoing, integration is indeed inserted in a multilevel policy making system; but when it comes to the EU integration policy, the answer to the question "who decides what?" is rather straightforward: the member states shape the EU policy, not subnational authorities (within the EU framework; see Chapter 2 and 3). This should not however understate the role of subnational bodies in the machinery. Member states have their particular administrative organization and their consultation procedures, and these must be accounted for; but at the end of the day, the final word is that of the central administration; hence the focus set on member states here.

Integration at EU level: defining soft-Europeanisation

Integration at EU level: a review of the literature

Integration of third country nationals at EU level has had a short existence as of yet, most of which has been disseminated across policy fields, Commission's DGs, EU programmes and so on. This is maybe why little attention has been granted to it in the

scholarship. In an interesting report, Kate and Niessen (2007) propose to map the measures relating to integration within the machinery of the Commission. Endorsing a definition of migrant wider than that of my research (i.e. including refugees), they list the policy instruments in place that (*de facto*) favour third country nationals' integration. They notably count anti-discrimination measures, employment and education funding opportunities under the European Social Fund, the European integration fund and other instruments that have fostered integration from afar or closer. Differently, most of the literature on the European integration policy has concentrated on a narrower extent, focusing on policies that have integration of third country nationals as a primary goal rather than on policies that may have had an impact on integration (see Chapter 1). In doing so, the scholarship set to analyze more visible, and potentially more controversial policy outputs (see Gunningham and Sinclair, 1998 on visibility and controversy). I shall do the same.

The birth of an immigration policy touching upon legal migration and containing integration measures sparked vivid interest in the law scholarship, notably because the creation of an EU competence stressed the possibility of conflicts between EU and national legal orders and posed the question of what integration model the EU was implicitly carrying (Kostakopoulou, 2002a; Groenendijk, 2004; Murphy, 2009; Handoll, 2012). In the same vein, a significant amount of articles pertaining to social sciences at large looked into the effects or consequences of the provisions contained in secondary law, touching therefore in some ways on integration. These primarily focused on the family reunion Directive (Oosterom-Staples, 2007; Groenendijk *et al.*, 2007; Hailbronner, 2010), the long-term residence Directive (Halleskov, 2005; Kostakopoulou, 2002b), and the couple of Directives relating to the fight against discrimination (although only indirectly linked to integration; Geddes, 2004; Bribosia, 2012; but see also Guiraudon, 2003; Murphy, 2009).

Other law scholars paid attention to the EU integration policy when, considering the hindrances every single piece of binding legislation would face, this very policy took on the shape of the recently created Open Method of Coordination (OMC; Caviedes, 2004; Szyszczak, 2006; Velluti, 2007). Conversely, and despite the failure of the OMC in this domain, little importance has been given to the development of a soft European policy of integration, and its instruments have often been treated analytically or as secondary elements to be taken notice of. Geddes and Achtnich (2015) analyse research-

policy dialogues through the exchange of experience and knowledge in the ambit of networks of member states' officials; they list soft governance instruments without however going in much depth. Scholten and Penninx (2016) propose an analysis of migration and integration multilevel governance in which they underline the expansive importance of local authorities in policy-making as far as integration is concerned. Attention to EU soft instruments is there limited to a list of instruments. Rosenow (2009) takes a different stance and provides elements as to the creation of a European policy on integration in a paper that remains however largely analytical. Other works emanate from EU and national officers that took part in the policy making process over the 2000s' and provide interesting factual elements, although without placing them in a wider theoretical perspective (Urth, 2005; Pratt, 2015; Hauschild, 2008).

The lack of attention granted to these soft instruments may find a reason in the presumed lack of consistency of the EU integration policy. As Handoll (2012:15) put it: "this activity [on integration] is rather fragmented and is not sufficient for the EU to be said to have its own 'integration policy', though it undoubtedly has a 'policy on integration'". The successive adoption of soft instruments however developed into a consistent ensemble resembling to an OMC, and sometimes called a "quasi-OMC" (Carrera, 2008; see Chapter 2). With a definition of an approach to integration, the existence of networks of officials to exchange expertise, and the presence of common goals supported by financial means, the limit between "integration policy" and "policy on integration", to take on Handoll's phrasing, may well be fading away. This may also be the reason why some scholars have dedicated more of their work to the EU integration policy. Carrera, notably, has written a significant number of papers and reports, and a book on the topic (see inter alia Carrera, 2006; 2008; 2009; Carrera and Wiesbrock, 2009; Carrera and Atger, 2011) endorsing a legal leaning. His work is often descriptive and analytical, defining the EU approach to integration or pointing to the contradictions therein between ends and means. A last work is worth being mentioned in this introduction, that of Mulcahy (2011). She dedicated a book to it that is, to my knowledge, the most comprehensive opus dealing with the policy at EU level. She aims at providing a comparative analysis of the impact of the EU on the politics and policies of immigrant integration in EU member states. This book, she argues, is situated in a framework of "interactive Europeanisation". The analysis takes the Common Basic Principles on integration as a point of departure and looks into their implementation at national level.

More explicitly, the question Mulcahy poses is whether integration policies across Europe are converging and if so, whether the EU has a role in that. She posits the diffusion of EU norms as a mechanism driving the implementation of these principles but finds no evidence in support of the hypothesis. On the contrary, she concludes that the EU has been "almost irrelevant to immigrant integration policymaking in Europe" (2011:181). Mulcahy's is not the only study to have placed the emphasis on the CBPs (Carrera, 2006; Carrera and Atger, 2011; Murphy, 2009; Gilardoni *et al.*, 2015; Pratt, 2015). More generally, most studies touching upon the EU policy for the integration of third country nationals have considered the Common Basic Principles as a corner stone of the integration policy at EU level. True, they form together a first conceptualisation of what integration means, a first common understanding of a European concept which lends itself particularly well to analytical approaches. That said, the CBPs remain principles and are therefore necessarily loose (Carrera, 2006). Delving into whether they have had an impact or not is indeed an interesting, yet uncertain exercise. The approach to Europeanisation of integration policies I propose is different in several regards; ranging from the acceptation of Europeanisation to its empirical manifestation (see next sections).

A soft-Europeanisation approach to integration and policy cycle

The question at the core of this research is indeed whether we can talk or not of a Europeanisation of integration policies. Considering the institutional setting laid by the treaty of Amsterdam (see Chapter 1), there is little doubt that if Europeanisation there is, it is necessarily soft-Europeanisation; i.e. Europeanisation via soft law. According to a henceforth classic definition, soft law refers to the "rules of conduct which in principle have no legal force but which nevertheless may have practical effects" (Snyder, 1993: 198). Such definition is rather straightforward. Defining Europeanisation is instead a whole-new kettle of fish.

Simply put, "Europeanization is like one of those bumblebees that seem to defy the laws of aerodynamics, yet they fly" (Exadaktylos and Radaelli, 2012: 17). Although the term punctuates the research on the EU, none of its many definitions makes the unanimity in the scholarship (see *inter alia* Bache 2005; Caporaso, 2007; Richardson 2012; Exadaktylos and Radaelli, 2012; see also Chapter 2). Some authors even use the

term in opposite senses (as Caporaso, 2007:27 admits). Specific definitions have however tended to focus on either a top-down or a bottom-up model, the former being most frequently used (Richardson, 2012:3). The top-down approach generally considers the effect of EU outputs on member states (as that of Mulcahy, 2011 for the EU integration policy). Such approach encompasses, but is not limited to, the implementation of EU outputs, as we shall see below (Treib, 2014). In a minimal acceptation, Featherstone (2003) suggests that Europeanisation involves a response to EU policy. The bottom-up approach concentrates on the transfer of the policy locus to the EU, or, as Richardson puts it (2012:5), "the processes by which the key decisions about public policies are gradually transferred to the European level (or for new policy areas, emerge at the European level)". Yet other models of Europeanisation, more comprehensive, consider it as a process encompassing both bottom-up and top-down conceptions as the two sides of a same medal. Radaelli (2003b) for instance defines Europeanisation as a circular process of co-construction of norms that goes up to the EU sphere before coming back down to domestic environment, discourses, identities and policies. Based on the construction of shared beliefs, such acceptation necessarily implies processes of diffusion and learning are at play. In a similar, yet different manner, Börzel (2002) posits that, in order to reduce the costs of implementation of EU outputs, member states are incentivised to upload their domestic policies to the EU level. In doing so, they reduce the adaptation effort to be produced at a later stage. Member states thus compete (however with different resources, different strategies, and different chances of success) to have their policies adopted at EU level.

Considering the foregoing, it becomes obvious that the way Europeanisation is defined may introduce some conceptual opacity in that the term may overlap with other concepts such as EU integration, convergence, or else harmonisation (Radaelli, 2003b). The top-down approach may encompass harmonisation whilst the bottom-up approach may encroach on integration. Since "what is badly defined is likely to be badly measured" (Nardo *et al.*, 2005:12), a suitable definition ought to be found; a definition that helps understand the way the five chapters of this research are connected. Note in addition that since the process in the case at issue is necessarily based on soft law, the definition of an operational concept of Europeanisation is further complicated. So how do we recognize a soft-Europeanisation when we see one?

If the concept of Europeanisation has acquired compelling relevance, soft-Europeanisation on the other hand has seldom been mentioned, conceptualized or empirically analysed (see for instance Thielemann, 2001; López-Santana, 2007). In the ambit of this dissertation, I endorse a definition inspired from that of Börzel (2002). Börzel's definition has to do with hard law, stringent sets of provisions that member states must comply with. The pressure to upload policy preferences is indeed higher where the duty to implement is more constraining. Similarly, the lower the obligation to implement, the more difficult the observation of implementation becomes. Since her definition does not consider soft law provisions, a definition suitable for my purposes must necessarily be softer. I consider that the way a policy takes shape at EU level conditions, to some extent, the way it will be implemented afterwards. More precisely, the way interactions are structured (see Chapter 1), the way the policy field emerges as an EU competence (see Chapter 2), and the stakes of a given policy instrument (see Chapter 3) lead to certain policy options that will in turn determine how implementation is going to be played out and what the effects of the policy will be (see Chapter 4 and 5). The two sides of the medal; bottom-up and top-down logics, shall therefore be inserted in a unified framework and applied throughout the policy cycle. Soft-Europeanisation in the ambit of this dissertation therefore draws from both bottom-up and top-down models as two different phases of the same process. Following Richardson (2012; see above), the bottom-up phase consists in the process by which the policy emerges as an EU policy and its implication for policy-making. Following Featherstone (2003; see above), the top-down phase looks into member states' response to EU soft outputs, or else their effects in member states via implementation. In other words, I consider that the way through which the policy emerges at EU level and the modes through which EU outputs are subsequently adopted determines the level of discretion left to the state and the likely implementation of the very same outputs. In the case of soft law though, implementation of EU outputs is not driven by EU legislation but by national initiatives, carried out by national governments. Consequently, soft law fundamentally puts the burden of the decision on national governments, working in national contexts with national actors (Bercusson, 2009). The study of a soft Europeanisation process at play necessarily accounts for such feature.

This acceptation of Europeanisation is significantly different from the interactive Europeanisation advanced in Mulcahy (2011). The question she poses is the following:

"[a]re immigrant integration policies in Europe converging and if so, has the EU anything to do with it?" She is interested in whether ideas (the CBPs) diffuse in the EU sphere through repeated interactions, and she aims at assessing the extent to which this leads to convergence at national level in the implementation of national policies. Differently, I am interested in explaining whether and how such a policy field becomes an EU policy, and how member states respond to it. I do not seek to assess the level of convergence between member states' respective policies; rather, I delve into the response they individually produce in reaction to an instrument[1]. Consequently, the mechanism I am interested in is not diffusion but: i) uploading preferences and bargaining in the bottom-up phase; ii) implementation of EU outputs in the top-down phase.

One caveat is in order here. The contribution this research brings to the concept of Europeanisation itself is fairly limited. More than providing a new definition or a new approach to it, I propose to look into an instance of odd Europeanisation whilst trying to avoid the degreeism trap according to which "'a certain degree of Europeanisation' may be found everywhere" (Radaelli, 2003b: 32). The question arising now is thus: where do I draw the line between Europeanisation and non-Europeanisation? Very simply, I assess Europeanisation in the light of two questions, mirroring the split between bottom-up and top-down approach. Is there a passage from member states to the EU? Do member states respond to EU outputs?

Whereas Mulcahy seeks to assess Europeanisation through the diffusion of the Common Basic Principles, I apply the conception of Europeanisation abovementioned to another policy instrument, largely overlooked in the literature, the European Integration Fund (EIF; an exception is Carrera and Atger, 2011 who link the CBPs to the EIF). As already said, the CBPs are widely worded and therefore construable, so that observing their true empirical manifestation is a difficult undertaking. Conversely, the European Integration Fund is a systematic instrument. It concerns all member states[2] and requires implementation at national level via the preparation of national annual programmes and reporting activities. Consequently, despite its soft law character (Trimikliniotis, 2012), its implementation implies a tangible interaction between the EU and the member states. The

[1] As just stated, in the case of soft law, the burden is placed on national governments evolving in national contexts with national actors; hence a focus on member states individual response instead of diffusion-like mechanisms. Note in addition that this is one of the conclusions reached by Mulcahy (2011): no cross-country diffusion but rather national dynamics.
[2] Except Denmark and Croatia.

EIF will be analysed throughout its policy cycle, from adoption to implementation, in a Europeanisation key.

Plan of the dissertation

My work is presented in five distinct chapters. They are all guided by different research questions that constitute a coherent whole nonetheless. Chapter 1 sets the scene and defines the lens through which the policy is looked at in the Chapter 2 through 5. I start by brushing the picture of the gradual construction of an immigration policy at EU level since the adoption of the Schengen agreement in the 1980s' and show that member states were eager to keep a firm grip on the policy despite the growing objective need of a common policy induced by the creation of an inner space without borders. Considering the dynamics at play in this process, I infer that the most suitable approach to delve into immigration-related policies is that of the actor-centred institutionalism as developed by Scharpf (1990; 1997). In a nutshell, I consider that actors make choices in accordance with their preferences and resources, within an institutional framework, with different chances of success. Chapter 2 departs from immigration to centre the analysis on the integration of third country nationals. Using case studies and process-tracing methods, I show that the emergence of an integration policy at EU level results from the combination of three conditions in a political context sensitized to the issue. Firstly, a policy at EU level was possible because a policy in this domain had to be of a soft law nature. Upon this necessary condition, a condition sufficient to the emergence of the EU policy rests on the occurrence of three Presidencies of the Council with rather similar preferences within a relatively short time span. Finally, the third condition, rather an intervening factor, lies with the Commission that, executing the wishes of the Council, proved capable of developing a policy within the margins of acceptability of the Council, exploiting them to flesh out a sounder policy. In parallel, the Commission also proved capable of carving out a role for itself in integration, notably through the creation of funding opportunities that would eventually give rise to the European Integration Fund (EIF), the first systematic EU instrument in this field, arguably also the most important one. Whilst the end of Chapter 2 starts the analysis of the EIF policy cycle with a focus on policy formulation, Chapter 3 goes through the successive steps that led to the adoption of the

EIF. Using document analysis and interviews mostly, I show that the absence of a sound competence at EU level and the permanence of unanimity voting in the Council resulted in the creation of a fund that would grant great discretion to member states as to its spending. In other words, the decision making process emptied the fund of its most constraining clauses. By looking at the most disputed provision, I also show that most of the debate revolved around the classic "who gets what" question. Chapter 4 and 5 shift the focus to another step in the policy cycle, the implementation of the fund, the top-down Europeanisation phase referred to above. In order to study the implementation of the EIF, I draw an analogy between the implementation of the fund and the implementation of Directives. According to Börzel (2001) and Treib (2014), the implementation of Directives comprises three components that are transposition, application and enforcement. For the implementation of the fund, I study two components: i) programming, that corresponds in a way to transposition in that the member states state the way they implement; ii) engagement of the sums, that somewhat corresponds to the application phase in that it concerns the use of the EU outputs at national level. Accordingly, I consider member states' response to the EIF in these terms. In Chapter 4, I argue that the way the fund was adopted had consequences on its programming at national level. Using quantitative methods, time-series cross-section regression to be precise, I propose to look into member states response to the EIF and the determinants of the implementation of its provisions. I notably answer the question "why do member states implement EU outputs if they have no legal obligation to do so?" and show that when there is no oversight from above (i.e. the Commission), soft law provisions have little effect. I show that government preferences and the constraint exercised by public opinion and organized civil society matter. Chapter 5 leaves the EIF programming phase to look at the actual implementation of the fund; i.e. the engagement of the amounts allocated. Using time-series cross-section regression again, I explain why member states do not use the funds placed at their disposal via the EIF and show that, whereas the programming phase is a matter of preferences, the engagement of the funds is rather dependant on member states' capacity to implement.

Last but not least, I conclude this dissertation with an analysis of the facts and an answer to the questions asked in the first pages above: a case of soft-Europeanisation? I answer by the negative, basing the appraisal on the five chapters of this research and the

features of the new Asylum, Migration and Integration Fund (AMIF) for the period 2014-2020.

Chapter 1: Setting the Scene: history of a competence and analytical framework

As simple and trivial as it may sound, the EU is not a state. Nor is it an international institution as the world had ever seen. It is this "objet politique non-identifié" Jacques Delors (Delors, 1985), then president of the European Commission, talked about, a political body of a *sui generis* nature, devoid of the competence of its own competence. "Less than a federation" but "more than a regime" (Wallace, 1983), the foundation of its power relies upon a set of intertwined principles such as the principle of conferral, subsidiarity and proportionality. One thing is sure, there is little doubt nowadays that the EU is a "political system": it features institutional stability, it receives political demands from a complex network of public and private groups, and the decisions it takes are highly significant (Hix, 2005: introduction). Beyond the outdated debate between inter-governmentalism and neo-functionalism scholarships, history has it that it was not built in a day but that its construction followed a gradual and intermittent transfer of competences. Initially limited to the management of the coal and steel industry, atomic energy, and tariffs, its scope gradually extended to the creation of a single market and started to touch upon policy domains that would have transnational stakes; transports, environments, fisheries, and immigration, to name but a few.

In an area within which people can move without being controlled at the borders of one or another member state, immigration inevitably features transnational stakes. The transfer of the competence at EU level was however not to take for granted; to the contrary, there were many bumps on that road, one of them being sovereignty or national interest. Integration, as a subset of the immigration policy, is characterized by similar features. This chapter describes the development of the immigration policy and the failed competence of the EU when it comes to integration of third country nationals (section

1.1). Heeding of the delicate nature of this policy realm and of the prevalent role of actors and their diverging preferences in the making of an EU policy, I build upon Sharpf's actor-centred institutionalism to provide an analytical framework suitable to the intents and purposes of my research (section 1.2). After defining the key concepts of Sharpf's approach, I propose a theoretical framework (to be applied within the analytical framework) that starts from the mode of interaction ruling actors' behaviours; namely, unanimity. I conclude by presenting the main expectable consequences of it: least common denominator decisions and discretion granted to the member states in the implementation phase.

1.1. The winding road towards an EU competence

1.1.1. A common immigration policy

Until the mid-1990s', immigration was the safe haven of national sovereignties and the policy realm appeared amongst the least likely to be communautarised (Faist and Ette, 2007). Not that diverging national policies would not have negative externalities over a country's neighbour (Borràs and Jacobson, 2004; Velluti, 2007); but rather that, to the European Communities, member states preferred an intergovernmental framework that would better fit their purposes and sovereignty concerns. To date, the EU has acquired significant competence in immigration matters, to the point that it is often referred to as a "common immigration policy". However, the story of its construction is more tumultuous than linear.

Following Geddes (2003), four periods in the development of a European immigration policy can be distinguished. The first period covers the years 1957 to 1986 and consists in policies firmly anchored in national authorities' hands. It is the era of "minimal policy involvement" (Geddes, 2003:130). Immigration was dealt with within the Trevi group, a network of national officials from ministries of home affairs and justice established in the mid 1970s, allegedly named after its foundation meeting in Rome where the Trevi fountain is located (Guiraudon, 2003). Cooperation was then informal and mainly revolved around trans-border police cooperation. The topic fell under a more

formal, but still intergovernmental, framework on 14 June 1985, when five member states of the European Communities (EC) signed the Schengen Convention, although outside the framework constituted by the EC. The objective was to abolish border controls between Belgium, France, Germany, Luxembourg and the Netherlands. An implementation convention was then adopted in 1990, and entered into force some five years after. The Schengen convention allowed free circulation between signatory states and comprised common rules on security, crossing of external borders[1] and a common system of visa[2]. Membership to the convention gradually expanded including more and more states. By 1997, all EU member states but the UK and Ireland, and also non-EU member states such as Norway and Iceland, were part of the free movement area. Schengen was eventually integrated into the EU *acquis* in a protocol attached to the Treaty of Amsterdam.

A second phase consists in "informal inter-governmentalism" (1986-1993; Geddes, 2003:132). With the growing commitment towards the creation of an area without frontiers, as laid down in the Single European Act, the issues of immigration and asylum gained importance. But member states were reluctant to delegate competence in this area and therefore opted for the addition of a declaration attached to the Single European Act stating they would cooperate on immigration but that such cooperation should not tread on member states' ability to control their borders. Consequently, in 1986, the member states established yet another intergovernmental and informal, framework, with a loose participation of the Commission and the exclusion of other EC institutions. This group was called the Ad Hoc Working Group on Immigration (AWGI) and was to deal with issues such as visas, asylum, expulsions, border controls. The implementation of measures agreed in this framework would need to go through the international law channel, which, unlike EU secondary law, would require ratification further to adoption, with all the problems it comprises: the Dublin convention on Asylum adopted in 1991 was not ratified until 1997; and the External Frontiers Convention of 1991 was never signed by Spain and the UK due to their (still) ongoing dispute over Gibraltar.

[1] Title II; Chapter 2 Crossing External Borders. Convention implementing the Schengen agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, 19 June 1990.

[2] Convention implementing the Schengen Agreement. Article 9.1 and 10.1 notably.

With the fall of the Berlin wall and the break-out of the Yugoslavian war in 1991, a sudden increase of asylum applications (Eurostat, 1996) aroused fears of massive influxes from the East and precipitated the search for a solution more efficient than intergovernmental cooperation. And here started the third period: "formal intergovernmental cooperation" (1993-1999; Geddes, 2003:134). Although it was clear the functioning of previous international law agreement was not suitable at all, no agreement existed on what the solution was. Especially, if the idea of a greater involvement of EU institutions was looming, a change in the treaties would have required unanimity, which was the least likely case given the positions of the UK and Denmark at the time. The solution opted for was the pillarisation of the institutional structure with the creation of the Justice and Home Affairs pillar and the Common Foreign and Security Policy pillar with the Treaty of Maastricht. The newly created European Union would have a Community pillar for the most integrated issues and two intergovernmental pillars for sensitive affairs. The third pillar integrated the work of the AWGI within the EU framework (Hix, 2006). Article K.1 TEU, under its title VI (Provisions on cooperation in the fields of justice and home affairs) stipulated that asylum policy, rules on the crossing of external borders and more widely policies related to immigration were "matters of common interest"; meaning not common policies (Geddes, 2003). This institutional change did not change much the intergovernmental logic applied beforehand: decisions would be taken at the unanimity, the Commission had no right of initiative, and the European Parliament and European Court of Justice had no role in the process.

A leap forward was taken with the adoption of the Treaty of Amsterdam which aimed, *inter alia*, at the creation of an Area of Freedom Security and Justice (AFSJ). It is the starting point of Geddes's "Communitarisation" period (1999-; Geddes, 2003:136). At the time, a common immigration policy was essentially conceived as a corollary to the construction of the single market (Guild, 1998; Ziller, 2009). The free movement of persons, which had been a pillar of the European construction from the very outset, has had a scope reduced to EU nationals. But in a rather open economic space, member states became highly interdependent. Independently designed immigration regimes may imply competitive policy-making that would entail externalities for the others (Borras and Jacobsson, 2004). More restrictive policies in a member state could for instance re-orient influxes towards the others as much as a more generous welfare state could attract more foreigners. The creation of a common, free circulation area, called for a common

immigration policy that would reduce the externalities national rules could have had over other countries (Borràs and Jacobson, 2004; Velluti, 2007). What the treaty of Amsterdam did was integrating the bulky Schengen legacy into EU primary law via a protocol, and introducing a Title IV TEC; on Visas, asylum, immigration and other policies related to free movement of persons. Consequently, policies in this realm were transferred from the third to the first pillar, thereby shifting decision-making rules from unanimity to qualified majority voting (QMV). This bold gesture however shied of sound integration. Article 68 TEC provided for a series of derogations that would undermine a true EU competence. Firstly, the reference for preliminary ruling to the Court of Justice could only be done by a national court of last instance. Secondly, the Court of Justice would have no jurisdiction over measures regarding the crossing of internal borders without checks on persons in the instance a member state would invoke public order and internal security. Thirdly and most importantly, article 61 TEU provided for a five-year transition period postponing thereby the shift to QMV to April 2004. At the end of this period, the Council was to decide, at the unanimity of its members, what parts of Title IV should pass to QMV. On 22 December 2004, the Council adopted at the unanimity Decision 2004/927/EC extending QMV to the entire title IV, save for those issues relating to legal immigration, excluding by the same token the integration of migrants from QMV.

Opting for a transition period that would postpone the actual integration under the first pillar of immigration policy can be read as divergence in member states' preferences. As a matter of fact, the negotiations on the treaty of Amsterdam saw the Netherlands, Belgium, Italy and Spain supporting the creation of a truly integrated Community immigration policy (Hix and Niessen, 1996). They were however opposed to by the French and the Germans who, having a stronger position within the Schengen circle, had little interest in pooling their competence. The Germans obtained unanimous voting in the Council of Ministers and the French, the limited role of the ECJ (Guiraudon, 2003). Opposition also came from Denmark, Ireland and the United Kingdom, along with the remaining member states (Hix and Niessen, 1996). The UK and Ireland opted out from title IV with the possibility to opt in to individual proposals whereas Denmark opted out with no such possibility.

1.1.2. No competence on migrant integration

The institution of the AFSJ with the treaty of Amsterdam conferred the EU a say on circulation, entry and stay of third country nationals within the territory of the Union (Guild, 1998). As a consequence, the Justice and Home Affairs (JHA) task force was replaced with a Directorate General for JHA to face expanded responsibilities. Endowed with new means, the Commission was given mandate to develop the immigration policy in accordance with the guidelines set by the European Council gathered in Tampere in October 1999. In the five-year Tampere Programme, the European Council laid down milestones that encompassed a section on the "fair treatment of third country nationals". Member states established that third country nationals should enjoy "comparable rights and obligations" to those of nationals of the member state in which they live, and called for "a more vigorous integration policy"[1]. Bolstered by such an impetus, the Commission started its work on legal acts for the establishment of standards and procedures. As Commission official Helene Urth[2] explains (Urth, 2005:164)[3],

> "The approach proposed by the Commission to implement the provisions in the Amsterdam treaty related to asylum and immigration was initially a two-step one. On the one hand, establishing by May 2004 a basic legislative framework of European directives which set minimum standards and establishes common procedures for legal admission and, on the other hand, an open coordination mechanism to encourage discussion of migration issues so as to promote the progressive convergence of national policies and practices and - in the longer term - the development of common objectives and standards."

The first step launched by the Commission was somewhat a failure. Against all expectations, negotiations turned out to be long and difficult (Urth, 2005). In a first moment, the Commission proposed a text on family reunion. Given the strong assertions made at Tampere and given the unanimous agreement on the fact family is in itself a factor of integration, a Directive on family reunion was thought little controversial. And

[1] European Council, 1999.
[2] Helene Urth is referred to as Commission Official but was actually a Danish national expert detached to the European Commission from 2002 to 2005 and was responsible of developing the Commission's policy for the integration of third country nationals.
[3] But see also COM(2000)757 final.

yet, it took nearly four years and a second proposal by the Commission to get to an agreement in February 2003. Following a very similar model, the Directive on the status of long-term residents, relating to comparability of rights, took about three years of negotiation before being adopted in June 2003. A third example lies with the proposal for a Directive on the conditions of entry and stay of migrants for the purpose of paid employment and self-employed activities, dismissed after a first reading in the Council for reaching too far.

Even though some pieces of legislation were eventually adopted, achievements fell short of their announced ambition. The permanence of unanimity voting and the fact that immigration decidedly touches on delicate sovereignty features led to legal acts of a rather limited reach. By looking at the measures regarding immigration at large, adopted after the entry into force of the Treaty of Amsterdam, grey areas and derogations are plentiful, and were dealt with at length in the legal and political scholarship. Some underline the little binding power of such legal framework (Mazeron, 2008; de Bruycker, 2005; Luedtke, 2011); Hailbronner (2010) underscores the derogations to the family reunion and blue card Directives; De Bruycker (2005) counted about 50 derogations out of 40 articles to Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status. Altogether, the legal framework only provides basic rights that can most of the time be summarised by the race-to-the-bottom logic, following the "lowest common denominator approach to convergence" (Velluti, 2007:62). This is most likely related to member states diverging preferences (Caviedes, 2004) in such sensitive matters and the resulting voting rule in the Council.

As a matter of fact, the second step too ended up being a failure. As a second step in the announced programme, the Commission put forth a proposal for an Open Method of Coordination[1] (OMC). Originally, the Open Method of Coordination is rooted in the European Monetary Union that foresaw convergence criteria in the shape of common goals for macroeconomic performance without however specifying the policy means to be employed (de la Porte, 2002). It however first came to bear on the occasion of the 1997 European Council of Luxembourg on employment. The Council would set guidelines as to the number of unemployed that would receive assistance without however fixing precise targets for unemployment rates. According to Caviedes (2004:295), "This

[1] COM(2001)387 final

illustrates a key frustration in European policy-making: agreement in principle that fails to blossom into obligation". This approach officially became OMC on the occasion of the 2000 European Council of Lisbon and, even though it was to take different forms according to the policy field (Radaelli, 2003), would consist in: establishing guidelines and timetables; establishing indicators to compare and benchmark policies and progress; and periodic monitoring and evaluation through peer-review. The idea behind the OMC is to reduce intergovernmental decision-making, very much dependent on "great moments", and "achieve incremental change along a policy-learning continuum where the issues can be de-politicized" (Caviedes, 2004:297). The OMC has thus been approached as a new mode of governance (Scott and Trubeck, 2002), a soft law mechanism that through widened involvement of actors would develop a new form of input legitimacy that would then translates into more efficient policies. Its low political costs makes it a favoured option in delicate policy fields (de la Porte, 2002) but its soft-law features weakens its incentive power and its enforcement altogether (Dehousse, 2005). More flexible, the OMC is supposed to better suit sovereignty concerns than the Community method but its actual effects are however uncertain. Two main strands in the literature are discernible, although not mutually exclusive. One insists on a peer-pressure driver that through name-and-shame logics would put member states under pressure to reach the benchmarks, to conform to the objectives defined at EU level and recommendations flowing therefrom (De la Porte, 2002; Borras and Jacobsson, 2004). The mechanism at play here is some sort of soft compliance: despite the absence of formal modes of coercion, member states lend themselves to competition and attempt to meet the objectives set. As de la Porte (2002:43) put it:

> "Recommendations are made to member states in view of their performance, which is based on their position with regard to the European guidelines and benchmarks, and the member states claim to be very uncomfortable with this 'finger-pointing session'".

The other strand stresses the learning potential of such open coordination. The introduction of a coordination venue may alter cognitive frames and initiate ideational change (Knill and Lehckmul, 2002; Radaelli, 2003). Exposure to new information and new ways of looking at things paves the way for a series of mechanisms: socialisation

and learning through contact; reflexivity about one's own policies and institutions; and diffusion of ideas.

Analytical contributions are rich and plentiful but empirical findings are still few and causal linkages remain weak (de la Porte and Pochet, 2012). What remains of great interest is the capacity the Commission had to carve out a role in fields in which it has little competence. Dehousse (2005) contends that the OMC can be seen as a foot-in-the-door strategy: the OMC may not be the best option but the instrument is adopted because member states cannot agree on objectives or because they want to avoid substantive decisions. In other words, the instrument used is not the most suitable to do the job but rather the one that is politically acceptable (see also Kassim and Le Galès, 2010; Tholoniat, 2010).

Moulded on the basis of the European Employment Strategy, the OMC for an immigration policy was conceived of as an iterative process fostering policy learning and innovation (Velluti, 2007). As the proposal reads[1]:

> "The key element of the open co-ordination method is the approval by the Council of multiannual guidelines for the Union accompanied by specific timetables for achieving the goals which they set in the short, medium and long term. These guidelines will then be translated into national policy by the setting of specific targets, which take into account national and regional differences."

In total, six guidelines were drafted, one of which would address the integration of third country nationals. The latter aimed at the creation of a comprehensive policy framework that would *inter alia* "ensure the involvement of local and regional actors, the social partners, civil society and the migrants themselves in developing and implementing the national strategy"[2]. The OMC would be implemented through the elaboration of National Action Plans for the six years foreseen with annual revision and adaptation. These plans would comprise two parts. The first one would provide an overview of the actions carried out in the previous year in relation to the guidelines whilst the second one the member state would detail the measures it envisages to implement the guidelines for the years to come. The whole process would take place under the supervision of the Commission.

[1] COM(2001)387 final, paragraph 3.
[2] COM(2001)387 final, paragraph 3.4.

The OMC on immigration was however never put forth by the Council. From its adoption by the Commission under the lead of Commissioner Vitorino in July 2001, it was then sent to the European Parliament, the Economic and Social Committee, the Committee of Regions and the Council but never made it to the vote. Caviedes's diagnosis is that this is:

> "a testament to the perceived discursive power of the OMC process. Being forced to compare and evaluate immigration policy in an open forum together with civil societal and international actors, whose views on immigration are often quite liberal, involves a risk of losing control over the agenda-setting process". (Caviedes, 2004:306)

It appears however that the time was not right for an OMC in immigration matters (Bourdrez, 2010). Back in 2001, member states had faced a Commission eager to use the OMC to increase its competence significantly. This has left a bad taste in member states' mouth that led them to discard the idea of an OMC in this policy area without much debate. Some six years later, under the spur of pivotal member states and support from Commission, the policy on integration developed via a range of soft law instruments that together would look like a "quasi-OMC" (Carrera, 2008; see Chapter 2 for a full analysis).

1.2.In search of an analytical framework

1.2.1. Getting the framework right

A framework is not a theory, it is not a model either. "A framework identifies a set of general variables and relationships that should be studied in order to understand a particular phenomenon, but assigns no values to the variables and does not specify the direction of relationships between them" (Schuyler House and Araral, 2013:116). It is therefore necessarily broad and flexible so that it can be applied to different empirical realities. Most importantly, it ought to provide conceptual tools to organise and discipline the search for explanations, it helps finding the questions that are worth asking (Schapf, 1997:29). But it does not provide answers; these remain to be found with the support of

theories (that provide a more coherent set of assumptions) and models (representations of a more specific situation). This precision as to what a framework is is important here since it is under this framework that theories and models will be applied and tested. The framework is here a conceptual umbrella under which will be placed a series of assumptions drawn from different literatures.

Even though the member states committed to the development of a common immigration policy, the two-step approach envisaged by the Commission failed. Now, it is evident from the succession of events reported in the previous pages that the solutions envisaged at each step of the policy development are not the outcome of a result-driven approach to decision-making. To put it differently, the formal intergovernmental cooperation mentioned above and set up with the Treaty of Maastricht was not the best way to handle borders that would very soon be under strain; rather, considering divergences amongst member states and notably the most likely veto of Denmark and the UK, this was the most acceptable solution given these very divergences. In the same fashion, the creation of the AFSJ with the Treaty of Amsterdam, hampered by a transition period, does not seem to be the most desirable outcome but rather the most feasible one. Other examples could be listed, they would support, as the scholarship does, the fact that member states diverging preferences govern outcomes more than the EU's eagerness to tackle a problem. To use yet a different phrasing: we are not in a situation where the policy-maker is engaged in a "game against nature" but rather in a "constellation" of players in which they are engaged "in purposeful action under conditions in which the outcomes are a joint product of their separate choices" (Scharpf, 1997:5). Indeed, it would be erroneous to ignore institutions. Institutions, understood as "the rules of the game of a society, or, more formally, the humanly devised constraints that structure human interaction" (North, 1990:3), constrain actors' behaviour and orientate the strategies they wish to implement. The implementation of such strategies eventually define the outcomes. Hinich and Munger summarises this under the "fundamental equation of politics" (Hinich and Munger, 1997, cited in Hix, 2005:13):

Preferences + institutions = outcomes

When it comes to considering the immigration policy (until 2004) and its subset policy on integration of third country nationals (until the Lisbon treaty), actors' preferences are expressed in a unanimity decision-making framework, reinforcing thereby the importance of the states compared to that of the European institutions. The Commission is present and have somewhat of an agenda-setting power that is however limited, not to say ineffective (Franchino, 2007), by the possibility member states have to amend Commission proposals in the same way they have to adopt the final text (see Tsebelis, 2013:17)[1]. The Commission has therefore no hold on the legislation being eventually passed. If the Commission effectively wants the text to be adopted, its proposal needs to be agreeable for all member states. Formally at least, member states are plunged in a game in which each one of them can block any legislation (Tsebelis, 2001). Informal rules are likely to weigh too; they may even be more important than formal ones. Ostrom (2007:23) suggests that "rules-in-use" are often more influential than "rules-in-form". This may especially be the case in unanimity situations: who wants to be the one that breaks the consensus-seeking approach? The risk of being finger-pointed is high, especially in so-called repeated games; i.e. when the interaction between partners is repeated over time. A good example lies in Aus's analysis of the adoption of the Regulation Dublin II in February 2003 (Aus, 2008): the Regulation was clearly making losers given the way asylum claims were to be processed. Yet, nobody was ready to take the blame of standing in the way of adoption. Clearly, member states are not equal when bargaining; be that in terms of economic power or in terms of capacity to build up alliances (Cross, 2012). Each member states have the possibility to stop the passage of a piece of legislation nonetheless.

