국제학석사학위논문

The Impact of the Political Saliency of Immigration Policy on Member States Accommodation to Immigration Policy at the European Level

유럽 레벨에서 이민정책의 정치적 현저성이 회원국들의 이민정책 수용성에 미치는 영향

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The Impact of the Political Saliency of Immigration Policy on Member States Accommodation to Immigration Policy at the European Level

A thesis presented by

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Graduate School of International Studies
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Abstract

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The European Union institutions' choice to develop a "harmonized" immigration policy has been facing political blockage and resistance among Member States throughout the past two decades. This study argues that national-level factors have influenced the success and essence of past harmonization proposals. We rely on (i) European Union policy success and implementation; (ii) civil society preferences, political saliency and partisanship; (iii) national institutional capacities to develop, implement and protect domestic immigration policy, in order to explain (i) the nature of the European Union and Member States immigration policy (accommodative vs. restrictive towards immigrants); (ii) the success rate of harmonization between the two levels of governance. We will focus on the importance of political saliency on Member States accommodation to immigration policy at the European level.

Keywords: Civil Society Preferences; European Union; France; Harmonization; Immigration; Political Saliency and Political Partisanship; United kingdom

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국문 초록

“조화”를 이루겠다는 유럽 연합 기관들의 이민정책은 지난 20년동안 회원국들의 정치적인 반발과 저항을 불러왔다. 이 연구는 국가적 요소들이 과거의 조화 정책 제안들의 성공과 본질에 영향을 미쳤다고 주장한다. 우리는 (i) 유럽연합의 정책 성공과 시행; (ii) 시민사회의 선호도, 정치적 현저성 그리고 당파성; (iii) 국가 기관들이 국가 이민정책을 개발, 시행, 보호 능력을 바탕으로 (i) 유럽연합의 특성과 회원국들의 이민정책 (수용적 혹은 제한적); (ii) 두 레벨의 거버넌스 간에서의 조화 성공률을 설명하려고 한다.

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Résumé

Le choix par les institutions européennes de développer une politique d'immigration "harmonisée" a rencontré nombre de blocages et résistances au sein des Etats Membres depuis les vingt dernières années. Cette étude avance que certains facteurs au niveau national ont influencé le succès et la nature des propositions d'harmonisation. Nous construisons notre analyse sur (i) le succès et la mise en oeuvre des politiques de l'Union Européenne; (ii) les préférences de l'opinion publique, le favoritisme et la saillance politiques; (iii) la capacité des institutions nationales à développer, implémenter, et protéger les politiques d'immigration domestique; afin d'expliquer (i) la nature des politiques d'immigration au niveau de l'Union Européenne et des Etats Membres (accommodante vs. restrictive); (ii) le taux de succès des propositions d'harmonisation entre les deux niveaux de gouvernance. Nous concentrerons notre analyse sur l'importance de la saillance politique sur le degré d'accommodation des Etats Membres aux politiques d'immigration initiées au niveau de l'Union Européenne.

Table of Contents

I. Introduction

1.1 Introduction for study

Immigration is a preeminent issue in the European Union, partly due to its electoral impact, influencing the emergence of new parties and confrontating the existing Member States and European Union party systems, and partly due to its relevance to the evolution of the European Union single market. Institutionally, the 1986 Single European Act's "four freedoms" of movement (labor, goods, service and capital) is considered to be fully harmonized and ruled by the European Commission and Parliament, under the European Court of Justice legal jurisdiction, allowing full freedom of residence and movement within this space. If European Union and its Member States have overall been trying to implement a common ground and harmonized relationship regarding trade policy, the immigration issue embodies an exception between the two level of governance, indeed, trade and immigration issues have reversed correlations in policy implementation. Europe's past migration experiences, from the fall of the "Iron Curtain" in the 1990s, the Eastern enlargement of the European Union in 2004 and 2007, to the more recent refugees "crisis', raised fundamental questions regarding a country security, economic performance, migrants integration, and their access to citizenship. According to the latest Eurobarometer survey data, "immigration is now top of the most important concerns facing the

European Union". It is an unmistakable economic and political issue in the European Union and within most of its Member States. More than 247 million people, or 3.4 percent of the world population live outside their countries of birth. The number of international migrants rose from 175 million in 2000 to more than 244 million in 2015[1] and the number of refugees last year reached an unprecedented 65.3 million[2], emphasizing how migration saliency is unquestionable for the European Union and its Member States individually.

However, what is today seen at Europe's borders may not be a "crisis" but rather the new normal. This study aims at exploring the impact the political saliency of a dit issue in a given Member State might have on the following political developments regarding immigration policy harmonization: (i) a demand of the European Union institutions, to develop a "harmonized" immigration policy; (ii) a resistance of some Member States to implement such a development. Indeed, if immigration policy can appear to be, on the surface, harmonized on the European Union level, it appears that it can eventually be restricted or blocked on the Member States level, enhancing Moravcsik (1998) theory that "immigration policy institutions are arising from domestic politics and national immigration policies".

The following section will depict the existing literature this research is being built on and its limitations; section III will illustrate the development of immigration policy at European level throughout the past two decades; section IV will emphasize the

[1] World Bank Factbook 2016 - Migration and Remittances, 3d Edition
[2] UNHCR - The UN Refugee Agency, Figures at a glance

development of immigration policy in the United Kingdom and in France; and section V will explain which variables can lead to the opposite political developments mentioned above, according to the United Kingdom and France immigration policy developments and implementations case study comparison.

1.2 Research aims, objectives; questions and hypothesis

Research aims and objectives:

This study aims at illustrating if and how an harmonization of the European Union legislations and Member states procedures has ever succeeded and if it could be witnessed in the near future. Analysing if the political model on both level has been converging towards one similar political ideology, we will assess whether or not national preferences are reflected in European Union institutions directives or if supranational institutions are moving away from national preferences.

Question:

- Why were some Member States' governments able to adopt strong negative positions against immigration even though, on the European level, a strong accommodative policy dominates?

Hypothesis:

- Member States have been able to develop their own domestic politics, determining the outcome of harmonization attempts, in accordance with the following framework: the higher the political saliency of a dit issue, the lower the chances of harmonization; the lower the importance of the political saliency of a dit issue, the higher the chances of successful harmonization.

1.3 Research methodology

In order to respond to the questions mentioned in the previous section, this study will focus on (i) the nature of the European Union and Member States immigration policy (accommodative vs. restrictive towards immigrants); (ii) the success rate of harmonization between the two levels of governance. The independent variables that will illustrate the two issues consist of (i) European Union policy success and implementation; (ii) civil society preferences, political saliency and partisanship; (iii) national institutional capacities to develop, implement and protect domestic immigration policy. We argue that Member States have been able to develop their own domestic politics, determining the outcome of harmonization attempts, as when the importance of the political saliency of a dit issue is rising, the probability of

harmonization is more likely to decrease. In order to support our hypothesis, we will focus on a comparison of France and the United Kingdom case studies in order to emphasize variations in positions and policy implementations in the accommodation to European Union immigration policies over time, as France has been historically shifting between support and opposition of the European Union institutional directives, and the United Kingdom is one of the strongest opponent of European Union control on immigration.

We will mainly rely on the following materials: (i) empirical data (*Eurobarometer 2014; Eurobarometer 2015*); (ii) existing literature (*Moravcsik, 1998; Bigo, 2002; Baumgartner and Jones, 1993; Givens and Luedtke, 2004*); (iii) and formal documents (*Council of the European Union; European Commission; European Parliament*). We will finally conduct a revision and application of Givens and Luedtke (2004) "Model for Explaining Harmonization Variance", as they focus their analysis on various policy areas at the European Union level, whereas we will focus on factors rooting the variations in the Member States accommodation to European Union immigration policy.

Table 1- Dependent and independent variables

Variables/Outcomes	Contents
Dependent Variable	Level of Member States accommodation to European Union political development
Independent Variables	Political saliency of the immigration issue
	European Union immigration policy successes and implementations
	National institutional capacities to develop, implement and protect domestic immigration policy
Possible Political Outcomes	Demand of the European Union institutions to develop a common "harmonized" immigration policy
	Resistance of some Member States to implement such a development

II. Literature Review and Limitation of Literature

The literature on migration into Europe and within Europe has some significant strengths for policy makers as the amount of theoretical and empirical texts has grown significantly in recent years, building a body of work substantially stronger than in the early 2000s, and reflecting the increasing saliency of migration on the European political agenda. The migrants involvement in urban disruptions and acts of terrorism, as well as the growing body of evidence on poor integration outcomes in

employment, education and health, have triggered policy makers interest in research. Theoretical work is key to policy makers as it clarifies the goals of policy development and highlights the way of their achievement.

One interesting body of work that will help us build our analysis consists of scholars such as Moravcsik, who have been supporting "intergovernmentalism" and see "supranational institutions as a means of locking in preferred domestic political arrangements and see Member States as the primary political actors" (Moravcsik, 1998). Wilson (1980), Joppke (1999) and Freeman (2002), developed the concept of "client politics", or the determination of "immigration politics in the absence of populist pressure against immigration". The theory was commonly used in Western European countries before the 1970s and can still be encountered in "low saliency areas of immigration today". It simply evaluates the effects official state policy would witness according to the costs and benefits a given societal group would get from an eventual immigration policy enactment. According to Freeman (2002) for instance, "Groups that face more concentrated benefits will more effectively organize to impact the state in favor of their interests than those groups that face more diffuse costs from potential immigration policies". If client politics were to determine the configuration of immigration politics, then successful harmonization should be the outcome since majoritarian groups tend to benefit from free movement of cheap labor. However, in most areas, harmonization regarding immigration has been blocked and secluded under a stiffly restrictive and security focused framework.

The evaluation of mechanisms by way of which differing interests in the area of migration legislation have been 'framed' at the European Union level has been most honestly put ahead through the 'securitisation' thesis developed with the aid of scholars like Bigo (2002) and Huysmans (2000, 2006). Building on security studies literature, these authors have explored the ways in which the framing of migration has been increasingly infused with security issue concerns. According to Huysmans for instance, "the security framing of migration emerged as early as the 1980s, when policy responses to immigration were conceived of inside frameworks related to different security issues, such as terrorism and drugs" (Huysmans, 2006). As such, the security sequence used to be segmented in a way that integrated migration and connected it with borders, terrorism and crime, justifying the adoption of measures that could have else been considered as infringements of civil liberties.

One of the reason for this seclusion on immigration policies could be, according to Baumgartner and Jones (1993), laying in the importance of political saliency. The authors introduce the idea that the saliency of a given issue can override client politics and mobilize and politicize large groups, or, to phrase it simply, how once client politics interacts with political saliency, the configuration evolves into a collision of policy making models. They explain that "during periods of heightened general attention to the policy (...) in the process of agenda-setting, the degree of public indifference to given problems changes dramatically" (Baumgartner and Jones; 1993). As the degree of attention paid to the immigration issue is gaining importance, the political saliency of the issue follows the trend, the impact of client politics decreases,

and a high-conflict political model emerges. Joppke (1999), Lahav and Guiraudon (2000), Geddes (2003) and Guiraudon (2003), explain that this high-conflict political mode results from the fact that it is in the national executives political interest to protect national sovereignty rather than immigration. Lahav and Guiraudon (2000) and Baumgartner and Jones (1993) explain that government have been successfully getting around constraints, and more particularly by using one specific strategy, the "venue shopping", in which "state actors strategically use European Union-level organizations to pursue national policy goals, trading sovereignty for policy success". This theory converges with Putnam (1988) two level-game model, and explains "how national governments can use the European Union level to enhance domestic sovereignty depending on the strength of their domestic restriction" (Vaubel, 1994; Rotte and Zimmerman, 1998; Vink, 2001).