Bearing the foregoing in mind, I consider that the interaction between member states more than the search for objective solutions to tackle problems is the driver of decision-making. Who the actors are and what their strengths are remain to be seen. But it is clear that member states are placed in a bargaining situation in which they will try to have their interests prevail. I therefore start from an umbrella analytical frameworks that builds on Scharpf's actor-centred institutionalism (1997). I borrow from other literatures

[1] Tsebelis (2013:17) posits the "conditional agenda setting" power of the Commission under qualified majority voting given the fact the Commission proposes to the Council that is more difficult to amend than to accept: the Council vote at qualified majority but may only amend Commission's proposal at unanimity.

in order to come closer to the specifics of the policy under analysis, but these are placed under the umbrella of actor-centred institutionalism.

1.2.2. Scharpf and Actor-centred institutionalism

Actor-centred institutionalism is a framework developed originally by Scharpf and Mayntz in the 1990s', based on their prior empirical research conducted since the 1970s'. It has been first formalised in an article titled "Games Real Actor Could Play" in *Rationality and Society* in 1990 (Scharpf, 1990). The stance taken therein drew from game theory and its conceptualisation of interactions and advocated the applicability of such framework to the empirical world. Fort that very reason, it received criticisms from both sides: game theorists rejected the claim for empirical application; empiricists rejected game-theoretic assumptions for being unrealistic (perfect rationality, complete information and so on). In his book *Games Real Actors Play* (1997), Scharpf expands and underpins his approach throughout about 200 pages of theory and practical examples. To sum up the argument, Scharpf considers that policy outcomes are not the mere calculations on the best solution to do the job but rather the product of diversely constructed perceptions of the solution to a problem. These diversely constructed perceptions collide, coalesce, and confront with each other. Policy outcomes are the product of interactions between different actors that have a different view of reality, and consequently different preferences, and different capacities to enforce their preferences. These actors are not free to use whatever means to reach their purposes but, on the contrary, they are constrained by institutions. The lines that follow break down Scharpf's analytical framework in a set of concepts that are going to be useful for the rest of this research.

1.2.2.1. Why institutions matter

Like North (1990), Ostrom (2007) or Hinich and Munger (1997), Scharpf emphasises the role of institutions in shaping the courses of action envisaged by actors. Institutions place actors in a game in which interactions amongst players are organised. Actors therefore plan their sequence of moves and are given the possibility to anticipate other actors'.

What institution means however is always a thorny question: what are the rules? Should we consider only formal rules? Should we consider informal rules? What are those rules? A complete listing of applicable rules would be impossible but also inefficient. The law of nature is indeed a factor that limits individuals' capabilities. Should they be accounted for? Listing the rules that apply to a particular situation could range from international law to national labour law for instance, not to mention the bulk of informal rules that are likely to apply in a given context. Ostrom (2007) for instance considers a set of fixed institutions that weigh on actors' strategy. Scharpf opts for a more pragmatic definition of institutions. If he acknowledges the existence of formal and informal rules, he considers institutions as being the rules that are likely to produce causal effects in their concrete shape. As he puts it:

> "In our framework, therefore, the concept of the "institutional setting" does not have the status of a theoretically defined set of variables that could be systematized and operationalized to serve as explanatory factors in empirical research. Rather, we use it as a shorthand term to describe the most important influences on those factors that in fact drive our explanations—namely, actors with their orientations and capabilities, actor constellations, and modes of interaction." (p.39)

The institutional setting is therefore these most important influences that reduce the range of potential behaviours, a "common knowledge" that defines what is required from, prohibited to, and permitted to players. The added-value of including institutions in the game comes out clearer when the researcher considers handling collective actors. Whereas individuals act on their account, collective actors involved in policy-forming act on behalf of members, on behalf of a constituency, to say the least, but they are also institutionally constituted – they are "said to 'exist' only to the extent that the individuals acting within and for them are able to coordinate their choices within a common frame of reference that is constituted by institutional rules" (p.39). Institutions therefore constrain the range of possible strategies and outcomes; they define the relevant players and shape their appreciation of available outcomes. This has two main consequences: i) it limits the pretention to generalisation of the results of a specific research since there exists a wide range of possible combinations of rules; ii) they considerably limit the choice for plausible explanatory mechanisms to be tested.

That being said, a caveat is in order. If institutions greatly influence the definitions of relevant players, the array of options available, and actors' preferences, they do not determine choices and outcomes; actors do. Institutions may help the researcher to envisage the possible courses of action, but strategies to reach one's goal remain up to the intentional actor.

1.2.2.2.Actors, constellations and modes of interaction

Within the framework established by the institutional setting, actors seek to enforce their preferred outcomes. Not everyone is an actor though. When it comes to policies, one can consider there exist distant and proximate actors, not all being of relevance in the determination of the outcome. Scharpf thus advises to look first at the set of interactions that produces policy outcomes in order to identify the actual players whose choices ultimately determine the outcome.

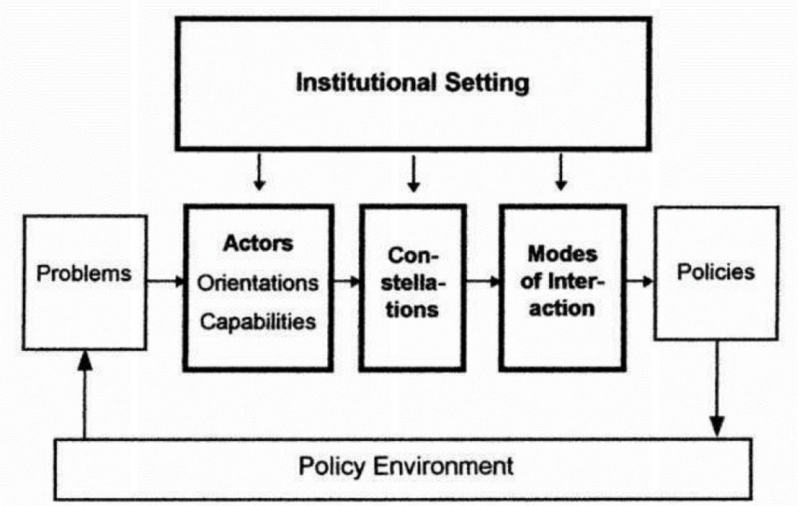
In Scharpf's terminology, "actors are characterised by their orientations (perceptions and preferences) and by their capabilities" (p.51). Actors are embedded in different contexts that shape their representations of policy problems and their idea of policy solutions. Out of these perceptions come, thus, preferences. In order to enforce their preferences, actors mobilise capabilities, resources of different natures that allow an actor to influence an outcome. Resultantly, I consider the actors to be the relevant players who, within a venue formed by specific rules, express their preferences in a bargaining situation with variable chances of success that depend on their capacity to enforce their preferences. Moreover, actors are not one-sidedly deciding the outcome they desire; they are inserted in a system of interaction in which other actors seek to enforce contrasting preferences, so that the outcome is far from being one's preferred result but is the joint product of individual choices. Only in rare occasions can a single actor get away with her preferred outcome unaltered.

In order to understand the game actors play, two other concepts are necessary: the concept of constellation; and the concept of mode of interaction. "Constellation" refers to an ensemble that encompasses "the players involved, their strategy options, the outcomes associated with strategy combinations, and the preferences of the players over these outcomes" (p.44). It is a static depiction of the interplay between the actors that matter for the policy outcomes under scrutiny. In a more dynamic fashion, actors in a

constellation engage with each other in accordance with specific "modes of interaction". They may be unilateral actions, negotiated agreements, majority votes or hierarchical directions to take some examples. These modes of interaction are indeed influenced by the institutional setting that, for instance, defines whether decision is to be taken by unanimity or by qualified majority voting (see figure 1.1 for a depiction of the articulation between institutions, actors, constellations and modes of interaction). Now, it is evident that member states, if we go back to EU policy-making, do not behave in the same manner when unanimity prevails or when majority is in order. Unanimity triggers logics of consensus-seeking. Either member states compromise to make sure the bill passes; or their relative positions are too distant (Tsebelis, 2001) and one member state, irrespective of its material capabilities[1], kills the bill.

These two concepts somewhat depart from game-theoretic conventions but are actually further specifications for its application to the empirical world. Constellation together with the mode of interaction make up what game theory simply calls the "game". Non-cooperative games for instance are those in which the mode of interaction consists in unilateral actions whereas a decision at the unanimity translates in a negotiated agreement which is already what game theorists call cooperative games.

Figure 1.1 - The domain of interaction-oriented policy-research according to Scharpf.



Source: Scharpf, 1997:44

[1] As Scharpf argues, there are different kinds of capabilities, one of which flows directly from the institutional design. Institutional capabilities for a small member state, say Slovenia, are much greater under unanimity (in which it weighs as much as any other member states, at least formally), than under qualified majority (in which, at least until 2014, it has 4 votes out of 352). Differently, material capabilities may refer to items not directly related to the institutional design such as GDP and the likes.

1.2.2.3.A point on composite actors

The study of policy assumes that actors are intentional. This is little debatable in the sense that policy is a matter of choice to act that is little reconcilable with the idea of institutional permanence. Institutions do not undertake policies, actors do. The most obvious objection that comes to mind when considering the application of actor-centred institutionalism is that, in the end, everything comes down to the individual actor. The individual actor is the subject of choice. Not the European Commission, or the national government, but people that make up these "composite", "aggregate" or "collective" actors. It seems therefore difficult to attribute preferences to these actors or to hypothesise their behaviour without going down to the individual. First, I ought to make a distinction between the one and the other. For the sake of clarity, I will cling to a distinction between two categories: aggregate actors and composite actors.

Aggregate actors are to be understood as aggregate of individuals or group of individuals that do not feature structured coordination characteristics. Public opinion is an aggregate actor in the sense that individuals that make it up are not coordinated in anyway, or they may be but not as such. Civil society organisations (CSOs) is another. If they necessarily display structured coordination within, they do not between: one organisation is internally organised and may speak with a single voice; considered together, these organisations are not coordinated. Nonetheless, one may speak of public opinion or CSOs because, irrespective of individual characteristics or preferences, their utility functions may be similar, they can be "modelled as responding in a predictable fashion to the moves of (individual or composite) actors that are capable of strategic action" (p.54).

As for composite actors, unlike aggregates, their action is supposed to be coordinated and the individuals that compose the whole aim at reaching a common position for a common purpose. It makes therefore a lot of sense to hypothesise a composite actor's intention. Indeed, the possibility of exiting a whole always exists, especially if we deal with governments and coalitions. It remains that concerted action remains actively sought.

1.3. Further specification of the framework: the consequences of unanimity voting

After having acknowledged the role of the actors, the purpose of this section is to fathom the consequences of unanimity voting on policy design. I further assume that the output of the decision making process greatly determine implementation afterwards.

1.3.1. The permanence of unanimity voting

Now that I have laid the framework for the overall understanding of this research, some further specifications are in order. Actors interact in a framework that is in a significant measure determined by institutions. Of particular interest here is the institutional setting inherited from the Treaty of Amsterdam that placed legal immigration (and in a way integration of third country nationals) under the unanimity rule. As established in the first pages of this chapter, the shift towards majority voting, that should have taken place after the pillarisation of immigration policies and the Council Decision that was supposed to end the 5-year transition after which the preserved unanimity voting was to be changed to QMV, did not occur[1]. Consequently, the mode of interaction that organises member states' interaction when it comes to integration measures is that of negotiated agreements. This, I argue, has dire consequences on the overall development of a policy domain (see notably Chapter 2 and 3). As Moravcsik (1998) argued, pooling sovereignty can be regarded as a way to increase the credibility of a commitment. Since member states entering in a contract (treaties) may be incentivised to defect from their commitment, delegating powers to the EU through providing measures be adopted by qualified majority voting reinforces member states commitment since they give away some of their sovereignty. Here, this shift did not occur. Since treaty delegation is weak, the implementing acts stemming therefrom are likely to leave great discretion to member states and little space to the Commission (Franchino, 2004; 2007). I have established in the beginning of this chapter that it has been the case for the few Directives adopted in

[1] At least not until the treaty of Lisbon entered into force.

the first years following the entry into force of the treaty of Lisbon. In this section, I argue that this likely affected the unfolding of the EU integration policy in the same manner. This section fleshes out this basic assumption mobilising different theoretical frameworks.

1.3.1.1. Unanimity and its implications

The rational choice literature proves relevant to help grasp the game at play. Early rational choice scholars such as Buchanan and Tullock (1958) held that, where transaction costs are negligible, unanimity voting is most desirable since a change in the status quo would always be a Pareto improvement: any rational actor called to decide will assess the possible consequences of her actions and ensuing payoffs. In the case the actor is called to cast a vote under unanimity rule, it has all the reasons to voice its consent or disagreement as a dissident minority cannot be imposed an alternative that it does not accept, unlike it may happen under majority voting. The self-interested actor would not agree unless the expected payoff is more attractive than the costs entailed. In Tsebelis's words, all actors become veto-players, "actors whose agreement is necessary for a change of the status quo" (Tsebelis, 2001:36). Consequently, what matters is member states' respective preferences (and distance between them) each time a vote is called for. If the status quo is closer to any member state than the policy proposal is, then the probability the text is rejected increases. In spite of diverging preferences, it is not rare to see the Council agreeing on a legislative piece that requires unanimity of its members.

1.3.1.2. Consensus through imprecision

That is, there exist different ways to reach consensus even where preferences are distant. One consists in moving the agreement towards the "least common denominator" (Tsebelis, 2013:14). Resultantly, whole areas may not be dealt with in the final decision, or the restrictions provided for by the final decision may be reduced and become more flexible offering thus wide margins of interpretation. Imprecision results in an incomplete contract that, to use delegation theory's terminology, the agent will have to fill in (see *inter alia* Kassim and Menon, 2003).

Another way to achieve consensus, although not exclusive of the first one, consists in overcoming distant substantive preferences through proximate procedural preferences or, put differently, through the institutional design of the policy under consideration. Actors might not agree on goals, but they may agree on methods (Kassim and Le Galès, 2010) more easily. One way or another (or both combined), reaching consensus when the voting rule is unanimity is likely to have consequences on the effective delegation of competence.

1.3.1.3. Delegation theory

The delegation literature delves into the relationship that connects a principal to an agent. The principal delegates some competence to the agent in order to decrease the transaction costs of permanent bargaining, information and expertise gathering, or else enforcing agreements (see Kassim and Menon, 2003 for an overview). Who is the principal and who is the agent changes throughout the policy phases: transferring further competence to the EU (treaty delegation) places member states in the shoes of the principal (see notably Moravcsik, 1998; Pollack, 1997), and the Commission in the agent's; transposition of Directives reverses the roles (executive delegation, see Franchino, 2007). Delegation is no straight forward process in that the agent may have its own preferences and find incentives to shirk from the task it was endowed with; or the agent may even be ill-selected (what Lupia, 2003, calls the "perils" of delegation). For this reason, delegation is a matter of high stakes with at its centre the questions to whom delegate power and how much power should be delegated.

Franchino (2007) proposes an interesting theory for the explanation of delegation that shall prove most relevant for the framing of my work, even though it is considerably simplified given the scope of the present research. If Franchino's model regards the delegation of executive powers via the design of EU laws, mine considers a single policy realm, ruled by a single mode of interaction; unanimity[1]. It remains that some of the assumptions made in Franchino's book are applicable here and help the understanding of my work. He considers that executive delegation through EU law operates a twofold choice: on the one hand the bill delegates implementation either to the Commission or to

[1] The treaty of Lisbon ended the unanimity voting rule. The scope of this research however does not cover policy outputs adopted after its entry into force.

the national administration; on the other hand the very same bill grants more or less discretion to the chosen policy implementer. This delegation game is played through a series of factors, namely: i) decision rules; ii) conflict within the Council; iii) conflict between the Commission and the pivotal government; iv) policy complexity. When it comes to unanimity voting, Franchino shows that the most likely outcome consists in delegation to national administration, with sizable discretion.

1.3.2. The policy-politics nexus

It is beyond doubt that the policy-making process has a huge impact on the shape a policy is to take; to put it differently, politics determines policy. A very interesting point raised by Franchino (2007) is about the likely impact of decision-making rules onto the policy design for further implementation (see also Franchino, 2004), a point that has been partly explored by the literature on policy instruments. In a nutshell, the literature on policy instruments posits that policy design defines the actors that are going to matter in the implementation. As Salamon puts it (2000:1627-1628),

> "the choice of tool is often a central part of the political battle that shapes public programs. What is at stake in these battles is not simply the most efficient way to solve a particular public problem, but also the relative influence that various affected interests will have in shaping the program's post-enactment evolution".

Kassim and Le Galès (2010) underpin the idea and hold that the choice for a tool is not guided by the best option to do the job but, rather, such choice disconnects policy instruments from political goals, upholding the principle whereby "actors find it easier to reach agreement on methods than goals" (2010:8; see also Dehousse, 2005; Radaelli, 2010). This is an extension of the thought introduced in early political science by Lowi that "policy determines politics" or that to each type of policy corresponds a diverse venue of power, a different network of actors, a different decision-making process (see Regonini, 2001:388).

Since the tool chosen determines the actors that are going to be involved in the implementation, such choice is highly political. We thus observe a cycle that consists in

the aphorism: politics determines policy that in turn determines politics. The tool opted for may associate to the implementation process a wider or narrower range of actors, bearing in mind the association of actors place them in interdependence and as such, "no single actor, including the state, can enforce its will" (Salamon, 2000:1631). This point is of great relevance for Chapter 4 and 5 of this dissertation.

1.4.Conclusion

The development of an EU immigration policy has beaten a winding road. From an intergovernmental framework marked by the development of the Schengen area, the competence fully fell within the EU framework some 15 years later with the adoption of the treaty of Amsterdam. Going through the different steps of such passage reveals that the main policy driver has never really been (at least not only) a response to a given problem but rather the manifestation of diverging preferences to answer a common issue, thereby emphasising the role of actors and reducing the importance of functionalist explanations. Accordingly, I establish that the most relevant analytical framework for this research is that of actor-centred institutionalism as developed by Sharpf (1997). It posits that actors are the subject of actions and actors undertake policies. Actors however most often do not decide on their own when it comes to policies. They are placed in a constellation with other actors, who may have different preferences, different resources but the same will to take action. Preferences may thus collide, rendering the outcome of a decision process uncertain. The expression of such preferences within a constellation of actors is not free of rules though. On the contrary, interactions are located within institutions, they are constrained by rules, ways of doing things that structure human interactions. For most of the timespan in which the EU integration policy unfolded, such rule has entrenched policy developments in unanimity voting. Unanimity voting places each concerned actor in the capacity of blocking the adoption of a bill. It is likely therefore that, in consensus-seeking logics, agreement be attained through less constraining provisions, which in turn may hamper implementation of the very same bill. This first chapter develops this series of arguments in order to provide a framework, both analytical and theoretical, for the overall understanding of the four chapters that follow, starting with the genesis of the policy at EU level (Chapter 2).

Chapter 2: Explaining the genesis of a policy

With the adoption of the Amsterdam treaty and the intent to build up an Area of Freedom, Security and Justice (AFSJ), immigration matters passed from the third pillar to the first one. We saw in Chapter 1 that such change lacked of substantial meaning in the sense that policies would still be adopted under the unanimity rule. Nonetheless, important institutional changes occurred. The Commission, which formerly had a small Justice and Home Affairs unit, was henceforth endowed with a Directorate General Justice and Home Affairs[1] (JHA), a properly staffed division that would be able to work out a European policy, make proposals and so forth. Integration was not into focus right away but, as new JHA Commissioner Vitorino joked about his own height "I'm a little man and I take little steps forward" (The Economist, 2001), the policy would start out with little and grow wider with the passage of time.

The first steps longed to be taken despite the early commitment made at Tampere[2] in 1999. The Commission first put forth a set of proposals responding to the Tampere milestones to the letter, and focused on Directives for an approximation of migrants' rights with that of European citizens. Proposals for family reunification, long-term resident status, and fight against discrimination were submitted to Council scrutiny. The legal framework against discrimination did not take long to be adopted. The so-called racial Directive was given the green light in 2000, in a particular conjuncture that saw Jorg Häider within a coalition government in Austria, spurring the French and the Germans to advocate the Directive's early adoption (Guiraudon, 2003). In addition, this Directive revolved around racial discrimination and was not initially or formally designed for discrimination on nationality grounds. The two other Directives, more targeted and

[1] The name of which will change over the years.
[2] European Council, 1999.

perhaps more visible too, took up to four years of heated negotiations before being adopted (see Chapter 1). It ought to be said too that the main focus at the time, since the Trevi group and the Schengen agreements (see Chapter 1), was security- and borders-oriented (Bigo, 1996; 2002; Guiraudon, 2003; Duez, 2008). But a wedge was already driving into the block: under the guise of the fight against social exclusion, integration of third country nationals would progressively make its way onto the EU agenda.

This chapter traces back this process and identifies the mechanism at play. I argue that the meeting of three elements allowed for an EU integration policy to emerge. Firstly, beyond a mere legal requirement, proceeding through soft law was a necessary condition to joint action. Secondly, the issue reached the EU agenda under the spur of three member states that held the Presidency of the Council and that, for a reason or another, were eager to upload their preferences. Thirdly, the Commission played an essential role in developing the policy but within the margins set by the member states. That said, the Commission displayed significant energy in carving out a role for itself in integration matter, confirming its role of purposeful opportunist. These three elements together allowed for an embryo of a policy that would grow in breadth.

This chapter consists of four sections. The first section (2.1) brushes the traits of a specific context, favourable to the creation of a European policy for the integration of third country nationals. The second section (2.2) formulates and formalises the causal mechanism that explains the passage of the policy to the EU. Section three (2.3) moves to the empirical evidence, designates the main actors and fleshes out the causal mechanism with facts. It also shows how the Commission gained momentum for the creation of a sounder integration policy, embodied by the adoption of the European Integration Fund. Section four provides elements as to the method employed, borrowed from case studies and process tracing, and the data used[1].

[1] In order to avoid any confusion between academic references and data collected for the purpose of this chapter, references to the latter are made in footnotes.

2.1. The opening of a window of opportunity

2.1.1. Colliding paradigms: security vs. inclusion

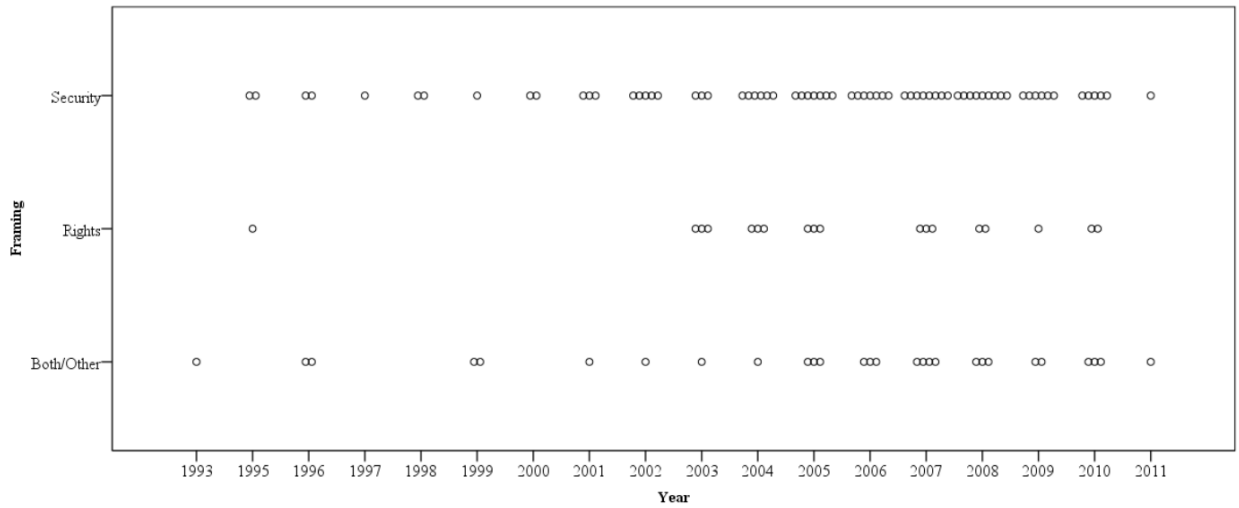
2.1.1.1. The securitization of migration

The common immigration policy was developed in a climate dominated by security concerns (Bigo, 1996; 2002; Guiraudon, 2003; Duez, 2008) so that immigration and migrants were socially constructed as a security question, "reifying migration as a force which endangers the good life in west European societies" (Huysmans, 2000: 752). The establishment of an area of free movement under the EU framework and the prospect of a further enlargement to Eastern and Central Europe pushed for more formal police cooperation (reinforcement of Europol, implementation of Eurodac, development of Schengen Information System II) and border control. Borders were especially important since the full inclusion of Eastern and Central European states would eventually push further the borders of the EU; it was therefore important for them in order to join the Schengen area that they be able to secure their own (hence European) borders. From there, it becomes evident that more cooperation but also legal integration of a competence was in order. Even before the entry into force of the Treaty of Amsterdam, the Justice and Home Affairs Council fixed the priorities for the effective construction of the AFSJ (JHA Council, 1999). The terrorist attacks on the Twin Towers on 11 September 2001 did not help shift the focus (Urth, 2005; Heidbreder, 2014). Despite Commission's initiatives in the field, governments brought further transfer of competence to the EU to a halt: no follow-up to the Tampere milestones was done; the Laeken Council conclusions in December 2001 did not even mention integration[1], and the proposal for an OMC in 2001 did not make it to the Council. Until 2003, the only clear achievement was the racial discrimination directive that was not even directly linked to integration, nor was it belonging to Title IV (i.e. immigration). Figure 2.1 taken from Heidbreder (2014:7) shows the distribution over time of immigration-related measures according to three

[1] European Council, 2001.

types[1]: security-oriented, rights-oriented, and a catch-all category for the remainders[2]. These three categories account for respectively 60.3, 15.5, and 24.1% of the total number of measures.

Figure 2.1 - Policy measures by policy types on migration over time.



Source: Heidbreder, 2014:7

The securitization of immigration is a phenomenon that dates back to the 1980s'. Before that, western European states observed a rather permissive immigration policy in order to fill the gaps of their labour markets (see below). In the 1980s however, the phenomenon was increasingly framed in terms of protection of the public order and preservation of domestic stability. As Huysmans (2000: 757) argues,

> "[t]he development of security discourses and policies in the area of migration is often presented as an inevitable policy response to the challenges for public order and domestic stability (…). But this limited interpretation reflects how security practices actually affect social relations. They are also defining practices which turn an issue like migration into a security problem by mobilizing specific institutions and expectations".

[1] The three types include all EU measures but especially: treaties, secondary law, and soft steering measures.
[2] Since the three categories encompass primary law, treaties are classified in the catch-all category for instance.

To put it differently, the policy is not only a solution to a problem; it also creates or frames it. The link created between terrorism and immigration by the Convention Applying the Schengen Agreement contributes to framing the regulation of migration as a security matter (Bigo, 1996). In the same fashion, member states' representatives in Council meetings were mostly ministers of the interior and the prevalent priority was securing the borders.

That being stated, a European policy for the integration of third country nationals was brought to bear, slowly but surely. From nothingness, it reached a consistent body of instruments that together formed a "quasi-OMC" (Carrera, 2008:6), despite the actual proposal for an OMC of 2001 was rejected.

2.1.1.2. The fight against social exclusion

At the same time and perhaps even earlier, existed the paradigm of social exclusion. As Murard (2002:41) puts it:

> "'Exclusion' is not a concept rooted in the social sciences, but an empty box given by the French state to the social sciences in the late 1980s as a subject to study… The empty box has since been filled with a huge number of pages, treatises and pictures, in varying degrees academic, popular, original and valuable".

Appeared in France as a policy problem in the 1970s' with Gaullist Minister René Lenoir, in a first moment mainly designating the victims of the economic crisis and increasing social inequalities, the concept of social exclusion rose to the point of becoming a European paradigm, embodied by the treaty of Amsterdam, article 137 TEC. The European enthusiasm for social exclusion was first manifested through the fight against poverty initiated with a first programme for the years 1975-1980 (Mathieson *et al.*, 2008). If a second such programme took on the fight against poverty, the third one observed somewhat of a shift in terminology towards social exclusion, despite it being nicknamed "Poverty III" (Vanhercke, 2012; Mathieson *et al.*, 2008). The succession of anti-poverty or social inclusion programmes created momentum for the introduction of article 137 TEC with the treaty of Amsterdam (Vanhercke, 2012). The Commission, and more specifically DG V (Employment and Social Affairs), seized the opportunity to associate

migrants to populations at risk of exclusion, if not already excluded, and provided actions be taken by NGOs via its "Preparatory Measures to Combat Social Exclusion 1998" (European Commission, 1998). Within the frame of this generally favourable context for social inclusion, member states' agendas unfolded in a compatible way that would end up in a European agenda for integration.

2.1.2. Integration is in the air: developments at national level

The first steps for a Europeanised integration policy took place at a time when member states were 15. At least half of them had a similar immigration history and were on the brink of designing systematic integration policies[1], notably in the United Kingdom, Germany, France (Schnapper, 1994), Austria (Wischenbart, 1994), Denmark (Mouritsen and Hovmark Jensen, 2014), Belgium (Mandin, 2014) and the Netherlands (Fischler, 2014). From concern to actual action-taking, these states moved at different paces, with ahead of the group Denmark[2] and the Netherlands.

After the Second World War, most western European[3] countries resorted to immigration to fill the gaps of their labour markets. Most of them followed a model similar to the German's *GastArbeiter* (guest worker; see Rubio-Marin, 2004) or to colonial workers (Castles *et al.*, 2013): importing workforce on a temporary basis to meet the countries' needs of the moment (Hollifield, 1992; Penninx, 2014). Throughout Western Europe, single males or males without their family were hired through institutional channels[4]. When the oil crisis hit in the 1970s', these states sought to stem influxes of workers and send their guests back through voluntary repatriation schemes. Contemplating a temporary phenomenon becoming permanent, and given the blatant failure of repatriation schemes, those states had to envisage legal devices to organize

[1] In actual facts, almost all 15 member states had already taken action on integration by 2003. For more information see Annex 1 of COM(2003)336 final.
[2] It is interesting to note in this respect that the first person that ever worked on integration in the Commission's DG Justice and Home Affairs was not a Commission official a national expert from a Danish Ministry detached to the Commission.
[3] Note that in some instances, most foreign workers came from the then European periphery: southern European states such as Italy, Greece, Spain, Portugal, Ireland, Finland, or else Turkey and Maghreb countries (Castles et al., 2013). These imports of workforce were mainly organised through bilateral agreements between single European countries (Germany, Belgium, the United Kingdom, the Netherlands) and the supplier countries (Guild, 2001).
[4] See the German *Bundesanstalt fiir Arbeit* for instance or the French *Office National d'Immigration.*

foreigners' stay, notably *de jure* family reunion, which would in turn mark the failure of influxes stemming. Soon, rising concerns as to immigration in the face of cultural diversity begged the questions of national identity and integration. Those started to gain public attention mostly in the 1980 - 1990s' (Schnapper, 1994; Wischenbart, 1994; Mouritsen and Hovmark Jensen, 2014; Mandin, 2014; Fischler, 2014; see also Zincone *et al.*, 2011).

The United Kingdom had been undergoing riots in the most multi-ethnic cities in the 1990s' and especially in the Summer 2001, prompting a debate aiming at creating sentiment of Englishness, common elements of nationhood (Cantle, 2001). The terrorist attacks in the US in September 2001 further crystalized the issue around the presence of Islam and soared its relevance in the New Labour political agenda (Kundnani, 2012; Van Wolleghem, 2016). From a debate framed in terms of race relations and fight against discrimination, the UK started a policy turn towards more cultural integration from 2002 onward (Schain, 2010).

In France, the issue has been on the agenda for a long while with the emergence of the debate on national identity in the 1980s' (Schnapper, 1994; Thiesse, 2001), brought back about by President Sarkozy in 2007. Institutionally speaking, a High Council for Integration (*Haut Conseil à l'Intégration*) was created as soon as 1989 and was vested with the task of advising the Government on integration issues. It actually contributed to the design of a French Republican Integration model (Carrera, 2009:311). Immigration, integration and national identity were given a ministry under Sarkozy's presidency of the Republic in 2007. Notably, the ever louder voice of the National Front on the national scene from the 1980s' onward contributed to the emergence and permanence of integration on the agenda, worded in terms of "integration crisis" (Favell, 2001; Noiriel, 2006). The unexpected rise of the National Front in the presidential election of 2002 politicized the already salient issues of immigration and integration, notably with regard to Muslims present on French territory (Carrera, 2009).

Germany, quintessence of a *ius sanguinis* tradition, saw in 2000 a deep reform of its 1913 nationality law, liberalizing nationalization to those that are not of German ancestry, despite strong anti-immigrant sentiment in the population (Morjé Howard, 2008). The automatic granting of nationality to *Aussiedler* (ethnic Germans) that would however barely (if at all) speak German or share cultural traits, and that would need costly integration courses, was becoming ever harder to justify in the face of German-born, yet

non-nationals, for whom there was no legal possibility to become German. German-born Turks for instance would often speak fluent German, study and work in Germany without ever having the possibility to apply for citizenship. It is with the SPD-Greens Schroeder government in 1998 and with, in sight, the idea to guarantee integration be possible that the reform of nationality law was heralded and carried out, under the criticisms of the CDU/CSU opposition. Differently, integration measures were carried out mostly by employers, Länder and NGOs, even though the central government placed financial means at disposal (Sussmuth, 2009).

Pretty much like the other countries already mentioned, the issue of integration into Belgium society emerged in the 1980s' when migrants were still quite seen as temporary stayers (Mandin, 2014). Similarly to Germany, the first initiatives in this domain did not come from the authorities but rather from private actors such as labour unions and migrant associations until a set of law was passed in the 1980s', reforming nationality acquisition on the one hand, conferring the competence on integration to the Communities on the other (Mandin, 2014). The creation of a Centre for Equal Opportunities and Opposition to Racism in the 1990s', in charge of combatting discrimination and facilitating social inclusion, further institutionalized integration. Integration in Belgium is a matter that have attracted soaring attention with the steady increase of electoral successes of the Vlaams-Belang in Flanders over the past 30 years (Petrovic, 2012), an attention that crystalized around Muslims in the aftermath of the terrorist attacks on the Twin Towers in the US (Mandin, 2014).

Similarly, migration reached the Austrian political agenda in the 1980s', mainly pushed and politicized by the ascent of Jörg Haider's FPÖ and, to a lesser yet significant extent, the Greens (Kraler, 2011). The advent of the end of the 30-year long Grand Coalition in Austria with the entry of the FPÖ in government in February 2000 pushed further immigration and integration issues on the agenda. Despite the resignation of Haider at the head of the FPÖ under the sanctions of the other 14 EU member states, some of the measures foreseen in the 2000's coalition programme were put forth in the July 2002's reform.

In Denmark and the Netherlands (see next section for more), the issue of integration has been occupying successive governments' agendas and the public attention from the 1980s' onwards and became rapidly a pivotal issue in politics.