Scholars like Lampinen and Uusikyla (1998) argue that political institutions, the degree of corporatism, the citizen's support for the European Union and the political culture in one given Member State impact the success of European Union directives implementations. Borzel (2002) argue that the economic development of one given Member State is the key factor impacting this Member State accommodation to European Union political development.

On the other hand, Moravcsik argues, and we support his perspective, that there is a correlation between civil societies and governments acts and responses to one given issue, and that national institutions have the capacity to influence the shaping of

supranational policy development. We argue that Member States respond to European Union regulations according to their own national context. And more specifically, we consider the political saliency of one given issue, the main factor in the explanation of the variations in accommodation of Member States to European Union political development. The political saliency of one given issue is worth consideration as it, in our perspective, shapes the political institutions, the degree of corporatism, the citizen's support for the European Union and the political culture factors advanced by Lampinen and Usikyla (1998). We also argue that the political saliency of a given issue is relevant to the degree of accommodation of Member States to European Union political development as much, if not more, than Borzel (2002) economic development factor, in the way that economic factors might not be limited to the border of one Member State, but will rather be a common factor in between different Member States, whereas the political saliency of one given issue will be limited to the borders of one Member State, as it is embodied by the national civil society and institutions of that given Member State.

The existing literature on European Union immigration policy "harmonization" is fairly illustrative but is not offering a more recent pattern for the theory application than the one developed by Givens and Luedtke (2004). Givens and Luedtke (2004) model was drawn on Rosenblum (2002) theory that, in the United States case, that can easily be applied to Europe, "the president and foreign policy considerations are less likely to have an impact on immigration policy when the issue is highly salient". Meaning that, in Europe, if one given issue saliency is low, client

politics can play a major role, whereas electoral factors override it when that one given issue saliency is high. They argue that the level the national institutional capacity to protect migrants rights, should be added to the political saliency factor, as shown in Table 2:

Table 2 - Saliency, institutions and harmonization

		Level of political saliency	
		Low	*High*
Institutional capacity to protect migrant rights	*Strong*	Support expansive harmonization	Support restrictive harmonization
	Weak	Support restrictive harmonization	Block harmonization

Source: Givens and Luedtke (2004)

Table 2 shows that where national institutions protect migrants rights, restrictive harmonization will be preferred, whereas where national institutions failed to protect migrant rights, no harmonization will be favored.

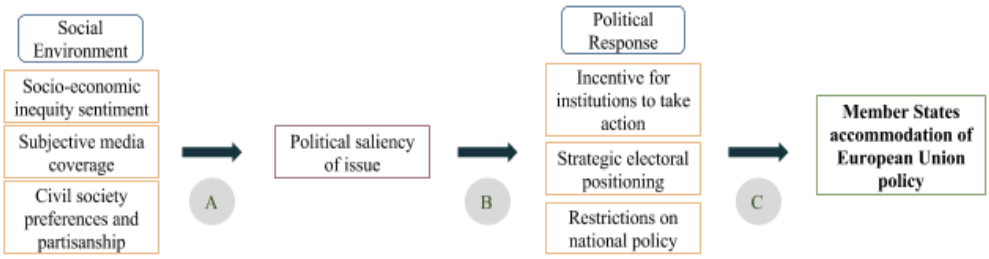
Givens and Luedtke (2004) analysed 34 European Union legislations proposals, in various policy areas, along with their adoption (or not) and their restrictive vs. expansive implementations, assessing the hypothesis mentioned in Table 2. Out of the 34 proposals 26 were considered to be regarding highly salient issues and

8 regarding non-salient issues. 12 out of the 26 highly salient proposals were adopted, against 7 out of the 8 non-salient ones. Out of seven proposed asylum policies, all considered to be regarding highly salient issues, five were adopted, and with restrictive measures; out of seven migration policies, all considered to be regarding highly salient specificities, only one was adopted, and with restrictive measures; out of five visa and migration control policies, two out of the three considered to be regarding highly salient issues were adopted, and with restrictive measures; out of eight illegal migration policies, four were considered to be relevant to highly salient issues and were adopted with restrictive measures; finally, out of six anti-discrimination policies, all considered to be regarding low saliency issues, five were adopted, and with an expansive approach. The ratio of adoption of the proposal according to the saliency of the policy area it regards supports Given and Luedtke (2004) theory that, the more salient an issue is, the lower the chances of harmonization, and the lower the saliency of an issue, the higher the chances of harmonization.

It emphasises how the political saliency of one given issue is directly related to the success or failure of one given proposal. And in the case of the proposal adoption, how the political saliency of one given issue is directly related to the restrictive or expansive response to the legislation. We can understand that a given issue with high political saliency is less likely to be harmonized, or if it is, it is more likely to be restricted, whereas a given issue with low political saliency is more likely to lead to harmonization, and if so, in an expansive way per nature.

Givens and Luedtke overall argue that the political saliency of a given issue, when mixed with national institutions capacity to protect migrant rights can explain the variations of harmonization at the European Union level. We argue that the political saliency of a given issue can impact the Member States accommodation of political development at the European Union level. To phrase it simply, when Givens and Luedtke (2004) apply their model to different policy areas at the European Union level, we will expand it by conducting its application at the Member States level, regarding immigration policy development specifically. We argue that the following theoretical framework can be applied on the national level, and will discuss A, B and C correlations throughout our study. We argue that "Social Environment", characterized by (i) socio-economic development; (ii) subjective media coverage; (iii) civil society preferences and partisanship, is at the root of the "political saliency of a dit issue"; this political saliency will influence the "Political Response", characterised by: (i) incentive for institutions to take action; (ii) strategic electoral positioning; (iii) restriction on national policy; and will finally impact the level of accommodation of Member States to European Union policy.

Table 3 - National politics harmonization challenge



According to the above theories, we argue that the intensity of the political saliency of a given issue in a given Member State will determine one of the following outcomes: (i) restrict harmonization; (ii) block harmonization; (iii) tolerate an expansive harmonized policy. We argue that "Social Environment", characterized by (i) socio-economic inequity sentiment; (ii) subjective media coverage; (iii) civil society preferences and partisanship, is at the root [A] of the "political saliency of a dit issue"; this political saliency will influence [B] the "Political Response", characterised by: (i) incentive for institutions to take action; (ii) strategic electoral positioning; (iii) restriction on national policy; and will finally impact [C] the level of accommodation of Member States to European Union policy. Section III will discuss the development of immigration policy at European level.

III. Development of immigration policy at European level

3.1 Analysis of the European Union immigration politics nature

The migration issue has been standing at European level for almost twenty years, and the European Union has been trying to build, hand in hand with people freedom of movement, a comprehensive and inclusive migration policy. The recent inflow of asylum seekers and migrants urges the policy makers to react to a crisis. It requires an in depth analysis of diversity and integration, migration flow and trans-nationalism mainly. Clearly there is an unquestionable general perception that Europe is facing a migration crisis. Each and every media, from newspaper to television bulletins are headlined with the tragedy of migrants crossing the Mediterranean sea. The termination used gets emotive towards migrants and indeed, "the very words "migrant" and "immigrant" have become inflected with connotations of negativity (Pritchard, 2015). There is an undoubtful reality of migration, but there is also a variance in how this reality is perceived, mediatised and most importantly, politicised.

Three groups of European research projects on migration and intra-European Union mobility, conducted by the Seventh Framework Programme for Research (FP7), explained in the European Commission "Research on Migration: Facing Realities and Maximising Opportunities, A policy Review" are believed to be relevant to this study.

The first group deals wholly or mainly with migration, and focuses on the socio-economic and political impact of migration from selected countries into Europe, as shown in Table 4

Table 4 - European research projects on migration

Project Name	Project Title	Project Focus
EUMAGINE	Imagining Europe from Outside (2012)	Analysis of migration aspirations by focusing on the perceptions of "Europe" being held by young adults (18-39), in Morocco, Senegal, Turkey and Ukraine
MAFE	Migrations between Africa and Europe (2013)	Studies emigration from Senegal, Ghana and the Democratic Republic of Congo
SOM	Support and Opposition to Migration (2012)	Explains how immigration has become politicised
TRANS-NET	Transnationalization, Migration and transformation: A Multi-level Analysis of Migrant Transnationalism (2011)	Migrant economic, social and political transnationalism in selected transnational spaces

Source: European Commission - Research on Migration: Facing Realities and Maximising Opportunities

The second body of work focuses on temporary migration mainly and its implication and consequences, as shown in Table 5:

Table 5 - European research projects on migration

Project Name	Project Title	Project Focus
EURA-NET	Transnational Migration in Transition: Transformatie Characteristics of Temporary Mobility of People (2011)	Aims to understand the evolving nature of temporary migration in the Euro-Asian context and analyses transnational migration and mobility
TEMPER	Temporary versus Permanent Migration (2015)	Investigates temporary and other short-term migration flows, focusing on a number of countries from four major geographic sending areas

Source: European Commission - Research on Migration: Facing Realities and Maximising Opportunities

The third and last group deals directly or indirectly with migration, integration, multiculturalism, education and the correlation between persons mobility and criminal behaviors, as illustrated in Table 6:

Table 6 - European research projects on migration (directly or indirectly related)

Project Name	Project Title	Project Focus
ACCEPT PLURALISM	Tolerance, Pluralism and Social Cohesion: Responding to the Challenges of the 21st Century (2012)	Analysis the challenges of cultural, ethnic and religious diversity in Europe, in a context of ongoing migration and the quest for tolerance and social cohesion
DEMAND-AT	Demand-Side Measures Against Human Trafficking (2015)	Concentrates on the demand side of the trafficking equation, in order to explain the trafficking of persons for sexual and labour exploitation

EDUMIGROM	Ethnic Differences in Education and Diverging Prospects for Urban Youth in an Enlarged Europe (2011)	Investigates the impact of educational systems and settings on second-generation and Roma youth in nine EU countries
EUMARGINS	On the Margins of the European Community (2010)	Investigates experiences of young adults with immigrant backgrounds in seven different countries: Norway, Sweden, the United Kingdom, Italy, France, Spain and Estonia
FIDUCIA	New European Crimes and Trust-Based Policy (2015)	Studies a number of distinctively "new European" criminal behaviors which have emerged in the last decade as a consequence of technology developments and the increased mobility of populations across Europe
GEITONIES	Generating Interethnic Tolerance and Neighbourhood Integration in European Urban Spaces (2012)	Investigates interethnic relations in 18 local neighbourhoods in 6 European cities
NEUJOBS	Creating and Adapting Jobs in Europe in the Context of a Socio-Ecological Transition (2014)	Analyses possible future developments in European labour market(s) under the main assumption that European societies are now facing or preparing to face profound transitions
NOPOOR	Enhancing Knowledge for Renewed Policies against Poverty (2013)	Aims to build new knowledge on the nature and extent of poverty in developing countries
RURBANAFRICA	African Rural–City Connections	Explores the connections between rural transformations,

	(2013)	mobility, and urbanization processes and analyze how these contribute to an understanding of the scale, nature and location of poverty in sub-Saharan Africa
SEARCH	Sharing Knowledge Assets: Inter Regionally Cohesive Neighbourhoods (2013)	Analyses the impact of European Neighbourhood Policy on the integration of the EU and neighbouring countries in terms of their trade and capital flows, mobility and human capital, technological activities and innovation diffusion, and institutional environment
WWWforEUROPE	Welfare, Wealth, Work for Europe (2015)	Analysis of the serving public policy making aimed at promoting a socio-ecological transition to a sustainable, low-carbon economy

Source: European Commission - Research on Migration: Facing Realities and Maximising Opportunities

Considering immigration in European countries based on category of citizenship, 30 to 40 percent of their immigrants were originated from countries outside of the European Union. Migration flow and policy making have a corresponding dynamic as (i) migration flows generate the need for policy and measures that will manage, control, and regulate them; and as (ii) policy and measures shape current and future migration flows. Opinions differ when it comes to the necessity of migration policy: some neoclassical economists who "oppose state control and see migration as leading to an optimum allocation of resources" (Simon, 1990) roots for "open

borders", and some left-leaning scholars argue that "international borders serve to maintain global inequality" (Zolberg, 1989). The contradiction here appears quite obviously as "while emigration from a country is widely regarded as a fundamental human right, the right to immigrate to a country is not. And yet, logically, every emigrant is also an immigrant" (Nett, 1971). We can all agree, however, that in the absence of control on immigration, we could witness a global stereotyped "colonisation". Widgren (1990) argues that "uncontrolled mass migration would threaten social cohesion, international solidarity and peace". Some liberal-democratic scholars argue that one develops political organisations and democratic societies at the nation-state level mainly, and that "it is therefore necessary to limit membership in some fashion in order to preserve a functioning political community" (Waltzer, 1983).

Fielding (1993), on the other hand, introduces five classifications of immigration policies:

Table 7 - Classifications of immigration policies

Policy	Evidence
Unrestricted Entry	Free movement between countries in the Schengen area
Promotional Entry	Guestworker migration to Germany (1961-1973)
Permissive Entry	Managers and professionals of multinational companies
Selective Entry	Family reunion
Prohibited Entry	"Irregular immigrants"

Source: European Commission - Research on Migration: Facing Realities and Maximising Opportunities

King (2002), divides migration flows in basic categories, including:

Table 8 - Categories of migration flows

Forced migration	vs.	Voluntary migration
Temporary migration	vs.	Permanent migration
Legal migration	vs.	Illegal migration
Low-skilled migration	vs.	High-skilled migration

Source: European Commission - Research on Migration: Facing Realities and Maximising Opportunities

It is important, today, to acknowledge that migration is very diverse, and understanding it could lead to a better and more realistic approach for policies. Those stereotyped opposition however, are becoming outdated and irrelevant. New patterns are appearing and deserve policy makers attention, such as motivation for migration or modalities of migration. Williams and Balaz (2008) indeed argue that, temporary

migrant can lead to an actual temporary stay but could as well evolve into "repeated immigration" or permanent settlement, it is almost impossible to anticipate. On the same note, an high-skilled migrant can enroll in a "low-skilled job", or a low-skilled migrant could train in order to obtain higher skills and experience. Idem, "irregular migrants" could eventually get regularised. Irregular immigration, asylum seekers and refugees crises rise new challenges for formal policies.

Ager and Strang (2004) argue that the foundation for integration are rights and citizenship, or to phrase it simply "the base upon which expectations and obligations for the process of integration are established". This introduces two key challenges: (i) the political and civil rights of migrants in Europe; (ii) how is immigration being politicised. The next paragraph will stipulate European Union immigration policy key developments.

3.2 European Union immigration policy key developments (1999-2015)

The main policy-making institutions at the European Union level, consist of (i) the European Parliament, as it is the European Union law-making body with legislative, supervisory and budgetary responsibilities; (ii) the European Council, as it

brings together the European Union leaders to set the Union political agenda and defines the general political direction and priorities of the European Union; (iii) the Council of the European Union (or Council of Ministers), as it brings together voices of European Union governments in adopting laws and coordinating policies, and, together with the European Parliament, is the main decision making body of the European Union; (iv) the European Commission as it is the politically independent executive arm of the European Union and as it draws proposals for new legislations and implements the European Parliament and the Council of the European Union's decisions. In the field of immigration policy, ordinary legislative procedure is used, based on Articles 289 and 294 of the Treaty on the Functioning of the European Union. In most cases, the Council of the European Union and the European Parliament negotiate and adopt European Union legislations through the dit procedure (or "codecision" procedure). In the case of policy areas where the European Union has exclusive or shared competences with the Member States, the Council of the European Union legislates on the basis of proposals submitted by the European Commission.

Table 9 - European Union key immigration policy

Policy	Period of Decision	Key Measures
Tampere programme	19/03/1999 to 16/10/1999	● Free movement and equal access to courts ● Asylum and immigration ● Police and customs co-operation ● Co-operation with third countries
Hague programme	11/10/2004 to 13/12/2004	● Balanced approach to migration ● Management of EU's external borders ● Common asylum procedure ● European Area of Justice
Treaty of Lisbon	03/12/2007 to 10/12/2007	● New protocols ● Amendments to TEU and TFEU
Blue Card Directives	23/10/2007 to 25/05/2009	● Entry and residence of high-skilled foreign workers
2015 Migration Agenda	13/05/2015 to today	● Immediate Actions ● Migration Management

Substantively, five decisions at the European Union level built the fundamentals of the European Union immigration system: (i) the Tampere programme, first multi-annual programme in the Area of Freedom, Security and Justice (AFSJ), providing the policy agenda for initial action towards the establishment of the AFSJ from 1999 to 2004; (ii) the Hague programme, second multi-annual programme in the

AFSJ, setting ten priorities among the general orientations upon which efforts should be concentrated from 2005 to 2009; (iii) the Lisbon Treaty, introducing the "codecision" procedure and majority voting on legal migration; (iv) the Blue Cards Directives, establishing new priorities for integration policies and benefits of migration policies; and (v) the European Union 2015 Migration Agenda, proposing immediate measures to cope with the crisis in the Mediterranean, and action to manage migration in the short term.

Since 1999, the European Union developed five-year programs focusing on the development of migration and asylum-related policies and more broadly, on justice, security and freedom. The Tampere programme, signed in Finland in the city of the same name on 16 October 1999 and in force until 2004, laid a framework for common immigration and asylum policies and grounded rules for family migrants, long term-residence access and a first approach to the Common European Asylum System. The European Parliament argued that "citizens of the Union are now tired of declarations and statements, are aware of the fact that individual Member States acting alone cannot guarantee them the protection they require against the threats posed by international crime, or the safeguarding of their civil liberties in other Member States of the Union, are disappointed by the shortcomings of intergovernmental cooperation and, after three revisions of the Treaties in the past ten years, expect the Union to respond to their concerns effectively" during the extraordinary European Council meeting on the area of freedom, security and justice on 15-16 October 1999. Romano Prodi, President of the European Commission at the time, said that the decision marked a "new step in the

European Union after a common market, common currency and Schengen"[3], or in other words, that the European Union should not only be a single market and an economic and monetary union but also an area of freedom, security and justice[4]. The five year agenda, endorsed by the European Council, outlined the first set of legally binding asylum agreements at the European Union level. The Tampere European Council invited the European Commission to develop a "scoreboard" to keep track of the implementation of policies on freedom, security and justice. The first one was presented in March 2000 and updated every six months, the final "scoreboard" was produced in June 2004, marking the end of the Tampere agenda. The Commission published an overall evaluation of the programme (COM(2004) 401 final)[5], highlighting the major obstacles for the future of the Justice and Home Affairs agenda, and the need to ensure that the adopted measures would be effectively implemented by the Member States. The European Commission mentioned on several occasions that mutual trust and mutual recognition, pillars of the adopted measures, should be reinforced by legislative action in order to boost the legislation's implementation by the Member States.

The Hague programme, endorsed and approved by the European Council on 13 December 2004 was built on the positive experience of the Tampere programme and destined to cover the next five-year period. It represented a significant and quite

[3] Migration News - Tampere Summit - November 1999, Volume 6, Number 11
[4] European Commission FactSheet#31: Tampere, Kick-start to the UE's policy for justice and home affairs
[5] Commission of the European Communities - Communication from the Commission to the Council and the European Parliament (SEC(2004)680 & SEC(2004)693)

surprising institutional victory for the supranational power over the national power. The programme highlighted the importance of co-operation with third countries and initiated a second approach of the Common European Asylum System, in addition to developing a plan for economic migration and exchanging information on integration policy. The final proposal took into account the evaluation by the Commission as welcomed by the European Council in June 2004 as well as the Recommendation adopted by the European Parliament on 14 October 2004. The policy documents on which the European Union has managed to agree since 1992, have generally taken minimalist approaches, meaning that few changes have been necessary in individual Member States to put new community laws into effect[6]. Through the Hague programme the European Council emphasized that "the determination of volumes of admission of labour migrants is a competence of the Member States", and asks the Member States to reach the target for reducing the informal economy set out in the European employment strategy. The European Council also addressed its prudent approach of the program when arguing "the cautious nature of the approach is demonstrated in the European Council's language, which says that the Commission and the Justice and Home Affairs Council should look at whether it would be "opportune to facilitate, on a case-by-case basis," the extension of such visa privileges to sending countries outside the European Union; it includes the firm mention that these privileges would have to be reciprocated for EU nationals". The European Commission published

[6] Migration Policy Institute - The Hague Program Reflects New European Realities, January 01, 2005

a Communication (COM(2006)331)[7] in June 2006, regarding the state of implementation of the Hague agenda and assessing that many shortcomings witnessed during the Tampere Programme were still in place. It showed that some deficiencies in the transposition of the European Union legislation in the Member States undermined its effectiveness. It also underline that the implementation of the Hague agenda met difficulties due to the specificities of the decision-making process, like the separation of the "first" (referring to the politics that are included in the Treaty establishing the European Community (TEC)) and "third" (referring to police and judicial cooperation in criminal matters in the Treaty on European Union (TEU) pillars. This European Commission's Communication raised the questions of the effectiveness of the policies in the area of freedom, security and justice and the balance between fundamental rights and security needs in these policies again. If the European Union laws can allow some states to become more restrictive, the Hague programme only intends to set a minimum level of asylum or immigration practice permitted, it intends to monitor and evaluate how Member States transpose European Union level directives and regulations into national legislations.