As can be seen from the foregoing, the climate was gently pushing integration to the edge. The adoption of the treaty of Amsterdam created a remote policy competence, the development of which has revolved around security and border controls in the aftermath of the terrorist attacks on the Twin Towers in 2001. But integration at national level had already taken consistent steps and was on the agenda of half of the member states of the then EU-15. At EU level though, the priority was still internal security. A quick look at the composition of the Justice and Home Affairs Council meetings held from 1999 to 2002 shows an overwhelming representation of national Ministries of the Interior and Justice. Two exceptions are Sweden that sent a Minister with a wide and vague portfolio (so-called "Minister for International Development Cooperation, with responsibility for Migration and Immigration") and, most importantly, Denmark that from 2001 and the formation of the new government sent a Minister for Refugees, Immigration and Integration. When Denmark took up the Presidency of the Council of the European Union, it took a leap forward to place the issue on the European agenda. And Denmark pushed for it; a move that would gain momentum through the succession of three Presidencies almost one after another over a short time-span and that were eager to anchor integration on the EU agenda.

2.2. Soft-Europeanisation and upload of preferences: a causal mechanism

The fact that integration was dealt with at national level in most EU countries at the time was evidently not enough for it to become an EU policy. Being linked to legal immigration, and border control; in a word, to sovereignty, the issue was still sensitive and not prone to harmonisation. The creation of an EU policy on immigration, one of the most unlikely policy to be Europeanised (Faist and Ette, 2007), laid the first stone towards the possibility of an EU role in the integration of third country nationals. This convergence between institutional and situational elements created a fertile ground for further development. But there was still a long way to go from there to the solid anchorage of integration on the EU agenda.

This section argues that the mechanism that took the policy to the EU sphere can be defined as soft Europeanisation. To paraphrase the opening line of Exadaktylos and

Radaelli (2012: 17), "Europeanization is like one of those bumblebees that seem to defy the laws of aerodynamics, yet they fly". The acceptation of Europeanization has been widely debated in the literature since the late 1990s' and its definition remains fairly open still today (Radaelli, 2003b; Bache 2005; Caporaso, 2007; Richardson 2012). Most of the time[1], it refers to a top-down logic, assuming the top is the EU and the bottom is the member states, and describes the effects of EU membership onto member states (Featherstone, 2003). Another approach considers Europeanisation in a more bottom up fashion, examining the role of member states in setting the agenda and making policies at EU level (Richardson, 2012). In a seminal article, Börzel (2002) links the two approaches. She posits that, in order to reduce the costs of implementation of EU outputs, member states are incentivised to upload their domestic policies to the EU level. In doing so, they reduce the adaptation effort to be produced at a later stage. Member states thus compete (however with different resources and therefore different strategies) to have their policies adopted at EU level. In a similar, yet different, manner, Radaelli (2003b: 30) defines Europeanisation as being

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

Europeanisation is here understood as a circular process of co-construction of norms that goes up to the EU sphere before coming back down in the domestic environment. This in turn should feed in the process of co-construction of norms and so on.

In Radaelli's as in Börzel's conception, there is room for member states trying to upload their policy preferences, although more evident in Börzel. But whilst Börzel's analysis revolves mainly around legal acts such as Directives and Regulations (mostly regulatory policies), Radaelli mentions public policy as a whole, therefore inclusive of less legally binding policy instruments. This is a notable difference for the case I am

[1] I here make abstraction of the studies dealing with the divide neofunctionalism-intergovernmentalism that occupied a good deal of the discourse prior to the studies framed in terms of Europeanisation. Previous studies were concerned with the emergence of a European polity and, indeed, proceeded in a bottom-up fashion.

dealing with since the EU competence in matter of integration of third country nationals was null at the time. As a consequence, the most likely way EU norms could be adopted was resorting to soft law, which considerably decreases the costs of further implementation, especially when there is no evaluation, benchmarking, or reporting activities.

Although these two definitions are clearly relevant for the case at hand, I am in this chapter more concerned with one phase of the process of Europeanisation: how a national policy becomes, to some extent, an EU policy; how the EU obtains a say in a policy field from which it is *de jure* excluded.

I argue in the remainder of this section that the mechanism in question puts on stage the interaction between: i) a necessary condition; i.e. the soft provisions deriving from the institutional context increase the acceptability of EU instruments at EU level; ii) a sufficient condition; i.e. the preferences of the member states holding the Presidency of the Council eager to push the issue on the EU agenda; and iii) an intervening (or facilitating) factor; i.e. the readiness of the Commission to occupy a policy space without ever treading onto member states' exclusive competence.

2.2.1. Soft law: a necessary condition

Soft law is a set of non-binding provisions supposed to guide behaviours. To take a more formal and classic definition, soft law is a set of "rules of conduct which in principle have no legal force but which nevertheless may have practical effects" (Snyder, 1993: 198). At EU level, soft law is a way to organise cooperation in realms where the treaty base for action is thin or inexistent or where interests are diverging and no agreement other than that can be reached (Radaelli, 2003; 2008). The Open Method of Coordination (OMC) has been a popular tool to make member states pursuing similar goals without resorting to harmonisation (see Chapter 1 for a description; see also Borras and Jacobsson, 2004; Kröger, 2009). Applied to immigration though, it blatantly failed (see Chapter 1; see also Caviedes, 2004; Vellutti, 2007). The OMC is not just soft law; it implies reporting activities, benchmarking achievements against European counterparts, evaluation of the measures taken and so on. It is not so light a structure (see also Bourdrez, 2010). In order for member states to be willing to work together on the topic, the policy approach was to

be necessarily softer. This is notably corroborated by *Interviewee*. She holds that what eased cooperation at EU level was the fact that there was no compulsion whatsoever, member states could literally sign up something without ever having to implement it. The very nature of this sort of cooperation made it acceptable for member states to discuss the matter in the EU sphere.

2.2.2. Member states' preferences and the role of the Presidency: the sufficient condition

The passage from national agenda to the EU agenda is a matter of political activism from specific actors that wish to sell their policy to other actors (Elgström, 2000; Princen, 2007). Of course, such activism does not necessarily pay off since policies or national agendas are in competition with others and not all of them successfully land on top of the EU political agenda. In the case of migrant integration, member states are key actors when it comes to place their concerns on the EU agenda. Since the Commission had no competence on the matter, it did not have the monopoly of the initiative, and since the Commission did not have a conditional agenda-setter role because of the application of the unanimity rule (Tsebelis, 2013; see also Chapter 1), member states were to be the most likely agenda-setter candidates. In the context of an inexistent EU policy and in the absence of a clear legal basis, there was little chance to see integration rising ranks in the EU agenda. That said, Presidencies of the Council played a significant role in this regard.

The Presidency of the Council was initially established for functional motives and to ensure political continuity (Wallace, 1985). Functional because someone had to attend to the Council's business organization and Council meetings needed to be chaired. As for continuity, rotating Presidencies allowed for negotiations to keep going over time and organized better horizontal coordination. For long, it has been regarded as an "office without power", a mere mediator or administrative manager (Tallberg, 2003: 1). Tallberg (2003) however questioned this restricted role, notably by operating a distinction between agenda-shaping, agenda-setting, agenda-structuring and agenda exclusion. The Presidency may not conform to the traditional acceptation of agenda-setting; but it can surely influence it via a rich repertoire of means at its disposal. Tallberg thus introduced the notion of agenda-shaping, covering the capacity to set the agenda (agenda-setting), to

structure it (agenda-structuring) and to exclude some issues from being treated (agenda exclusion). All three are mutually exclusive modes the Presidency can resort to in order to shape the agenda. The main contribution of Tallberg though is not so much the conceptualisation of different means of power but rather (at least for our purpose here) the rupture with the conventional wisdom that would look at the Presidency as a merely functional body. Christiansen (2006: 151) corroborates; he argues: "the Presidency is anything but an innocent functional creation", it grants individual governments holding it the possibility to prioritise certain issues and manage the EU agenda accordingly. This does not guarantee success for the member state in question insofar as the agenda is also sensitive to exogenous events (specific crisis, as for instance the 11 September 2001) or long-term goals (accession of the Central and Eastern European Countries) or to the influence of other member states; but this opens an opportunity to the Presidency top push forward its preferences.

In the case at issue, Presidencies were successful in transferring their preferences to the EU level. Why is it so? As stated already, the topic is sensitive. So why is it that member states agree that one of them places the issue on the agenda? This, I argue, is due to the necessary condition. The fact that any initiative in that domain necessarily consists in soft law, member states have the possibility to adopt a text without ever having to give effect to it. Considering that there exists a culture of consensus within the Council, even when it comes to sensitive issues such as immigration-related ones (Aus, 2008), it is oftentimes difficult to stand out and refuse a text. If the text at issue is soft law, then no member state has interest to break the informal consensus rule for a text that it will not be obliged to implement eventually[1]. Resultantly, the chances of success of the member state proposing the issue be coordinated at EU level are considerably increased.

2.2.3. The circumscribed activity of the Commission: an intervening factor

[1] Another element that probably entered into play along with the fact that law was to be soft is the fact that Council's meetings were made up of representatives of ministries of the interior mostly (except for Denmark and Sweden in the fist place; see Section 2.1) with interests allegedly lying with security and border controls more than with integration.

Once the member states place the issue on the agenda, the Commission has to give effect to the decisions made in Council's instances. As well established by the literature, the Commission has the ability to play the policy entrepreneur (Hooghe, 1996; Cram, 1997). It is decisive that the Commission remains within the boundaries of its role, exploiting the margins to a reasonable extent without reaching too far, in which case the issue could get off the agenda (the failed OMC in 2001 or some of the Directives rejected as seen in Chapter 1 are good examples). This condition is indubitably linked to the soft-law condition referred to above. Importantly though, the Commission has managed to remain within the boundaries of acceptability established by the member states but also managed to gain momentum to develop a sounder integration policy, notably via the creation of a fund for integration. If the OMC was refused in 2001, the policy as it stood in 2007 was featuring all the aspects of one.

2.3. Methodology: case study and the use of process tracing

Case studies

In order to highlight the mechanism at play in this chapter, I borrow from case studies and process tracing methods. As Vennesson (2008: 229) argues, case studies are comprising of three different acts that cannot be analysed separately. Taking on Bachelard's theory of science, he argues that the scientific fact must be conquered, constructed and observed (*conquis, construit, constaté*). It is conquered when a break with the immediate experience is consumed; when the question "what is it a case of?" is answered. It is constructed with the effort of theory construction. And it is observed when the researcher departs from assumptions to find evidence.

The first two acts appear evidently in the chapter. The rest of this section therefore concentrates on what is borrowed from process tracing methods and the data used to find evidence of the mechanism at play.

Process tracing

As Checkel (2005: 3) simply put it:

> "invok[ing] process is synonymous with an understanding of theories as based on causal mechanisms. To study such mechanisms, we must employ a method of process tracing. But – and here is the punch line – this is not easy."

Using process tracing implies a thorough description of contextual elements shedding light on the phenomenon under study.

The empirical part of this chapter aims at tracing back the causal process that led an unlikely EU policy onto the EU agenda. Following Mahoney (2010; see also Collier, 2011), I rely on mechanism causal-process observations. Starting from the literature on the construction of the immigration policy at EU level (Chapters 1 and 2) and EU policy-making, I hypothesise the role of a given range of influential actors (and their preferences) in the policy process and try to shed light on the causal mechanism behind it. I notably test the hypothesis that between the moment the policy was first introduced as an EU goal (in 1999) and its actual anchorage on the EU agenda (by 2004), the process at play that rendered it possible lies with the role of two sets of actors: the Presidencies of the Council on the one hand, the Commission on the other. The interaction between these two categories, and due to their respective powers and wills to pass to the EU scale, created the conditions for the creation of a soft EU integration policy; but not for the creation of a hard legal framework on the matter.

Data

To evidence such causal chain, I relied on multiple streams of data (Checkel, 2005; Bowen, 2009). I first went through a considerable amount of official documents ranging from unpublicised minutes of expert committees dealing with immigration and integration before any proposal be made to more official pieces of documentation (the most important documents are cited in the main text's footnotes). In order to get a better feel of the issue and flesh out my findings, I conducted interviews with key actors. Semi-structured interviews were carried out, considering the literature on élite interviews (Harvey, 2011).

Official documents

I obtained data resorting mainly to two sorts of documents. Firstly, I relied on official documents available online, and that can be systematically searched in various EU databases using specific identifiers (therefore avoiding to leave any aside). Such documents are Communication from the Commission, European Council Conclusions, Council meeting documents, documents from other EU institutions (European Parliament, European Economic and Social Committee, Committee of the Region, European Court of Auditors and so on), Commission officials' speeches and so forth. Secondly, I launched a series of requests to the European Commission websites to obtain documents not accessible online. These requests notably concerned documents linked to Commission committees and expert groups and consisted mostly in meeting minutes.

Interviewing

The fact that the policy unfolded about 15 years ago comprises both advantages and disadvantages. On the advantage side, after-the-facts discourse reduces the stakes of the interview for the interviewees, all the more so when they have changed position over the years. Consequently, the interviewee's trust in the interviewer, which requires time to build up (Harvey, 2011), is less an issue. Similarly, lower stakes also reduce the reticence towards recorded interview. The main drawback lies in the fact that memory is fallible and 15 years after the facts decrease the quality of the data that can be collected. Accordingly, I limited the scope of interviews to key-actors, those most likely to remember the steps of the process. Peripheral actors or those for whom the issue was not salient are less reliable sources. Another inconvenient lies in the difficulty to find the people in charge back in the day. Some retired, or changed position, or could not be found.

In order to inspire trust for the interviewees, I clearly stated the purposes of the interview, who I am and what use will be made of the material collected. Since I am not in a constructivist perspective but rather in fact-finding position, the questions I ask are allegedly less prone to generate hostility from the interviewee.

Four interviews were conducted on the phone or via video conference (interviewees were disseminated across Europe). Only three are reported below since the

fourth one is not used in this chapter. I was also able to retrieve interviews conducted in 2010 for another study[1]. Note that the interviews were used as a complement to documents, in order to check some facts or substantiate connections and not as an autonomous source of information.

2.4. The actors at play: three Presidencies and the Commission

2.4.1. Three Presidencies with joint preferences

2.4.1.1. The Danish Presidency: pulling the trigger

After a first appearance at the European Council in Tampere, 1999, integration was scarcely touched upon. It appeared again in the conclusions of the European Council in 2002, in Seville, which ended the Spanish presidency and opened onto the Danish one. The conclusions adopted set in general terms the objective of striking "a fair balance" between border management and integration and asylum[2]. When they took up the Presidency in July 2002, the Danes had as a top priority the successful enlargement to the East that was to occur in 2004. This was a long-term goal already established that the Presidency inherited. But the Presidency also had an agenda of its own regarding the AFSJ, a top priority of the Amsterdam treaty, and notably on integration.

Integration issues had been of pivotal importance for Danish public opinion and (consequently) for Danish politics for a long while. On the agenda since the 1980s', it became more and more salient in the 1990s' to the point of being the central issues of the 1998, 2001, and 2005 election campaigns (Mouritsen and Hovmark Jensen, 2014). This importance was sanctioned with the adoption of the Integration Act in 1999 and the creation in 2001 of a Ministry for Refugees, Immigrants and Integration, oft-abbreviated "Ministry of Integration". The latter Ministry was set up under Rasmussen's minority government, backed by the overtly xenophobic Danish People's Party (Thränhardt,

[1] I thank Mr. Lucas Bourdrez for kindly putting his research material at my disposal.
[2] European Council, 2002: 7.

2014). When came the Danish Presidency in 2002, integration was tossed into the European agenda by the duo Haarder-Espersen and as soon as the Presidency begun, in July 2002, a conference was held on successful labour integration. The Danish Presidency strongly advocated more cooperation on integration matters. In September 2002, the Danish Presidency held an informal Justice and Home Affairs Council on immigration and integration[1]. In October of the same year, the Danes organised a Justice and Home affairs Council[2] in which was discussed cooperation regarding integration at the level of the Justice and Home Affairs Council. This very Council meeting is fundamental in several respects: it adopted a set of 13 generally worded conclusions placing the issue on the European agenda; ii) integration was dealt with in a section dedicated to it instead of being melted under a more general migration chapter, thereby intimating the idea that integration is, or should be, a policy in its own right at EU level; iii) the conclusions highlighted the idea of a stronger cooperation between member states to exchange best practices (what would become the National Contact Points on Integration[3]; see Box 2.1), and the backing of such initiative with some EU-funding[4]. Such conclusions were "adopted without major difficulties and even warmly welcomed by some member states" (Urth, 2005:170).

Integration was a strength for Denmark comparatively to other European countries since they had at the time the most developed policy on the matter (along with the Dutch). Since Presidencies represent the opportunity for member states to leave a mark on EU integration, the Danes allegedly intended to "market" their own policy. In addition to that, a structural impediment is likely to have played a bottle-neck effect on Danish priorities. Since Denmark had opted out of Title IV covering immigration altogether, and since the achievement of the AFSJ was highly salient at the time, notably due to the forthcoming enlargement[5], there was little that Denmark could actually do other than organising intergovernmental cooperation[6]; integration was ideal in this respect since there was no

[1] Danish EU Presidency, 2002.
[2] JHA Council, 2002, paragraphs 10 and 11
[3] An idea that would be exploited by the Commission to systematise the initiative. See next section on Commission.
[4] An idea put forth by Commissioner Vitorino a month before. See next section on Commission.
[5] JHA Council, 1999.
[6] They actually had the possibility to orchestrate advancement on the AFSJ but that did not represent much interest for them insofar as they were legally limited in their participation. Soft coordination mechanisms were therefore of greater interest for the Danes since they could push forward their own policy.

sound competence for it, no other way to proceed than that of mere "light" coordination. Integration was also at the time envisaged by the Danish Presidency as a way to counterbalance terrorism by integrating immigrants coming from different backgrounds to democratic and more generally Western values. As a matter of fact, the Danish integration policy was mainly targeted at Muslims who were perceived as observing different value systems, especially after 11 September 2001 (Mouritsen and Hovmark Jensen, 2014). The convergence of these two factors; i.e. the impossibility for the Danes to work out Title-IV-related measures and their state-of-art integration policy, spurred the Danes to fill in the security paradigm, then widespread, with more integration to European values.

Box 2.1 - the National Contact Points on Integration

The National Contact Points on Integration were initially envisaged under the Danish presidency of the Council of the EU in 2002. The network was operationalised by the European Commission that constituted it as an expert group made up of high-ranking officials, mostly from Interior ministries, with a view to exchange experiences and positions on the development of integration at EU level. The NCPIs are not part of the Comitology but rather consist of an informal network meeting under the auspices of the Commission to facilitate exchange of information and experiences as well as to inform policy-making at EU level.

2.4.1.2. The Greek Presidency: a bandwagon effect

The Greek presidency immediately succeeded to the Danish one in January 2003. Greece at the time was not much concerned with integration of foreigners. For long an emigration country, Greece observed its first sizeable arrivals when the USSR collapsed, in spite of a lagging economic development (Kasimis, 2012). The construction of a borderless area inevitably placed Greece as one of the southern gates to the EU. Characterised by influxes of irregular migration, Greece's policies from the 1990s onwards have been characterised by a reactive approach of handling emergency: regularising irregular stays, combatting illegal employment and so forth. Integration was not on the agenda, even though a couple of measures "on paper" were adopted (ELIAP, 2014) so that when Greece took on the

Presidency, the impetus given by the Danes was likely to drown. So feared Commission's staff. As *Interviewee* recalls:

> "We were sort of a bit disappointed when Greece took on the Presidency… we thought: 'we're gonna lose the sort of commitment to work on [integration]'"

But it did not happened. Instead, the Greek Presidency prolonged the run-up initiated by the Danes. They notably set up a collaborative project to plan their Presidency ahead, on the spur of an international think tank. In Summer 2002, the Greek government along with the Migration Policy Institute (MPI) created the Athens Migration Policy Initiative (AMPI) with a view to define the priorities of the Greek Presidency with respect to the development of the AFSJ, which was at the time a top priority. The initiative was that of the MPI, a Washington-based think tank presided by Dr. Demetrios Papademetriou, an American scholar of Greek origins with close connections with the Greek government. Papademetriou persuaded the Greek government to prepare the discussions at the Council with inputs from the research community (Pratt, 2015). Within the AMPI, a number of informal workshops gathering senior civil servants took place to discuss issues and their solutions as well as the acceptation of integration that should guide integration policies. In the same fashion, an international two-day conference took place in Athens in May 2003, gathering world-leader scholars on migration and senior policy-makers "to discuss the key policy challenges facing the EU and its Member States relating to migration" (MPI, 2003).

Resultantly, the Council conclusions adopted in Thessaloniki on 20 June 2003 at the end of the Greek Presidency conceded an important place to integration. Whereas enlargement and the constitutional treaty ranked as top priorities, nearly a fourth of the conclusions explicitly dealt with integration[1]. The document endorsed some of Commission proposals formulated some 17 days before in a Communication[2]. The latter notably worded integration as a two-way process, a formulation that would punctuate the policy at EU level up to nowadays[3]. The conclusions also laid down the (unclear) idea of common basic principles as a result of the cycle of seminars, reflections, exchanges; it

[1] European Council 11638/03.
[2] COM(2003)336 final.
[3] See for example the CBPs (Box 2.2) or else the Council Decision on the European Integration Fund (see *inter alia* Chapter 3).

insisted on the usefulness of exchanging information, notably through the endorsement of the National Contact Points on Integration. It also acknowledged the importance a wide range of actors be involved but reaffirmed the state's prevalence in steering policy-making[1]. For all these reasons, the European Council of Thessaloniki is an important moment for the construction of the European integration policy but, first and foremost, it bears witness of the fact that integration had finally reached the EU agenda.

2.4.1.3. The Dutch Presidency: integration anchored

The attention to integration somewhat dropped after the Greek Presidency, when Italy took over the Presidency in July 2003, leaving the call for common principles hanging. Despite a programme that was initially common to Greece and Italy, proposed ahead at the end of 2002, Italy had different preferences. Indeed its plans granted importance to the development of the AFSJ but integration was not on the agenda. Italy's governing coalition led by Berlusconi and comprising of Lega Nord and Alleanza Nazionale as main partners had other priorities: combatting illegal immigration and preserving public order (Di Quirico, 2003). Bearing witness of it is the Bossi-Fini law passed a year before, introducing criminal sanctions for migrants in an irregular situation.

Italy is characterised by extensive sea borders in the Mediterranean and consequently by great exposure to immigration. Ireland in a different fashion does not present the same features but took on the Italian programme when it succeeded to Italy at the Presidency in the first half of 2004. Firstly, the Irish Presidency focused on the conclusion of the enlargement with much fanfare and has probably left a mark for that. Secondly, the conclusion of the process leading to the constitutional treaty was much into focus, too. As another issue of importance since the Treaty of Amsterdam, the progress of the AFSJ was on the table even though framed in an all-security fashion with a focus on police cooperation, fight against drugs and organised crime and illegal immigration[2].

Then came the Dutch Presidency in the second half of 2004. A number of initiatives as regards integration at EU level had already been taken but they were limited thus far to the exchange of information and best practices. As the European Council

[1] European Council 11638/03 (2003).
[2] Irish EU Presidency, 2004.

concluded in Thessaloniki[1], if there were to be cooperation in the field of integration amongst member states, there needed to be a somewhat common approach to integration, a frame of reference to understand the direction future policy developments could take. The Netherlands embraced this task and set out to define these Common Basic Principles on integration. The task was not easy as these principles needed to cover different realities and be applicable across member states; but most importantly, it was not clear to member states what the eventual purpose of such principles would be (Urth, 2005).

The Netherlands already had a sound expertise on integration policies. It had been a prized destination country since WWII. Refusing to see itself as a country of immigration, the first integration policies came when politicians understood immigration was no temporary phenomenon. This led to the design of the first integration policies in the 1980s' (Bruquetas-Callejo, 2011). Relatively depoliticised an issue at first, policies unfolded until immigration and integration became prominent in public opinion in the turn of the 21st century as a result of social tensions (Bruquetas-Callejo, 2011; Blom, 2014; Fischler, 2014). The dominant perception was the failure of integration policies and social cohesion in peril. The rise of populist parties and figures such as Pim Fortuyn and Geert Wilders exploiting already existing tensions further increased the saliency of integration and primed tougher migration policies (Blom, 2014). Punctual events such as the attacks on the Twin Towers and the assassination of film-maker Theo van Gogh in 2004 reinforced that logic. From a formerly multicultural approach to integration, policies turned to more civic integration measures (Bruquetas-Callejo, 2011).

Given its long-standing experience in handling integration policies, the Netherlands was far ahead other member states in the matter (along with Denmark). It had developed a sound system of integration courses that it was willing to disseminate to other member states (Bourdrez, 2010); which it did, notably through the NCPIs. Soon after its promotion campaign, Austria, Belgium, Denmark, Estonia, Finland, France, Germany, Sweden and the UK adopted civic integration requirements and tests (Jacobs and Rea, 2008). Integration was held very dear by Dutch authorities, they were willing to cooperate at EU level but only so long as it did not interfere with their own policy[2]. In this respect, they fiercely opposed the OMC put forth in 2001 (Bourdrez, 2010) and

[1] European Council 11638/03 (2003).
[2] See *Interviewee*'s words, permanent representative to the EU, in Bourdrez (2010). I wish to thank particularly Luca Bourdrez for providing me with interview transcripts and other material relating to his work on the EU integration policy.

considerably changed the purposes of the family reunion Directive by imposing integration requirements to family reunion candidates (Bruquetas-Callejo, 2011). The existence of a soft framework however opened the possibility for the Dutch to put forth their integration policy without risking any change to it. It also allowed them to attempt to improve their image severely damaged by the rise of populism and xenophobic discourse by politicians such as Geert Wilders[1]. If the idea of writing down common basic principles to guide member states came up at Thessaloniki, it is the Dutch that looked after their drafting. In fact, the call for principles had been made in an unclear fashion and as Helene Urth (Urth, 2005:171) recalls: "The sentence was inserted by a member state during the initial negotiations and survived without particular attention paid to it through to the European Council".

The Dutch actually came forth with a set of principles ahead of their Presidency to take place in the second half of 2004[2]. They used the recently created NCPIs networks to discuss them and sound out their acceptability by member states before they were sent for official scrutiny before the SCIFA (Strategic Committee on Immigration, Frontiers and Asylum) and COREPER. Before the NCPI's 6th meeting of April the 28th 2004, the Dutch circulated a "brainstorming paper" presenting some ideas with respect to the development of the CBPs. They asked their counterparts to think on the said paper and feed into it with ideas and comments[3]. The Dutch NCPI then presented a "presidency paper" enriched with NCPIs' insights to an informal meeting of the SCIFA in July to prepare their policy programme as to the AFSJ contents. The paper introducing the CBPs was welcomed by the member states and the Commission, gathered in the SCIFA formation[4]. A new (confidential) document (enriched with SCIFA's comments) was then sent back to the NCPIs and was well commented. The Dutch included the comments and presented it for a first discussion at the 15-16 September 2004 SCIFA meeting. The matter then left the NCPIs' hands to be officially discussed within the SCIFA, in coordination with the Dutch NCPI that would do the liaison. The Presidency paper presenting the

[1] *Interviewee*'s words, *ibid.*
[2] See document Migrapol-Integration 27. Note that Migrapol documents are not available to the public but may be requested to the European Commission via its access-to-document web interface.
[3] *Ibid*.
[4] Migrapol-Integration 33.

CBPs[1] was sent to the SCIFA on September the 9th, 2004 and the CBPs were eventually adopted during a Justice and Home Affairs Council[2] held on November the 19th, 2004.

The CBPs have changed little throughout the process. Only one objection perhaps is worth noting. Spain had presented an amendment that sought to include an explicit reference to the maintenance of cultures and languages of origin[3]. Such amendment was however not well received by the other member states (Carrera and Wiesbrock, 2009). Overall, the Common Basic Principles are rather vague formulations oscillating between different general positions such as multiculturalism and civic integration. CBP1 however frames the set of principles as being more leaning towards multiculturalism. For an extensive analysis of the CBPs, see Mulcahy (2011: 32).

The Dutch Presidency also coincided with the end of the Tampere Programme, the 5-year roadmap for the implementation of the AFSJ, so that the Dutch not only had steered the adoption of a framework for EU policy-making but were also in a position of laying down the future of an integration policy at EU level. Which they did with the drafting and further adoption of the Hague Programme[4], covering the years 2005-2010. The Hague programme reaffirmed the importance of integration, and policies and initiatives to make it happen. Once again, integration was given a chapter of its own, reinforcing the idea that it was a policy field in its own right, and this for the five years to follow.

If the development of the integration policy is marked by moments such as the summit in Tampere or that in Thessaloniki, different sources underline that policy developments are due to the activism of three member states (Urth, 2005). *Interviewee* reckons:

> "I don't think the Commission could have done that on its own. Even if they were strong and all, I don't think they could have come forward with the Common Basic Principles and so on [the rest of the integration policy]".

[1] Council of the European Union 12258/04 (2004).
[2] JHA Council, 2004.
[3] See notably Council of the European Union 12258/04.
[4] European Council, 2005.

But the Commission did not stand on the side of the road. To the contrary, the relative activism of the three countries echoed the search for competence of a newly created Directorate General in the Commission.

Box 2.2: the Common Basic Principles

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

2.4.2. New competences for a new Commission DG

The entry into force of the Treaty of Amsterdam brought some change to the Commission's structure. The Commission, which previously had a small Justice and Home Affairs unit, was henceforth endowed with a Directorate General Justice and Home Affairs, a properly staffed division that would be able to work out a European policy,

make proposals and so forth. As explained in the first Chapter, the Commission had proposed a two-step policy development that ended up failing. That said, a policy space was opening under the lead of three member states: Denmark, Greece and the Netherlands. If the Commission was refused the opportunity to steer the process through the OMC in 2001, it was not to stand as an observer. If it is nowadays clear that the Commission is able to act as a "purposeful opportunist", unravelling its composition shows that it is true for the Commission in its relation with other EU bodies and member states but also within the Commission, in the interaction between its different units (Cram, 1997:146; but see also Hooghe, 1996). In this regard, it is interesting to see how the Commission, and the Immigration and Asylum Unit within DG Justice and Home Affairs, carved out a competence for itself.

2.4.2.1. Lessons from a failed OMC: Commission's contained activism

Under the lead of Commissioner Vitorino, an OMC on immigration comprising a whole section on integration was proposed in July 2001 but was never put forth by the Council. Despite being regarded as a soft instrument, the organisation of cooperation under Commission's supervision was not of the taste of member states (Caviedes, 2004). Considering the much debated, and still debated at the time, couple of directives touching upon legal migration (see Chapter 1), working out a policy of integration appeared more difficult than thought. On top of that, the legal basis for integration as such was extremely thin: no explicit mention of it appeared in primary law until the adoption of the Lisbon Treaty. Thus far, integration was handled within a unit under DG Employment and Social Affairs and was presented as a corollary to the free circulation of labour (Guiraudon, 2003). With the entry into force of the Treaty of Amsterdam, immigration found a legal basis but integration as such did not really[1]. That said, since there was henceforward a DG in charge of immigration, it made little sense to leave integration under DG Employment. As a matter of fact, the division on immigration and asylum in DG Home was staffed with officers taken from DG Employment.

[1] The treaty provision the closest to integration was article 63(3)(a) TEC providing that measures be adopted as to "conditions of entry and residence, and standards on procedures for the issue by Member States of long term visas and residence permits, including those for the purpose of family reunion". Integration was first mentioned in primary law in the Constitutional Treaty. It notably excluded legal harmonisation in this domain. The Constitutional Treaty, however, has never been adopted, making the treaty of Lisbon the first official reference to integration in primary law.

If the Commission was to play a role, it had to proceed cautiously. The Danish Presidency had proven there was an actual will to cooperate on integration, but it had also shown that the way to do it mattered a lot. There was no room for harmonization (as the Constitutional Treaty would bear witness of), no will for benchmarking and other finger-pointing sessions (as the failed OMC showed), but the availability to exchange information and best practices in the most flexible way (Bourdrez, 2010). And the Commission would fit into the furrow traced by the member states.

The Danish Presidency opened the floor to integration with a conference in July 2002 on successful labour integration (see above). In September the same year, the European Economic and Social Committee organized a conference on the role of civil society in promoting integration in which Commissioner Vitorino participated. In his speech, he laid down the Commission's view on the matter (Vitorino, 2002a), a view that would become systematized in a Communication from the Commission yet to come[1]. Most importantly, Vitorino announced:

> "I have decided to establish a programme of preparatory actions to promote integration of immigrants over the period 2003-2005 (…) to support networks and the transferal of information and good practices between stakeholders in order to facilitate open dialogue and identify priorities for a European integration policy" (Vitorino, 2002a: 5).

Preparatory actions would finance transnational projects across the EU over the period 2003-2005 for a total of €4 million/year. These actions would take the name of INTI Programme, a programme through which the Commission would directly finance projects gathering civil society organizations and subnational authorities. Despite a very modest amount, the fund was deemed very successful and laid the path towards a more sizeable financial instrument, the European Integration Fund (KANTOR Management Consultants, 2009).

A month later, the Danish Presidency kept on with a JHA Council in October 2002. The Council announced greater cooperation through the "establishment of national contact points in the member states" for the exchange of information between member

[1] COM(2003)336 final.

states[1]. But as Helene Urth recalled, "the intentions of the Danish Presidency went no further than a list of names which could be used to facilitate contact and which was initially established by the Council secretariat by the end of the Danish Presidency" but the Commission was "determined to use this opportunity to improve cooperation" and "took the initiative to create a forum" for the exchange of information and good practices, a forum the Commission "could rely upon when developing new initiatives in the field" (Urth, 2005:170)[2]. As thus the National Contact Points on Integration were created; they would meet as an informal committee convened and steered by the Commission[3]. These encounters were to become the place where all new initiatives would be sounded out and discussed even before starting an official procedure[4]. This is where the Common Basic Principles were first presented by the Dutch Presidency; this is also where the Handbooks on Integration were discussed, not to mention the first ex-ante impact assessment and the draft Decision relating to the European Integration Fund yet to come. The first meeting took place in March 2003 and it is interesting to see that the Commission, which had been refused an OMC in 2001, proposed a study (commissioned by the Commission) on benchmarking integration policies be presented to the NCPIs[5]. Such study was in fact presented in the second NCPI meeting[6] in July 2003.

During this same JHA Council, Commissioner Vitorino announced (Urth, 2005:167) the preparation of a Communication on immigration, integration and employment[7] to underline the need for more migrant integration. It was the joint effort of DG Employment *and* DG Home Affairs and pointed out the necessity to integrate migrants into the labour market *and* into society if the member states wanted to reach the Lisbon goals of an employment rate of 70%. Considering Europe's aging population and the migrants already present, integration was presented as a means to realize the potential of migration[8]. This Communication was released in June 2003. It presented a particular view of integration. The idea was to overcome economic integration to go towards a "holistic" conception, taking into account cultural and religious diversity, citizenship,

[1] JHA Council, 2002.
[2] COM(2003)336 final: 29.
[3] see documents Migrapol-Integration 2 to 61 notably.
[4] See amongst other Migrapol-Integration 27; 40; 42; 43; 48.
[5] Migrapol-Integration 4.
[6] Migrapol-Integration 11.
[7] COM(2003)336 final.
[8] Vitorino, 2002a.

participation and political rights[1]. The Communication thereby defined a set of priorities to be tackled and placed itself on the path of further development. Notably, the Commission insisted on the need to collect more information to monitor integration across the EU in a comparable fashion; e.g. establishing benchmarks at EU level[2]. The Commission also proposed to monitor the development of the common immigration policy through the elaboration of annual reports[3]. A first such report[4] was delivered in 2004, based on a questionnaire passed to NCPIs to update shared information on existing policies at national level.

The developments of this policy field increasingly looked like an OMC. The Common Basic Principles acted like an umbrella for the whole policy by defining the concept of integration and therefore in a way the goals to be achieved. The National Contact Points on Integration created occasions for encounters, exchange of views and national developments. The Commission's annual report and the development of indicators of integration would play the role of benchmarks. The adoption of a European Integration Fund would eventually create an obligation to report on activities carried out. Indeed, this is not an OMC as such but rather some sort of patchwork of different instruments that stitched together may seem like one (Carrera, 2008). It is interesting to note that building up an OMC for the integration of third country nationals has been the underlying intention of Commissioner Vitorino's all along. At a conference given in October 2004 at the seat of the European Policy Centre, he reaffirmed his intention to launch an OMC (Urth, 2005:178). But there has never been any decision in this direction. The recipe for success of this quasi-OMC actually appears to be the absolute flexibility of the instruments, the possibility for member states to control the process all along, and having a Commission that is not steering but following the pace set by member states. As *Interviewee* recalls,

> "you get the instructions from the Ministerial meetings (…). They leave the Commission quite room for manoeuvre" but "you're working with the member states (…) they will go as far as they want to go. You can encourage them and

[1] COM(2003)336 final: 18.
[2] COM(2003)336 final: 35.
[3] Such initiative was immediately endorsed by the European Council of Thessaloniki (European Council, 2003).
[4] COM(2004)508 final.