The Treaty of Lisbon, amends the Treaty on European Union (TEU) and the Treaty establishing the European Community, it was signed at the European Council of Lisbon 13 December 2007, and intended the description of new protocols and amendments to to some of those protocols. The Final Act contended a serie of

[7] Commission of the European Communities - Communication from the Commission to the Council and the European Parliament "Implementing the Hague programme: the way forward"

declaration adopted by the Intergovernmental Conference or by Member States individually. Most Member States ratified the treaty in parliamentary processes, after the negative outcome of two referenda on the Constitutional Treaty in May and June 2005, only the Republic of Ireland held a referendum, leading to a rejection of the treaty on 12 June 2008 and to its approval during the second Lisbon referendum on 2 October 2009. The Treaty moved all aspects of migration policy to majority voting and codecision, introducing several changes to the way the European Union develops immigration policies. Legal immigration policies shall be pursued under "co-decision" or "ordinary legislative procedure". Implying that measures regarding entry, residence and rights of legal migrants shall be agreed by a qualified majority and not unanimously anymore. This represented a significant improvement compared to previous procedures but did not make them less critical. The European Parliament then got a right of veto over new legislation regarding legal migration and therefore became a major actor in the decision-making process. Meanwhile, Member States retained critical control over the "volumes of admission of third country nationals coming from third countries to their territory in order to seek work", limiting the scope of the proposals the European Commission could make, and its influence on Member States. Intergovernmentalism has predominated the building of a common AFSJ, as Member States showed "resistance and competing strategies towards the development of common European policies. That notwithstanding, and owing to a large extent to the proactive role of the European Commission, the AFSJ has been subject to concerted policy-making and (...) counts numerous substantive and institutional mechanisms

diversifying, and at times enriching, the EU's legal landscape", according to the CEPS recommendations to the European Commission for the Stockholm programme.[8]

The Blue Card Directives proposal was first presented by the President of the European Commission José Manuel Barroso, and the Commissioner for Justice, Freedom and Security, Franco Frattini, at a press conference in Strasbourg on 23 October 2007. Barroso enthusiastically stated that "labour migration into Europe boosts our competitiveness and therefore our economic growth. It also helps tackle demographic problems resulting from our ageing population. This is particularly the case for highly skilled labour. With today's proposal for an EU Blue Card we send a clear signal: highly skilled migrants are welcome in the EU! "[9]. He continued, saying that Member States, individually, were not able to embrace the challenges and face global competition for highly qualified workers, and that therefore, a collective action, via the Blue Card instrument, would give Member States enough room and flexibility to achieve the results as well as give highly qualified workers from third countries the guarantee to be admitted throughout the European Union under the same rules and same rights. "Enough room and flexibility" for the Member States as they will maintain their right to determine the number of immigrant workers to admit into their domestic market via the Blue Card Directives. It took until October 2008 for a political agreement on the directive to be reached by the Permanent Representatives Committee, and until May 2009 for the Council of the European Union to pass the Directive. The

[8] CEPS, 2009 - Challenges and Prospect for the EU's Area of Freedom, Security and Justice: Recommendations to the European Commission for the Stockholm Programme (p11-12)
[9] Blue Card - European Union Immigration "What are people saying about the Blue Card?"

two main reasons for the conflict between the European Commission and the Member States laid in (i) “concerns about the national sovereignty” and (ii) “the hope for domestic potentials”. For the Council of the European Union, it turns out that 14 delegations entered general scrutiny reservation on the proposal during the first reading and that the central elements of the Commission’s proposal faced a lot of opposition. Once again, the question of the effectiveness of the implementation of European Union measures on Member States level rises. In 2012, Cyprus, Austria and Greece still had not transposed the rules of the Blue Card Directives, which should have been implemented before 19 June 2011, and were still making it “too difficult” for highly skilled people to come work in the European Union. In 2011, the European Commission had to initiate infringement procedures with Germany, Italy, Malta, Poland, Portugal and Sweden concerning their failure to notify the Commission of measures taken to implement the Directives. Germany, Poland and Sweden replied to the letters of formal notice but indicated that new implementing legislation would not enter into force until the next year and the Commission decided to send reasoned opinions to these Member States[10]. While Malta, Italy and Portugal brought into force the national legislation necessary to apply the Directive in 2012 only. The Member States national preferences did not genuinely share the European Commission enthusiasm regarding the Directive, and, according to Carrera and Guild, “make the role of the EU, and more particularly that of the European Commission, weak in

[10] European Commission (2011) - 'Blue Card' – Work permits for highly qualified migrants 6 Member States fail to comply with the rules

respect of areas as important as labour immigration"[11]. The NEUJOBS research, conducted by FP7, mentioned in the previous section, addresses the issues of the effectiveness of the European Union labour migration policies (Carrera; Al, 2014), and evaluates its limited success, as only 16,000 blue cards were issued in the first two years after its enactment. One of reason introduced by the research is that, there are 28 different admissions procedures in the European Union, as each and every Member States individually regulate their inflow of incoming workers. "There are widely differing practices regarding the recognition of degrees from outside the EU, so that a qualification deemed valid for a blue card in one Member State may be rejected by another (Eisele, 2013). Eisele concludes that there is a dire need for an EU-wide scheme for the consistent recognition of qualifications". Commissioner Malmstrom argues that, in order to change this plurality of admission system, Member States should achieve a higher level of mutual trust than currently, in order to treat blue card applicants more in line with the European Union population as a whole, as equally recommended by the NEUJOBS (FP7) research.

The 2015 European Agenda on Migration was adopted on the basis of a European Commission proposal of a 10-point action plan, on 13 May 2015. Introducing immediate action as a response to "the need for swift and determined

[11] CEPS Policy brief - The French Presidency's European Pact on Immigration and Asylum. N°170 (September 2008)

action in response to the human tragedy in the whole of the Mediterranean"[12], and four pillars to manage migration better in order for "the European Union to face up to the need to strike the right balance in its migration policy and send a clear message to citizens that migration can be better managed collectively by all European Union actors"[13]. The need for an European Union level action was made clear: "No Member State can effectively address migration alone … we need a new, more European approach. This requires using all policies and tools at our disposal – combining internal and external policies to best effect. All actors: Member States, EU institutions, International Organisations, civil society, local authorities and third countries need to work together to make a common European migration policy a reality" (European Commission 2015). The Migration Policy Institute's Johanne van Selm argues that because Member States have been lacking any real incentive to strive for EU-wide policy in this area, and because they have been clinging to their sovereignty on this issue in spite of common interests, small changes to existing national laws are likely to dominate. Even a move to qualified majority voting (in which each state has a weighted vote depending on its size) would probably not have speed up this slow-moving process[14]. Member States preferences once again altered the Commission's

[12] European Commission - Communication from the Commission of the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions (COM(2015) 240 final, Sec III:1)

[13] European Commission - Communication from the Commission of the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions (COM(2015) 240 final, Sec III)

[14] Migration Policy Institute - The Hague Program Reflects New European Realities (January 2005)

plan to share asylum seekers between Member States, as Manuel Valls, French prime Minister, stated that "I am against the introduction of quotas for migrants. This never corresponded to the French position"[15]. His statement followed the rejection of the Commission's plan by several other Member States, such as the Czech Republic, Estonia, Latvia, Lithuania Poland and Slovakia who said that they wouldn't accept quotas either. The Polish foreign affairs minister, Grzegorz Schetyna, said that the commission idea "has not been taken up with any enthusiasm" in the European Union Council[16].

The facts however are that irregular migration into and within European Union is increasing. The challenge with measuring irregular migration is that tightening legal migration and reducing asylum recognition might have the effect of increasing irregular migration, taking into consideration the "drive" of those migrants and the "el-dorado" Europe represents as a destination. Section IV will show the United Kingdom and France immigration policy nature, the political saliency of the issue in both Member State, how each government has been chronologically responding to it and finally how the two countries have been accommodating to the European Union political developments.

[15] Euobserver - France opposes EU migrant quotas (Brussels, May 2015)
[16] Euobserver - EU: Boat-sinking Yes, migrant quotas No (Brussels, May 2015)

IV. Development of immigration policy in the United Kingdom and in France

4.1 United Kingdom: Immigration policy political saliency and civil society influence on domestic sovereignty maximization

We argue that European Union institutions favor maximizing immigrant rights to an attainable level, whereas Member States are driven by a cost-benefits ratio based on domestic political saliency, civil society preferences, and domestic institutional constraints.

Since 1999 and more notably since the 9/11 attacks in New York and since the 7/7 subway attacks in London, the United Kingdom's multicultural approach to immigration and integration has been evolving and changing. If the United Kingdom was the ambassador of very low immigration before the 1990s, the British government has, since then, progressively been introducing security and "migrants' duty to integrate" at the forefront of its agenda, and has gradually been moving away from its classical model of ethnic diversity. Boswell (2003) argues that, originally Britain

"embraces a philosophy of minimalist state intervention, individual freedom and limited expectations about the duties shared characteristics of citizens", as well as having low expectations on "migrants' duty to adapt". Elizabeth Collet (2007) argues that the country's policies still aim at "ensuring that migrants are included in British society by promoting equal opportunities, rather than emphasizing their specific needs", or, to phrase it simply, to increase the government's expectations on "migrants' duty to adapt". However, Britain's "racialization" triggered a "fundamental contradiction between an inclusive legal nationality policy (...) the normal definition of who had the right to enter the country (and an exclusive constructed national identity) the informal notion of who really did or could belong" as explained by Kathleen Paul (1997).

Who do the United Kingdom citizens have in mind when asked about immigration then? Interestingly enough, a 2011 Migration Observatory at the University of Oxford report entitled "Thinking behind the numbers: understanding public opinion on immigration in Britain" found that "When thinking about immigrants, people in Britain most commonly think about foreign citizens; 62% normally think about non-European Union citizens and 51% about European Union citizens (excluding British), rather than people who were born abroad and acquired British citizenship after moving to the United Kingdom (40%). Very low proportions of the public have in mind British citizens moving (11%) or returning (7%) to the United Kingdom. Similarly, few people normally have in mind the United Kingdom-born children of immigrants to Britain (12%).". On the same note, interviewees "tended to think of immigrants as those who

come to the United Kingdom permanently (62%) rather than those who come to stay temporarily (fewer than 30%). This differs from the internationally-agreed definition used for official United Kingdom statistics, which classifies anyone who comes to the United Kingdom for more than a year as a long-term migrant." and "to think of asylum seekers (62%) and least likely to think of students (29%). In current official statistics (ONS), students represent the largest group of immigrants coming to the United Kingdom (37% of 2009 immigrant arrivals) while asylum seekers are the smallest group (4% in 2009).".

A survey by Ipsos MORI in 2011, relevantly showed that people's main source of information regarding immigration is constituted of TV and radio, TV documentaries and national newspapers, enhancing the perception of "illegal immigration". The United Kingdom is ranked the highest when compared with Italy, Spain and Germany regarding "Attitudes towards institution responsible for deciding the number of immigrants allowed into country", with 18% thinking that "the European Union should decide" against 79% thinking "the National government should decide"[17].

The Migration Observatory at the University of Oxford's 2016 briefing on "UK public opinion toward immigration: overall attitudes and level of concern" by Dr. Scott Blinder and William L. Allen, advances that immigration has, in recent history, ranked among the five main issues british citizens consider important. In August 2016, it was picked as the number one issue, with 34% of respondents, followed by Europe, National Health Service, economy, housing and national security. Interestingly

[17] Transatlantic Trends, 2011

enough, the study shows that race relations and immigration issues have risen from being marginal concerns to being the main ones facing the country, as, in 1999, less than 5% of the interviewees considered it as important. Immigration is getting more and more unpopular, with no less than ¾ of the British public society considering that the "number of immigrants to Britain in 2013 should be reduced a lot or a little". As mentioned in the study "majorities of respondents think that there are too many migrants, that fewer migrants should be let into the country, and that legal restrictions on immigration should be tighter". Similar results were found in a 2008 survey on British Social Attitudes and in global study conducted by Gallup for the IOM (International Organization for Migration) in 2012-2013 where 7 out of 10 interviewees considered that immigration levels should be decreased. A study conducted by Transatlantic Trends in 2014 on 13 European countries found that people in the United Kingdom, more than in several comparable countries like Spain, Italy or Germany, are concerned about immigration, whether legal or illegal.

In 2011, a Migration Observatory/IpsosMORI survey found that "attitudes toward low-skilled labour migrants, extended family members, and asylum seekers were much more negative than attitudes to high-skilled migrants, students, and close family members" and the 2013 British Social Attitudes survey came supporting those findings with the following details: "students were the least negatively-viewed. Labour migrants were more likely to be seen as a net negative, and were viewed similarly whether from within or outside the EU. Finally, spousal reunion migrants were the most negatively

viewed by this measure, with 14% seeing them as bringing more benefit than cost, against 57% seeing such migrants as bringing more cost than benefit.".