> suggest things to them but if they don't want to do it, then they just don't do it".

The OMC implied a strong role for the Commission and especially reporting activities by the member states, which member states were not keen to do (Caviedes, 2004). This however somewhat changed with the inception of the European Integration Fund that shattered the strictly intergovernmental approach followed thus far (see below).

2.4.2.2. Building a castle from scratch: DG EMP and DG JHA

> "They [DG JHA] were building a castle, which is what you do when you want to increase your power (…). Our Director wanted to have a big DG, as big and powerful as DG Employment (…), we wanted to have the same as DG Employment. It was a Church fight."

This is how *Interviewee*, national expert, summarises the driver of the DG's activity in the course of an interview I had with her. What she said is another way to say that the Commission is by no means a monolith unit but rather a "multi-organisation" (Cram, 1997: 153; but see also Hooghe, 1996): different DGs have different drivers and different resources. The emergence of new competences, and a new DG, engenders a redefinition of who does what and how, it reshuffles political opportunities. The new DG therefore must make some room for itself. Formerly, the integration of foreigners informally fell under the competence of DG V or else called DG Employment, Industrial Relations and Social Affairs. In charge of social affairs, its role encompassed social inclusion of vulnerable groups, migrants belonging to that category.

DG Employment is one of the original Directorates of the Commission and, despite the rather weak EU social policy at the outset and tumultuous relationships with various sectoral interests (Cram, 1996), it enjoyed considerable influence, notably through the management of the European Social Fund. From 1958 until the adoption of the treaty of Amsterdam, it had a unit, Unit D.4, the activity of which revolved around free movement of workers, migrant integration and anti-racism. The creation of a DG legally in charge of "visas, asylum, immigration and other policies related to free movement of persons" (Title IV TEC) necessarily called into question the attribution of the competence of migrants integration to DG Employment. That said, the attribution of

the competence to DG Employment had some legitimacy. Already in charge of integration at the time, it had the institutional and personnel resources; having for remit the fight against social exclusion, a then prevalent paradigm (see above; see also Murard, 2002; Guiraudon, 2003), its action was justified for the inclusion of migrants. But the treaty of Amsterdam created an Area of Freedom, Security and Justice, three words that together called for a common policy that should not be all-security oriented, as called for by the Seville summit[1], a common policy that, in the words of the Commissioner, must be "well balanced"[2]. As he put it:

> "This balance will be required throughout the different phases of the policy and should take into account the following elements : ensuring the respect for the 1951 Geneva Convention and particularly the principle of "non refoulement", the legitimate aspiration of third-country nationals to better living conditions and the taking into account of the reception capacity of the Member States and of the Union as a whole."

But instead of being expropriated from DG Employment, the issue was split into two separated, autonomous objectives. One would regard integration in the labour market and would be taken care of by DG Employment; the other would regard social and cultural aspects would be handed to DG JHA. Consequently, a part of the staff formerly working within DG Employment was transferred to DG JHA. Such divide was the result of intense debate and negotiations. What is of particular interest is the capacity Vitorino showed in instrumentalising a larger policy agenda to increase DG JHA's scope of action[3], a strategy already used by DG Employment (Cram, 1997; Guiraudon, 2003). Whereas DG Employment had the huge European Social Fund, DG JHA had no clear budget available, no appropriation[4]. In spite of that, Vitorino announced in September 2002 the allocation of some funding for the integration of third country nationals under the scope of DG JHA[5]. He linked the issue of social integration to that of unemployment and exclusion,

[1] European Council, 2002.
[2] Vitorino, 2002b: 8. Note that the rhetoric of a well balanced policy that truly covered freedom and justice, and not only security, has been punctuating the documents emanating from EU institutions (see notably COM(2005)123 final establishing a framework programme on solidarity and the management of migration flows).
[3] Vitorino 2002a. See also COM(2003)336 final.
[4] See the yearly budgets available to the Commission, available at http://eur-lex.europa.eu/budget/www/index-en.htm
[5] Vitorino, 2002a.

two themes relating to DG Employment but at the core of the Lisbon goals: an employment rate of 70% for growth, thus anticipating a Communication on immigration, integration and employment[1] that would only be released in June 2003, a Communication common to the two DGs. Notably, the Communication placed integration as the factor for the realization of the potential of immigration, a phrasing that would punctuate forthcoming documents. In a few words, the Communication underscores the fact that the population in Europe is ageing and the EU will face in the forthcoming years shortages of work-force and skills. But the discourse is nonetheless cautious. Immigration cannot realistically be the only answer; so no, the doors of the EU are not swinging open. Rather, the Communication points to the under-exploitation of resources and thus for the need to tap into already existing workforce through the better integration of migrants[2]. Based on the Labour Force Survey, the Commission underlines the differential in employment rates between EU nationals and non-EU nationals across the EU[3]. Whereas 64.4% of EU nationals are employed, they are only 52.7% non-EU nationals. Migrants are also over-represented in risky sectors, undeclared work, and in many cases they occupy positions that do not match their skills and qualifications[4]. Integration is therefore not only a matter of labour market integration strictly speaking, but also a matter of social, cultural and political integration as these elements are perceived to be obstacles on the way of labour market integration too[5].

Resultantly, the Commission adopted the INTI Programme for preparatory actions for the integration of third country nationals in 2003. A little fund of €18 million altogether that however set the basis for a larger one yet to come. The INTI Programme was a fund directly handled by the European Commission for transnational projects involving 4 to 5 countries over the period 2003-2006. According to the evaluation conducted, it aroused great interest on the part of integration stakeholders (Kantor Management Consultants, 2009). More than 570 proposals were submitted from 20 countries; the remaining 7 countries participated as partners to given projects. The perceived and evaluated success of the INTI Programme made the case for demanding increased Community funding (Urth, 2005). For the multiannual financial framework

[1] COM(2003)336 final.
[2] See notably section 2 of the Communication.
[3] *Ibid.* p.53.
[4] *Ibid.* p.19.
[5] In this respect, see also COM(2004)508 final.

2007-2013, the Commission proposed more importance be granted to integration[1] through the establishment of a framework programme on solidarity and the management of migration flows[2], a financial instrument to support the construction of the (so-called well balanced) AFSJ. Such programme comprised four funds: the European Border Fund, the Return Fund, the European Refugee Fund and the European Integration Fund. Altogether, the four funds initially amounted to €5.866 million[3] for the financial perspective 2007-2013; €1,771 million would be dedicated to integration so that 20% at least of the 2.2 million/year new legal resident could beneficiate of integration measures[4]. Reflecting the fact that the AFSJ was "one of the main priorities of the European Union for the years to come, to be supported through substantially increased financial means"[5], the first proposal of the Commission for the 2007-2013 period tripled the formerly very low level of expenditure allocated to freedom, security and justice by 2013 (Laffan and Lindner, 2005: 205). Such appropriations were however halved by the end of the decision-making process, mostly because member states preferred to maintain a redistributive budget model to the reformed model inspired by the Sapir Report and more growth oriented (Schild, 2008; Rant and Mrak, 2010; Dür and Mateo, 2010). Inevitably, the budget for the integration of third country nationals suffered a severe cut with dire consequences on its scope of application: from €1,771 million, it shrunk to €825 million.

Notwithstanding, from no competence at all, DG JHA (which changed of names in the meantime) acquired substantial means over a little time-span and decidedly carved out a competence for the integration of third country nationals. Certainly of limited breadth; but yet a competence.

2.5. Conclusion

[1] COM(2004)101 final/2.
[2] COM(2005)123 final.
[3] *Ibid.*
[4] COM(2004)101 final/2. Note that the figure for the coverage announced (here 20%) was risen to 30% in future documents; see notably SEC(2005)435:44.
[5] COM(2005)123 final: 14.

The failed attempt at engaging member states in an OMC in 2001 did not herald good prospects for an EU integration policy. Immigration was mostly conceived and framed as a security issue that called for security answers. This is therefore under the guise of the fight against social exclusion that the first measures in this respect took place. Migrants constituting a category at risk of exclusion, their integration would fall under the competence (to a very limited extent) of DG Employment. At national level, integration had been an issue of concern for at least half of the EU-15 since the 1980s'. By 2003, almost all EU-15 member states had in place some sort of integration policy. I argue in this chapter that the passage to the EU occurred thanks to a combination of three elements. Firstly, integration measures had to be of a soft nature. The long and heated debate around the family reunion and long-term residence Directives, and the failure of the OMC in 2001 proved that the way to go about integration measures mattered. If any integration policy was to unfold at EU level, it had to be soft. Secondly, the will of three Presidencies of the Council, the Danish, the Greek and the Dutch ones, over a reduced time-span was sufficient to trigger, follow up and anchor integration onto the EU agenda. Thirdly, the Commission played a very important role of facilitator. Executing the wishes of the Council, it proved capable of developing a policy within the margins of acceptability of the Council, exploiting them to flesh out a policy. In parallel, the Commission also proved capable of carving out a role for itself in integration, notably through the creation of funding opportunities. Mobilising a wider agenda aiming at increasing the employment rate across the EU, the Commission gained momentum in the field and created the European Integration Fund, a systematic instrument the design of which would reflect the weak competence on the matter at EU level and the ensuing decision-making process (Chapter 3).

Chapter 3: The European Integration Fund: Principles and decision-making

With the adoption of the treaty of Amsterdam and the integration of immigration-related policies under the first pillar, a window of opportunity for an EU integration policy was swinging open. Even though the main lens through which immigration was perceived was security, a competing paradigm embedded the fight against social exclusion in EU policies. At national level, most countries had already taken initiatives towards consistent integration policies. In spite of that, no competence was transferred to the EU in this respect. Only article 63(a)(3) touched upon legal immigration, a remote reference (if ever one) to integration[1]. But from 1999 to 2005, significant steps were taken towards the construction of an EU integration policy. Under the spur of the Danish, Greek and Dutch Presidencies of the Council of the EU, a series of soft instruments were adopted; decided upon by the Council and brought to bear by the Commission. The Commission, that had just acquired a new competence and a new DG, was determined to implement the Tampere Milestones; a set of orientations adopted in 1999. With a proposal for an OMC in 2001, it covered it all. Such proposal was however never discussed. The Commission drew the conclusion that it had to advance cautiously; and so it did by remaining within the limits established by the member states. If the latter were willing to cooperate in the EU sphere, the form of such cooperation mattered a great deal: softer than soft (read: less binding than the OMC) was the rule. This did not prevent the new DG to build up power, notably by placing integration within a wider and prevalent agenda: the Lisbon Goals of an employment rate of 70%. In that way, DG JHA clung to DG Employment's priority in order to gain momentum. In 2002, a preliminary fund (the INTI programme) was

[1] Handoll (2012:45) qualifies the use of the said legal basis for integration as a "creative one".

announced by Commissioner Vitorino, set by DG JHA and directly managed by it. This opened the path towards the establishment of a bigger and more comprehensive fund, the European Integration Fund (see Chapter 2).

The European Fund for the Integration of third country nationals (EIF) was decided upon on 25 June 2007 with the adoption of Council Decision 2007/435/EC at the unanimity of the member states, on the basis of article 63(a)(3) TEC. It is a fund amounting to €825 million to be spent over the period 2007-2013 for projects aiming at easing the integration of non-EU nationals across the EU in accordance with nationally-defined programmes. Since the EU had no formal competence in the domain, the Council Decision did not provide for a clear European approach to integration but proposed to support national policies leaning onto European-defined principles. From another perspective, the permanence of unanimity voting in this field rimes with little delegation from the member states to the EU, which likely translates into great discretion left to member states by EU outputs and a little role for the Commission (Franchino, 2004; 2007).

This chapter traces back the process that led to the adoption of the fund; it highlights member states' preferences, bones of contention and bargaining outcomes. The first section (3.1) emphasises the key characteristics of the fund and the principles at its foundation. I notably show that, as adopted, the EIF displayed flexible features, enabling member states to use the fund with considerable discretion. The second section (3.2) takes the reader through the policy-making process. I show how such process laid to the elimination of constraining clauses on the one hand; on the other, I look into the most disputed features of the fund, namely, those relating to the distribution of the money available. Since the amount available for the EIF over the 7 years of implementation is fixed beforehand, the negotiation takes on the aspect of a zero-sum game.

3.1. The EIF: features and principles

3.1.1. Functioning of the fund

3.1.1.1. Objectives, specific objectives and priorities

The objectives the fund was to address were not at the centre of the negotiation process. From the outset, Commission proposal contained rather widely framed objectives that would fit the most different needs for the member states. As per Council Decision[1], the general objective of the fund is to "support the efforts made by the member states in enabling third country nationals (…) to fulfil the conditions of residence and to facilitate their integration into European societies". Such general objective is then split in specific objectives[2], priorities and specific priorities[3]. They will be introduced in turn.

Specific objectives are four (see box 3.1 below). They frame the overall intents and purposes of the fund, and guide member states' use of it. The vague formulation preceding them; i.e. "the fund shall contribute to the following specific objectives" does not make it clear whether all four objectives must be tackled or to what extent they should be addressed. These objectives are further broken down into 19 eligible actions (again, widely worded[4]).

Box 3.1 - The objectives of the EIF

(a) facilitation of the development and implementation of admission procedures relevant to and supportive of the integration process of third-country nationals;
(b) development and implementation of the integration process of newly-arrived third-country nationals in Member States;
(c) increasing of the capacity of Member States to develop, implement, monitor and evaluate policies and measures for the integration of third-country nationals;
(d) exchange of information, best practices and cooperation in and between Member States in developing, implementing, monitoring and evaluating policies and measures for the integration of third-country nationals.

[1] Council Decision 2007/435/EC, article 2.
[2] *Ibid.*, article 3.
[3] Both defined in C(2007)3926 final.
[4] I do not list them here as it would be too lengthy, see article 4 of the Council Decision 2007/435/EC for more.

Another set of indications is defined in the strategic guidelines laid down in a Commission Decision[1] defining the strategic guidelines for the implementation of the fund. This Decision establishes four priorities (see box 3.2 below for a summary). Such priorities should be addressed following more stringent rules: "When preparing their draft multi-annual programme, Member States should target throughout the available Community resources under this Fund to at least three of the priorities listed below, among which priorities 1 and 2 are mandatory". Here again, such provision grants margin for manoeuvre in different ways. The rule for addressing them does not specify whether member states should address these mandatory priorities every year or what share of the fund should be dedicated to them. In addition, priority 1 (which is mandatory; see Box 3.2) casts a wide net. Providing for the implementation of the CBPs is tantamount to referring to the general objective of the fund, and referring to 11 short-worded, widely defined principles. Finally, these priorities consistently overlap with the objectives referred to above.

Box 3.2 – The priorities of the EIF

Priority 1: Implementation of actions designed to put the 'Common Basic Principles for immigrant integration policy in the European Union' into practice.
Priority 2: Development of indicators and evaluation methodologies to assess progress, adjust policies and measures and to facilitate co-ordination of comparative learning.
Priority 3: Policy capacity building, co-ordination and intercultural competence building in the Member States across the different levels and departments of government.
Priority 4: Exchange of experience, good practice and information on integration between the Member States.

A third and last set of indications consists of specific priorities. These are optional and their implementation relies on a financial incentive (Chapter 4 will look into the effect of such financial incentive). More specifically, the EIF, as any other EU fund, provides for a co-financing principle. As a rule 50% of a project is financed by the EU but EU contribution may reach 75% where the state addresses specific priorities. As a derogation,

[1] C(2007)3926 final.

member states falling under the cohesion fund receive 75% co-financing, irrespective of them addressing specific priorities. There are in total five specific priorities (see box 3.3 for a summary). Here again, they are defined in a rather loose manner and may be addressed by the member states for very different purposes for at least two reasons. First of all, the fact that there exist five specific priorities multiplies the probability a member states, regardless of its specifics, have a ground reality suitable for an increased co-financing. That is, the five specific priorities as they stand offer a pretty diverse panorama which procures a vast array of choices. For instance, specific priority 2, regarding specific target groups, is wide enough to match different situations[1]. The wording of the other specific priorities too leaves room for interpretation and usage. This is notably the case for specific priority 3, relating to "innovative introduction programmes and activities". Under this wording, Carrera and Atger (2011:30) show how great is the room for manoeuvre member states retain. Secondly, there is a consistent overlap between priority 1 and the specific priorities. Priority 1 aims at putting the CBPs into practice and reads:

> "The Commission Communication on 'A Common Agenda for Integration: Framework for the Integration of third-country nationals in the European Union' [COM(2005) 389 final] puts forward a series of concrete measures designed to put the Common Basic Principles into practice, and is a reference document in this respect. The 'Handbook on integration for policy-makers and practitioners' (...) is a useful complement. The implementation of measures and good practice described in these two documents should be greatly encouraged".

The first document cited (i.e. COM(2005) 389 final) provides specific policy recommendations that consistently overlap with the Fund's specific priorities in many instances.

[1] As C(2007) 3926 final phrases it: "Actions, including introduction programmes and activities, whose main objective is to address the specific needs of particular groups, such as women, youth and children, the elderly, illiterate persons and persons with disabilities".

Box 3.3 – The specific priorities of the EIF

Specific priority 1: Participation as a means of promoting the integration of third-country nationals in society.
Specific priority 2: Specific target groups.
Specific priority 3: Innovative introduction programmes and activities.
Specific priority 4: Intercultural dialogue.
Specific priority 5: Involvement of the host society in the integration process.

3.1.1.2.Programming, spending and control mechanisms

The Fund is implemented through the elaboration of a Multi Annual Programme by the member state covering the period 2007-2013 and its approval by the Commission. The Commission shall ensure the member state's multiannual programme aims at tackling the objectives pursued by the Fund. The multiannual programme is then broken down into Annual Programmes, in their turn validated by the EU Commission, according to the same criteria.

Since the responsibility in integration policies lies with member states, they retain great room for manoeuvre regarding programme drafting and implementation, despite the approval of programmes by the Commission (Carrera and Atger, 2011). Here, a distinction between substantive and procedural control mechanism is in order. On the procedural side, the Commission has the power to ensure the use of the fund respect the principle laid down in the financial regulations; namely lawful and sound financial management. This is a considerable power given the fact that the fund is spent via shared management, so that the member states spends and the Commission controls (as opposed to direct management; the Commission spends directly). Accordingly, the Commission has the capacity to withhold payment of balance in the event of mismanagement. Such control mechanism is however limited to ill-practices. On the substantive side, the Commission has no power to force member states to address any specific issues. It may attempt to orientate member states' Multi-annual programmes on the basis of the objectives and priorities of the fund detailed in the section above but, as I showed, these are widely phrased and do not confer the Commission much leverage.

3.1.2. The principles underlying the fund

3.1.2.1. National planning and European framework: the CBPs as a backdrop

Once the idea of a European Integration Fund was put on the table, critics did not long to come, mostly because the EU had no formal competence and member states were not all willing to let it chip in. Commissioner Antonio Vitorino announced his intention of creating a European Integration Fund as the new financial perspectives for 2007-2013 were being drafted, on the occasion of the Ministerial Integration Conference in Groningen, the Netherlands, 9-11 November 2004. Such fund, he asserted, would ensure member states' views and priorities would be heard in the process[1]. The conference conclusions mention the "examination of all financial means available for the integration-related activities within the European institutions" but ministers seemed to have very different views of what should be done in this regard and, despite intensive discussion, no agreement could be reached[2]. Vitorino's announce was nonetheless reaffirmed by his successor Frattini at the JHA Council[3] held on 19 November 2004.

Establishing an integration fund at EU level was a delicate matter (Urth, 2005). There was no competence at the time at EU level. The French and the Germans had manifested their scepticism in this respect[4]. The freshly signed Constitutional treaty in its article III-267(4) included a reference to integration; providing for the possibility of the EU to support national policies but excluding legal harmonisation. But the treaty was never ratified and the treaty of Nice was still the one in force. The only legal basis available was that of legal migration (Article 63(a)(3) TEC), the use of which was put into question once by the German representative at the NCPIs meeting on 28 January 2005[5]. The matter therefore pertained exclusively to member states, as was constantly recalled throughout EU documents[6]. Consequently, implementation would be the responsibility of the member states[7]. As a matter of fact, the Decision establishing the

[1] Migrapol–Integration 43rev.
[2] Council of the European Union 15434/04.
[3] Migrapol–Integration 43rev
[4] Migrapol-Integration 40; 52.
[5] Migrapol-Integration 52.
[6] This was notably recalled at the Thessaloniki Summit in October 2003 (European Council 11638/03); in the Commission's preliminary impact assessment for the fund (Migrapol–Integration 48); in the Commission proposal for a fund (COM(2005)123final), to cite a few examples.
[7] Council Decision 2007/435/EC.

fund reaffirms this prevalence of the state in several occasions. Article 2 for instance makes it clear that the objective of the fund is to "support" member states' efforts, thereby restraining the possibility of the Commission to affect the content of national policies.

Nevertheless, somewhat of a common approach to integration was adopted on the very same occasion as when Vitorino announced its will to create a fund[1]. This common approach consists in the Common Basic Principles (CBPs) on integration aimed at providing a "coherent European Union framework" within which member states should elaborate their integration policies[2]. The European Integration Fund was thought as a way to embody the EU framework on integration, to promote the implementation of the Common Basic Principles (Pratt, 2015). As the first discussion paper about the fund stated[3]:

> "The Integration Fund will support the development of national integration strategies which take into account the common basic principles for immigrant integration policy in the European Union".

References to the implementation of the CBPs through the EIF are plentiful and citing them all would be lengthy, cumbersome and repetitive. Hereafter are some examples. The Decision establishing the fund for instance recalls in recital (28) that the objective of the latter is "to promote the integration of third country nationals in the host societies of member states within the framework of the Common Basic Principles". Article 16(2) states that the guidelines giving effect to the priorities of the Community for each of the fund's objective should promote the CBPs. Article 17 indicates that multi-annual and annual programmes must consider the CBPs. The elaboration by the Commission of the strategic guidelines for the implementation of the fund should also give effect to the common basic principles. Such guidelines[4] notably refer to a Commission Communication aimed at strengthening the implementation of the CBPs[5].

From the outset, the EIF was thus placed in a limbo between the exclusive national competence and the European framework. Even though the CBPs were designed in a way that they would focus on key areas and shared problems rather than on national practices

[1] Council of the European Union 15434/04.
[2] European Council 11638/03; see also COM(2005)389final.
[3] Migrapol – Integration 42:2.
[4] C(2007)3926final.
[5] COM(2005)389 final.

in order to increase their acceptability (Pratt, 2015), and even though they were adopted at the unanimity of the member states, their practical implementation as per multiannual programme was found to be underwhelming (Carrera and Atger, 2011).

3.1.2.2.Implementing solidarity: a fund for integration

The EIF is part of the General Programme on Solidarity and Management of Migration Flows[1] as introduced with the new financial perspective for the period 2007-2013 (see above). The objective of this programme is to organise solidarity between member states in the face of unevenly distributed migration flows. In terms of integration, the principle of solidarity lied in the fact that EIF annual amounts would be distributed between member states according to the number of legal residence permits granted rather than on the basis of member states' capacity to take care of integration. Solidarity thus far was implemented through the cohesion policy, with objective distribution criteria (at least after the 1988 reform). The cohesion policy aimed at reducing disparities between member states in terms of average population wealth compared to the EU average. The solidarity principle as conceived with the integration fund made abstraction of the differentiated capacity of member states to organise integration policies and considered the actual number of migrants that should benefit from integration policies. As the Discussion Paper presenting the fund[2] put it, it is:

> "a new form of solidarity in order to support the efforts of Member States in enabling third country nationals of different cultural, religious, linguistic and ethnic backgrounds to settle and take actively part in all aspects of European societies".

Accordingly, the target established was cross-national (as opposed to state-based). Estimates across the EU by averaging within country results showed that about 15% of migrants effectively participated in integration programmes. With the introduction of the fund, the Commission announced that the objective was to cover 30% of the target population, which doubled the coverage but which consisted in a significant increase in number of beneficiaries given the constant increase of influxes over the 2000s'. So double

[1] COM(2005)123 final.
[2] Migrapol–Integration 42:2

coverage but with more and more beneficiaries implied significant resources be deployed. The Commission proposal therefore calculated that the adequate amount to meet the objective was €1,771 billion[1] over the period 2007-2013. However, the European Council agreement of 15-16 December 2005 over the financial perspective for the period 2007-2013 significantly cut the allocation of immigration- and solidarity-related funding (Schild, 2008). The overall budget for the heading on Citizenship, Freedom, Security and Justice was more than halved (heading 3)[2] which entailed a reduction of the European Integration Fund too (cut by 53%) shrinking the overall amount from €1,771 billion to €825 million.

The issue of integrating migrants was at the time not untouched by EU policies. As a matter of fact, migrants being a group vulnerable to social inclusion, they naturally fell under the scope of the European Social Fund (ESF; see also Guiraudon, 2003). The ESF however reflected an old reasoning; namely, that integration should be realised on the economic front, and social integration would naturally follow. Accordingly, the ESF treated integration of vulnerable groups as to their participation in the labour market; but without targeting migrants. When the Commission started to work out the idea of an integration fund[3], melting new money in old structures was considered as a policy option. That is, instead of launching a new policy instrument that would require to be implemented, the already greased ESF machine could have been augmented of the same amount. To that option, the creation of a new fund that would explicitly and exclusively target third country nationals was preferred. In that manner, the use of EU money would be conditioned to addressing integration of non-EU nationals, without possibility to derogate. The inception of a new instrument however inevitably opens a round of negotiations. The unanimity voting rule on top of that let uncertainty loom over the final outcome. As Helene Urth (2005: 176) puts it: "[t]he Fund must be agreed in the Council by unanimity which may prove to be difficult. Some countries are highly in favour, some believe that the subsidiarity principle is prevailing and that Community funding, therefore, should not be provided".

[1] COM(2005)123 final:11; see SEC(2005)435: 44 for a detail of the calculation.
[2] Commission proposal for the financial perspectives (COM(2004)487 final) and accompanying document (SEC(2005)494 final) proposed that a total of €24.705 billion euro be dedicated to heading 3. But the document adopted by the European Council (European Council 15915/05) provided for a more limited amount; €10.270 billion euros would be allocated to the same heading.
[3] See Commission's ex-ante impact assessment SEC(2005)435. See also Migrapol-Integration 48 and 54.

3.2. Methodology: case study, interviews and document analysis

Similarly to the method employed in Chapter 2, this chapter mostly borrows from case studies methods. To the different of the precedent chapter, this one does not use process tracing as such since I do not seek to outline a clear mechanism at play. I do effectively trace back the process of policy making but I consider bargaining being the main determinant of the outcome. In order to establish the facts, I resort to different data streams: official documents (Bowen, 2009) and elite interviews (Harvey, 2011). Sources are those listed in the previous chapter with, in addition, those that follow.

Official documents

In addition of the documents already listed in Chapter 2, for this chapter, I accessed documents tracing the policy-making process in the Council instances. These documents were systematically retrieved through the Council's database[1] by using the unique identifier of the policy instrument featured on Commission proposals[2]. I thus obtained all related documents and was able to trace the steps the text went through until approval. These documents are referred to in the main text.

Figure 3.1 and 3.2 below propose a representation of the policy-process over time.

[1] The Council's database can be searched here http://www.consilium.europa.eu/register/en/content/int/?lang=en&typ=ADV
[2] COM(2005)123 final; with identifier 2005/0048 (CNS).

Figure 3.1 – Timeline: member states positions on the target group

Date	06.04.2005	05.05.2006	02.06.2006	19.06.2006	26.06.2006	11.07.2006	13.09.2006	21.09.2006	22.09.2006	02.10.2006
Document reference	COM(2005) 123	8983/06	9385/06	10432/06	10865/06	11455/06	12524/06	12967/06	12999/06	13407/06
Austria	Commission proposal For the EIF									
Estonia										
Greece										
France										
Italy										
Malta										
Sweden										
Slovenia										

Legend:
- Inclusive and flexible
- Targeted to newly arrived migrants

Figure 3.2 – Timeline: member states positions on the distribution key

Date	28.01.2005	06.04.2005	20.10.2005	24.02.2006	05.05.2006	08.05.2006	02.06.2006	19.06.2006	26.06.2006	11.07.2006	13.09.2006	21.09.2006	22.09.2006	02.10.2006
Document reference	Migrapol52	COM(2005) 123	13618/05	6735/06	8983/06	9028/06	9385/06	10432/06	10865/06	11455/06	12524/06	12967/06	12999/06	13407/06
Austria		Commission proposal For the EIF												
Czech Republic														
Germany														
Estonia														
Greece														
Spain														
France														
Latvia														
Netherlands														
Sweden														
Slovenia														
United Kingdom														

Legend:
- 60% or more for flows
- 40% or less for flows

3.3. The policy-making process: who gets what and how?

From the moment the discussion left the National Contact Points on Integration to final adoption of the EIF, a bit more than two years passed in the course of which the fund was discussed. Surprisingly, little discussion concerned directly substantive policy points, sending the analysis back to a henceforth famous adage in political science uttered by Lasswell in 1936: "Who gets what, when and how" (see Lasswell, 1936). As a matter of fact, four main issues arose. Two were linked to the way the fund would be spent. They were solved without much discussion. Two others constituted the bones of contention and mostly touched upon the who-gets-what question. Accordingly, this section will first look into the principles of additionality and principles of partnership. Then I will go through the main disputes: the distribution key and the target group. Before going any further, it has to be said that the four points developed hereafter are part of a package deal that concerns the provisions common (to some extent) to the four funds part of the General Programme Solidarity and Management of Migration Flows (European Border Fund, European Refugee Fund, Return Fund and European Integration Fund). Resultantly, cross-fund bargains were possible, and were actually observed, notably in the case of Greece which entered a reservation on the EIF. Note in addition that the EIF was the only of the four funds to be adopted by unanimity, as pertaining to legal immigration matters (see Chapter 1).

3.3.1. Additionality and partnership; or how the spending of the fund became flexible

Both principles were introduced by the Commission with the reform of the EU cohesion policy in 1988 (Bachtler and Mendez, 2007) in an attempt to bypass national governments and organise decentralisation (Hix, 2006). The principle of additionality aimed at ensuring that EU funding would not substitute national expenditure whilst the partnership principle provided for the participation of national, supranational but especially sub-national actors in the design and implementation of programmes adopted in the framework of the cohesion policy. The 1988 reform constituted a ground-breaking shift as it would drastically change the relationship between different levels of policy-making,

embedding a shift from hierarchical relationship to a network dynamic. According to Marks, this was "the leading edge of a system of multilevel governance" (Marks, 1993: 401; see also Bache, 2010 for an analysis of the principle of partnership). Moulded into the structural funds' model[1], the European Integration Fund originally contained the two principles but the principle of additionality was removed altogether and the partnership principle was considerably weakened.

3.3.1.1. The additionality principle

The process that led to the removal of the principle of additionality was rather straight forward. In a SCIFA meeting in September 2005, Germany, France, the Netherlands, Austria and Hungary raised questions about the functioning of the principle[2]. They were subsequently joined by Slovenia in February 2006. The Slovene delegation came forth with a note to the Commission and other member states in which it declared that the principle of additionality implies that the member states are capable to guarantee national budgetary resources for the engagement of the EU fund and that this put into question the reasonableness of a fund implementing so-called solidarity. It proposed to amend the text so that contributions from the fund may to some extent replace national expenditure. For the Slovene delegation, a true principle of solidarity would account for the differentiated capacity to secure national budgetary resources, especially where no policy has ever existed[3]. Implementing a whole new policy without being able to use EU funding would imply further efforts of policy building. Resultantly, the principle of additionality was removed altogether, despite Sweden's and the Commission's concerns[4]. In September 2006, Sweden entered a scrutiny reservation on the removal of such principle[5] but lifted its reserve by the end of the month[6].

[1] During the negotiation phase, the Commission declared having 'copied' the provisions regarding spending rules from the structural funds (Council of the European Union 5578/06).
[2] Council of the European Union 12802/05.
[3] Council of the European Union 6735/06.
[4] Council of the European Union 9385/06.
[5] Council of the European Union 12524/06.
[6] Council of the European Union 13407/06.

Box 3.4 - The principle of additionality as in Commission proposal

Article 11

Additionality

1. Contributions from the Fund shall not replace public or equivalent expenditure by a Member State.

2. The Commission shall, in cooperation with each Member State, verify additionality mid-term by 31 December 2012 and ex-post by 31 December 2015.

The principle as per Commission proposal stated that national public expenditure should not be replaced by EU funding. Beyond, it provided for the Commission to verify the implementation of the principle twice over the period, thus keeping member states in check to a certain extent[1]. The removal of such principle has far-reaching consequences. Together with the principle of co-financing, it gives the opportunity for governments to melt EU funding within their own national expenditure. This likely creates unbalances in principle since member states that already have a sound integration policy in place are in better position to use the fund than member states that must create an integration policy *ex-nihilo*. This likely engenders conflicting purposes: the usability of the fund and its intent to implement solidarity. If a member state is hampered in its use of the fund, third country nationals do not benefit from integration policies and the objectives pursued by the fund are undermined. Solidarity according to the distribution of migrants across Europe is not implemented. Keeping the additionality principle is also risky and could have even direr consequences.

Considering the foregoing, the safest option in the face of the member states that have no integration policy beforehand was to remove such principle. Such removal however shrinks Commission's capacity to weigh on the way (from the substantive standpoint) member states spend the money available since they are legally given the opportunity to replace their own funding for integration with the funding granted by the EIF.

[1] COM(2005)123 final.

3.3.1.2. The partnership principle

The partnership principle is the cornerstone of the structural funds, the principle that set off multilevel governance (Marks, 1993; Bache, 2010). As Bache (2010: 59) posits,

> "In the normative debates, the rise of governance is often understood as the rise of heterarchy and the diffusion of power, but it can also reinforce hierarchies and mask underlying power relations. Partnership, as a prominent instrument of governance, should be investigated with both of these possibilities in mind."

Even if provided for in the structural funds' rules, the effectiveness of the partnership principle is dependent on pre-existing balance of territorial relations within a member state so that member states willing to keep their hold of a given policy could effectively do so (Bache, 2010). The principle of partnership organises, in theory at least, the relationship between different policy-making levels. For the structural funds, the principle of partnership encompasses supranational, national and sub-national levels in the design and implementation of programmes. Initially, the EIF followed the exact same rule[1].

As per Commission proposal[2], partnership in the ambit of the EIF mirrors that of the structural funds. It was to include a wide range of actors all along the process, from preparation to implementation, monitoring and evaluation. Gradually, the principle was emptied of its requirements and filled with options. Whilst paragraph 1 mentioned the bodies that "shall" be part of the partnership, the final version listed those that "may" be included. In the same vein, the second sentence of paragraph 2 was removed altogether. In other words, what was supposed to be a partnership principle ended up being an invitation to associate bodies other than governments to the management of the EIF. Wide margins of discretion were thus granted to the member states' central administration. Firstly, the "broad and effective" partnership would now count the bodies the state wishes to associate to the process; secondly, the latter process was considerably shrunk since "preparation, implementation, monitoring and evaluation" were cancelled without being replaced. Shortly, the principle became an empty shell.

[1] Council of the European Union 5578/06.
[2] COM(2005)123 final.

Box 3.5 - the partnership principle before and after

Partnership as per Commission proposal	Partnership as per Council Decision
1-Each Member State shall organise, in accordance with current national rules and practices, a partnership with the authorities and bodies which it designates, namely:	Each Member State shall organise, in accordance with current national rules and practices, a partnership with the authorities and bodies which are involved in the implementation of the multiannual programme or which, according to the Member State concerned, are able to make a useful contribution to its development.
(a) the implementing authorities designated by the member State for the purposes of the management of the interventions of the European Social Fund and other competent regional, local, urban and other public authorities; (b) any other appropriate body representing civil society, non-governmental organisations, including the social partners. Each Member State shall ensure broad and effective involvement of all the appropriate bodies, in accordance with national rules and practices.	Such authorities and bodies may include the competent regional, local, urban and other public authorities, international organisations and bodies representing civil society such as nongovernmental organisations, including migrant organisations, or social partners. This partnership shall include at least the implementing authorities designated by Member States for the purpose of the management of the interventions of the European Social Fund and the responsible authority of the European Refugee Fund.
2-The partnership shall be conducted in full compliance with the respective institutional, legal and financial jurisdiction of each partner category. The partnership shall cover preparation, implementation, monitoring and evaluation of the multiannual programmes.	2-Such partnership shall be conducted in full compliance with the respective institutional, legal and financial jurisdiction of each partner category.

As a unique check, the Commission asked member states they explain how they thought of implementing the principle in their Multi-Annual Programme; i.e. once and for all, so to speak. As Carrera and Atger (2011) note, most member states consider the principle as a consultation moment with other authorities in charge of allocating other funds (which is made mandatory in the Decision) and ministries; it is a one-off consultation on the occasion of the drafting of the Multi-Annual Programme. No further consultation in most cases was conducted for the drafting of the annual programmes or for the actual implementation or monitoring. Beyond frequency, consultation is not co-decision; so that the role attributed to such partners was by no means binding for the member state.

The principle of partnership as provided for in the EIF decision is thus by no means comparable to that of the structural funds. For the EIF, it grants considerable leeway to the member state.

3.3.2. Distribution key and target group; the bones of contention

The definition of the target group and the distribution key are closely related topics. If the distribution key defines how to cut the pie, the definition of the target group provides the knife. Emphasising on flows of migrants for the distribution of amounts poses the question of how one defines flows. As said above flows regard the number of third country nationals that recently obtained a residence permit. Yet, at EU level, there exists different sorts of permits, further split at national level. Should the distribution key consider as residents migrants with a seasonal work permit? Is it the same as foreigners reuniting with their family? In normative terms, this opens an endless debate in a desirability cloak. In policy terms though, it is a determinant of member states' respective allocations. Italy and Spain for instance resort to seasonal workforce for their agriculture, allegedly more than their counterparts in relative terms. They are thus likely to support their inclusion in the target group in a view to inflate the number of migrants qualifying to the "flow" category. Other countries like, say, the Baltic countries, have more interest in relaxing the boundaries of the target group so that their share of stateless persons (read: Russians left after the collapse of the USSR) can be counted in the distribution key under the "stock" category.

That said, a third provision weakens the link between distribution key and target group: a specific provision explicitly excluding some categories of migrants for the calculation of the amounts[1]. Despite the importance of the latter, it did not crystallise oppositions as much as the target group and the distribution key[2]. The two provisions at issue remain nonetheless intertwined as a different target group can justify a change in the distribution key (see below).

Analysing them separately may thus prove a delicate, yet necessary, task. It is important to separate them from an analytical standpoint for at least three reasons: i) the

[1] See article 14 of Commission proposal COM(2005)123 final.
[2] Council of the European Union 12999/06.

two lines of conflict are not perfectly overlapping one another; ii) the two issues progressed at a different pace; and iii) the distribution key and the target group regard two different moments, respectively how to allocate the amount and how to use it afterwards[1]. For these reasons, the two items will be treated in turn.

A caveat is in order here. This section attributes preferences and their respective salience to member states on these two aspects. Not all member states are placed on the spectrum because their positions could not be determined through thorough survey of official documents or interviews with key actors. Note though that the importance of the EIF for member states was eclipsed by the negotiation of the European Border Fund, discussed at the same time within the same committees.

3.3.2.1. Target group: a widely worded provision removed

Initially, the target group was widely worded. Any non-EU national that would not fall under the EU asylum legal framework was to be eligible to actions financed under the EIF. The provision even provided for the possibility of pre-migration support to integration[2]. Accordingly, member states had the possibility to spend the fund at their discretion. At the time, the budget forecast announced a fund of €1,771 million, a significant amount that allowed, in a way, for a widely defined target group. But with the budget revisions introduced in the prospect of the 2007-2013 financial perspective, the budget available for the EIF shrunk to €825 million. This prompted the Presidency to propose a revision of the overall purpose of the fund, notably through reducing the scope of the target group. Instead of considering third country nationals on the territory and would-be migrants, the Presidency proposed that the fund address newly-arrived third country nationals[3]. This was considered in a further SCIFA meeting and two views came up as possible options[4]. On the one hand, a loose definition of the target group could facilitate member states' use of the available funding; an option in accordance with Commission's original proposal. On the other, option favoured by the Presidency, the

[1] The wider the target group, the more member states with a small number of migrants are able to actually use the fund when it comes to implementation. A narrower definition, concerning newly arrived third country nationals for instance, renders the actual use of the fund more difficult for those countries with lower influxes.
[2] So-called pre-departure measures; see COM(2005)123 final: 120.
[3] Council of the European Union 7214/06.
[4] Council of the European Union 8091/06.

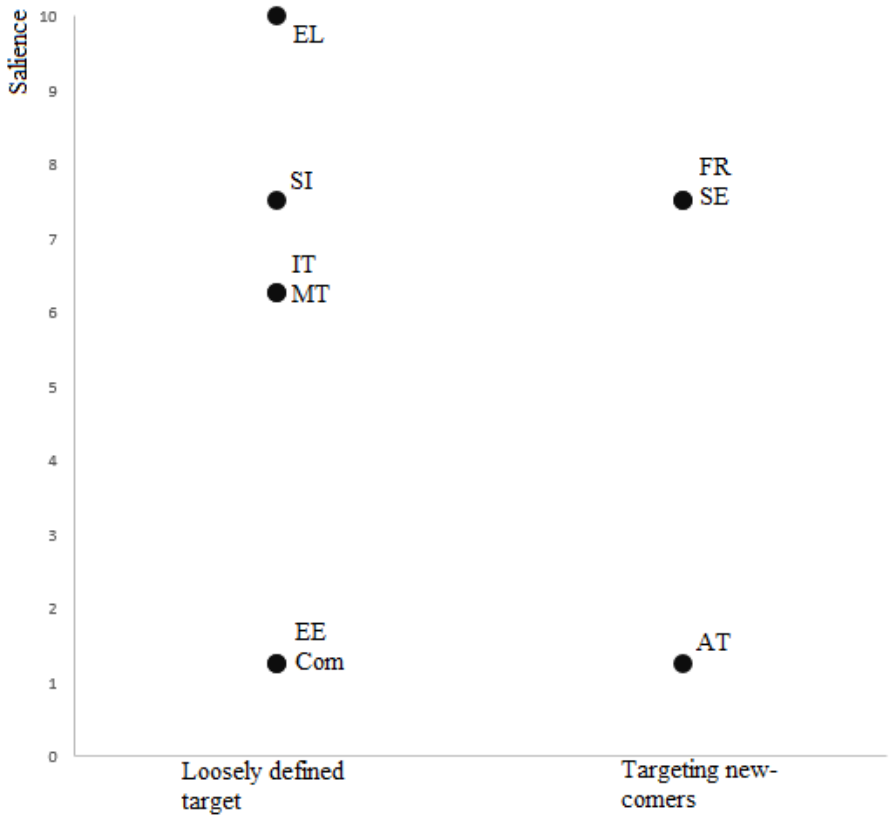
acceptation of "newly-arrived" migrants could be linked with the long-term residence status; would be eligible migrants with a residence permit of one year or more and that would not qualify for the long-term residence permit. Diverging opinions amongst member states emerged. The most visible disagreement opposed supporters of an inclusive and flexible definition of the target group to those that favoured targeting newly arrived third country nationals. Such opposition can be graphically summarised on a Cartesian plane with the positions on the abscissa and the saliency of such positions on the ordinates (figure 3.1). Since the issue presents itself in a binary fashion, member states are placed either at one point or the other. Saliency is represented on a scale ranging from 1 to 10 and was calculated by counting the number of times their position was recalled in the process[1] (see figure 3.3 below; and the method section for a timeline representation).

Considering that consensus will eventually require unanimity, it is likely that the more distant the positions are from one another, the harder it will be to convince any member state to yield (Tsebelis, 2001). The probability of reaching a consensus does not only depend on the distance between positions but also on how dear, so to speak, a member state holds it. In the case at issue, salience is the greatest for Greece, followed by Slovenia, France and Sweden, all three at the same level. Commission and Austria are the agenda setters. The Commission has proposed the original version of the text, putting forward a flexible definition of the target group in the first place[2]. Such position is however important as it set the baseline, a baseline notbourdr questioned until the fund shrunk in width. Austria, then holding the Presidency of the Council, proposed an alternative in the ambit of the budgetary restriction and made clear it would rather opt for a more targeted instrument[3]. The one as the other did not express further opinion, therefore placing them on the plane with a low saliency for their position[4]. Altogether, the position of the Commission does not matter much (Tsebelis, 2013), if not for setting

[1] Member states had in total 8 opportunities to voice their concern regarding the definition of the target group. Greece entered a reservation on the matter and held its position from the beginning to the very end when it lifted its reservation. It is thus placed at the top of the figure. Estonia cast its comment once and therefore ranks lower on the saliency scale. Note that I placed saliency on a 0-10 scale.
[2] COM(2005)123 final.
[3] Council of the European Union 7214/06; 8091/06.
[4] It is likely that the saliency of their respective positions is underestimated. Since they formulated the alternatives, they came to the fore with their preferences (although they need to be acceptable for the member states) rather than sided for the one or the other so that there is the possibility that their expressed position is more salient. There is however no way to test this hypothesis; I thus consider the conservative option the safest and attribute them saliency following the same rule as for the others.

the baseline, whereas that of Austria could. It delineated the options possible; it cannot however take too much distance from what the other member states are likely to accept.

Figure 3.3 – Member states' position on the definition of the target group.



The issue of the target group stood from May to October 2006. It appeared with the change in the financial perspective. Austria, holding the Presidency at the time, announced that as a consequence of the diminution of the budget to the AFSJ, the EIF amount would diminish, too, and that its scope should be reduced accordingly[1]. Austria thus put forth a compromise text displaying the two options already mentioned, clearly siding[2] in favour of a fund addressing newly arrived third country nationals[3]. Differently,

[1] Council of the European Union 7214/06.
[2] Austria's position on the scale is defined through the proposal it made. It did not further comment the choice between the options. Since Austria shaped the proposal, the position I have given it is likely understated. However, inflating its stance without further empirical data could introduce a bias. I thus choose the conservative option.
[3] Council of the European Union 8091/06; 8373/1/06.

Commission's favoured option was that of a wide target group granting more flexibility to member states[1]. Since the two camps could not be reconciled, the issue was tasked to a sub-committee of the SCIFA, the Working Party on Migration and Expulsion, for a technical scrutiny of the proposal[2]. A month later; i.e. in the beginning of May, no agreement was found. As official documents phrase it: "[f]ollowing extensive examination of the said provisions, it became evident that the envisaged exclusive limitation of the scope related to the newly arrived third country nationals was felt to be inflexible"[3]. Resultantly, the article defining the target group was simply removed, in spite of France's and Sweden's concerns and to the contentment of Estonia, Greece and Slovenia which insisted discretion was necessary to meet specific needs due to different stages of development of their integration policies.

Despite the removal of the article itself, the opposition went on. France and Sweden notably upheld their position by expressing their concern as to the removal of the article[4]. Indeed, maintaining the references to the newly-arrived foreigners weighs in with the debate on the distribution key. If the fund shall target new-comers, then a higher percentage of the variable amount distributed according to the number of new-comers makes a lot of sense (see below). Greece and the other defendants of a loosely defined target group maintained their position, too. Notably because if the article explicitly dealing with the target group was cancelled, references to newly arrived third country nationals where still made with respect to the general objective of the fund. Article 2 for instance provided that "[t]he fund shall primary focus on actions relating to the integration of newly arrived third country nationals"[5], a rather vague formulation for which Greece entered a reservation. Whereas most of the countries opinions faded at one moment or another, Greece maintained its reservation until the end. The likely reason is the same as that explaining why some member states wanted a more targeted instrument: it justifies the distribution key granting more importance to flows (in case the fund addresses integration of new-comers) or stocks.

In summary, the negotiation process on that aspect led to the withdrawal of the article on the target group for more flexibility in the spending of the fund. References to

[1] Council of the European Union 8373/1/06.
[2] *Ibid.*
[3] Council of the European Union 9028/06:1.
[4] Council of the European Union 9385/06.
[5] Council of the European Union 10432/06.

newly arrived third country nationals remained but where loosely phrased so that member state would enjoy discretion in the spending of the fund. The outcome mirrors a "least common denominator" approach (Tsebelis, 2013:14) or the incomplete contract mentioned in the delegation literature (see *inter alia* Kassim and Menon, 2003; Chapter 1 of this dissertation). To the question why some member states would advocate less flexibility in the fund's spending, the most plausible answer lies in the role of the target group definition in the determination of the distribution key. A reference to new comers justifies a certain split of the fund whilst a more flexible notion reshuffles the cards. It is interesting in this regard to see the respective positions (and salience of the latter) of Greece, Slovenia, France and Sweden on the two issues by comparing figure 3.1 (above) and figure 3.2 (below): France and Sweden strongly advocate prevalence of flows over stocks of migrants and a fund targeted at newcomers; whilst Greece and Slovenia strongly advocate the opposite. To put it in a nutshell, the distribution key is indeed the most relevant issue, at the core of the "who gets what and how" question.

3.3.2.2. The distribution key

Continuing the discourse started at the very end of the last section, there is indeed a link between target group and distribution key. A certain target justifies a certain distribution. No target reshuffles the cards and enlarge the margins of negotiation on the distribution key.

Commission proposal put forth a threefold distribution key governing member states' allocations. At the time, the EIF was worth €1,771 million. The fund would be distributed via: i) a fixed amount different for old and new member states; ii) a percentage of the fund as a function of the total number of third country nationals legally residing in the member state over the previous three years; i.e. the stock of migrants; iii) a percentage of the fund as a function of the number of third country nationals who have obtained a residence permit over the previous three years; i.e. flows of migrants.

The fixed part was initially established at €300,000 for EU-15 member states whilst the 10 states that joined in 2004 and 2007 would receive €500,000. The rest of the fund would be split according to the following shares: 40% for the stock of migrants; 60% for the flows. Such precedence of flows over stocks considerably affects the allocation of funding. Likewise, the cumulated fixed allocations determine what remains to be

distributed according to variable amounts. The fund as designed by the Commission favours distribution to so-called new member states (or EU-10) that receive a higher yearly fixed amount. But such distribution is not of everyone's taste. Depending on whether one has more (or expect more) incoming fluxes or has more settled migrants, one receives more or less. In addition, the higher the fixed amount, the lower the remainder to be split. A member state that expect a higher share of the fund according to variable amount (irrespective of whether flows or stocks prevail; typically EU-15 states) has all interests to lower the fixed amount. Conversely, a country with little flows (of legal migrants; this is important since some countries like Italy, Greece or Spain may receive a lot of immigrants but not all of them will eventually obtain a residence permit) or stock gains from higher fixed amounts. Considering that the total sum that can be spent over the seven years of the programme can by no means be exceeded, the negotiation of Commission proposal endorses all the features of a zero-sum game in which what is given to one is taken from the other. Here I can distinguish two lines of conflict, however closely related: one regards the fixed amount whilst the other concerns more directly the distribution key.

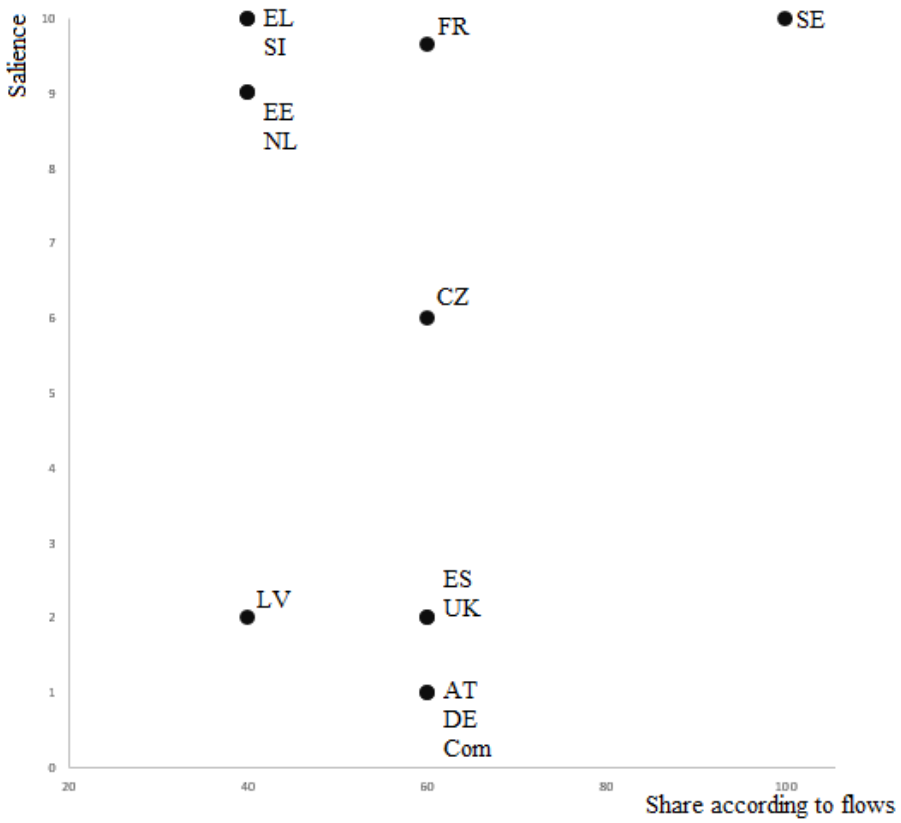
Regarding the variable amounts first, figure 3.2 below represents member states' position as to the share that should be granted according to flows of migrants (on the abscissa). The ordinate axis concerns the salience of such position[1]. France and Sweden display a salient preference for a higher share of the fund distributed according to flows of migrants. They face Greece, Slovenia, Estonia and the Netherlands, preferring precedence be given to stocks with the issue being salient as well. Another group comprising Latvia, Spain, the United Kingdom Austria and Germany[2] show mild salience for positions following the same divide. Considering the divide regardless of saliency, it appears there are more countries expressing their preference for flows than for stocks (Sweden, France, the Czech Republic, Spain, the United Kingdom, Austria and

[1] Salience in this respect is measured through the number of times a member state expresses its opinion on the matter along the decision-making process. From the moment the issue first arose to the end of the decision-making process, member states had the possibility of expressing their opinion ten times. Greece here again expressed its position the most often. As for the positions, I considered the first one ever expressed. Note though that positions changed very little in the process. Sweden passed from a 100 to 80% whereas France passed from 60 to 80%.

[2] Austria's and Germany's position were not expressed during the official process but before that, when the matter was approached in the NCPIs committee. Commission's proposal, at the unofficial stage provided precedence be given to stocks (Migrapol-Integration 42). Commission reversed the distribution key before officially issuing its proposal on demand of the Austrian, German and Czech delegations. I consider this as the clear expression of a preference.

Germany). These countries also have, arguably, more bargaining power (Brams and Affuso, 1985; Hosli, 1995; Cross, 2012): economically stronger, it is less costly for them to walk away from the negotiation table than it is for others. Most of them also already had a sound integration policy in place with considerable national public funding, thus reducing the importance of the EIF and increasing their negotiating position. But since the decision rule is unanimity, there is still the possibility, in theory, that a country with less bargaining power block the adoption of a bill (Buchanan and Tullock, 1958; Tsebelis, 2001).

Figure 3.4 – Member states preference as to fixed and variable amounts.



As for the fixed amounts (see table 3.1), the hypothesis formulated above is verified: the country less likely to gain from the variable amounts (those with no or little immigration history) advocate higher fixed amounts, irrespective of their preference for the variable amount distribution. Conversely, advocates of lower fixed amounts are countries with a long migration history.

Table 3.1 – Member states' position on the fixed amount.

	Higher share for flows	**Lower share for flows**	**Unexpressed**
Higher fixed amount	CZ, Com	SI, LV	HU, MT, CY
Lower fixed amount	FR, DE	NL	
Unexpressed	SE, AT, ES, UK	EL, EE	

At the end of the process, Greece, a fierce defendant of its position yielded, all member states were granted the same fixed amount of €500,000 per year (instead of a differentiated or lower amount) and the variable amount would be split with 60% for flows, 40% for stocks. How did we get there?

The first spark came in February 2006. In a note addressed to the SCIFA in anticipation of a forthcoming meeting[1], the Slovene Delegation proposed the distribution key be reversed to place more emphasis on stocks (60%) rather that fluxes (40%). By mid-March, Estonia, Greece, Latvia but also the Netherlands rallied such position whereas France, the UK and Spain were in favour of retaining the proposed distribution key[2]. In this respect, Sweden took the stance of asking 100% of the fund be used for fluxes, due to the fact that the fund is targeted at newly arrived third country nationals.

Ahead of this meeting, the Presidency, heeding the necessity of reducing the overall budget for the four funds, opened a discussion on the possibility to decrease fixed amounts[3]. Whilst France advocated such reduction, Greece seemed[4] to be in favour of a same fixed amount of €500,000 for all countries. A group of states made up of Czech Republic, Cyprus, Latvia, Hungary, Malta and Slovenia declared preferring the text as proposed by the Commission (so a higher amount for EU-10 countries). They were later joined by Cyprus and Greece[5] in June 2006. A meeting of the SCIFA to discuss the

[1] Council of the European Union 6735/06.
[2] Council of the European Union 8983/06.
[3] Council of the European Union 7214/06.
[4] The wording as in 8983/06:2 does not allow for a clear understanding of Greece's position: "EL considered that the same fixed amount of €500,000 should be foreseen for the Integration and Returned fund while, concerning the ERF, it agreed with the current text". Since Greece disagreed on the amounts and that the only amount that differed from what was originally provided was that for EU member states that acceded prior to 2004, I can safely assume that Greece's position was in favour of a same amount for every one member state.
[5] Council of the European Union 10432/06.

Presidency's compromise text took place on May the 11th, 2006. On this occasion, a number of issues were further discussed. Instead of decreasing fixed amounts as France suggested, the text equalled all of them to €500.000, thereby supporting the stance of Czech Republic, Cyprus, Latvia, Hungary, Malta and Slovenia. As for the distribution key, the compromise text maintained the proposition laid down by Commission; i.e. emphasis on fluxes over stocks. The new combination of the two provisions triggered new warnings across the board; from Czech Republic, Greece, Estonia, Italy, France, the Netherlands, Sweden and Slovenia[1].

By September 2006, the distribution key was still on the table. France and Sweden clung to the emphasis on fluxes and asked 80% be dedicated to them. Estonia, Greece, the Netherlands and Slovenia clung to their position too and asked 60% be dedicated to stocks. With the time passing and the issue still standing out, the matter left SCIFA to reach COREPER[2]. But whilst most opponents reached a common position in COREPER, Greece maintained its preference for an emphasis on stocks[3] through its scrutiny reservation on article 2 defining the general objective of the fund, a reservation holding since June 2006[4]. Greece lifted its reservation a few days after[5], without any change be made, opening the way for formal adoption in Council. The overall process actually led to little formal change from Commission proposal but nonetheless change of some reach. If the original distribution key was kept, the annual fixed amount increased of €200,000 for 14 EU member states, decreasing as much the remaining amount to be distributed. Originally, the overall fixed amount for the 7 years of the fund was to be €71.4 million; that is 8.65% of the total amount. After the change, fixed amounts equalled €91 million; 11% of the total amount. This notably reduced the remaining amount to be further distributed.

Greece has been a fundamental player all along. By entering a reservation it would not lift until the very end of the process, to the point of threatening the adoption of the vote, it proved the most determined to obtain satisfaction. In fact, this is only after Greece lifted its reservation that the text could move to the vote. Greece however lifted its reservation without obtaining what it wanted. Why is it so? It is always arguable that

[1] Council of the European Union 9385/06.
[2] Council of the European Union 12999/06.
[3] Council of the European Union 13407/06.
[4] Council of the European Union 10865/06.
[5] Council of the European Union 13407/06.

opposing a text is good as long as the finger-pointing is not too precise. Standing against the bill works if the member state is not the only one to want to amend the text. Differently, being the one that says no is considerable pressure in spheres where consensus-seeking logics reign (Aus, 2008). Accordingly, Greece could have yielded when its support faded. More likely though, Greece would have obtained concessions on another (related) policy, in a typical logrolling fashion. So holds*Interviewee*, interviewed for this research. She evokes notably the fact that the Decision was included in a package deal and that Greece obtained a more favourable distribution key in one of the other three funds under discussion.

3.4. Conclusion

Without a strong foothold on integration matters and with a rule providing for unanimity decision-making, the adoption of a fund at EU level that would consistently enforce a European view of integration was unlikely. This chapter shows that the decision-making process led to a fund with widely defined objectives, flexible implementation rules, and for which most of the attention has focused on the who-gets-what question. In summary, the negotiation revolved around easing the requirements for spending and getting more to spend, two sides of the same medal.

From the outset, the proposal from the Commission set a series of objectives that would be endorsed by the member states without much discussion. Casting a wide net, these objectives allowed member states to use the fund according to their priorities. This is also due to the fact that, lacking a competence on the matter, all the EU could do was supporting national policies. The negotiation of the Commission proposal reinforced member states' grips on the fund as some of the principles established with the reform of the cohesion policy in 1988; i.e. principles of additionality and partnership, were removed or weakened. Accordingly, member states were legally given the opportunity to replace their own funding for integration with the funding granted by the EIF, and they were under no obligation to consult subnational bodies or third sector organisations for the programming, implementing or evaluating phases of the fund. In addition, implementation was made more discrete with the suppression of a clear, binding reference to the target group. In this manner, member states could use the fund with more flexibility

whilst the control mechanism in the Commission's hands progressively faded. Resultantly, the way member states would plan to use the fund would likely depend on their respective preferences (Chapter 4).

Chapter 4: Why implement without a tangible threat? The effect of a soft instrument on national migrant integration policies

Over the past 20 years, the study of policy-making has argued in favour of better regulation. The New Management school has advocated smarter regulation, suggesting the desirability of a shift from command-and-control instruments to incentive-based ones (Grabosky, 1995), whilst Multilevel Governance scholars have advocated less hierarchical and more co-operative processes (Hooghe and Marks, 2001). At EU level, the Lisbon Strategy gave birth to the Open Method of Co-ordination (OMC), intended to bypass the crippled community method in delicate policy realms. Yet, in 2016, studies of the implementation of EU outputs are still very much focusing on EU directives, leaving, by the same token, the study of primary and secondary law (mainly Regulations and Decisions) implementation to lawyers. Now that enthusiasm for the OMC has passed, leaving behind a series of case studies, thorough descriptions and hypotheses about its cognitive impact, little attention has been paid to other policy instruments and their implementation across EU member states.

The argument I develop in this chapter addresses these shortages. Namely, I look into the mechanism that governs the implementation of the European Integration Fund's (EIF) soft law provisions across EU member states and I argue that the design specific to a policy instrument determines the actors disputing its implementation. Drawing from different strands in the literature, I develop a series of hypotheses to answer the question: what explains variation in implementation in the absence of a threat from above? Considering the EIF as soft law[1], I show that much is placed under the discretion of

[1] Despite the fact that the EIF was adopted through Council Decision, the provisions it includes are of a soft law nature (Trimikliniotis, 2012), see below.

governments. I posit that: in the event of low oversight by the EU Commission, as is the case for the implementation of EU law, and in the absence of horizontal oversight, as is supposed to be the case for the OMC, member states may be prevented from free riding thanks to the effect of oversight from below (Cremona, 2012; Dai, 2005; Featherstone, 2005). That is, member states will tend to pursue their own agenda unless public opinion or civil society organizations play the watchdogs. These hypotheses owe their place in my model to the constant endeavour of the European Commission to render its funding activities visible to the wide public and its will to empower non-profit organizations through financing rules. I thus show that the policy instrument used determines the influential actors in the game and their respective resources, which in turn may determine the outcome of the implementation process. Empirical evidence is drawn from the application of time-series cross-section methods to an original dataset. In a first section (4.1) I bridge the literature on compliance, OMC and policy instruments in order to delineate a policy-specific approach. I then introduce the EIF, explain why it is a good case to answer my research question and present its features (4.2). In a third section (4.3), I present the four hypotheses. Data and research design are detailed in a fourth section (4.4). I then provide the results of the empirical analysis in a fifth (4.5) and conclude in the final section (4.6).

4.1. A policy specific approach to implementation: compliance, flexibility and instruments

This chapter bridges the literature on compliance, OMC and policy instruments. Studies on compliance have produced cross-country and cross-sectoral explanations as to *why* member states comply with EU directives (Treib, 2014). This literature has offered two main series of explanations. On one end of the spectrum, state-based approaches usually contend that implementation depends on capacity. Structural (poverty, government efficiency, culture) or organizational (federalism, corporatism) features determine a state's capacity to abide by its European duties (Mbaye, 2001; Pridham, 1994; Lampinen and Uusikylä, 1998; König and Luetgert, 2008; Falkner *et al.*, 2007; Falkner and Treib, 2008). This stance is, however, vulnerable to severe criticisms in that it suggests that over a broad range of policy fields, some countries will systematically tend either to comply

or not comply. Yet, sector-specific interests matter and this cannot be accounted for by state-based explanations. Empirically, there appears to be more variation across the different policies within countries than amongst countries (Thomson *et al.*, 2007; König and Luetgert, 2008; König and Mäder, 2014; Börzel, 2000).

At the other end of the spectrum, preference-based explanations have initially consisted of two branches. One has posited the impact of the goodness of fit between EU outputs and national institutional frameworks (Börzel and Risse, 2003) whilst the other has centred its analysis on the game between veto points (Haverland, 2000; Giuliani, 2003). Both approaches have, however, proven to be only 'sometimes-true theories' (Falkner *et al.*, 2007). Further developments of preference-based explanations have nonetheless blossomed, geared up with sector-based preferences arguments. These studies aim at testing the role that preferences in specific policy sectors play in the implementation of EU outputs.

With the Open Method of Coordination (OMC), a new strand in the literature on EU outputs has aimed at explaining *how* soft instruments (the OMC) affect member states' preferences (Kröger, 2009). Concentrating mostly on processes, scholars put emphasis on learning (Knill and Lenschow, 2005; Radaelli, 2008), peer-pressure through benchmarking (Borràs and Jacobsson, 2004) or naming and shaming (Büchs, 2007).

Interestingly, in answering different questions, the studies on compliance and OMC have brought to light similar causal mechanisms. Capacity, veto-players or goodness of fit have been put to the fore (Saurugger and Terpan, 2016). The reason lies in the fact that the two phenomena under study share a similar feature: compliance. Even though soft law is not binding law, it can exert an important influence on member states' behaviours (Tholoniat, 2010). Therefore, there is (non-)compliance (or 'resistance') with hard law as with soft law (Saurugger and Terpan, 2016); what changes are the sources and degree of coercion exercised (Salamon, 2000; Gunningham and Sinclair, 1998). In the case of directives, high coercion is applied and embodied by the Commission that may launch a legal action for failure to comply with EU obligations. In the case of soft law, mild coercion is instead exercised and it comes from different sources that may be European counterparts or national actors. This is where the third literature, on instruments, comes into play. It revolves around Lowi's early statement that policies determines politics (Lowi, 1964) and posits that the instrument matter. It determines the actors, the sectoral interests that are going to affect its implementation (Gunningham and

Sinclair, 1998; Kassim and Le Galès, 2010); hence the need for a policy-specific model of explanation.

As mentioned, with soft-steering instruments, the Commission oversight is no longer a threat, which makes member states' commitment to objectives difficult to ensure (Dehousse, 2005; Tholoniat, 2010). If constraint from above is limited, it may come from the sides or even from below. Horizontal constraint refers mainly to the OMC and the principle of benchmarking or peer-pressure it contains. Finally, constraint may come from below, from the power the constituency holds to constrain the actions of politicians through the threat of electoral sanctions, and from the consent or opposition organized interests may voice (Featherstone, 2005; Dai, 2005; Cremona, 2012). The latter source of constraint is the most relevant for this study and the relevant actors ought to be identified accordingly.

In designing a policy specific model of explanation, this chapter is at the cross-road of these three sets of literature: it considers the *actors* likely to affect implementation in order to explain *why* member states implement or 'resist' *soft law* instruments. In order to allow cross-country comparison, I inspire my acceptation of implementation from the literature on compliance. That is, several works employ timeliness as a proxy for compliance with EU Directives, thereby limiting implementation to transposition (e.g. formal notice of national implementation measures) and ignoring application and enforcement (Börzel, 2001; Treib, 2014). Despite its limits, this strategy allows cross-national comparison of member states' behaviour. In a similar fashion, I consider member states' response rate to soft law; that is how much they declare in their annual programmes that they implement, or how much they show (passive) resistance by declaring they do not implement.

4.2. When policy determines politics: the implementation of the EIF

Immigration is a new item of EU law. Barely mentioned in the Maastricht treaty, it was enshrined for the first time in EU primary law by the treaty of Amsterdam. Even then, the integration of foreigners was scarcely touched upon. It was first dealt with in a

Commission proposal for an OMC on immigration[1] that was, however, not put forward by the Council (Caviedes, 2004). This did not prevent the Commission from advancing its agenda through a patchwork of different soft law instruments, sometimes called 'quasi-OMC' (Carrera, 2008, p.6). Two of these instruments form the core of the EU integration policy: 1) the Common Basic Principles (CBPs), a set of 11 short principles supposed to guide the policies of member states; 2) the European Integration Fund (EIF[2]), a financial instrument aimed at implementing the CBPs.

The EIF is a rather small envelope of €825 million financing integration projects over the period 2007-13. About 93 % of it is spent on national programmes on the basis of a yearly-calculated allocation. Amounts are indicative and conditional upon a member state's willingness to engage them. Like most EU funds, the EIF operates on the principle of co-financing and programming: the member state financially commits to objectives announced in a multiannual programme, which is in turn further broken down into annual programmes; this commitment is supplemented by the EU fund. But, unlike most EU funds that provide a sound partnership principle (see Bache, 2010), the EIF places governments at the centre of its implementation. There is a programming phase in co-ordination with the Commission, but the definition of the substantive content of the programmes remains largely dominated by the state (Carrera and Atger, 2011). There is a partnership principle here too but it is very weak since governments may open or not the programming phase to other actors[3]. Unlike other funds, no principle of additionality is provided for. The entire process therefore remains in the hands of governments, which have the option to neglect the fund's purposes and pursue their own.

4.2.1. Why the EIF is an interesting case of soft law

The EIF presents particular features that make it an ideal candidate for the study of soft law implementation. Pertaining to a realm in which the EU had no formal competence[4] until the entry into force of the Lisbon treaty makes soft law the unique mode of action

[1] COM(2001)387final.
[2] Council Decision 2007/435/EC.
[3] Council Decision 2007/435/EC, art.10.
[4] The EIF was adopted on the basis of article 63(3)(a) relating to legal immigration and ruled by unanimity voting.

accessible to EU institutions; but unlike most the other soft instruments used thus far, the EIF is not an OMC: there is no institutionalized peer-pressure through benchmarking or the likes. Touching upon immigration, it is a rather sensitive and salient policy field in which member states are likely to follow their own agenda, all the more so since the fund is devoid of a principle of additionality and since the principle of partnership is very weak. From an empirical perspective, the EIF eschews the problems that hamper comparative analysis of other soft law policies[1]: by providing funding opportunities, it is submitted to financial regulations and consequently member states are obliged to plan and report on their activities, which provides essential data for comparative analysis. The combination of the EIF being i) a soft instrument that is not an OMC, ii) within a sensitive and salient policy field, iii) that allows transnational comparison makes it a good case to start delving into implementation of soft-steering instruments.

4.2.2. How the EIF works

The EIF Decision and related documents[2] establish the goals that shall be tackled by the fund. The use of the fund is submitted to more or less stringent rules. Since this chapter is concerned with the implementation of soft law, I consider the less stringent set of indications, a series of five specific priorities financially incentivized (hereinafter 'EU indications'), and test hypotheses as to how member states respond to these[3]. Note though that according to the fund's rules, individual projects are co-financed up to 50 % by the EU. This contribution is increased to 75 % where the state follows the indications. However, member states falling under the cohesion fund receive 75 % from the fund, irrespective of whether they address them. Therefore, not every country has a financial incentive to follow EU indications. Notwithstanding, member states showed very different responses over the years. Figure 4.1 below reports the mean and standard deviation of their implementation over the seven years of the EIF. Most member states observe sizeable dispersion around the mean, creating a hectic picture that cannot be

[1] Tholoniat (2010, p.97) notes that in the first OMCs, members states 'tended to avoid peer review exercises or simply refused to report on progress' on sensitive issues.
[2] See C(2007)3926final.
[3] These indications, so-called 'specific priorities', are defined in C(2007)3926final. They regard *inter alia*: participation of migrants to integration policies; targeting vulnerable groups; innovative introduction programmes.

accounted for by financial incentives. Another graphic representation (figure 4.2) shows the yearly distribution for each member state. It notably shows that dispersion around the mean is not due to a gradual increase or decrease in implementation, but forms an apparently random pattern.