As shown in this section, the gap between the perception of immigration and its reality in the United Kingdom is quite deep and biased. The role of national media and their politicisation of immigration in the United Kingdom should not be overlooked: according to Oxford Migration Observatory, in 2013, the most common descriptor for the word "immigrants" in printed media between 2010 and 2012 was "illegal" (30.4%)[18]. A 2016 Migration Observatory at the University of Oxford's report on immigration in the British press throughout the past decade by William L. Allen found that the country witnessed a sharp increase in the volume of newspaper coverage on immigration since 2010 and the election of the Conservative-led coalition government, with a change of focus from the legal status of migrants to the scale of migration, together with an increase in the saliency of discussions on "limiting" and "controlling" immigration. The depiction of migrants in british media has shifted from the issue of "illegal immigration" to the journalists concerns on net migration levels and their perception of "controlling immigration" challenges, making the later the leading migration frame in the country newspapers. Allen analysed more than 170.000 articles from 19 national UK publications between January 2006 and May 2015, including The Sun, The Daily Telegraph, The Guardian and The Times.

[18] Oxford Migration Observatory (2013) Migration in the News: Portrayals of Immigrants, Migrants, Asylum Seekers and Refugees in National British Newspapers, 2010- 2012.

As Britain is questioning its multiculturalism model, the integration issue may lead to strong resentment from minorities of migrants towards society. Indeed if the model promotes cohabitation, it can also results in secludedness of ethnic minorities at the expense of a common national identity.

4.2 France: Immigration policy political saliency and civil society influence on domestic sovereignty maximization

France's traditional model differs drastically from the British multiculturalist model, and positions itself as an opposite pole in integration strategies, as it commonly required the immigrants to abandon their "previous identity". Boswell (2003) argues that "the concept of assimilation is linked to a stronger conception of the meaning of being a citizen" and Castles (2000) states that "it involves the complete adaptation of the immigrants to the receiving society, so that they or their descendants would not be recognisable from the rest of the population". In France, just like in the United Kingdom, the country's classical model has been gradually evolving, and more intensely after the 2005 suburbs riots. If the French motto "Liberté, Egalité, Fraternité" (or "Freedom, Equality, Brotherhood") has traditionally been bound to be applied to all residents on the French territory, and if, originally, migrants have been assimilated

under the republicans principles of homogeneity and secularism, the French minorities appear to have been more and more marginalised throughout the years. Castles (2000) argues that the French assimilationist model implies that "the underlying idea is that the immigrants will be emancipated from their status of minorities as they integrate, and that their descendents will not be recognisable from the mainstream society". It can be said that, unlike the United Kingdom, France choose to focus on a long-term theory on nationality and integration. Sassen (1999) states that France would welcome each and every immigrants as long as the country "makes them French".

The 2005 suburbs riots forced the government to question the country's traditional model in order to challenge discrimination and social exclusions on one side, and to regulate immigration on the other. The 2005 suburbs riots beared witness that the French traditional model did not prevent social exclusion and marginalisation. It clearly appears that migrants from outside the European Union have to face more drastic obstacles to integrate. The anti-immigrant sentiments in Europe has been rising, as indicated by Eurobarometer (survey 44). Interestingly enough, according to the Eurobarometers from Autumn 2014 and Spring 2015, as illustrated in the following table, the two rising and main concerns for the European citizens are" immigration" and "terrorism", illustrating once more the amalgame made in the public opinion between immigration and criminal behaviors.

Table 10 - Answers to the question "What do you think are the two most important issues facing the EU at the moment?" (% data)

	Autumn 2014	Spring 2015
Immigration	**24**	**38**
Economic situation	33	27
Unemployment	29	24
The state of public finances	25	23
Terrorism	**11**	**17**
Rising prices, inflation, cost of living	10	9
Crime	7	8
EU's influence in the world	9	7
Climate change	7	6
The environment	6	5
Taxation	6	4
Energy supply	6	4
Pensions	4	4
Other, none, don't know	10	9

Source: Eurobarometer, Autumn 2014 and Spring 2015

Truth is that France has been one of the pioneering country to implement anti-terrorism measures, called “modern anti-terrorism” at the time. The 9 September 1986 Law (Loi n°86-1020) marked the first step in national and cross-national anti-terrorism struggle, following the deadly 1985-1986 years, where non less than fourteen attacks hit Paris. The government at the time however, in order to tackle the threat, didn’t focus on immigration but on Identity Document trafficking. So France has been facing terrorism threat for the past twenty years, with some quiet periods of course, but the pessimism of the threat is becoming more and more vivid as the media are, once more, playing a major and unignorable role in shaping the public opinion. One interesting particularity of France is that migrants are actually usually referred to as “immigrés” and not as “immigrants” (which would be grammatically correct), illustrating the “state” of being a migrant indefinitely, rather than being in the temporary process of immigration, before becoming a French citizen. According to the INSEE (National Institute of Statistics and Economic Sciences), a foreigner is “someone living in France without the French nationality” and an “immigré” is “someone living in France, born foreigner in a foreign country”. Meaning that an “immigré” can be a foreigner or a French citizen and that a foreigner can be born in France (depending on his age).

As the right wing came back to power in 2002, it initiated, according to Chauvin et al. (2008) “not less than three laws in four years (that) hardened the conditions of the family reunification, weakened the foreign spouses, and eliminated several automatic ways of regularization, in particular the one based on the presence of ten years in France”. This study will focus, in the next section, on key policies

implemented between 2005 and 2015, but will briefly introduce the immigration legal framework here. The 24 July 2006 law aimed at restricting and overseeing most on the inflows on the territory and re-introduced the notion of "salaried stay", depending on industry and localization. In 2014, 46% of active immigrants in France were working on "low-skilled jobs", against 25% of the native French citizen in the same category (Observatoire des Inégalités). To give an explicit example, according to the INSEE, in 2007, 21% of active immigrants worked in the construction sector, and 16% of the construction sector jobs were occupied by active immigrants. As for women, the INSEE survey reveal their predominance in non-qualified jobs in the cleaning or nursery sectors. An interesting perspective on the subject is the bilateral relationship between labor unions and immigrant workers. Labor unions have been embodying two drastically different positions: (i) some integrate workers into the workplace and therefore into society; (ii) some distance themselves from the directive to integrate immigrant workers, following the anti-integrationist model (Abdelmalek Sayad). The issue is challenging and hasn't yet been investigated much by social sciences, but it could be interesting to evaluate the capacity of labor unions to capture the ethnic division of labor issue. Thursday October 27 2005, in Clichy-sous Bois, Zyed Benna (17 years old) and Bouna Traore (15 years old) died in an EDF transformer while running and hiding from the police who was trying to disperse a reunion of soccer fans. As soon as the news was made public, two hundred youngsters from the deceased neighborhood attack the firefighter trucks that came pics up the remains. Two hundred policemen are then mobilized, the confrontation will last for seven hours and will mark

the beginning of twenty days of urban riots and violence. In the first days of the confrontation, the terminology “jeunes des banlieues” or “youngsters from the suburbs” became the main and key qualification to refer to the the cause of the riots. two daily newspaper, L’Humanite and Liberation, notorious for being left leaning press, argue that those “youngsters from the suburbs” are victims of pre established and stigmatising social judgement. Le Figaro (31 October 2005) ”headlined “Education or Savagery”, and affirmed that “the riots resort more of free barbarity and savagery than revenge and despair”, marginalising the “youngsters from the suburbs” from the sociopolitical spectrum. The article goes as far as mentioning that the “youngsters from the suburbs” ‘nature, is delinquency, and support Nicolas Sarkozy (Minister of Home Affairs at the time)’s words on how this “trash” should be “washed away with a Kärcher”.

Other printed press, notorious for being more right-leaning argue as follow. La Tribune de Geneve, refers to those “youngsters from the suburbs” as “delinquents” and “rioters”, basing the terminology on the acts rather than the person. Those “youngsters from the suburbs ”were described as “a youth in revolt” or “youngsters issued from immigration (...) feel marginalised (...) and segregated in ghettos”. The newspaper headlined “Clichy-sous Bois is turning into the Bronx”, referring to the New-York neighborhood commonly represented as the archetype of violent urban territory. In the Newspaper Le Monde, the “youngsters of the suburbs” are qualified by terms that identify their deviance once again and reject the collective character of the violence. Le Monde argued that the riots were perpetrated by “gangs”, implying the notion of

organised crime and rejected the idea of a collective movement. As the State and French society however, cannot tolerate the existence or creation of gangs, the subjectivity of the terminology is emphasized. The newspaper Le Parisien refers to the riots as “urban guerilla” and as “assailants planning an assault”, digging the act between the perception of the “youngsters from the suburbs” actions and democracy. The three newspaper as well as La Croix, focus their discourse on “the disturbance those violence impose on other inhabitants of those neighborhood”, referring to “daily insecurity”, “sexual abuses” and “recurring fights”, insisting on how the riots constitute a major transgression of the sociopolitical order, and annihilating the roots of the riots: the death of the two teenagers. The articles refuse to give the “youngsters of the suburbs” any form of credibility or legitimacy and mainly take their territorial appartenance to qualify the threat they represent.

Overall, the understanding of the urban riots violence differ from one newspaper to another. L’ Humanite and Liberation tend to comprehend it, La Tribune de Geneve restrict it, Le Monde and Le Parisien erase it, and La Croix and Le Figaro reject it. They embody two different conception of the sociopolitical spectrum: (i) “repressing violence must be articulated along the understanding of its origins” (Spinoza, 1965); (ii) “Security is the ground for the State and society; violence is against what the political process is rooted, violence should be rejected and reprimanded” (Hobbes, 1971). We however notice that, between tolerance and intolerance, prevention and repressions, the newspapers’ discourses lean toward the second terms alternative.

The key and main discourse embodied by french mass media was unanimous after the Paris attacks: it was an attack on french values, philosophie, and most importantly “liberte, egalite, fraternite moto”. Le Parisien headlined “killed because they loved life”, L’Humanite “solidarity against terror”, Liberation “Bataclan Generation” affirming that “the terrorist barbarism crossed an historical step” , Le Figaro “War in Paris”. They all called for the french people to unite in a fight against terrorism and terror, in “the name of the martyrs, innocent victims and in the name of the Republic” (Le Parisien - Jean-Marie Montali). They asked the french citizen to reconnect with the key values of the French Republic and to defend its core and supported President Hollande words “France is at war”. Le Figaro is one of the main source that first introduced the following statement: “from now on, the link between terrorism and immigration is present in our mind”, questioning if the government hasn’t been underestimating the presence of terrorists among migrants.However, the press precipitation to cover the attacks “live” lead them to violate 30 ethical and moral norms of the CSA (Conseil Supérieur de l’Audiovisuel), dis-respecting human dignity, revealing information about the the perpetrators hunt down and their identity, eventually playing along the terrorists game in the name of audimat. The press dramatic, “real time”, and almost ostentatious detailed lexical discourse involved the population like never before into an act of terror that could have “happened to them”, repeatedly mentioning and framing the religious motivations and origins of the perpetrators. Pointing the finger at one specific minority, and therefore marginalising it from the sociopolitical spectrum. For the first time however, the media focused on the

victims of the attacks, identifying each name, and sending words to their families, developing a feeling of compensation and guilt leading to hate and need for “justice”, not only for the victims, but for the “attacked french values. Antoine Leiris, open letter to his wife and of their two years old on was globally shared on social networks millions of time, and diffused on national television as an emblem for the victim and “the country’s sadness”. As well intentioned as this man’s call against hatred could have been, it added fuel to the fire as its intervention, once more, had the reverse effect, and asking people to join him in his grief, mainly helped them developed an “unfairness feeling” and a need for “someone to blame”, therefore an extremist religious ideology, and therefore again, leading to the amalgame between the islam/muslim minority and terrorism. Dominique Rizet, police and justice consultant for BFMTV, insists on the daily character of the threat and how french citizens should be scared of “going grocery shopping, considering the living threat presents within our country”.