Figure 4.1 - Implementation of EU indications in percent of total funding, by financial incentive, mean percentage and standard deviation

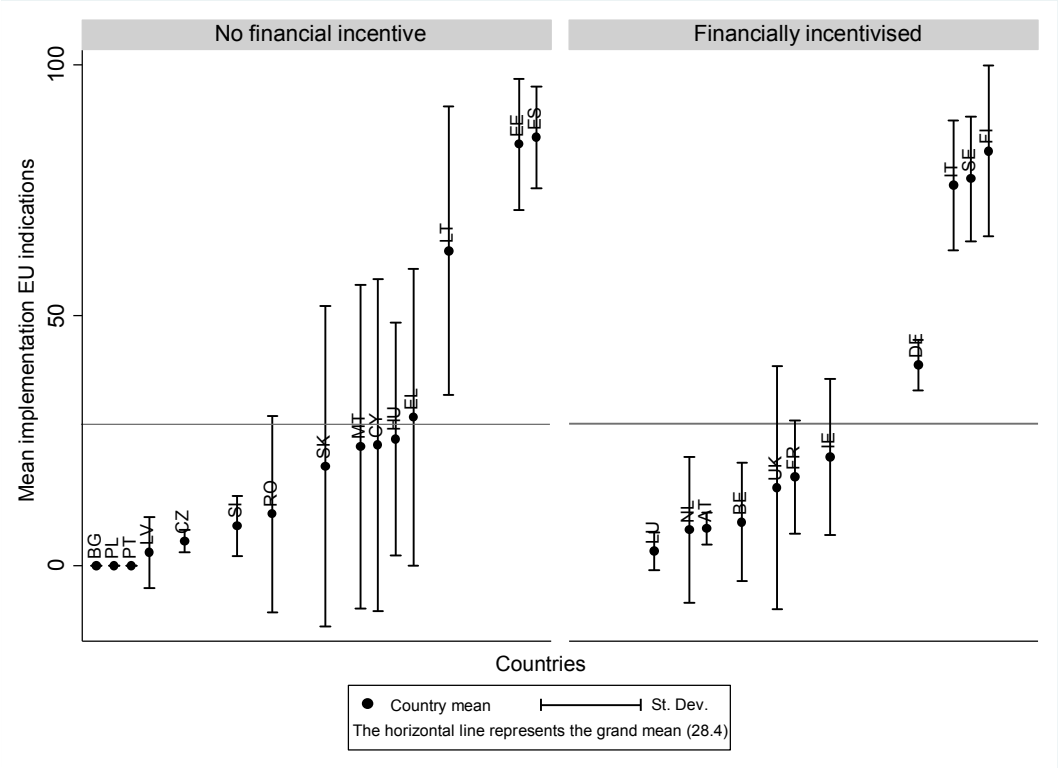
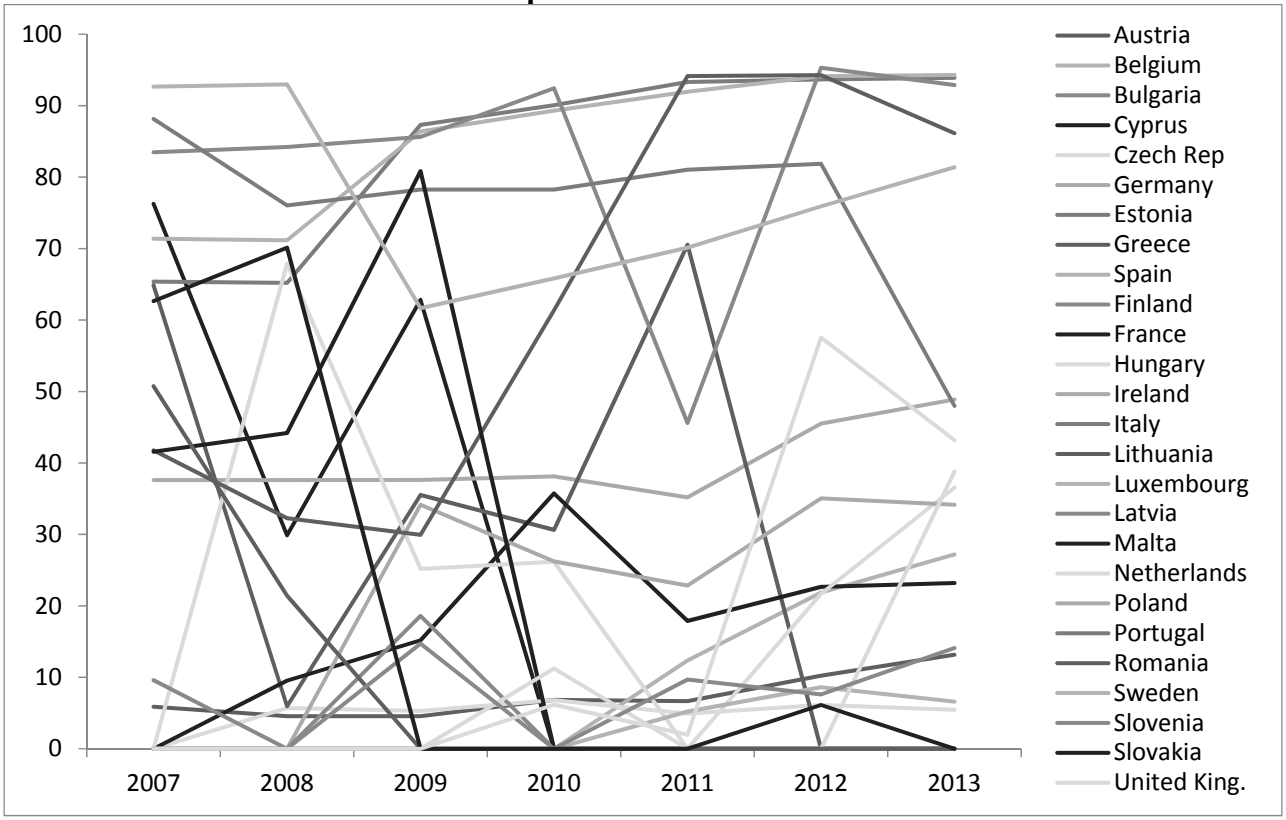


Figure 4.2 - Implementation of EU indications in percent of total funding over the period 2007-13



The huge variation between and within member states in their response to EU indications poses a question that I formally phrase as follows: what does explain variation in implementation in the absence of a credible threat from above? Structural and functional explanations can be discarded for several reasons. First of all, it is evident that such variation within countries cannot be explained by invariant structural features alone. Secondly, EU indications are worded in an ample and construable manner (see examples in Carrera and Atger, 2011, p.30), they are numerous and hence can satisfy a large array of situations on the ground, and they are not policies *per se* but orientations to be given to projects financed under the EIF.

4.3. Hypotheses to the test

As said earlier, soft law is not no law and there is indeed compliance with (or resistance to) soft law (Saurugger and Terpan, 2016). What the driver of compliance is remains to

be seen insofar as little legal coercion can be exercised by the Commission (as it is in the case of Directives) or other member states (as in the OMC). As far as the EIF is concerned, Commission oversight is limited to sound financial management and there is no horizontal monitoring device whatsoever. There remains a compliance mechanism from below, since politicians are answerable to a constituency that may or not dismiss them from office from one mandate to another. I posit that the weak role of the two former control mechanisms accentuates the importance of the latter and that under certain circumstances civil society may exert strong oversight able to ensure compliance is sought by the implementers.

4.3.1. Why public opinion should matter

Many scholars have argued that policy-makers have limited attention available (Howlett and Giest, 2012) and that society faces many issues simultaneously. Only a small number of issues are taken up by policy-actors and give rise to policy development. If policy-makers are interested in staying in office they ought to pay attention to the issues the public cares about (Green-Pedersen and Mortensen, 2013). Yet, public opinion has rarely been studied in implementation scholarship and when it has, this focused on attitude towards EU integration (Treib, 2014). In this fashion, rather little evidence has been found in support of it; only Mbaye (2001) found it had an impact. Furthermore, little account has been given to public opinion on specific issuers. Spendzharova and Versluis (2013) did succeed in demonstrating the impact of public opinion attachment to environmental issues and compliance with environmental-related directives. Scrutinizing public opinion when it comes to implementing immigration-related policies is of compelling relevance. Immigration is decidedly a hot topic. As of 2004, numerous respondents to Eurobarometer 60 ranked immigration as one of the most important issues. In August 2015, Eurobarometer revealed that immigration was the foremost concern of the European public, more important than economic issues and unemployment (Les Echos, 2015). Van Spanje and de Vreese (2011) and Luedtke (2005) have found that anti-immigration attitude has actual effects on MEPs' votes and support for the EU. Alonso and Fonseca (2011) have found that immigration had also gained in saliency in party competition across Europe since WWII.

In a nutshell, public opinion is likely to matter. But what would be the foreseeable effect? High salience in public opinion could lead to more Europe in the implementation, be it for blame-shifting purposes or because public opinion supports EU integration. But high salience could also be linked to a more national policy. After all, immigration policies at national level have been built on national identities (Luedtke, 2005). To put it differently, high salience is likely to matter to public policies 'but the direction of the effect is crucially dependent on the policy opinions expressed in the mass public' (Green-Pedersen and Mortensen, 2013, p.170). That said, the public's policy preferences in this respect are likely vague (Wren and McElwain, 2011) and potentially conflicting[1] so that parties can hardly try and close the distance separating them from the public at large[2]. I therefore hypothesize that high salience leads to a political response in accordance with a government's position on the matter. Given that EU indications aim at implementing the CBPs, which define integration as a 'two-way process of mutual accommodation'[3] between migrants and nationals and therefore as departing from assimilation, government is likely to implement these indications if it favours multiculturalism over assimilation[4].

It presents fewer difficulties to hypothesize the effect of low saliency. Inverting Lowi's argument (1964) that policies with direct consequences for public budgets are often highly salient to the public, I posit that a policy that is not really salient should not have consequences on public budgets, hence an incentive to minimize national public spending and enjoy 75 % co-financing from the EU. To paraphrase Susskind (2006, p.279): 'the best way for a negotiator to satisfy his interests is to find a low-cost way (to him) of meeting the most important interests of his negotiating partners'. In that sense, government can yield to the financial incentive and concentrate on issues that interest citizens the most. For those states that have no financial incentive in following EU

[1] Eurostat data (2014) show conflicting positions in the public's attitude towards migrants for instance. Note that the public's preferences as to integration and/or how much Europe there should be in integration policy is more difficult to fathom.

[2] As a matter of fact, parties' policy preferences on the matter change very little over short periods of time. Policy preferences on multiculturalism for the period 1999-2014 have rarely moved of more than one point on a zero-to-ten scale. See the method section for more detail.

[3] See the CBPs at https://ec.europa.eu/migrant-integration/the-eu-and-integration/eu-actions-to-make-integration-work

[4] The concepts of assimilation and multiculturalism have been discussed a great deal in the specialized literature. They are here considered as a policy preferences. Assimilation refers to a policy position viewing integration as a one-sided process of adaptation whereby immigrants are to be incorporated into the host society (Brubaker, 2001) whereas multiculturalism refers to the acceptance (and sometimes) promotion of long-term cultural differences (Kymlicka, 1995).

indications, they may do so with a view to being the model student, as they would in a benchmarking exercise.

Hence,

> *H1: The lower the issue salience in public opinion the higher the government response rate to EU indications.*
>
> *H2: The higher the salience in public opinion, the more likely governments implement EU indications according to their substantive preferences, and thus the more they favour multiculturalism over assimilation the higher response rate to EU indications.*

4.3.2. Why Civil Society Organisations should matter

In ever slimmer states, administrative decentralization has increased and is often a favoured option to cut bureaucracies expenses (Majone, 1999). Delegation of the delivery of public services to non-profit organizations has become increasingly common. This is also how the EIF is supposed to work: programming is up to government whilst the ground implementation of projects falls to third parties, be they subnational bodies or third sector entities (Commission Decision C(2008)795). Civil society organizations (CSOs) are thus a good candidate for acting as surrogate regulators (Dai, 2005; Gunningham and Sinclair, 1998) and may push governments towards more implementation (Saurugger, 2012). Note that I am interested in CSO's financial and staff capacities to be co-implementers.

There are, however, different ways to look at the CSO-government relationship. They may interact in a confrontational manner and CSOs may exert pressure on the state to achieve their goals. Dai (2005) argues that civil society is likely to be empowered by the existence of an international norm that would allow it to exert pressure on a government's agenda. If we consider their interaction in a collaborative fashion, government and CSOs have a common interest in increasing the available resources to be distributed, in 'increas[ing] the size of the pie' (Susskind, 2006, p.281).

Beyond the CSO-government relationship, CSOs involved in migration issues have a policy position substantively close to the Commission's, for a number of reasons: a) because of the long standing relationship between a Commission in search of input and output legitimacy (see *inter alia* Scharpf, 2003) and CSOs seeking material and symbolic resources (see for migrations *inter alia* Geddes, 2000; INTI programme[1]); b) because the relationship between the Commission and CSOs on migration-related issues is not one of contentious politics but rather one of building up alliances (Geddes, 2000); c) because the Commission's position is rather progressive (Geddes, 2000) and in line with the position of CSOs, as evidenced at the 11th meeting of the European Integration Forum (April 2014), which gathered CSOs in Brussels to discuss integration matters[2]. But since public opinion might already have an impact on government programming, the impact of organized civil society may be diminished in the sense that government may favour public opinion over CSOs. So the impact of CSOs may be higher when there is low salience in public opinion, and arguably low salience in government. According to Albaek *et al.* (2007), and Green-Pederson and Mortensen (2013), in times of low salience in public opinion, subsystems (ensembles of interests groups, bureaucrats and experts) are likely to dominate policy-making.

Hence,

> *H3: The higher CSO capacity the higher the government response rate to EU indications.*
>
> *H4: The lower the issue salience for public opinion and government, the higher the impact of CSO capacity on government's response rate to EU indications.*

[1] NGOs directly financed by Commission for the integration of third country nationals.
[2] CSOs overwhelmingly considered the CBPs to be up-to-date and a fundamental framework for national policy-making. See Council conclusions of the Council and the Representatives of the Governments of the Member States on the integration of third-country nationals legally residing in the EU, June 2014.

4.4. Methodology: time-series cross-section regression

4.4.1. Data and operationalization

The data covers the period 2007-13 and considers the 26 member states that took part in the EIF. However, due to missing values and EIF's inception specificities, the dataset counts 147 data-points instead of the 182 initial ones (26 countries times 7 years). My unit of analysis is member states' annual programmes over the period. Given the significant delay observed in the launch of the EIF (European Integration Fund), 2007 Annual Programmes were submitted together with 2008 ones. I therefore averaged the values for the 2007 and 2008 Annual Programmes[1]. Note that these data points are not the product of random sampling but constitute a finite population. Consequently, the meaning of p-values is slightly different than with a sample and leads us to consider the data points as being the sample of a hypothetical larger population that may also include future cases. In other words, the p-values help answer the question: how confident are we that in similar circumstances the same coefficients would apply? For the same reason, e.g. reasoning on a finite population, coefficients are important irrespective of their significance because they describe what happens in actual facts. They tell how much a given variable has weighted in determining the outcome (see Taagepera, 2008 and Toshkov, 2010 for a discussion on substantive versus statistical significance; see also Valentine *et al.*, 2015 for an interesting discussion on p-values). The method applied accounts for the non-asymptotic nature of the data. Missing data was treated according to list-wise deletion. I was able to contain missing values and only 9 data points out of 156 were deleted: the whole of Malta (so the analysis actually considers 25 countries) and Latvia's data for 2008, 2009 and 2010. There are therefore 147 data points considered in total.

[1] See national midterm implementation reports and Commission Decisions validating 2007 and 2008 Annual Programmes.

Dependent variable

As a dependent variable, I use the percentage of total funding designated for tackling the five *specific priorities*[1] (hereinafter "EU indications"), per year and per country. This percentage is drawn from member states' annual programmes. It includes all budget lines that explicitly tackle EU indications. In the event a budget line would feature an EU-co-financing that is not sharply 50 or 75 %, I split the budget line into two, one that is 50 % and another one that is 75 % and recalculated the total funding addressing EU indications. Note that the dependent variable is an aggregate of the five indications' percentages. In average, across the 26 participating countries, and over the 7 years of implementation, member states have planned to spend 28.29 % of the total amount involved in the framework of the EIF for EU indications: 10.78 % for specific priority 2; 5.36 % for specific priority 4; 4.69 % for specific priority 3; 3.99 % for specific priority 5; and 3.62 % for specific priority 1.

Independent variables

My model seeks to explain the share of funding intended for tackling EU indications, not their actual implementation. Consequently, independent variables values are taken a year ahead of the programming period; i.e. for 2009 Annual Programmes, presumably designed in 2008, the values for independent variables refer to the year 2008. Note that this is corroborated by the dates of exchange between the Commission and the member states as to the validation of Annual Programmes.

Salience of immigration in public opinion is measured thanks to Eurobarometer 67.2 to 78.1, item 'What do you think are the most important issues facing your country at the moment' (TNS Opinion and Social, 2007). For a given year, Eurobarometer's values for its spring and autumn editions were averaged; with the exception of 2009 when the same question was posed thrice, on the occasion of three polls, one in January, one in June and one in November. In that case, I have averaged first the one in January and the one in June in an attempt to get a spring barometer. The values obtained were then averaged with the fall barometer to obtain an annual value.

[1] See C(2007)3926final for the *specific priorities.*

For CSO capacity, I use as a proxy the percentage of the working population working for NGO/non-profit sector as in the European Survey on Working Condition 2010 (EuroFound, 2010). Such data captures the idea of CSOs that may weigh on policy-making and be consulted beforehand by summarising their financial and administrative capacity (it does not count volunteering but professionals within organizations competing for funding). The advantage of such data is that it covers all member states, it is considered as one of the components of many indicators of civil society's size (Global Civil Society Index, CIVICUS, CSO Sustainability Index, Third Sector Impact Project), it does not present other indexes' drawbacks (low coverage, low cross-indices comparability, lack of interpretability). The inconvenience is that data is available for 2010 only so that I cannot capture potential change over the period considered.

The position of governments on multiculturalism and its salience is measured thanks to the Chapel Hill expert survey 2010 (Bakker *et al.*, 2012). CHES measures the positions of parties on a range of issues and not the position of governments. However, in many instances governments consist of a coalition of parties. Using CHES data, I traced back the parties in government at the time of programming and I aggregated their preferences following Gamson's law (Browne and Franklin, 1973). I have done the same for salience of multiculturalism.

Considering data from CHES 2010 assumes that party preferences on multiculturalism remain the same over the period considered. To verify such assumption, I ran a time-series analysis of preference changes on CHES 1999-2014 trend file. It appeared that there are few parties whose preferences changed of more than one point (on a zero-ten scale) over the period, therefore confirming the possibility to use data from CHES 2010. More precisely, amongst the 306 political parties across the EU-27, only 38 present a deviation from their mean greater than one; only 4 present a deviation greater than two[1].

[1] It would be too lengthy to reproduce the details here. Please write me if such details are needed.

Table 4.1 - Descriptive statistics of the variable introduced in the models

	Nb. Of Obs.	Mean	St.Dev.	Min	Max
Dependent Variable					
EU indications	156	28.29288	33.29182	0	95.31
Independent Variables					
Public Opinion	156	8.132532	7.936963	0.175	38.5
CSO Capacity	156	1.296154	1.343797	0.2	6.6
Financial Incentive	156	5.672111	13.92771	0	73.91305
Position on Multiculturalism	156	5.860975	1.447003	2.6	8.77778
Muliculturalism Salience	147	5.111583	1.714265	1.8144	7.875
Corporatism	156	0.0842566	0.730095	-1.32022	1.485859
Administrative capacity	156	1.10635	0.594096	-0.36	2.26

In order to test my hypotheses, I control for a series of other explanations. First, given that the EIF is an incentive-based instrument, the incentive itself must be controlled for. I consider that in order for the incentive to play the intended role, it has to represent substantial financial bait. As said before, there is no incentive for member states falling under the cohesion fund, since they receive 75 % co-financing right away. For other member states, the incentive is measured by comparing the yearly amount they are entitled to with the amount they planned to spend before the EIF existed (2006 if available, 2007 otherwise). Information is drawn from member states' multiannual programmes. Second, the weight that CSO capacity is likely to have on a government's choice is likely to depend on how much a government involves organized interests in policy-making (Saurugger, 2007). I therefore introduce an index of corporatism to control for it. Jahn (2014) provides up-to-date data on corporatism from 1960 to 2010. I averaged the data 2005-10 and applied a single value over the period 2007-12. Third, I control for member states administrative capacity as proposed by the literature on compliance and OMC. I use for that the worldwide governance indicators of effectiveness (Kaufman and Kraay, 2015).

4.4.2. Method of analysis

The data at hand is time-series cross-section (Beck, 2006) and strongly balanced. I implement a mixed effect multilevel model to account for the violation of the i.i.d. assumption (Gelman and Hill, 2006; Agresti and Finlay, 2007). It therefore appears necessary to hypothesize the structure of the correlated error (Kohler and Kreuter, 2012; Bertrand *et al.* 2004; Kezdi, 2004). I assume that repeated observations over time, within a country, are more similar than observations across countries. Time-series cross-section methods seem particularly fit here (see Beck, 2006). I thus implement a mixed effect multilevel model. I include random effects for countries and years of implementation in order to reduce the problem of correlated error (Kohler and Kreuter, 2012; Beck, 2006). As for the estimation technique, I used residual maximum likelihood (REML) for two reasons: first, because maximum likelihood (ML; the basic method for mixed effects models) presents asymptotic properties that may not function properly in a moderate or finite sample, which is the case here (see Oehlert, 2012; Kreft and de Leeuw, 1998); second, maximum likelihood estimates generally feature a downwards bias of level variances, which is undesirable as fixed effects are also underestimated (Patterson and Thomson, 1971). Note that the coefficients obtained do not change much in magnitude from one technique to the other. Only one independent variable passes from statistically significant to more than 95 % with ML, to significant to more than 90 % with REML (my proxy for CSO capacity).

The main issue arising concerns the dependent variable that is bounded up and down. Resultantly the best model fit would be a zero-inflated beta regression model (Ospina and Ferrari, 2012). Unfortunately, there do not exist routine techniques to implement multilevel beta regression. As a consequence of the relative misfit, the residuals are not normally distributed. That said, plotting residuals against fitted values shows a rather homoscedastic picture, hinting at a properly modelled correlated error. This latter point is corroborated by the statistical significance of random effects. The standard deviation for random coefficients on the year of implementation revolves around 4.4 - 4.5 (more than four standard errors; see table 1 of the main text). In the same fashion, the likelihood ratio testing the likelihood that the random intercepts constitute an improvement over a linear model proves highly significant with $p<0.0000$.

Model (1) consists in a general specification aimed at testing hypotheses 1 and 3. Model (2) introduces an interaction term in order to test hypothesis 2. Model (3) comprises a three-way interaction term, to test hypothesis 4. I use the following general specification:

$$Y_{it} = \alpha_0 + \beta_1 PO_{it} + \beta_2 Incentive_{it} + \beta_3 CSO_{it} + \beta_4 Multi._{it} + \beta_5 Multi.Salience_{it} + \beta_6 Corporatism_{it} + u_{0i} + u_{1t} + e_{it} \quad (1)$$

Hypothesis 2 is tested with

$$Y_{it} = \alpha_0 + \beta_1 PO_{it} + \beta_2 Incentive_{it} + \beta_3 CSO_{it} + \beta_4 Multi._{it} + \beta_5 Multi.Salience_{it} + \beta_6 Corporatism_{it} + \beta_7 (PO_{it} * Multi._{it}) + u_{0i} + u_{1t} + e_{it} \quad (2)$$

Hypothesis 4 is tested with

$$Y_{it} = \alpha_0 + \beta_1 PO_{it} + \beta_2 Incentive_{it} + \beta_3 CSO_{it} + \beta_4 Multi._{it} + \beta_5 Multi.Salience_{it} + \beta_6 Corporatism_{it} + \beta_7 (CSO_{it} * Multi.Salience_{it}) + \beta_8 (CSO_{it} * PO_{it}) + \beta_9 (PO_{it} * Multi.Salience_{it}) + \beta_7 (CSO_{it} * Multi.Salience_{it} * PO_{it}) + u_{0i} + u_{1t} + e_{it} \quad (3)$$

Where Y_{it} is the percentage of funding addressing EU indications in annual programme i for year t. PO_{it} is the salience of immigration for public opinion, $Incentive_{it}$ the relative financial incentive, CSO_{it} my proxy for CSOs capacity, $Multi._{it}$ the position of government as to multiculturalism, $Multi.Salience_{it}$ the salience of multiculturalism for government, $Corporatism_{it}$ an index of corporatism. I account for auto-correlation within country (u_{0i}) and year (u_{1t}). Model 2 introduces an interaction term between salience in public opinion government position on multiculturalism ($PO_{it} * Multi._{it}$) whilst model 3 introduces a three way interaction between Public Opinion, CSO capacity, and salience of multiculturalism for government ($CSO_{it} * Multi.Salience_{it} * PO_{it}$; and other two-way interaction terms).

Further investigation of hypothesis 2 is done through the calculation and graphing of average marginal effects of government position at different levels of public opinion onto implementation of EU indications. As for hypothesis 4, I consider the effect of

salience for government onto the dependent variable at high and low values (mean +/- one standard deviation) of both CSO capacity and public opinion (see Dawson, 2013).

4.5. Empirical analysis: the response of member states to the incentive

The results yielded by my models, reported in table 4.2 below, are mitigated[1]. Overall, governments are less likely to follow the EU's agenda when the issue is salient for public opinion (H1; model 1). The impact of public opinion is highly significant and its coefficient sizeable: an increase of one percentage point in public opinion's saliency is accompanied by a decrease of about one percentage point in implementation of EU indications. This relationship is highly linear which suggests a constant effect of public opinion rather than what I hypothesized. In a similar fashion, the model provides evidence of the impact of CSO capacity (H3; model 1), although not in the direction expected: the effect is negative, suggesting that Rasmussen *et al.* (2013, p.250) may well be right in emphasizing the 'transmission belts' role assumed by civil society organizations. According to them, interest organizations 'link public "demands" and policy "supply"' (p.250). Alternatively, reduced implementation could be due to the inclusion of more actors in the decision-making process, rendering consensus harder to attain, thereby hindering implementation (König and Luetgert, 2008). Another plausible explanation could lie with the relatively low financial incentive the fund represents for CSOs, linked to their capacity to influence on the programming phase. If national funding significantly outweighs EU funding, then CSOs may not be willing to burden themselves with further (optional) goals and, according to their capacity to weigh on government decision, they may push governments towards reduced implementation of EU indications. Further investigation should be conducted in this respect. The coefficient is somewhat significant and sizable since a one unit change is associated with a change of nine percentage points in the dependent variable.

[1] Coefficients are discussed irrespective of their statistical significance since: a) the study does not rely on representative sampling but on a finite population; b) the population is rather small; c) statistical and substantive significance are two different things. See the method section.

Table 4.2 – The determinants of EU indications implementation in 25 EU member states, 2008-13.

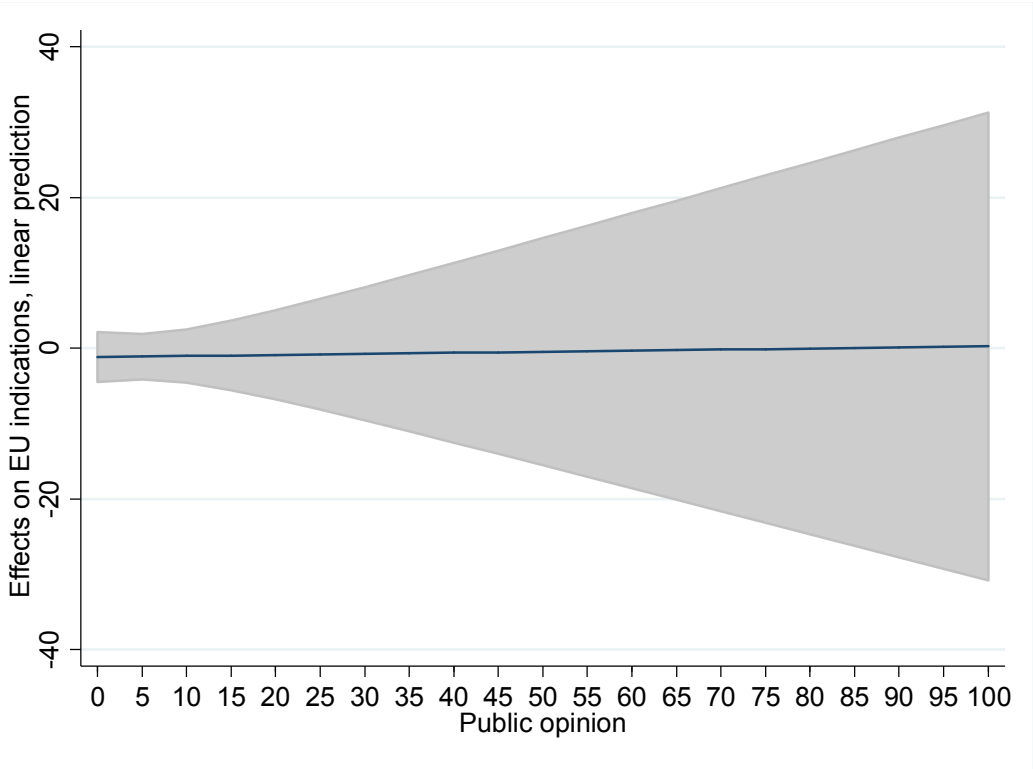
	Model (1)		Model (2)		Model (3)	
Public opinion	-1.079	***	-1.153		-1.175	
	(0.374)		(0.940)		(2.261)	
CSO capacity	-10.664	**	-10.668	**	2.355	
	(5.303)		(5.319)		(16.321)	
Financial incentive	-0.228		-0.226		-0.220	
	(0.342)		(0.344)		(0.346)	
Position on multiculturalism	-1.123		-1.182		-1.137	
	(1.530)		(1.685)		(1.534)	
Multiculturalism salience	6.151	*	6.096	*	7.457	*
	(3.403)		(3.47)		(4.44)	
Corporatism	7.667		7.549		8.269	
	(10.167)		(10.287)		(9.786)	
Administrative capacity	9.966		10.082		8.797	
	(10.396)		(10.516)		10.184	
Public opinion * multiculturalism			0.014			
			(0.165)			
Multi. Salience * CSO capacity					-1.334	
					(2.305)	
CSO capacity * Public opinion					0.174	
					(1.68)	
Multi. Salience * Public Opinion					0.106	
					(0.364)	
CSO capacity * Multi. Salience * Public opinion					-0.098	
					(0.255)	
Constant	14.659		15.112		2.987	
	(16.604)		(17.465)		(22.469)	
Random effects						
Country						
Std.D Year	4.370		4.386		4.572	
	(0.915)		(0.936)		(0.95)	
Std.D Constant	28.785		28.861		27.074	
	(5.055)		(5.076)		(4.985)	
Std.D Residual	12.204		12.250		12.258	
	(0.881)		(0.889)		(0.896)	
Model fit						
Prob.> Wald chi2	0.0207		0.0367		0.0360	
Multilevel vs. linear model; Prob.>chi2	0.0000		0.0000		0.0000	

Number of obs: 147; Number of groups: 25; Avg obs per group: 5.9
*** p<0.01 ** p<0.05 * p<0.1 Std.error in parenthesis

Interestingly, the salience of multiculturalism for the government in office proves significant and positive, meaning that when the government cares about the issue it tends to use EU indications. The coefficient is also fairly sizeable: an increase of one point of salience for a government (a zero-ten scale variable) is accompanied by an increase of about seven percentage points, therefore conflicting somewhat with salience for public opinion, but still less determining than the latter. This confirms the hypothesis that a government has limited attention available and cannot address all the issues a society is facing simultaneously. Yet another element worth reporting is the irrelevance of the financial incentive. Financial incentive is never significant and its coefficient is negative and almost null. This is an interesting policy conclusion inasmuch as, as it stands, financial incentive does not suffice to counterbalance preferences. This confirms Gunningham and Sinclair's view (1998) that financial incentive may be more efficient than command-and-control instruments -in that they rely on volition rather than on costly control mechanisms- but less reliable in driving behaviours.

No evidence is found in support of hypothesis 2 (model 2); in the event of high salience of the issue in public opinion, governments do not react according to their policy positions on the issue. Rather, governments are more likely not to follow EU indications. Consider that the coefficient of the two-way interaction term is not significant whatever the value of public opinion. More importantly, the marginal effect of a government's position increases very slightly as salience in public opinion increases whilst the confidence interval soars, ranging from about -30 to +30 (see figure 4.3).

Figure 4.3 - Average marginal effect of governments positions on implementation of EU indications, at different levels of public opinion (with 95% CI)

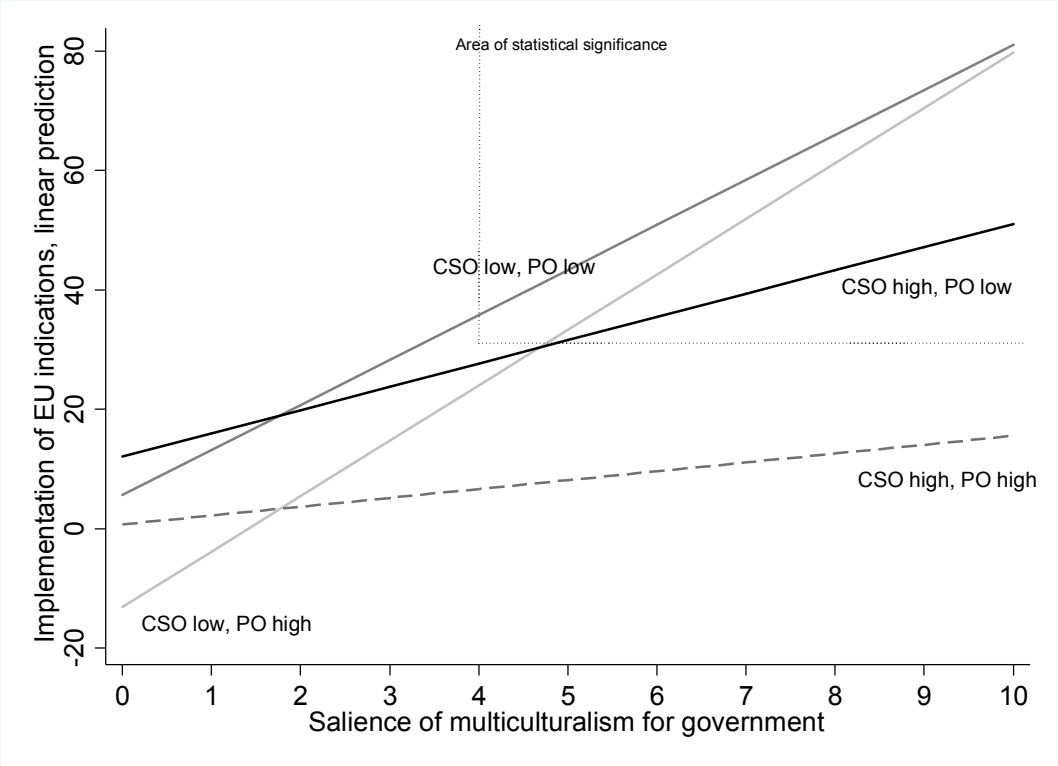


Turning now to hypothesis 4 (model 3), it appears that ultimately a lot has to do with how much a government cares about the issue, and public opinion and CSO capacity only have a moderating effect (figure 4.4) that is not necessarily the one expected; i.e. CSO capacity has a non-positive effect on implementation (already shown with disconfirmation of hypothesis 3, model 1) whilst high salience in public opinion plays the expected role. The three-way interaction inserted in the model proves non-significant overall but scrutiny of the predictive margins at high and low levels of CSO capacity and public opinion[1] hints at a more nuanced picture. I do not graph confidence intervals, which would render figure 4.4 illegible, but I delineated the area where the predictive margins are significant at 95 % or more (top right-hand corner). The first thing to notice is the non-significance of the marginal effect of salience for governments where CSO capacity and public opinion are high (dotted line). Their combined effect renders uncertain the impact of a government's salience, so to speak, whilst the coefficient is the flattest. Second, public opinion seems to make implementation more costly for governments since, when the former is high,

[1] See the method section for methodological details.

salience for governments needs to be higher for governments to start implementing EU indications[1]. Third, the effect of high CSO capacity tends to shrink the effect of salience for governments when salience in public opinion is low. Finally, but most importantly, when both public opinion and CSO capacity stand at a low level, governments follow EU indications if multiculturalism is of some interest for them. Hypothesis 4 is thus disconfirmed in its direction (as was H3) but not in the sense that there is a relationship between a government's action and civil society as a whole (public opinion and CSO capacity).

Figure 4.4 - Predictive margins of the effect of salience of multiculturalism for governments, at high and low levels of CSO capacity (CSO) and public opinion (PO)



[1] The slope is the steepest for CSO low and PO high but implementation begins at a higher level of government salience (5 on the scale). Note however that this line meets the CSO-low-PO-low one towards government maximum salience.

4.6. Robustness tests

Because it is impossible to run a zero-inflated beta regression the residuals are not normally distributed (figure 4.5). This is mainly due to the distribution of the dependent variable that counts a number of values equal to 0 and a number of values approximating 100 (figure 4.6). In spite of this, plotting residuals against fitted values shows a rather homoscedastic picture, with, however, potential influential observations (figure 4.7). The locally weighted smoothing curve (lowess prediction) does not seem to be dragged up or down by the latter. Dropping such observations does not change much coefficients or their significance. They are therefore not influential enough to bias the estimates. I then look at potential influential level-two units (countries). For that, I compute Cook's D tests for the model, its fixed effect, and its random effect part (table 4.3). I also compute DFBetas for each parameter (see figure 4.8). The two measurements point to allegedly influential countries. These are Italy, Greece, Lithuania, Slovakia, Cyprus, Slovenia Finland and the Netherlands.

Figure 4.5 – Kernel density estimate of the distribution of residuals.

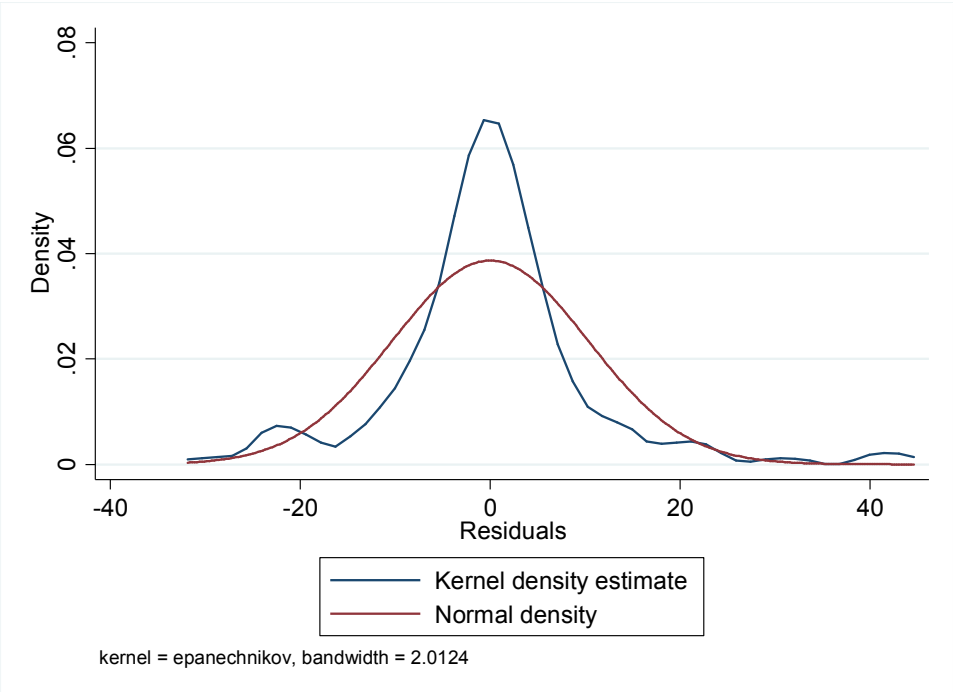


Figure 4.6 – Q-Q plot of the dependent variable, percentage of EU indications.

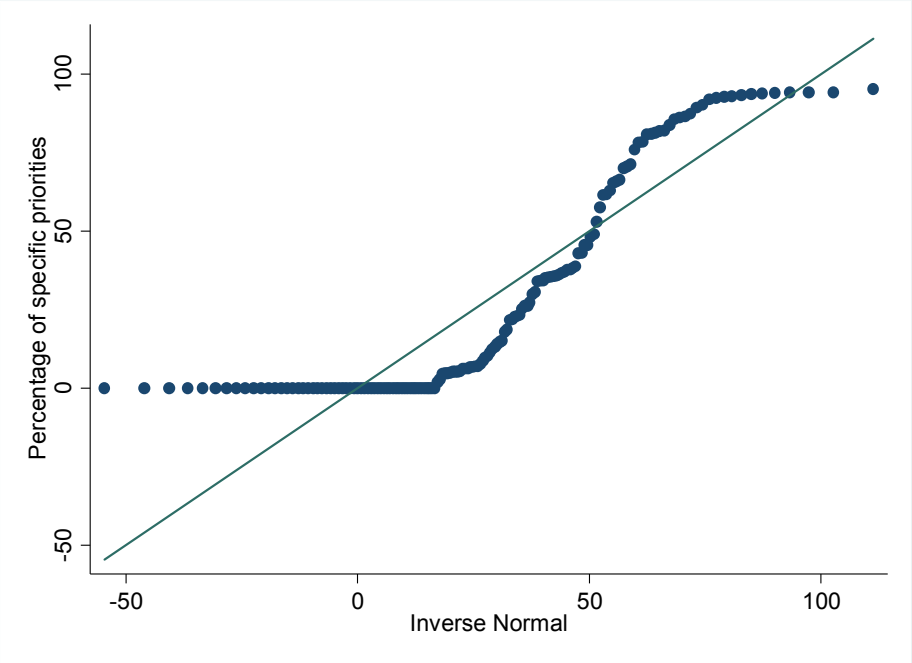


Figure 4.7 – Residuals vs. fitted values with linear prediction and lowess prediction.

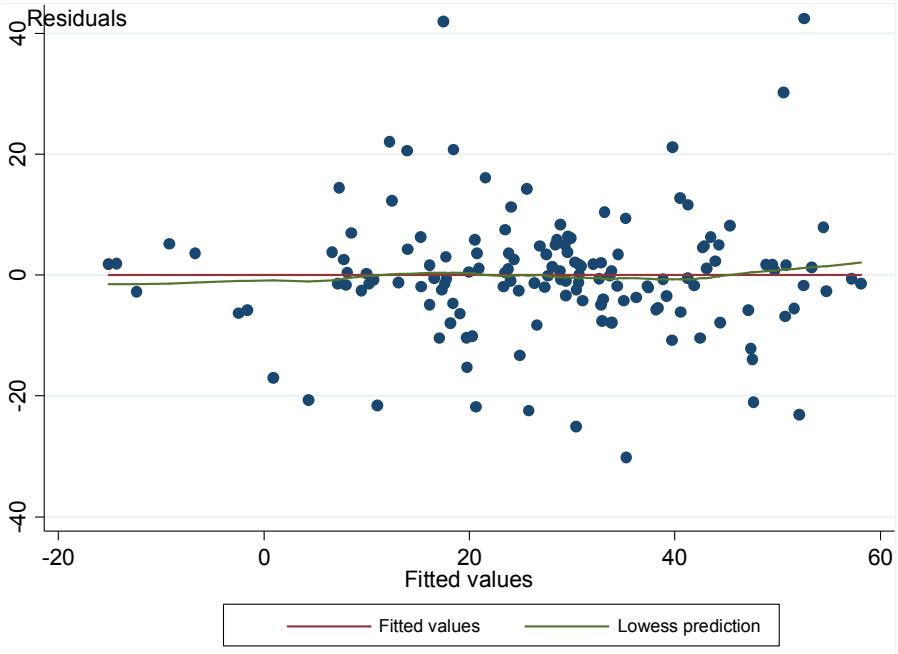


Figure 4.8 – Plot of DFBetas for level-two units for each parameter.

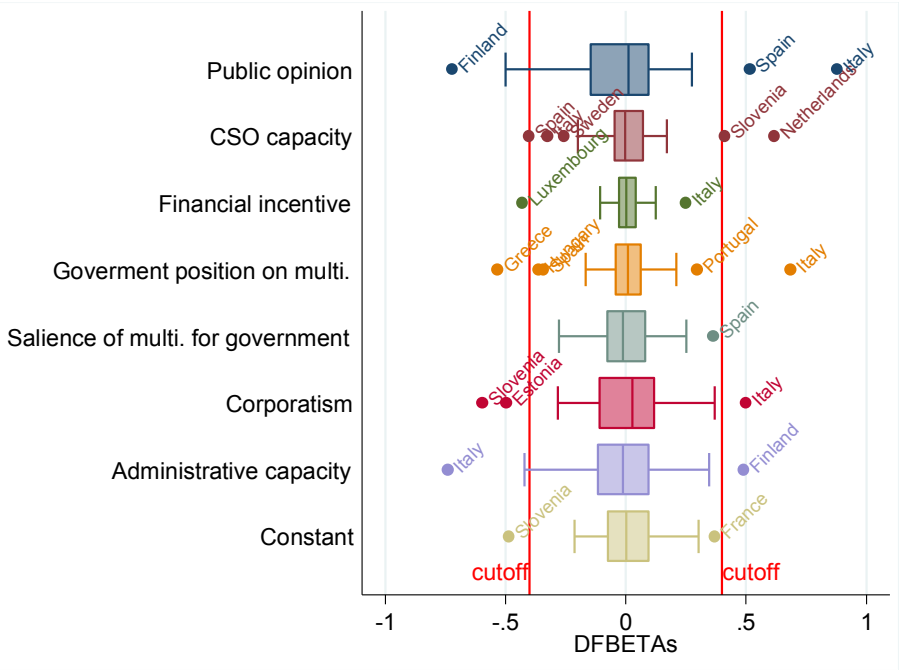


Table 4.3 – Level-two units with Cook's D above the cut-off value

Level-2 unit	Cook's D	Cook's D, fixed	Cook's D, random
Greece	0.1500258	0.0663177	0.3732474
Italy	0.2340912	0.2627564	0.1576505
Lithuania	0.1174288	0.0210227	0.3745115
Slovakia	0.1469306	0.0405156	0.4307041
Cyprus	0.0785707	0.011576	0.2572232

Cut-off value= 0.1600

I therefore run the same model dropping the countries identified as plausibly influent (table 4.4). Note that each time, 6 data points are dropped. From the results of the successive regressions, it appears that estimates are rather consistent across models, be it in terms of magnitude or significance. Two main observations may be of relevance. First, dropping Italy somewhat changes the estimates significance since administrative capacity now falls within the 90 % confidence interval, which is never the case for all other models. Note also that the estimate for public opinion observes a sizeable change compared to the other partial models. Second, dropping Finland and the Netherlands decreases the significance of public opinion which passes from the 99 % confidence interval to the 95 % confidence interval. It also decreases the statistical significance of the model as a whole

but within the margins of the acceptable. A last element worth mentioning is the increase of almost six points of CSO capacity's coefficient when the Netherlands are dropped. Altogether, in the light of the foregoing, the model appears to be consistent across the partial regressions I ran.

Table 4.4 – Regression results when dropping potentially influential level-two units

	Full model		Drop IT		Drop EL		Drop LT		Drop SK		Drop CY		Drop SL		Drop FI		Drop NL	
Public Opinion	-1.079	***	-1.410	***	-1.026	***	-1.158	***	-1.180	***	-0.981	***	-1.105	***	-0.807	**	-0.992	**
CSO Capacity	-10.664	**	-9.076	**	-10.536	*	-9.840	*	-11.512	**	-10.597	*	-12.850	**	-9.632	*	-16.17	*
Financial Incentive	-0.228		-0.359		-0.205		-0.229		-0.229		-0.222		-0.272		-0.191		-0.200	
Position on Multicult.	-1.123		-2.161		-0.253		-1.224		-1.436		-1.066		-1.094		-1.188		-1.058	
Multicult. Salience	6.151	*	6.074	*	5.850	*	6.412	*	6.838	**	6.416	*	5.270		6.571	*	6.198	*
Corporatism	7.667		2.931		8.822		9.407		6.454		7.284		14.002		5.197		7.786	
Administrative capacity	9.966		17.627	*	6.343		8.849		14.337		9.553		10.086		4.739		11.017	
Constant	14.659		11.346		14.633		13.221		9.548		12.666		23.397		13.095		16.962	
Nb. Of Obs.	147		141		141		141		141		141		141		141		141	
Nb. Of Gps	25		24		24		24		24		24		24		24		24	
Prob>Chi2	0.0207		0.0023		0.0206		0.0125		0.0051		0.0046		0.0123		0.0817		0.0610	

*** p<0.01 ** p<0.05 * p<0.1

4.7. Conclusion

It is nowadays beyond doubt that the European Union has grown into a fully-fledged political system in that it features institutional stability, it receives political demands, and its outputs are highly significant (Hix, 2005). But when it comes to studying EU outputs, most of the scholarship has focused either on the factors determining member states' compliance in implementing Directives, or on the processes leading them to follow soft law provisions. This chapter is at the crossroad of these two strands and aims at identifying the factors determining the implementation of soft law provisions in a comparative fashion. It seeks to answer the question: why do member states implement without a legal obligation to do so? I have argued that, when it comes to implementation, the policy instrument matters. It determines the influential actors that in turn may affect implementation outcomes. Looking into the implementation of the European Integration Fund, I have posited that when governments' preferences cannot be challenged by the Commission or bound by horizontal controls, they may be constrained by public opinion and Civil Society Organizations (CSOs). Through the application of time-series cross-section methods to an original dataset, I have reached three main conclusions. Firstly, in the case of soft law, the main driver of implementation appears to be the salience of the issue for government: when the government cares about the issue, it is more likely to follow indications established at EU level. Secondly, public opinion and civil society organizations have a moderating effect able to counterweight government's preferences. Thirdly, the financial incentive proves scantly capable of dragging the preferences of member states towards the EU's preferences. Overall, these three conclusions point to the fact that financial incentive is less effective as an enforcement means than the empowerment of actors that are in a good position to keep government in check (see the concept of fire alarm oversight as in McCubbins and Schwartz, 1984; policy mix in Gunningham and Sinclair, 1998). At EU level, this implies that providing for a sound partnership principle may be more effective a policy option for the implementation of soft law than financial incentives.

Consequently, this chapter provides little evidence of a Europeanisation process under way. The response to EU soft provisions (and here I endorse a definition of Europeanisation close to that of Featherstone, 2003, in a top down fashion; see the introduction of the dissertation) is primarily guided, or mediated, by national actors and

according to national logics. It is interesting however to observe the existence of a mechanism of compliance from below that may lead to more Europeanisation if grassroots actors are mobilised and empowered.

If the main driver of implementation in the programming phase appears to be the salience of the issue for government, in the actual implementation; i.e. the commitment of the amounts distributed, the determinant of implementation seem to lie elsewhere (Chapter 5).

Chapter 5: Capacity or Preferences? Explaining the Implementation of the European Integration Fund

Immigration to European countries has drastically increased during the last decade. More than one million immigrants come to the European Union (hereinafter EU) each year, more than to any other OECD country (OECD, 2016). In an ageing Europe, migration has positive economic effects. By feeding the workforce, it alleviates the dependency ratio and the risks looming over the European population's ability to sustain the economy (European Commission, 2011; Testa, 2014). Immigration also poses considerable socio-economic challenges to receiving societies. Firstly because migrants' contribution to the EU labour market and its economy in general is by no means immediate. Coming from different cultural but also linguistic backgrounds, migrants need to adapt to a reasonable extent to pre-existing structures. As a matter of fact, migrants are still overrepresented amongst the unemployed and are often overqualified for their job (OECD, 2016). On the social front, the increasing diversity within societies nurtures tensions between natives and new- (and old-) comers and thus threatens social cohesion (TNS Qual+, 2011). Resultantly, integrating migrants is key to make the most of the potential migration holds[1].

Aware of the advantages of migration but conscious of the challenges it poses, EU member states have seized the opportunity of the creation of an EU competence on immigration to call for a 'more vigorous integration policy' (European Council, 1999). Accordingly, a European Integration Fund (EIF) was created in 2007 in order to help member states in their integration efforts. Even though such fund was based on a common understanding of integration, the absence of a clear EU mandate on the matter in primary

[1] Realizing the potential of migration has been a recurring theme of the EU integration policy from 2003 onwards; see notably European Commission (2003).

law translated into rather flexible objectives. Even so, about 18 % of the fund remained unused at the end of the implementation period, much more than is usually the case for structural funds (Tosun, 2014). This chapter aims at explaining why. More formally, it answers the question: why do member states not use the money they have available for their integration policies?

Little attention has been paid to the EU integration policy as of yet, and no study has looked into the EIF implementation gap. Since the question of unused EU funding has been primarily investigated in the literature on the absorption of structural funds, I draw therefrom a first set of hypotheses relating to member states capacity to use such funds. Notwithstanding, this strand in the literature has neglected more political stakes behind the use of EU money. I thus delve into the literature on compliance with EU outputs and posit the role of governments' preferences in implementing the EIF. Preferences are likely to matter because the use of EU funding has consequences for national public budgets due to the co-financing principle. Committing EU funds implies that the member state supplements such funding. This chapter therefore confronts capacity-based explanations to preference-based ones. Applying time-series cross-section methods to an original dataset, I test my hypotheses across EU member states over the 7 years of the programme. I find that the implementation of the EIF is a matter of capacity, not of preferences, thus supporting the explanations brought in the absorption literature.
The first section of this article describes the functioning of the EIF and introduces the research puzzle. The second section goes through the literature on the absorption of structural funds and through the literature on compliance with EU outputs; I state my hypotheses along. A third section is dedicated to the research design. I then present my empirical findings in a fourth section and conclude in a fifth.

5.1. The EIF and its Use by Member States

Whereas immigration fell within the scope of EU competences with the treaty of Amsterdam, integration was never mentioned in primary law, not until the Lisbon treaty came in force[1]. A number of policy instruments were adopted nevertheless; but given the

[1] A first mention was made in the rejected constitutional treaty though.

sensitivity of matters linked to legal migration (as integration would appear to be; see Urth, 2005) those instruments would be adopted at the unanimity of the member states and for most would consist in soft law instrument. The European Integration Fund (EIF) was adopted within this context in 2007.

The EIF is a rather small fund compared to the structural funds. It amounts to €825 million and aims at financing integration projects over the period 2007-2013 for the 26 participating countries (Croatia was not a member at the time and Denmark does not partake in the Area of Freedom, Security and Justice). Smaller but more flexible, it was originally moulded into the structural funds' shape[1] but was gradually deprived of some of its more constraining provisions. Notably, the principle of additionality, whereby member states are prevented from substituting their national funding with EU funding, was removed; the principle of partnership, whereby a range of actors (notably sub-national authorities and third sector organizations) are associated to the decision-making, was considerably weakened, rendering the participation of entities other than governments optional. In the absence or weak presence of these two principles, governments enjoy considerable leeway in their use of the funding available. They are only limited by the financial regulations established at EU level that provide for legal and sound financial management. The Commission has therefore little say on the substantive aspects of the fund, but more power on the procedural side.

Another characteristic, very similar to that of the structural funds, is the co-financing principle; i.e., EU money is only intended to finance a certain share of each project. As a rule, the EU co-financing amounts to 50 % of integration projects. This contribution may be increased to 75 % where the state addresses specific indications. By way of derogation, the member states falling under the cohesion fund receive 75 % of co-financing unconditionally. Member states are therefore required to co-finance 25 to 50 % of the projects financed under the fund.

Unlike structural funds, the principle underlying the EIF is not economic solidarity; it does not consider financial imbalances among member states. Whereas the distribution of structural funds revolves around reducing economic disparities, the EIF is distributed as a function of the number of migrants granted legal residence, irrespective of the differences in wealth between member states. Member states thus receive the

[1] During the negotiation phase, the Commission declared having 'copied' the provisions regarding spending rules from the structural funds (see European Commission, 2006).

financing necessary to ease integration, which is proportional to the number of new comers they grant residence to. In theory, and because they have committed to the objectives of the fund, member states should have little trouble implementing it.

Figure 5.1 below shows a starker reality. It reports the mean and standard deviation of member states' implementation rate; i.e., the proportion of the money they actually engaged compared to the amount they were allocated. Only 82.3 % of the money available was spent over the 7 years of the programme, less than what is usually engaged for the structural funds (with a grand mean at 92.4 %; see Tosun, 2014). This dry figure, however, covers a more hectic reality: some member states have had a very low implementation rate with high variation from one year to another (such as Malta or Ireland) whereas some others display a high and steady implementation rate (Italy or Germany for instance). Some countries display surprising figures. The United Kingdom's implementation mean stalls at 55 % for a policy it opted in for. At the other end, Lithuania displays a steady 99.8 % implementation rate. Interestingly, there is as much variation between countries than there is within: the average implementation rate may vary upward or downward of about 15.5 points between one country or another as it may for the same country from one year to another (see Table 5.1).

Figure 5.1. - Implementation rate means and standard deviation over the period 2007-2013, for 26 member states.

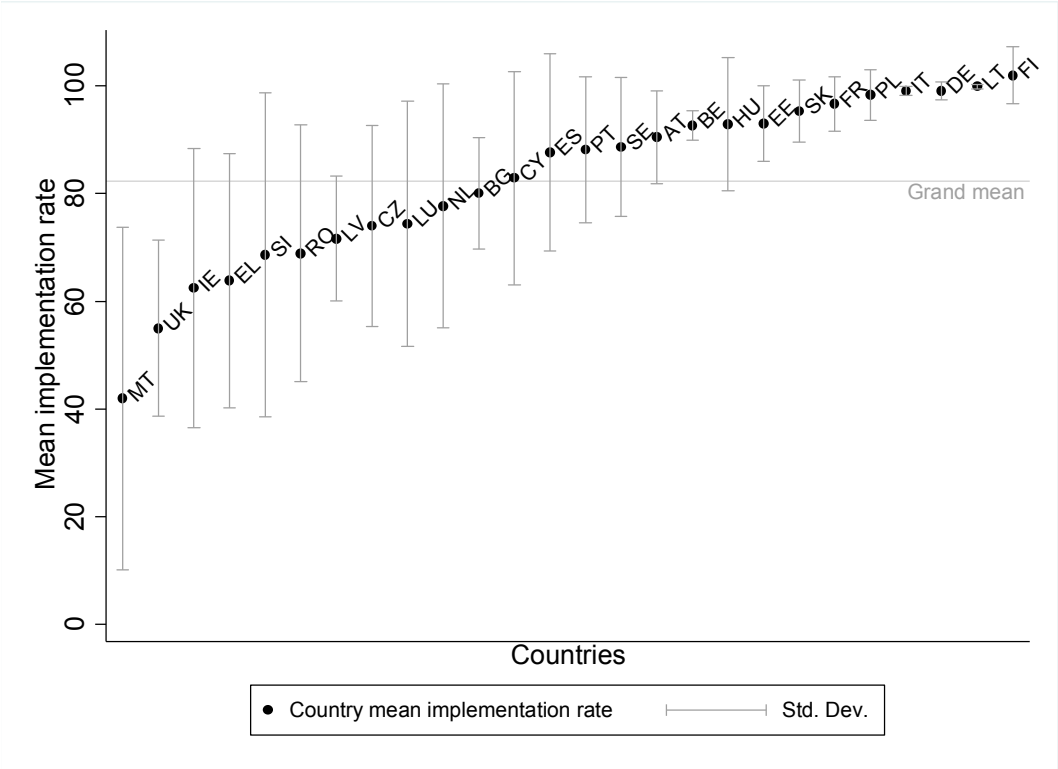


Table 5.1 - Difference in implementation rates between and within units.

Implementation rate		Mean	Std.Dev.	Min.	Max.
	Variation	82.291	21.952	0	113.91
	Within		15.665	41.98	101.951
	Between		15.501	32.915	131.971

Note: Total number of observations= 177; number of groups= 26; number of observations per group= 6.808.

5.2. Explaining the Implementation of the EIF

Integration of third country nationals have been on EU and national agendas for quite some time now. At national level, integration was already a matter of concern in the late 1980s, 1990s (Schnapper, 1994; Wischenbart, 1994; Zincone *et al.*, 2011; Mouritsen and Hovmark Jensen, 2014; Mandin, 2014; Fischler, 2014) and, as the European Commission reports, almost all 15 EU member states already had integration policies in place by 2003 (European Commission, 2003). At EU level, the European Council gathered in Tampere in 1999 called for 'a more vigorous integration policy'. Nevertheless, integration as an

EU policy has been little studied by social scientists (Mulcahy, 2011 is an exception)[1]. Accordingly, the EIF has attracted little attention, despite it be arguably the most significant policy instrument in this policy realm. Cited in most articles touching upon integration at EU level from afar or closer (Geddes and Achtnich, 2015; Pratt, 2015; Scholten and Penninx, 2016; to name but a few), no scholar has explored its actual implementation, except maybe for Carrera and Atger (2011) who investigate the substantive aspects of the fund and the projects it finances[2]. Their study, published in 2011, covered the first three years of the EIF and concentrated on the programming phase (as opposed to the fund engagement phase or actual implementation). Understanding its actual implementation is nevertheless important since the EU has taken further steps forward with the introduction of a new fund on Asylum, Migration, and Integration[3] for the period 2014-2020, and appears to be willing to develop this policy field at EU level.

Attention has been otherwise paid to the structural funds. However, most studies have concentrated on how to explain the allocation of the funds (Barca *et al.*, 2012; Mendez, 2013; Kemmerling, 2006; Bouvet and Dall'Erba, 2010; Dellmuth, 2011), and only recently has the focus shifted to the actual implementation with attempts to answer the question why member states engage or not their respective allocations (Bachtler *et al.*, 2013; Hapenciuc *et al.*, 2013; Tosun, 2014). These studies have mostly considered the capacity member states show in absorbing structural funds. True, spending EU funds can be demanding since it requires a sound administrative and organizational structure on the one hand, national budgetary capacity on the other (given the co-financing principle).

Capacity may endorse different meanings that are dependent on the characteristics of the fund itself (NEI Regional and Urban Development, 2002). One is administrative capacity; the ability of the administration to evaluate, contract, implement and monitor the projects covered by the fund. In order to use the amounts it is allocated, the state must ensure it follows management and financial rules and foresees monitoring and control mechanisms; notably through the designation of a responsible authority (usually

[1] Law scholars have been more interested in the topic, notably because of potential conflicts of competence between levels and consequences on legal frameworks (see *inter alia* Groenendijk, 2004; Szyszczak, 2006; Velluti, 2007; Murphy, 2009). Also note that Mulcahy did not mention the EIF in her *opus* on the EU integration policy.

[2] Several EU reports have looked into the implementation of the EIF (Ramboll, 2011; 2013; European Court of Auditors, 2012). They highlight the issues that arose in the process in a descriptive fashion without undertaking systematic or complete (most were written before the end of the programme) analysis of implementation.

[3] Regulation 516/2014/EU.

ministries of the interior for the EIF), a certifying authority (for the expenditure) and an audit authority. Accordingly, administrative capacity likely eases implementation; and the higher the administrative capacity, the swifter the adaptation to EU requirements (and hence the higher the implementation rate).

H1a: the higher the administrative capacity, the higher the implementation rate.
H1b: the higher the administrative capacity, the swifter a high implementation rate is reached.

Another understanding of capacity must consider the capacity of co-implementers. In ever slimmer states, out-sourcing government activities is often a favoured option to cut bureaucracies expenses (Majone, 1999). Delivery of public services by the third sector has become increasingly common. In the case of the EIF, programming is the governments' remit but ground implementation oftentimes falls to third parties, be they sub-national bodies or third sector entities[1].

Civil Society Organizations (CSO) are primary targets for the implementation of the fund. Considered as direct co-implementers, they are likely to boost the implementation rate, provided they display the capacity to meet the accountability requirements set by EU rules in order to comply with the sound financial management principle.

H2: the higher CSO capacity, the higher the implementation rate.

Regional authorities are likely to play a significant role, too. Whilst immigration is mostly a national competence, integration is often devolved to lower levels of government (Hepburn, 2010; Thränhardt, 2014), save in cases of strong centralist tradition (Scholten and Penninx, 2016). In the event of a decentralized state, the number of potential co-implementers consistently rises which increases the probability of a higher implementation rate.

H3: The more decentralized the state, the higher the implementation rate.

[1] See Commission Decision C(2008)795 establishing the rules for implementation. It notably constrains the possibility for government to act as a direct implementer.

The literature on the absorption of structural fund has however neglected more political explanations. Focusing on capacity, it has overlooked member states' willingness to engage EU funding. Yet, preferences may very well matter since engaging EU funds entails national commitments via the co-financing principle. The literature on compliance with EU outputs has captured the distinction between capacity and willingness to implement. Capacity is regarded as a structural feature that facilitates or hampers implementation (Pridham, 1994; Lampinen and Uusikylä, 1998; Mbaye, 2001; Falkner *et al.*, 2007). Differently, another line of thought has evidenced the role of preferences in the implementation process (Thomson *et al.*, 2007; König and Luetgert, 2008). Notably, some authors have insisted on the importance of veto players, the preferences of whom exert pressure on implementation (Giuliani, 2003; Steunenberg, 2007). Despite the fact that the literature on compliance has focused on Directives, and thus conferred a particular meaning to implementation (Börzel, 2001; Treib, 2014), similar explanatory mechanisms were put forth in other studies investigating different policy instruments, amongst which studies on the Open Method of Co-ordination (Saurugger and Terpan, 2016). In the case of the EIF, an explanation in terms of veto players' preferences holds, all the more so if one considers the particular features of the EIF described in the previous section. More precisely, integration may not be a priority of the government in office, and spending national resources may backfire in coming elections (Green-Pedersen and Mortensen, 2013). Taking advantage of the EU fund may thus have consequences on national politics. All the more so since immigration-related issues tend to be salient for the public. Several EU barometers over the 2000s and 2010s show that immigration ranks amongst Europeans' most important concerns[1]. In Spring 2015, it revealed that immigration was the foremost concern for EU citizens, before economics and unemployment (Les Echos, 2015). Since policy-makers have limited attention available (Howlett and Giest, 2012) salience in public opinion may contrast government's ability to take advantage of the money available (salience for public opinion will therefore be controlled for; see below).

H4: the more salient integration is for government, the higher the implementation rate.

[1] See notably Eurobarometer 60 in 2004 and Eurobarometer 83 in 2015.

5.3. Methodology: time-series cross-section regression (bis)

5.3.1. Data and operationalization

The data covers the entire period of implementation of the EIF; i.e., 2007-2013, and considers the 26 member states that took part in the fund. I use as a dependent variable the implementation rate of EU funding; i.e., the share of EIF money actually engaged compared to the amount available, per year and per country. This percentage is drawn from member states' final evaluation reports. Due to missing values and to the fund's inception specificities, the dataset counts 152 data-points instead of the expected 182 expected. This is because considerable delay characterized the launch of the programme. Accordingly, in most cases, Annual Programmes (AP) for the year 2007 and for the year 2008 were submitted to the Commission at the same time and were validated by the latter at the same time, too[1]. I have therefore averaged the values for the two years, thus eliminating 26 data-points. The remaining missing data-points originate from the fact that Belgium failed to produce implementation figures for the AP 2008 through 2010 and Bulgaria failed to do so for the AP 2013.

In order to test my hypotheses, values for the independent variables correspond to the period of eligibility of expenses as per Commission Decision; that is, the year following the programming period.

Administrative capacity is measured with the Worldwide Governance Indicator on government effectiveness (Kaufman and Kraay, 2015). Established by the World Bank, this indicator summarizes the quality the administration as to policy formulation and implementation and quality of public services. It covers all EU member states over the entire period of the spending of the fund.

For CSO capacity, I use as a proxy the percentage of the working population working for NGO/non-profit sector as in the European Survey on Working Condition 2010 (EuroFound, 2010). The advantages of this data are that it covers all member states, it is considered as one of the components of most indicators of civil society's size (Global Civil Society Index, CIVICUS, CSO Sustainability Index), and it captures the idea of

[1] See Ramboll (2011; 2013) and all the Commission Decisions validating the 52 AP for 2007 and 2008.

CSOs that may weigh in on implementation as they likely meet EU fund management requirements.

I then use the Regional Authority Index (RAI; Hooghe *et al.*, 2016) as a measure of decentralization within member states. Covering a wide range of dimensions (notably fiscal and political), it is deemed to be the most comprehensive indicator of decentralization (Ezcurra and Rodriguez-Pose, 2013). Since the data available covers the period 1950-2010, four years are missing (2011-2014). I therefore average the values over the period 2006-2010 in order to fill the gap. This can be done for at least three reasons. Firstly, the literature on regionalism dates the decentralization process across Europe with the reform of the Cohesion policy in the late 1980s'. For new member states, the same phenomenon can be observed as an effect of conditionality to their accession to the EU (Bachtler and McMaster, 2008). Resultantly, little change in decentralization is expected for the period 2006-2014. Secondly, a look at the RAI trend over the 1950-2010 period confirms the devolution process occurred mostly from the 1980s' to the early 2000s'. Thirdly, no significant change is observable from 2006 to 2010, confirming the possibility to average the values and apply them over the period considered.

Government preferences are measured through the salience of integration for government. Given the loose rules of the fund regarding its substantive aspects, the position of government on the issue matters less than how much the government cares about it. Salience is measured with the Chapel Hill expert survey 2010 (CHES; Bakker *et al.*, 2012). CHES proposes a measurement of salience for political parties, not salience for government. Since governments consist of a coalition of parties in many instances, I traced back the parties in government at the time of implementing and I aggregated their measured salience following Gamson's law (Browne and Franklin, 1973).

To test my hypotheses, I control for a series of other explanations. First of all, as mentioned in H4, public opinion may shrink the impact of government preferences insofar as an attentive public may blame government for the action it takes and therefore weigh on government's will to implement. Salience of immigration in public opinion is measured thanks to Eurobarometers 67.2 to 78.1 (TNS Opinion and Social, 2007) with the question 'what do you think are the most important issues facing your country at the moment?' (two answers possible). Since Eurobarometer is conducted twice a year, I averaged the two to obtain a yearly value.

Secondly, an important control is the financial capacity of member states to address integration as a policy issue. Two indicators are used here: financial capacity relating to integration policy and global financial capacity. Member states have different migration histories, they likely relate differently to integration policies, too. A member state that already had in the past a sizable budget for integration is more likely to be able to absorb the EIF than a member state that has to create *ex-nihilo* a budget for integration in its own right. I thus consider the budget member states allocated to integration prior to the inception of the fund (in 2006 if available, in 2007 otherwise). Information is drawn from member states' multiannual programmes[1]. In order to ease the reading of the regression table produced in the main document, the variable regarding previous funding has been slightly modified: I added one (to get read of 0-values without altering the distribution) and then divided by 1,000,000. In doing so, the distribution of the variable does not change, nor do the coefficients and confidence intervals for the other variables. Table 5.2 below shows the original variable's summary statistics and its modified version's. As for global financial capacity (and given that the specific financial capacity is fixed in time), I consider the annual percentage change in GDP per capita[2]. This allows a more dynamic concept of financial capacity that also accounts for the economic downturn of the late 2000s. This data is taken from the World Bank's world development indicators.

Thirdly, the passage of time is controlled for. Since the policy instrument is new, its inception may have strained the administration which may in turn delay effective implementation at the outset. With the passage of time, the administration is likely to learn and adapt to the fund's requirements. Since learning cannot be appropriately measured, time is controlled for.

[1] Note that what is considered is the funding allocated precisely to integration and not to asylum as refugees fall out of the scope of the EIF (see European Refugee Fund).
[2] Based on constant local currency.

Table 5.2 - Descriptive statistics of the variables introduced in the model.

	Nb. Of Obs.	Mean	St.Dev.	Min	Max
Dependent Variable					
Implementation rate	152	83.343	20.444	10.5	106.82
Independent Variables					
Administrative capacity	156	1.12	0.59	-0.7	2.26
CSO Capacity	156	1.296	1.344	0.2	6.6
Decentralization	156	11.247	11.054	0	35.848
Salience for government	147	5.14	1.706	1.814	7.875
Public Opinion	156	7.796	7.896	0.175	45.9
Previous funding (modified)	156	99.912	189.771	0.000	750
Previous funding (original)	*156*	*99,900,000*	*190,000,000*	*0*	*750,000,000*
Δ GDP per capita	155	-0.17	3.878	-14.56	8.467

5.3.2. Method of analysis

Given that the data is time-series cross-section[1] and strongly balanced, I use a mixed effects multilevel model to account for auto-correlation (Beck, 2006; Kohler and Kreuter, 2012). Random effects are thus included for countries and years of implementation. Because of the nature of my dataset (finite and small population), I use a residual maximum likelihood (REML) estimation technique (Oehlert, 2012; Kreft and de Leeuw, 1998; Patterson and Thomson, 1971). The model is a linear regression, despite the fact that my dependent variable is bounded up and down. The ideal model would be a beta or fractional regression model (Ospina and Ferrari, 2012) but such models are yet to be developed as a routine technique for multilevel models. I therefore run robustness tests to ensure the soundness of my conclusions. Robustness tests' results are presented in the method section.