In response to the media radical discourse and to the growing “hatred sentiment” in the country after the Bataclan attacks, Marc Trevidic (former director of the french anti-terrorism section) tried to rationally explain on national television, during the France 2 eight o’clock news, the responsibility of the government in letting extremist religious groups growing for the last 40 years and its failure to take actions. He explains how analysing the causes is key, more than enacting new surveillance and intelligence measures. Mentioning that France “has the capacity to handle this type of

acts of war, without the politicians entering a race using the attacks as a ground for their upcoming presidential campaign".

V. Impact of the political saliency of the immigration issue in the United Kingdom and in France

5.1 United Kingdom government chronological response to the issue and immigration policy development

The United Kingdom has been focusing on the country's national sovereignty more that strategic european policy cooperation, and in the process, positioned itself in opposition with the European Union's harmonisation proposals.

One of the first stages of Britain's policy-making shift takes its ground in 1999 with revision of regulations on citizenship and asylum claims, and more precisely the 1999 Asylum Act. The 1999 Asylum Act took the notion of "selective immigration" one step further, introducing the concept of "managed immigration", or the capability for the British government to tailor immigration inflows based on the potential benefits accruing to the country's economy. The government focus was to prevent abuses,

tighten controls and "encourage migration through legal channels while discouraging asylum claims" (Home Office Press Release, 2003).

It is interesting to note that between 1999 and 2016, 89 new types of immigration offences (actions legally defined as crimes) were added to the British immigration law, against 70 "only" that were introduced between 1905 and 1998. Notably, the Immigration Act 2016 added five different crimes, including the "criminalisation of landlords who rent out premises to unlawful migrants and of unlawful migrants who drive a car.". According to the Home Office Immigration Statistics, the main immigration offences faced in magistrates' courts and crown courts in 2015 include "Assisting unlawful immigration to member state" (62%), "Seeking leave to enter or remain or postponement of revocation by deception" (9%) and "Being unable to produce an immigration document at a leave or asylum interview in respect of himself" (7%).

An interesting fact, that is not much publicized by the British government, is the 2001 Anti-terrorism, Crime and Security Act. Indeed, as the country persisted in his conviction to not get politically involved in the "anti-terrorism war" until the 9/11 attacks in New York (when other countries like France developed a preventive judicial system as early as 1986), it was constrained to urgently adopt a legislation pretty much in opposition with its own democratic principles. The 2001's Anti-terrorism, Crime and Security Act gave the executive power the authority to detain, without any time limit or juridical prosecution any "foreigners" that was "reasonably suspicious" of

involvement in terrorist activities. In 2004 however, the Law Lords ruled that parts of the Act were incompatible with the European Convention on Human Rights and in March 2005, was replaced by the Prevention of Terrorism Act, which still gave the executive power the authority to deprive one of those "reasonably suspicious foreigners" of any communication tools. One interesting factor to remember in this precipitated adoption of measures by the British government is that, if terrorism was put on media's front pages and, consequently, on the forefront of Britain political agenda after the 9/11 attacks in New York, the terrorist threat in Europe had been vivid for the past two decades, and as close to the 9/11 attacks as December 1998, Bin Laden reported to the arab daily journal *Al-Awsat* that "British and American populations demonstrated their support to their leaders' decisions to attack Iraq, making each citizens of those countries, just like each jews in occupied Palestine, warriors that each muslim has to fight and kill".

On a different note, the 2002 Nationality, Immigration and Asylum Act, which entered into force in 2005, and followed the proposals from the 2002 government White Paper "Secure borders, safe haven: integration with diversity in modern Britain" increased, once again, restrictions on asylum seekers, as language proficiency tests became necessary for one's naturalization, and citizenship ceremonies and oaths were introduced.

The 2004 Asylum and Immigration legislation built its foundations on the two Acts previously mentioned, and was adopted in order to optimize the appeals and removal system as well as tackling organised crime and immigration offenses. This

includes using new technologies to track migrants as an alternative to detention, and ironically, in a different section, introducing a loan system for refugees to promote integration.

Beyond the Citizenship and the Internal Market, the UK selectively gets involved in European Union policy on asylum and immigration. Notoriously, Tony Blair referred to the United Kingdom selective involvement as "giving it the best of both worlds' as the UK was not obliged to take on EU commitments in the asylum and immigration context but could opt in to measures in order to "make sure that there are proper restrictions on some of the European borders that end up affecting our country" in 2004 (Geddes, 2005). Geddes argue that the United Kingdom's "selective use of the EU as an alternative, cooperative venue for migration policy management actually reinforces rather than overturns established patterns (in domestic policy)". Fletcher (2009) advances that "Britain has tended to participate in coercive measures that curtail the ability of migrants to enter the EU while opting out of protective measures (such as) on family reunion and the rights of long-term residents that to some extent give rights to migrants and third-country nationals." Following this trend, the United Kingdom decided not to give in several CEAS recasts on the position of asylum seekers and rather "gave in Anti-Trafficking Directive, regarding the issue as a criminal matter rather than a labour rights issue" (Costello, 2014).

The choice of the United Kingdom to not opt in to European Union measures clearly diminishes migrants rights in the country, and more precisely their rights to

move within the European Union. This could backfire on the Member State as it could find itself at disadvantage in the race for talent.

Regarding the EU Returns Directive 2008/115/EC, Phil Woolas mentioned in his Statement to Parliament on 2 November 2009 that "The UK has not participated in and has no plans to implement the EU Returns Directive 2008/115/EC. We agree that a collective approach to removal can have advantages. However, we are not persuaded that this Directive delivers the strong returns regime that is required for dealing with irregular migration. Our current practices on the return of illegal third country nationals are broadly in line with the terms of the Directive, but we prefer to formulate our own policy, in line with our stated position on retaining control over conditions of entry and stay.", enhancing once more the country's choice to opt in more restrictive national measures, even though it did opt in to some of the European Union measures aiming at combating "illegal immigration", including the Carriers Sanctions Directive (2001).

Additionally, the United Kingdom is not legally bound by European Union standards concerning legal immigration by third-country applicants. Indeed, the Treaty of Amsterdam offered to Member States the choice whether or not to participate in measures adopted under Article 62 and 63 of the consolidated version of the Treaty Establishing the European Community (EC Treaty). To phrase it simply, Britain took the political position of not adopting measures that could affect the admission of third-country applicants. The United Kingdom has overall been demonstrating how the liberalisation of some of its measures has commonly been countered with restrictiveness on others aspects within the same act.

For the United Kingdom, since the country has no strong "independent judiciary to protect immigrant rights, it has no need for the European Union "venue" to legitimize its migration crackdown, and has therefore been mainly blocking most, if not all, of the harmonization proposals, focusing in maximizing sovereignty over strategic policy cooperation" (Freeman, 1994; Hix and Niessen, 1996).

5.2 France immigration government chronological response to the issue and policy key developments (2005-2015)

France developed in the most recent years two strategic and impactful immigration policies, restructuring the French immigration system, going beyond the European Union directives and embodying the nature of french civil society preferences.

The main policy-making institutions at the french level consist of (i) the PS (Socialist Party), with François Hollande at its head, as it is leading the government today and scored 51.6% in the runoff ballot of the 2012 presidential election; (ii) the UMP (Union for a Popular Movement), with Nicolas Sarkozy, as it won the 2005 presidential election with 53.1% of the votes, against the PS, and put immigration at the core of its agenda for the 2015 presidential elections, where it casted 48.36% of the votes; (iii) the FN (National Front) as it casted 16.86% of the votes, against 16.18% for the PS, in the 2002 presidential elections, and granted itself access to the second round

of the elections, with Jean-Marie Le Pen at its head. During the 2015 presidential election, it casted 17.90% of the votes with Marine Le Pen at its head, while putting national preferences, protectionism and immigration as key pillars of its agenda.

Table 11 - Key France immigration policy

Policy	Key Measures
2006 Immigration and Integration Law	● Selective immigration and family reunification ● Mandatory integration for long-term residents ● Co-development with third countries
"French Patriot Act"	● Intelligence Act ● State of Emergency Law ● Rights of the Foreigners in France Law

Substantively, two decisions at the french level built fundamentals for the french immigration system, (i) the 2006 Immigration and Integration Law, as it restructured the existing french legislations regarding immigration and integration, and introduced the notion of "selective immigration"; (ii) the development of a "French Patriot Act" in 2015, as it is constituted of three of the main legislations related to immigration, enacted in 2015, the French Intelligence Act, the State of Emergency Law and the Rights of the Foreigners in France Law, restructuring the french immigration system.

The French motto "liberté, égalité, fraternité" or "freedom, equality, brotherhood", embodies the laicity of public offices, the equality of each citizens and their mutual understanding. However, the 2005 urban riots in France embodied the flaws in the existing domestic migrants integration policies. On 24 July 2006, the Immigration and Integration Law[19] (Loi relative à l'immigration et à l'intégration, n°2006-911) was validated by the French Constitutional Council. It mandates the creation of a list of economic sectors facing shortages that could benefit from foreign labor, implying the simplification of procedures for foreigners to study and transition to work status. It also repeals the 1998 Chevènement law that offered amnesty to unauthorized immigrants as long as they had been residing in France for ten years, and changed it to a case-by-case examination of regularization requests. The legislation modifies the conditions for family reunification, and makes them stricter regarding the period of residence, the family income, or married status. It finally implemented a new "Welcome and Integration" contract (CAI) that "requires immigrants to respect and uphold the laws and values of France and to take civic and, if deemed necessary by the government, language courses"

Hansen and King argue that policy changes are more likely to happen when the following three conditions are satisfied domestically: (i) "when there is a synergy between ideas and interests"; (ii) "when the actors possess the requisite enthusiasm and institutional position"; (iii) "when timing contributes to a broad constellation of

[19] JORF n°170 du 25 juillet 2006 page 11047 texte n° 1 - LOI n° 2006-911 du 24 juillet 2006 relative à l'immigration et à l'intégration

preferences that reinforce these ideas, rather than detracting from them"[20]. The 2005 urban riots and the 2007 presidential elections built up a "perfect timing" frame for immigration and integration issue discussions, and the precipitated adoption of the law testify of some sense of urgency from the French government. The issue of immigration in public preferences has steadily grown from 1995, when the Front National (French far-right party) candidate, with immigration at the core of his agenda, obtained 15% in the first ballot, to 2002, when again, Le Pen obtained 16.86% in the first ballot. A 2005 TNS-Sofres poll shows that "63% of the person interviewed thought that there were too many immigrants in France", implying some lack of control in migration flows. Witnessing the evolution of the nation preferences, Communist party Jean-Pierre Brard argued that "Sarkozy introduced the law because he wanted to win the upcoming French Presidential election in 2007".