Model (1) is, as described, a two-level model (space and time) testing the hypotheses linked to member states' capacity to implement. Model (2) reprocesses the same variables but add to them the variables linked to preferences. Model (3) repeats model (2) and includes an interaction between administrative capacity and time.

[1] Time-series cross-section models are nowadays well known in the academic community so that there is no need to go in too much depth here. Only the specifics are detailed. See Beck (2006) for more on the model.

5.4. Empirical analysis: preferences or capacity?

The empirical results reported in the table 5.3 below show a prevalent effect of capacity over preferences. Even so, not all aspects of capacity matter. The effect of administrative capacity (H1a) is uncertain as it is sensitive to model specification and influential observations[1] (model 1 and 2). The ability of the administration to formulate and implement policies is therefore not the main obstacle to the use of the EIF. Since the EIF was moulded into the structural funds' design, the central administration was likely accustomed to spending rules. Differently, the level of decentralization (H3) appears to be a strong and statistically significant determinant of the actual use of the funding available so that the more decentralized the administration, the higher the implementation rate (model 1 to 3). Decentralization is however a structural feature that does not change over short periods of time. Therefore, it cannot explain variation within countries alone. A more situational explanation can however be found in member states' overall financial capacity. Variation in GDP proves to have a significant and sizeable effect on the capacity of government to implement the fund (model 1 to 3). The economic crisis that hit Europe in the late 2000s' has forced governments to cut public budgets across the board with dire consequences on integration policies (Carrera and Atger, 2011; Collett, 2011). Figure 5.2 describes for instance the relationship between overall yearly implementation rate and overall yearly change in GDP. The fall in GDP is highly associated to the fall of implementation rates. The relationship between national financial capacity and decentralization is interesting in that the two elements seem to be contrasting one another. It is more likely that their combined effect leads to greater use of the EIF in that they operate at different moments of the implementation process: integration funding is mostly decided and co-ordinated at national level and then reaches sub-national bodies (Collett, 2011). The EIF follows the same logic; i.e., programming is up to the central administration whereas implementation then falls to sub-national authorities.

[1] Robustness checks show that the variable is significant in model (2), provided that Greece, Finland or Romania be present in the model. In other words, these three countries are influential level-two units that mitigate the effect of the variable. See the method section for more detail.

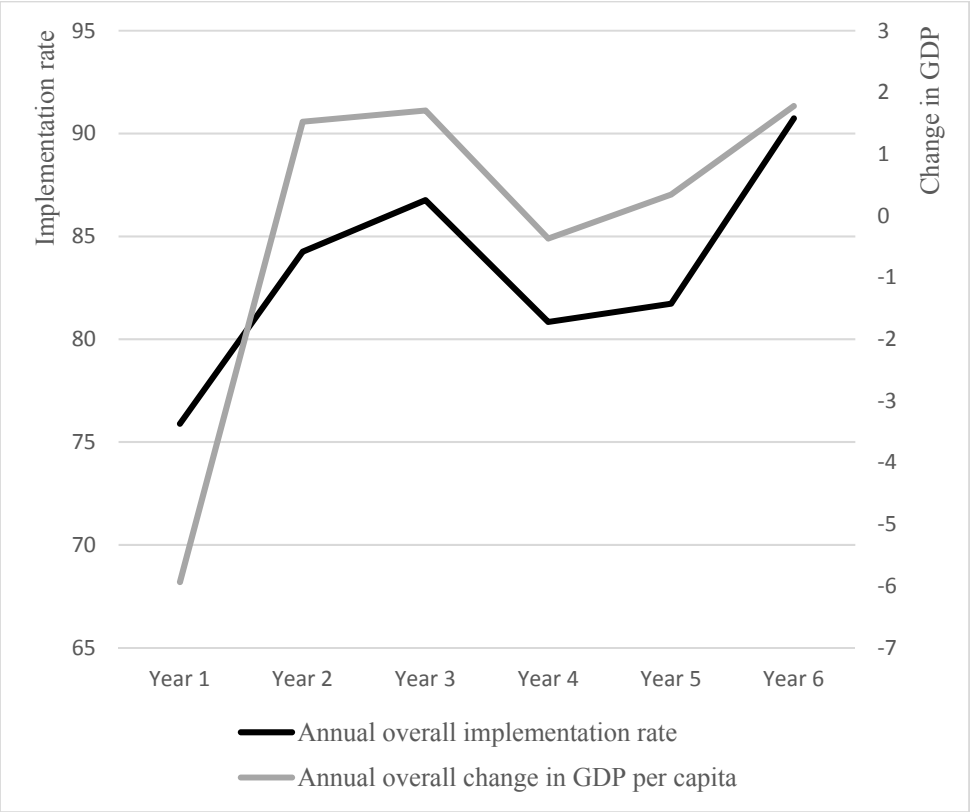
Table 5.3 – Regression results: Implementation of the EIF across member states, 2008-2013.

	Model (1)		Model (2)		Model (3)	
Administrative capacity	4.415		10.271	**	6.764	
	(5.259)		(4.677)		(6.144)	
CSO capacity	0.992		-0.387		-0.464	
	(2.686)		(2.110)		(2.113)	
Decentralization	0.897	***	0.865	***	0.861	***
	(0.318)		(0.260)		(0.261)	
Salience for government			-1.042		-1.035	
			(1.458)		(1.459)	
Public opinion			-0.540		-0.552	
			(0.346)		(0.347)	
Previous funding	-0.037	*	-0.031	*	-0.031	*
	(0.020)		(0.016)		(0.016)	
Time effect	0.453		-0.129		-1.448	
	(0.780)		(0.782)		(1.691)	
Δ GDP per capita	0.909	**	1.022	***	1.058	***
	(0.360)		(0.373)		(0.375)	
Adm. Capacity * Time					1.126	
					(1.278)	
Constant	69.258	***	76.867	***	81.128	***
	(6.958)		(7.508)		(8.934)	
Random effects						
Country						
Std.D Year	2.90e-08		0.000		0.000	
	(1.09e-07)		(0.000)		(0.002)	
Std.D Constant	12.954		9.304		9.308	
	(2.462)		(2.173)		(2.177))	
Std.D Residual	14.358		14.089		14.101	
	(0.918)		(0.929)		(0.934)	
Model fit						
Prob.> Wald chi2	0.004		0.003		0.004	
Multilevel vs. linear model; Prob.>chi2	0.000		0.000		0.000	

Number of obs: 143; Number of groups: 25; Avg obs per group: 5.7

*** p<0.01 ** p<0.05 * p<0.1 Std.error in parenthesis

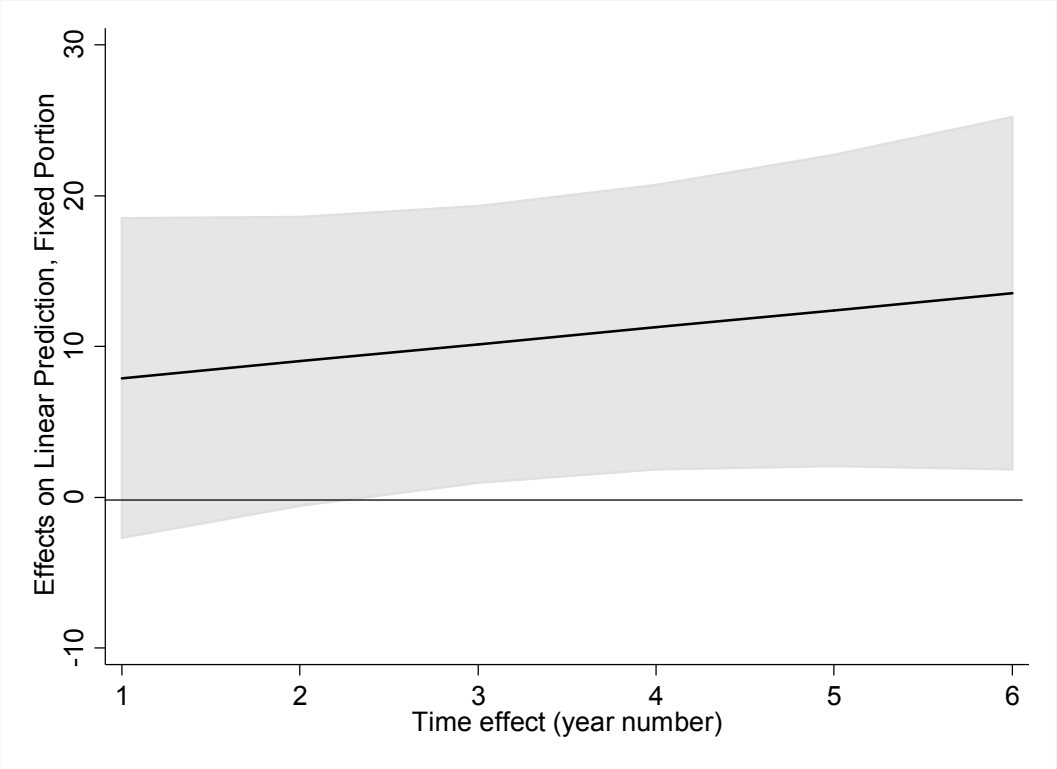
Figure 5.2 - Annual overall implementation rate and annual overall change in GDP per capita, for Annual Programmes 2007 to 2013, 26 member states.



The passage of time has no effect whatsoever, even when considered together with administrative capacity (H1b; model 3). No evidence is found in support of a differentiated effect of time according to different levels of administrative capacity. Looking at the average marginal effect of administrative capacity at different moments in time shows an effect that is positive and significant at 95 % from year 3 onwards (Figure 5.3). Nevertheless, I consider such result as invalid given the sensitivity of administrative capacity to influential level-two observations[1]. Put differently, the effect of administrative capacity over time is not valid across member states.

[1] Dropping any of the level-two influential observation identified in the method section dismisses the results displayed in figure 3. They are therefore considered invalid.

Figure 5.3 - Average marginal effect of Administrative capacity at different years of implementation, with 95 % confidence intervals.



CSO capacity does not seem to affect implementation (H2; model 1 to 3): its coefficient is always of little magnitude and never statistically significant. This is an interesting finding considering the widely acknowledged role of non-governmental organizations in facilitating migrants' integration (Bücker-Gärtner, 2011; CSES, 2013). This finding does not question the role of CSOs in migrants' integration but rather their capacity of being co-implementers. The most likely explanations consist in the role of sub-national authorities in implementing the fund on the one hand; on the capacity of government to compensate low CSO capacity on the other hand[1].

Interestingly, government preferences (H4; model 2 and 3) have no effect either, despite the fact that central governments control in large part spending on integration and that they are at the centre of the EIF implementation process. Eventually, it is more their capacity to spend than their will to engage the funding that matters. A plausible reason for that lies in the fact that integration of third country nationals is often a devolved competence in decentralized states. Devolution significantly shrinks the possibility for

[1] This explanation originates from midterm implementation reports summarized in Ramboll (2011:45).

the state to implement directly so that salience of the issue for government is of limited relevance. In addition, the driver of integration policy at sub-national level tends to be more pragmatic problem-solving than ideologically marked (as debates on citizenship or voting rights for foreigners; see Poppelaars and Scholten, 2008; Keating, 2009) so that preferences are less likely to affect implementation outcomes.

5.5. Robustness tests

As briefly mentioned in the main document, implementation rate is a variable bounded up and down, therefore violating some of the assumptions underlying the use of linear regressions. The fittest models for this kind of data are beta and fractional regressions (Ospina and Ferrari, 2012). Stata 14 introduced the possibility of running fractional regressions but not in a multilevel fashion. Yet, the data at hand is clearly time-series cross-section and a multilevel structure must be modelled to account for non-independent observations (Beck, 2006; see also more generally Gelman and Hill, 2006; Agresti and Finlay, 2007). Because of the trade-off made in this respect, I provide a series of robustness tests for greater transparency as to the results obtained. I notably demonstrate that the said results are not artefactual. Robustness checks are conducted for all three models but for ease of reading, only those of model 2 (the most complete) are reported.

Testing Influential Level-one Observations

Considering that the best model fit cannot be implemented, the residuals of my model are not normally distributed (Figure 5.4); this because of the distribution of the dependent variable is inflated at the higher end of the scale (Figure 5.5). Plotting the residuals against fitted values (Figure 5.6) nevertheless shows a rather homoscedastic distribution. That said, the locally weighted smoothing prediction (lowess) suggests some points may be influential; they regard the Annual Programmes (AP) of Ireland 2009, Slovenia 2011, Greece 2012, and the United Kingdom 2013. Dropping these four cases one by one slightly alters the coefficients but not their statistical significance or the conclusions reached and expressed in the main document. The estimates are therefore unbiased by individual observations.

Figure 5.4 - Kernel density estimate of the residuals.

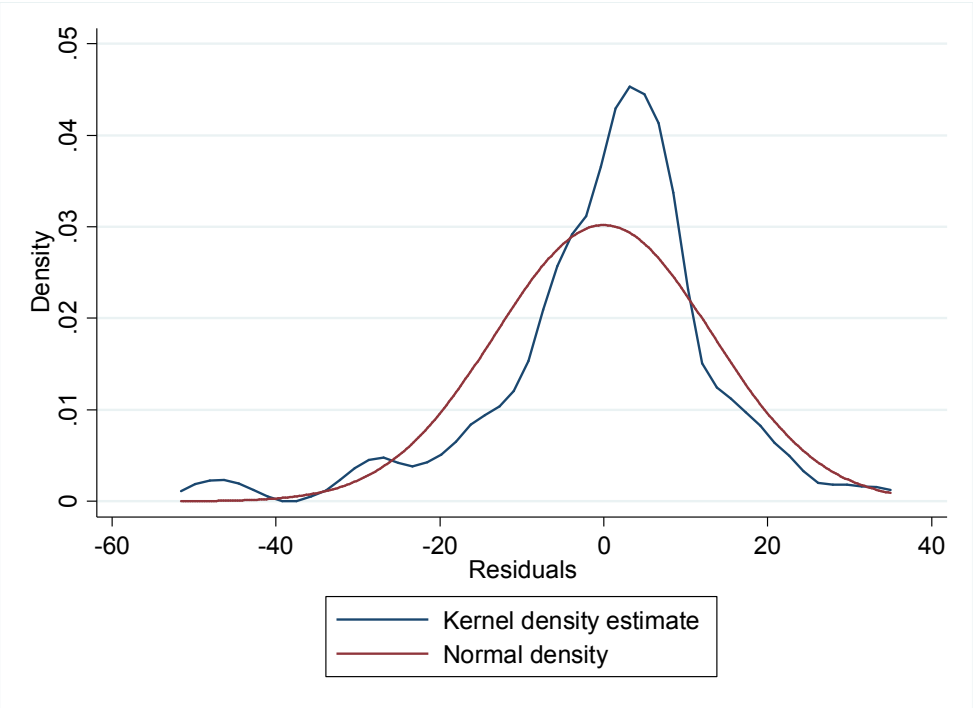


Figure 5.5 - Q-Q plot of the dependent variable.

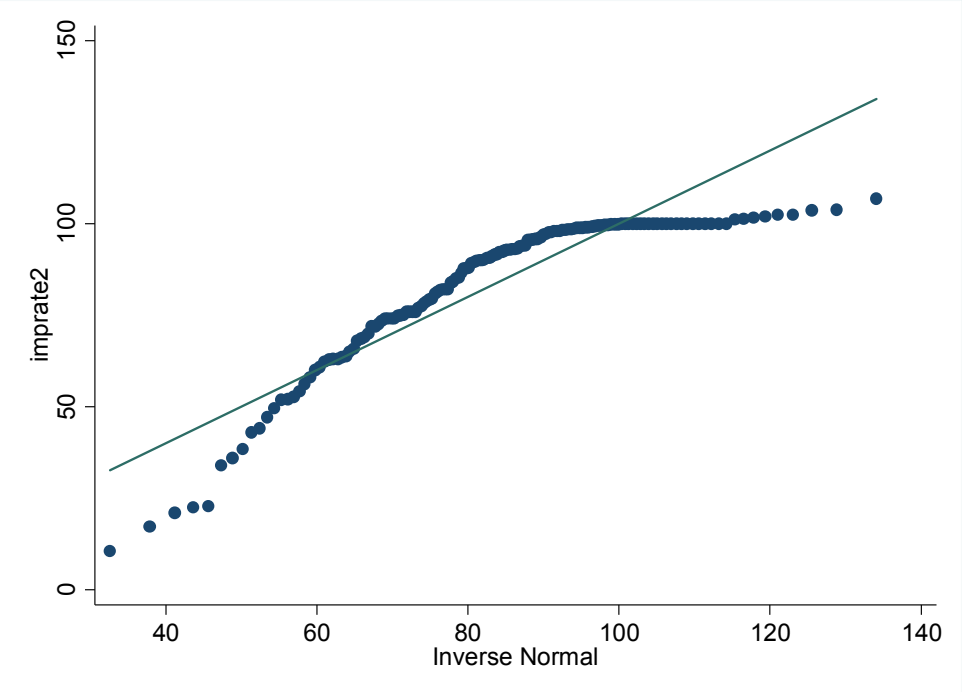
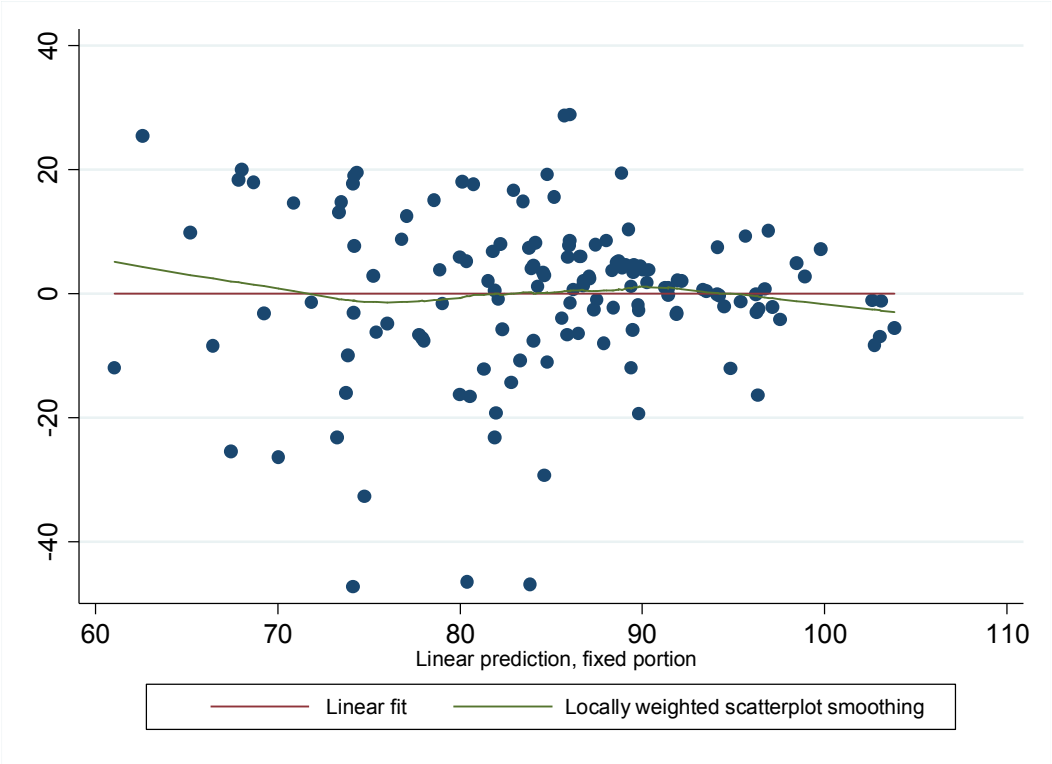


Figure 5.6 - Residuals vs. fitted values with linear prediction and lowess prediction.



Testing Influential Level-two Observations

In order to test for potential influential level-two units (country), I re-run the regressions dropping them one by one. Note that, each time, six data points are dropped. Three countries prove problematic: Finland, Greece and Romania; although only the variable on administrative capacity changes when dropping them three the one after the other (see table 5.4). Its coefficient and statistical significance oscillate. Given the fact that there is no theoretical reason to justify these countries be abandoned for the analysis, I consider the results obtained regarding the variable administrative capacity as invalid. The other coefficients and confidence intervals prove stable across models and regardless of the influential level-two units. The conclusions reached in the main article therefore hold.

Table 5.4 - Partial regression results dropping potential influential level-two units.

	Full model		Dropping Finland		Dropping Greece		Dropping Romania	
Administrative capacity	10.271	**	8.224		6.791		7.833	
	(4.677)		(5.281)		(4.738)		(5.198)	
CSO capacity	-0.387		-0.135		-0.391355		-0.138	
	(2.110)		(2.127)		(2.077)		(2.130)	
Decentralization	0.865	***	0.863	***	0.815	***	0.865	***
	(0.260)		(0.261)		(0.256)		(0.263)	
Salience for government	-1.042		-0.842		-0.042		-1.137	
	(1.458)		(1.482)		(1.534)		(1.483)	
Public opinion	-0.540		-0.514		-0.460		-0.480	
	(0.346)		(0.358)		(0.334)		(0.350)	
Previous funding	-0.031	*	-0.030	*	-0.032	*	-0.031	*
	(0.016)		(.016)		(0.016)		(0.016)	
Time effect	-0.129		-0.118		0.268		-0.209	
	(0.782)		(0.820)		(0.756)		(0.789)	
Δ GDP per capita	1.022	***	1.109	***	1.020	***	0.909	***
	(0.373)		(0.390)		(0.362)		(0.374)	
Constant	76.867	***	77.028	***	75.039	***	80.050	***
	(7.508)		(7.545)		(7.353)		(8.326)	

Note: ***: p<0.01. **: p<0.05. *: p<0.1. Std.error in parenthesis

5.6. Conclusion

If integration of third country nationals is deemed essential to realise the potential of immigration, little attention was granted to the policies adopted at EU level in this respect. In 2007, the member states of the EU adopted the European Integration Fund (EIF) at the unanimity. At the end of the implementation period, the rate of use of the fund stalled at 82 %, much lower a rate than that for structural funds. This summary figure however covers wide disparities in terms of use between member states and over the years, ranging on average (but with wide dispersion around the mean in some instances) from 42 % for Malta to a little more than a 100 % for Finland. This article seeks to explain this variation across country and over time. Namely, why is it that some countries in some years use the totality of the funding available whilst some others do not? I put two main series of explanations to the test. On the one hand, and drawing from the studies conducted on the absorption of structural funds, I test the role of the capacity of a member state to engage EU funding. The EIF, like other EU funds, requires particular provisions be taken in order to ensure legal and sound financial management; such requirements likely strain the

central administration. On the other hand, I posit the effect of preferences on implementation. Inspiring the hypothesis from the literature on compliance with EU outputs, I suggest that government's willingness to implement may matter as much as its capacity to do so. Since EU funds must be supplemented (co-financing principle), engaging them may have consequences on national politics.

Through the analysis of yearly implementation rates throughout the member states involved in the programme, I show that capacity more than preferences matters in the implementation of the EIF. This article thus supports the findings of the scholarship on the absorption of structural funds. Surprisingly, I find that this is not so much the capacity of the administration to formulate and implement policies that increases implementation but the overall financial capacity of the state and its possibility to rely on a network of sub-national bodies that may act as co-implementers. Upstream, it appears that economic ups and downs had dire consequences on the ability of the state to use the funding available; the economic crisis and ensuing public debt crisis of the late 2000s-beginning 2010s have strained public finances and forced budget cuts across the board. Downstream, decentralization have eased the spending of the EIF. In decentralized states, the competence of integrating migrants likely falls to sub-national authorities, which increases the number of co-implementers.

The absence of evidence in support of the role of governments' preferences suggests that greater implementation might not be attained by augmenting the acknowledgement of a policy issue on the part of governments but rather by relaxing co-financing requirements in order to alleviate the hindrance financial capacity may represent. However, such a measure inevitably accentuates the tension between effectiveness of the policy instrument at EU level and political accountability of the member states. Decreasing member states' co-financing share may translate in increased implementation but it may also have a counterproductive effect by shrinking the incentive for efficient spending on the part of the government.

Finally, this chapter primarily aims to contribute to the literature on the EU integration policy; and notably to give it a more political-science take. Mostly approached by law scholars, or analytically treated by social scientists, the existence of a policy at EU level inevitably poses questions relating to the interaction between levels of policy-making; questions that need empirical answers. My contribution to the literature on structural funds is, for evident reasons, more modest. I however propose preferences be

taken into consideration to explain the implementation gap. Even though I do not find evidence supporting the role of preferences in the implementation of the EIF, the hypothesis still stands for structural funds (and future integration funds) and scholars studying their absorption may gain from including preferences in their explanatory models.

Conclusion: EU integration policy or EU policy on integration?

I started this dissertation with a series of questions that can be summarised as: is there soft-Europeanisation of integration policies? I also proposed an answer right away: it depends… Now that we reach the end of this research, the answer has not budged much. There exists a policy on integration at EU level but has it become an EU integration policy?

Taking stock: a summary of the dissertation

As an international organization, although more integrated and with farther-reaching effects, the European Union does not have the competence to define its own competence. Relying on the principle of conferral, it is the member states that delegate or not some or all of their competence to it. The construction of an immigration policy has beaten a winding road. Member states were quite reluctant to abandon some of their competence over such a sovereign feature. The completion of the common market however included the creation of an area within which one could move without obstacles at internal borders. The Area of Freedom, Security and Justice (AFSJ), as this area happened to be called, necessarily pushed the borders of the EU at its outer ends. Vested with transnational stakes, the integration of migrants, also a subset of the wider immigration policy, would follow a similar path. Diverging interests despite common commitments would place the integration policy at EU level on a fragile equilibrium. Despite their commitment for a more vigorous integration policy, member states disagreements emerged when it came to give it effects. The relative failure of the first couple of Directives on legal migration and

the sinking of the Open Method of Coordination (OMC) on the matter taught the Commission a decisive lesson: if member states agree in principle, the way to go about the issue matters a lot (Chapter 1). If any integration policy was to unfold, it had to be soft.

In quite a hostile context, a policy for the integration of migrants emerged nonetheless. Already on the agenda of most member states since the late 1980s'-beginning 1990s', integration was the object of national policies, although not always systematic ones. At EU level, migration was mainly looked at through a security lens, a prevalent take reinforced by the terrorist attacks on the Twin Towers in the USA. But at the same time, a social inclusion paradigm was gaining momentum. Launched in the 1980s', it was to encompass, to a limited extent, the inclusion of migrants, recognized as a vulnerable category. With a policy space available and a window of opportunity swinging open, it sufficed a stronger commitment on the part of some member states to have the policy tipping at EU level. From the empirical data I could retrieve and process, I attribute the explanation of the phenomenon to the combination of three conditions; a necessary condition, a sufficient condition, and a facilitating factor. The necessary condition is the fact that, whatever the content, the instrument to be eventually adopted could only be of a soft law nature. This eased member states' agreements insofar as it was potentially more costly for them to block the adoption of a text under the unanimity rule than to adopt a policy instrument that they would not necessarily have to implement in the end. On this basis, the sufficient condition is the succession within a reasonable timeframe of three Presidencies of the Council of the EU with similar preferences and their readiness to place these preferences on the EU agenda. Since any initiative in the domain had to be soft, member states could adopt the proposals of their Presidencies. An intervening (or facilitating) factor lies with the European Commission that drew lessons from the rumbled start of the policy and that consequently remain within the margins of acceptability for the member states. At the same time though, the Commission gradually occupied the policy space thereby opened to carve out a role for itself on integration matters, gradually developing the idea (and the acceptability) of a fund for integration. Starting small with the INTI programme, under direct management of the Commission, the Commission proposed a systematic and, therefore, more significant fund be put in place: the European Integration Fund (EIF) (Chapter 2). Such proposal opened a policy cycle that held the potential for sounder Europeanisation through soft law.

Without a strong foothold on integration matters and with a voting rule providing for unanimity decision-making, the adoption of a fund at EU level that would consistently enforce a European view of integration was unlikely. The absence of a clear legal basis would necessarily contemplate a limited role for the Commission in the definition of substantive directions and limited control mechanisms. The unanimity rule would almost automatically result in considerable discretion left to the member states in the programming and implementation of the fund. These two aspects governed the fund's negotiation process and determined the end-result. On the substantive front, the proposal from the Commission set a series of objectives that would be endorsed by the member states without much discussion. Casting a wide net, these objectives allowed member states to use the fund according to their own priorities. On the procedural front, the negotiation of the Commission proposal guaranteed member states' grips on the spending of the fund. Some of the most constraining provisions were simply removed or considerably weakened; i.e. the principles of additionality and partnership, established with the reform of the cohesion policy in 1988. Differently, most of the contention revolved around the distribution of the amounts amongst member states. Disputes in this regard also ended up in rendering more flexible the use of the fund. Overall, the end of the negotiation came to a successful conclusion: the fund was adopted (Chapter 3).

The adoption of the fund however came at a price: flexible, it would be up to the state to address one issue or the other. In the programming phase; i.e. when member states planned, year after year, the use of their allocations, attention to the indications provided by the EU proved moderately successful, despite financial incentives. Only 28.4% of the total funding planned to tackle the EU indications. Evidence shows that the financial incentive provided by the EU did not have any effect whatsoever. What seemed to matter the most is how much governments care about the issue on the one hand; how much public opinion and Civil Society Organisation capacity can mitigate governments' interest in the matter. Because the EIF is basically a soft law instrument, I argued that the actors that matter are actually national actors, playing within national games. I thus showed that the EU had little leverage to drag member states' preferences towards its own (Chapter 4).

Despite the importance of national allocations under the EIF in the negotiation process, the flexibility member states enjoy in the definition of their priorities in the programming phase, and the recognised importance of integration at EU level, the actual engagement of EU amounts at national level over the entire period covered by the fund

resulted in a consistent implementation gap. Only 82% of the money available was actually used, a curious figure considering the salience migration-related issues have acquired over the past 10 years. Evidence shows however that how much governments care about the issue is not relevant when it comes to actual implementation. Rather, it is its financial capacity and its capacity to rely on a network of sub-national authorities that count (Chapter 5).

Answering the question: EU policy or policy at EU level?

In order to close this dissertation, I propose to go back to the two questions posed in the incipit of this conclusion. Is there Europeanisation of integration policies? Is there an EU integration policy?

From the evidence gathered and processed throughout these five chapters, I conclude that there is no EU integration policy. There is a consistent set of policy instruments that together forms a policy relating to integration but talking of an EU integration policy as of yet is hardly sustainable. Confirming the conclusions reached by Mulcahy (2011) about the very marginal effect of the Common Basic Principles on member states, I show that, overall, the European Integration Fund has had little effect on member states' integration policy; if not that of reinforcing national approaches to integration, substantiating them with EU funding.

That said, can we speak of a Europeanisation of integration policies? The answer is more nuanced. If one understands Europeanisation as a process, there may well be a Europeanisation process under way. If member states remain in control of their integration policy, if they may use the EIF for their own purposes or not use it at all, they have to report it to the Commission. As *Interviewee*, interviewed for this research, recalls, the principles on which the fund was based were necessarily wide, "We couldn't afford to have them more stringent", but the EIF offered the opportunity of "get[ting] the member states to report back on what they were doing". One shall consider that the policy started from scratch and blossomed into a consistent set of instruments that would lead member states to report to the Commission on a policy for which the EU has little competence over.

The end of the EIF (covering the period 2007-2013) and the adoption of its sequel, the Asylum, Migration and Integration Fund (AMIF; for the period 2014-2020), send ambiguous signals as to whether Europeanisation is progressing or stalling. Between the EIF and the AMIF, there was the adoption of the Lisbon Treaty, which brought the legal migration special regime to an end. The adoption of the ordinary legislative procedure in this domain meant the end of unanimity voting and an actual role for the European Parliament. If this could, in some ways, be looked at as a further step in the Europeanisation process, the provisions contained in the AMIF Regulations[1] may be regarded as a step back for a series of reasons. First of all, it merges a number of previous funds into one, providing that 20% of the total at least be dedicated to integration. Consequently, the minimum share of the AMIF dedicated to integration is lower than what the EIF provided for[2]. Going over this minimum is then up to the state and how it intends to distribute its allocation between integration, asylum, solidarity and return. Secondly, references to the Common Basic Principles are less prevalent than in the EIF. Whereas the EIF was explicitly designed to implement the CBPs, the AMIF only includes loose references to it[3]. Thirdly, taking into account the complexity felt for the EIF expenditure, the objective of the AMIF was not so much the enforcement of a European view of integration but rather a simplification of its spending rules to guarantee the engagement of the amounts allocated (Malmström, 2014; European Parliamentary Research Service, 2014).

Everything considered, we may well be witnessing a stammering process of Europeanisation, the hesitant construction of a policy at EU level. Empirical analysis of the implementation of the AMIF, or even a renewed analysis of the effect of the CBPs, may reveal new evidence in support of the existence of an EU integration policy. But for the time being, the EU policy on integration, and especially the EIF, through its flexible goals, has only given rise to more national policies. Not that EU-based principles would be ignored altogether, but rather that their application would rely on voluntarism; after all, this is a policy based on soft law.

[1] Regulation 514/2014/EU, so-called horizontal Regulation, lays down general provisions for Home affairs funds. Regulation 516/2014/EU establishes the Asylum, Migration and Integration Fund.
[2] Whilst the EIF granted about €767 million for member states' integration policies, 20% of the amount placed at their disposal under the AMIF equals to about €478 million
[3] The only direct reference is Recital (20), Regulation 516/2014/EU. Indirect references can be seen in the reading of article 9 that specifies the kind of integration measures that the fund supports.

Further research?

The scholarship has not looked much into the development of integration policy at EU level, or into soft-Europeanisation instances, or else into the effects, more simply, of soft-steering policy instruments. This dissertation is placed at the crossroad of different research agendas; namely, EU integration policy, Europeanisation, soft mechanisms, bargaining in the Council, implementation of EU outputs, and EU funds' absorption capacity. It may also have opened the way to further research.

The development of an integration policy at EU level is under-investigated. Of course, the pressing issues that need to be addressed in the present and very near future revolve around asylum and international protection. But integration will inevitably be the next step, for those that are granted the refugee status, for those that are granted subsidiary protection statuses, for those over-staying their visa and will eventually obtain a residence permit, for those that see their protection claims rejected but that end up stuck in a legal limbo in the EU. For this reason, integration policies are of the utmost importance and a certain level of homogeneity amongst EU member states is desirable so that we avoid the "postcode lottery" (Phillimore, 2014: 13) of nationally defined policies. Imbalances between member states' integration efforts may entail negative effects for other EU member states and may result in a difference in treatment and opportunities for migrants themselves. It is thus important the integration policy at EU level be studied.

From a more academic perspective, the concept of Europeanisation has acquired compelling relevance. Soft-Europeanisation on the other hand has been mentioned here and there without having been much conceptualized or empirically analysed. But soft law is not no law; soft law may be not binding, it does not mean it cannot effect member states' policies. More empirical studies of EU soft law outputs and their implementation could flesh out new research perspectives, be it relating to the integration of migrants or not. If the study of Europeanisation has touched upon a wide range of policies and instruments (notably the OMC), the compliance literature has seldom gone beyond the study of Directives.

From a methodological standpoint, two main observations are worth being made. The literature on the structural funds has tried to explain the implementation gap observed across the EU without however employing time-series cross-section regression models,

yet adequate to look into the factors that lead to more or less implementation over the years and across countries. In Chapter 5, I proposed such an approach and consider it a suitable way explain why the EU funds available are not always or everywhere used. Coming back to the research I presented in the previous pages, most of the analysis I conducted on implementation (Chapter 4 and 5) essentially consisted in the application of regression models across countries and over time. Considering the 26 member states involved in this policy field at once necessarily means reasoning at a relatively high level of abstraction, disregarding the particularities of a given administration at a given point in time (for instance). Highlighting macro tendencies in a comparative fashion is indeed a relevant exercise as it allows the understanding of what is going on in the EU. The analysis could however gain from the understanding of micro or meso phenomena through the identification of relevant cases (be they peculiar or representative) and the use of qualitative methods in order to confirm or disconfirm the results obtained at a higher level of abstraction.

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