It is important to consider that, for the 2007 presidential elections, both Nicolas Sarkozy (UMP candidate) and Ségolène Royal (PS candidate) made immigration a major part of their platforms. According to nicolas Sarkozy, Interior Minister at the time, and initiator of the project, the 2006 Immigration and Integration law was meant to "better regulate immigration, fight against the embezzlement of the immigration procedure, promote selective immigration and ensure successful integration in the interest of both France and the countries of origin". Sarkozy insisted on the idea that

[20] Cambridge University Press - World Politics - "Eugenic Ideas, Political Interests, and Policy Variance: Immigration and Sterilization Policy in Britain and the U.S" R. Hansen & D. King, 2011

France shouldn't be the weak link in Europe and shouldn't encourage illegal migrants to overrun its territory. Sarkozy also argued that "selective immigration" didn't mean the advocation of an elitist system thanks to which only the highest skilled migrants would be welcomed, but rather focus on raising the population's awareness on how much of a positive impact migrants could have on the French economy. The principle of "selective immigration", according to the UMP could be a way for the French government to reduce the country's "inflicted immigration", as the concept was used a lot throughout the discussions. On the other hand, the PS intended to ask for the withdrawal of the law early in the discussions, qualifying the legislation of "shameful, dangerous, useless and inefficient".

Segolène Royal made sure to promotes her hope to reinstate the amnesty law mentioned earlier, that would regularize unauthorized immigrants who have been residing in France for ten years. She also mentioned her will to facilitate the access to emergency state medical aid for unauthorized immigrants, which was made difficult by the 2003 Sarkozy law (Immigration Control, Stay of Foreigners in France, and Citizenship). She also emphasized on the inseparable link between migration and development, focusing on co-development with third countries. Royal overall believed in offering France "a win-win situation in which migrants could remain closely tied with their countries of origin while contributing to the French economy" according to Hiroyuki Tanaka from the Migration Policy Institute. Pretty far from Sarkozy's "Welcome and Integration" contract.

According to the above factors, the three conditions required by Hansen and King appear to have been mainly satisfied in the case of the French Immigration and Integration Law. They demonstrate convergence of political interests, the migration issue, and how this convergence encouraged political debates and gave a scene and framework for the actors to show their power of initiative; as the public opinion was getting more and more interested in migration issues and as the upcoming presidential election was encouraging the candidates to prove their leadership and understanding of the public opinion. The weak level of implementation of the European Union's Tampere and Hague programmes and Treaty of Lisbon before 2007, also contributed to give the French actors a decent level of flexibility and feasibility on the national level, and for them to take action based on their own benefits and advantages.

The effect or anticipated effect of "evil" acts in France or against French interest have historically legitimized the implementation of measures restricting civil liberties. According to case study by Chardel, Harvey and Volat (2016):

> "After World War II, in 1945 emergency measures were taken that nationalized key sectors of the economy, such as energy, air transport, banking, and insurance, and established a Social Security and welfare system. The party structure emerged and later that year elections were held. France adopted a new

> constitution and a parliamentary form of government. This was the launch of the Fourth Republic (1946–1958). Together, the Fourth Republic and the Fifth Republic (1958–present) evolved France's three-tier notion of "states of emergency." An actual state of emergency is a version of the state of exception that is slightly less restrictive than the state of siege, in which all powers are transferred to the military."[21]

In the wake of the Charlie Hebdo and Bataclan attacks in Paris, the French government promptly introduced radical policy changes, that we will refer to as the "French Patriot Act". The Charlie Hebdo attacks from January 2015 and the intensity of the terrorist threat testified of a fast growing sense of urgency from the Government. As shown in Table 10, the political saliency of (i) immigration and (ii) terrorism, have been the two fastest growing concerns between 2014 and 2015.

On 24 July 2015, the French Parliament adopted the French Intelligence Act (Loi n°2015-912)[22]. The response to the legislation enactment was rather polemical in the public opinion, as protesters for civil liberties claimed "it would legalise highly intrusive surveillance methods without guarantees for individual freedom and privacy". On 10 July 2015, key organizations for the defense of Human rights and liberties, such

[21] JOTS (2016) - The French Intelligence Act: Resonances with the USA PATRIOT Act
[22] JORF n°0171 du 26 juillet 2015 page 12735 texte n° 2 - LOI n° 2015-912 du 24 juillet 2015 relative au renseignement

as Amnesty International France, the citizenship, information and liberty study center (cecil), Creis-terminal, the Human rights league (LDH), and the French lawyers syndicate (SaF) and the magistrature syndicate (SM), came together and submitted a report on the unconstitutionality of the legislation to the Constitutional Council. However, the Constitutional Council convened about the constitutionality of the law and delivered its verdict a few days later: "the Intelligence Act in no way violates the principles of the Republic". For the first time in the history of the Fifth Republic, the President of the Republic, François Hollande, asked the Constitutional Council to give the greatest possible guarantee that the text complied with Basic Law. French Interior Minister, Bernard Cazeneuve argued that "the measures proposed were not aiming at installing generalised surveillance. On the contrary, they aimed at targeting people who needed to be monitored in order to protect the French people" and Manuel Valls enhanced that the terrorist threat might be today's most challenging threat, and that it is a threat France will have to face for a long time. He referred to the act as a "lucid" measure rather than a "scaring" one. A poll ran by the CSA (Conseil Supérieur de l'Audiovisuel) in April 2015 found that 63% of the 997 people interviewed were favorable to a limitation of their liberties in the name of anti-terrorism, even though only ⅓ of them really understood the law and its implications. Nicolas Sarkozy maintained his position saying that the UMP fully supported the text.

The State of Emergency Law (Loi n°2015-1501)[23] was adopted on 19 November 2015 by the French National Assembly, and based on the 1955 law relative to State of Emergency. It intended to reinforce administrative authorities powers and constraint public liberties, according to Franck Johannès from Le Monde. On 9 December 2015, Jean-Jacques Urvoas and Jean-Frédéric Poisson, president and vice-president of the Commission of the laws of the National Assembly, requested the CNCDH (national consultative commission on Human rights) to conduct a study on the civil society opinion, and repercussions of the legislation. On 18 February 2016, the CNCDH published a sceptical and prudent report on the situation, arguing that the state of emergency should be and exceptional and provisory measure limited in time and space. The CNCDH considered that justifying the persistence of the measure via today's terrorist threat, and via the French military actions abroad was inconsistent and equivalent to making an exceptional measure a permanent one; the CNCDH publicly shared its concerns about the potential degradation of the french rule of law and the weight the legislation imposes on the nation. A first report published by the Interior Ministry, after the 3 months extension of the "state of emergency" faced harsh criticism from the public opinion as it was revealed that only 23 out of the 600 juridical procedures initiated under the law were related to terrorism. Bernard Cazeneuve defended the data saying that those procedures were preventive and informative and will most likely lead to judiciarisation in the short-medium term. Jean-Jacques Urvoas

[23] JORF n°0270 du 21 novembre 2015 page 21665 texte n° 1 - LOI n° 2015-1501 du 20 novembre 2015 prolongeant l'application de la loi n° 55-385 du 3 avril 1955 relative à l'état d'urgence et renforçant l'efficacité de ses dispositions

asked the government to focus on three notions related to the legislation: (i) to review the necessity of the measure; (ii) to restrict the reading of that exceptional measure; and (iii) to take the responsibility of ending the state of emergency, without altering the nation's security.

The Rights of the Foreigners in France Law (Loi n°2016-274)[24], was adopted by the French national Assembly and Senate on 7 March 2016, following discussions that started in July 2015. It is relative to improving the reception and integration of legal immigrants, facilitating and encouraging their arrival and addressing illegal immigration more efficiently. It comes in addition to the 2006 Immigration and Integration Law mentioned previously and give the French government authority to obtain information about immigrants from foreign governments institutions while enhancing the "selective immigration" orientation on the labor factor. Although the legislation was first introduced a year ago, it was adopted in the context of the Europe refugees crisis. The Rights to the Foreigners in France Law has been nicknamed the "Socialist Law" by the FN as it was majoritarily voted by socialist deputies at the French National Assembly, and as it, according to Nicolas Bay (FN General Secretary), compromises the rights of french citizens for purely ideological and electoral oriented considerations. However, the Human rights league in France asked for a revision of the text after its first adoption by the National Assembly on 23 July 2015, arguing that, if the legislation reinforces the rights for victims of violences and

[24] JORF n°0057 du 8 mars 2016 texte n° 1 - LOI n° 2016-274 du 7 mars 2016 relative au droit des étrangers en France

facilitates access to the french nationality for children under six years old, it doesn't clarify or securise the right of stay on the territory and the principles of private life respectation. It became, once again, a controversial measure as the Front National opposed the law, arguing that it is still too permissive towards immigration, when left-leaning parties judged it as being too strict, and empowering for the prefects authority, as prefects would be granted to authority to have access to migrants private informations from foreign government bodies and some private sector institutions.

The 14 July 2016 attack in Nice embodies once more the division of opinion among the government, french political parties, as well as the french public opinion sense of terror and urgency. For the first time in France, on 18 July 2016, France Prime Minister, Manuel Valls received an angry reception during a minute of silence commemorating the attack, as he was booed and called a murderer by some members of the public. If Valls suggested that the killer radicalisation may have been too quick for the government to trigger, regardless of the legislations implemented in 2015, he didn't seem to reassure the public opinion, concerned that mass terror attacks in France are becoming regular and ordinary. The right-leaning politicians have been for the past few days finger pointing at the socialist government for its lack of measures through the past year, Sarkozy accused the government of failing to provide security and called for any foreign nationals with links to radical Islam to be expelled from France. He argued in a highly publicized interview on the evening news on French television, regarding government policies, that "everything that should have been done in the past 18 months has not been done". Valls and Cazeneuve responded a few hours later,

stating that no government had done as much up until now to fight against terrorism as the current government have. Thomas Guénolé, political scientist and lecturer at Sciences Po argues that reaching over 200 victims of terrorism in less than 18 months made the weakness of the government's records and measures against terrorism obvious.

A few months only after the United Nations released a report[25] expressing their reserve regarding the French Intelligence Act and the State of Emergency Law, judging them too vague and threatening for the rule of law, the attack of Nice triggers once more the public opinion, pushing the government to urgently act and show some immediate response. The accumulation of public terrors for the past 18 months will unlikely encourage the french government to focus on a collective approach on immigration at the European Union level, France will most likely focus on an individualist re-nationalization of its migration policies. With the presidential election coming up next year, we can highly expect the running candidates to treat immigration and surveillance policies as their campaign keystones.

Once again, the Hansen and King conditions required for policy changes appear to have mainly been satisfied, as, just like in 2006, the public opinion is cornered in fear following terrors attacks around France; the migration issue is again at the center of attention within the refugees crisis context; and as the 2017 presidential elections are giving the French actors a stage to discuss, communicate and demonstrate their power

[25] United Nations - High Commissioner for Human rights, (2016). Déclaration publique sur la loi relative à l'état d'urgence et sur la loi relative à la surveillance des communications électroniques internationales

of initiative.

Once again, France has, historically shifted from supporting supranational institutions directive to opposing them, for instance, France breaches some key supranational level directives, such as Directive 2004/38/EC, regarding the right of citizens of the European Union and their family "to move and reside freely within the territory of the Member States", as the French law does not mention "partners or registered partners" in its condition of admission to stay of family members (third-country nationals) of European Union nationals. The french national preferences might put the 2015 European agenda on migration on the back seat, revealing once again the limitations of the European Union as a space for genuine transnational discussion, and enhancing the weaknesses in the European Union collective migration policy, failing in its efforts to strengthen the implementation of European Union policies on the Member States level.

5.3 Comparison of United Kingdom and France case studies

According to Articles 5 and 13 of the Treaty on European Union (TEU), the European Union has the powers that its members decide to give it.

The European Union's membership creates rights and obligation for the Member States as a state, for individual citizens and for business and other organisations. One

Member State has a vote in the making of European Union laws but also has obligation to comply with them once agreed upon, in specific policy areas from justice and home affairs to single market. According to HM Government' Rights and obligations of European Union membership (2016), "the United Kingdom and other Member States have granted the European Union powers to make various kinds of laws that affect them and their citizens, but under certain conditions. The United Kingdom (and other Member States) has a vote over these laws, and an influence over the end result. There are also a number of rules and principles that set out when and how the European Union can act, the objectives it must follow and how agreement on laws and decisions is reached.". Member States have a say and promote their respective national interests but can majoritarily make laws within the rules set by the European Union Treaties, as they provide different mechanisms for agreeing different types of laws.

According to Article 5 of the Treaty on European union (TEU), " the limits of Union competences are governed by the principle of conferral. The use of Union competences is governed by the principles of subsidiarity and proportionality.". According to the principle of conferral, the European Union should act only within the limits of the competences conferred by Member States in the Treaties, and only regarding the objectives agreed upon. For competences that were not conferred upon the European Union, they shall remain within each Member State. The principle of subsidiarity, which defines the circumstances in which it is preferable for action to be taken by the European Union, rather than the Member States, is interesting to our study as it mentions that "in areas which do not fall within its exclusive competence, the Union

shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.". At the same time, Article 27 of the Treaty on European Union states "The High Representative of the Union for Foreign Affairs and Security Policy, who shall chair the Foreign Affairs Council, shall contribute through his proposals to the development of the common foreign and security policy and shall ensure implementation of the decisions adopted by the European Council and the Council." and Article 29, "Member States shall ensure that their national policies conform to the Union positions.". It helps us understand the mechanism in which Member States and the European Union evolve and where they have cross-cutting rights and obligations accruing from the Member States membership.

As shown in Table 12, here are different types of European Union laws and each type is agreed upon and implemented differently:

Table 12 - Types of European Union laws

Type	Description
Treaties	• Form the highest level of European Union law • Define where, to what extent and how the European Union is permitted to act • Set out European Union's competences
Directives	• Set out legal framework that Member States have to follow • Leave it up to Member States to chose how to make it part of their law
Regulations	• Legale rules

	• Have the force of law throughout the European Union once made
Decisions	• Binding legislative act
Legislations	• Supplement, amend and/or implement the rules set out in directives, regulations and decisions

Source: HM Government, Rights and Obligations of European Union membership (2016)

The directives, regulations and decisions are adopted using the powers set out in the Treaties. And as we can understand in Table 12, European Union directives leave room to Member States to subjectively implement the legal framework depending on their own national interest. Member States have to make sure they behave accordingly to the European Union law but are not limited to it. According to the Treaty on the Functioning of the European Union (TFEU), the European Union's courts play a key role in interpreting and enforcing European Union law across the Member States and the European Court of Justice provides guidance to national courts regarding the ,meaning of European Union law. On the same note, national courts share responsibility with the European Union court of Justice for European Union law implementation. The European Union law gives Member States' nationals rights to enter, work and live in any other Member States, with their family and dependants (Single Market, free movement of persons). However, European Union citizens can still be refused entry to, deported or excluded from the host Member States for various reasons. Member States are free to determine if a person is eligible or not for citizenship, and therefore, determine who is to become a European Union citizen.

Governments can face high political costs when ignoring civil societies sentiment, just as we witnessed it in the previous section with France and the Front National party rise. In France, according to Geisser (1997; 2004), Islam has mainly been seen as a religion “of the poor and colonised”, and was “rarely associated with elites”, leading to a strong form of islamophobic rejection in the civil society. If, the persons with foreign nationality residing in France are over represented in the perception of criminal behavior statistics, it might be difficult to rationally justify this biased perception as, most of the public statistics and investigations are lead with a subjective connotation. Indeed, a unique variable cannot explain the multiform phenomenon that delinquency is. The media have been focusing on the visible top of the iceberg, assimilating delinquency to immigration and immigration to delinquency, and ignoring all the other cultural, sociological or economical factors that could ground it. But, regardless of how difficult it can be to justify the existence or not of a correlation between immigration and criminal behavior, the results today in the french public opinion are irrationally quite unanimous: racism is considered as a spread behavior and related violences have been exponentially increasing with the media coverage of key acts of violence touching the french territory. Even in the absence of rational direct causality between criminal behaviors and racist violences, we have to acknowledge the fact that medias have a primordial role in the migratory threat construction process. The notion of migratory threat then find itself alimented by a vicious cycle where the speeches of some and the actions of others mutually strengthen

each others, resulting in repressive behaviors and behaviors having for concrete consequences of the social reality of a country.

Since the 1980s, security concerns became a very prominent factor in public policy making, following the 1985 terror attacks wave that initiated the first 9 September 1986 Law (Loi n°86-1020) in France. More than the 9/11, for France, 1985 was the turning point for immigration policy. 9/11 came reinforcing "Islam's conflation with illegality, delinquency and terrorism" (Zincine, Penninx and Borkert; 2011). The 1980s represented a second turning point in France's public policy making, indeed, if immigration was formerly an issue of low saliency (1945-1975), as it was needed for the booming of the national economy, it became an issue of high saliency in the early 1980s, with the rise of the extreme right wing and its conceptualization of immigration at the core of its political agenda. As, mainly, security concerns predominated, some dit "symbolic policies" (Zincine, Penninx and Borkert; 2011) were adopted in order to reassure the public opinion. Short-term solutions have been prevailing under the pressure of the public opinion and electoral agendas since then.

Immigration in the United Kingdom started a drastic expansion in the late 1980s, that was to become even more significant in the 1990s. If the immigration issue was perceived as a weakly salient issue in the first decade of the expansion, it became highly salient in 2000-2001 (Ipso MORI 2005 polls). In the United Kingdom, like in France, the public opinion has been following this tendency of overestimating the number of illegal migrants in their respective country. By 2005, the issue became so relevant to the general election that, when 40% of the population, considered

immigration and race as the most important current public policy issue and 60% believed that there was too many immigrants in the country (Sriskandarajah & Hopwood Road, 2005), the Conservatives asserted that they would "if elected, withdraw the United Kingdom from the Geneva Convention on Refugees" (Geddes, 2005). The United Kingdom has negotiated a number of exceptions that give the Member State a special position within the European Union. According to Articles 13 to 19 of the Treaty on European Union (TEU) that set out the role of the European Union institutions and how they take decisions, the United Kingdom is represented in, or able to nominate members to, all of the institutions involved in taking decisions and making of the European Union laws that affect the United Kingdom. According to HM Government's Rights and Obligations of European Union membership (2016), "The United Kingdom Parliament passed the European Union Act 2011. Under its provisions, the United Kingdom can only agree to a proposal to transfer further areas of power in the future from the United Kingdom to the European Union if it has been approved by an Act of Parliament and by the United Kingdom people in a referendum. This applies to proposals to change the European Union Treaties and other key decisions that can be made without changing the Treaties (for example, joining the euro, or giving up our national border controls). This means no Government can transfer new areas of powers to the European Union in the future without a referendum. ". The United Kingdom, unlike most of other Member States doesn't necessarily take part in European Union Justice and home Affairs measures, or Schengen related measures. The United Kingdom follows a mechanism where the

Member State can decide, on a case-by-case basis, whether or not to take part in these measures. A set process for example, enables the United Kingdom to, even though the country is not participating in the Schengen border free area, to have a choice on whether or not to participate in measures on police and judicial cooperation aspects of the 1990 Schengen convention still. At the February 2016 European Council, the United Kingdom negotiated that wherever the European Union adopts legislations on justice and home affairs, the Member State will be allowed to chose whether to take part in the legislation or not and the other Member States and European Union institutions will have to respect the United Kingdom decision and act accordingly.

Overall, the United Kingdom has been embodying rather strong restrictive immigration policy, depicting the national government ambivalence towards the European Union and its reluctance to accommodate with a European immigration policy harmonization. According to HM Government's Rights and Obligations of European Union membership (2016), "In general the United Kingdom has chosen not to participate in measures relating to third country migration, although it does participate, for example, in some European Union agreements with third countries on the re-admission of their own nationals illegally present in each other's respective territories. As the United Kingdom remains outside the Schengen border-free area, European Union law obligations in this field, such as regulations on the right of stay and entry of people from outside the European Union, do not apply to the United Kingdom.".

VI. Conclusion

As demonstrated in previous sections, regardless of the level of implementation and enactment immigration policies, the consequences resulting from "inefficient" migration models are backfiring on Member States, notably since the establishment of the Schengen area. Albeit the fact that this challenge is a widely European one, the European Union has been rather limited in the use of tools to tackle it. As illustrated in the "European Union immigration policy key developments (1999-2015)" section, the European Commission started facing the problem in 1999 with the Tampere Programme and ha,s ever since, been implementing legislative changes. Those measures can be identified as "suggestions from the European Council and the European Commission" (Carrera, 2006) more than as binding legislations.

The Common Basic Principles for Immigrant Integration Policy (CBPs) that were adopted by the Justice and Home Affairs Council in November 2004, drew on the Hague Programme, and introduced top priorities integration policies, were to be used as foundations for the a common European Union framework on immigration and integration, and the European Commission has been using them since then in its Agenda for a Common Policy on Integration (COM(2005)389) to bring up measures that Member States could implement in order to ameliorate their respective integration models. However, those eleven Principles are not legally binding to the Member States, but primarily aims at assisting "Member States in formulating integration policies for immigrants by offering them a simple non-binding but thoughtful guide of

basic principles against which they can judge and assess their own priorities", making them, according to Carrera (2006), purely symbolic with a limited impact on national legislations.

With the growing saliency of the immigration and integration issue in the European Union, Members States still have the prerogative on policy-making. The principle of subsidiarity is still predominant regardless of the general agreement that the European Union should promote common policies on integration. Bertozzi (2007) depicts the actual context in the following manner: "(this debate) epitomises the ambivalent attitude of European Union Member States to all things European: on the one hand, integration policy is under the responsibility of the Member States; on the other hand, the degree of trust between Member States is not always high, and therefore reference is made "to the need to harmonise certain aspects of integration policy so as to prevent some countries from adopting provisions that might harm others". Member States appear to still be striving for purer sovereignty rather than focusing on the European Commission notion of "two-way process integration" requiring changes from the immigrants "duty to adapt" but from the host country "capability to adapt" as well.

This study has shown that breaking down immigration policy into its components will lead to the understanding of the nature of national institutional preferences. It is from domestic civil society preferences, political saliency, political partisanship and national institutional capacity to protect migrants rights, that immigration policy will emerge and be implemented, more than from the supranational institutional management system. We find that "Social Environment", characterized by

(i) socio-economic development; (ii) subjective media coverage; (iii) civil society preferences and partisanship, is at the root of the "political saliency of a dit issue"; this political saliency will influence the "Political Response", characterised by: (i) incentive for institutions to take action; (ii) strategic electoral positioning; (iii) restriction on national policy; and will finally impact the level of accommodation of Member States to European Union policy.

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