The Europeanization of Domestic Asylum Policy: National Executive Power and Two-Level Games

Maarten P. Vink

Leiden University

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Abstract*

This paper analyses the Europeanization of domestic asylum policy from both a top-down and a bottom-up perspective by taking into account the causes and consequences of European integration. The case of the Netherlands, a small but pro-active country, is studied to answer such questions as why member states have been eager to establish European asylum cooperation, why it has been so difficult to act collectively, and what has been the preliminary impact on domestic policy-making. The empirical evidence from this paper points in particular at the notion that Europeanization, albeit limited, enhances the effectiveness of domestic asylum policy at the expense of democratic legitimacy and humanitarian safeguards. Although national governments have pursued policies perhaps not that much more restrictive from those that they would have pursued in the absence of European cooperation, Putnam's metaphor of 'two-level games' is employed to explain how they got away with it more easily.

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Correspondence: Department of Political Science, Leiden University, P.O. Box 9555, 2300 RB Leiden, The Netherlands. Email: mpvink@fsw.leidenuniv.nl.

1. Introduction

The concept of Europeanization is increasingly employed to assess the domestic impact of European integration (cf. Börzel, 1999; Mair, 2000; Green Cowles et al, 2001; Vink, 2001). Analogous to earlier debates on the entanglement of domestic politics and international relations, the concept of Europeanization has provided European Integration studies with a 'Second Image Reversed' (Gourevitch, 1978) to contrast the intergovernmental 'Second Image' and its stress on the domestic sources of European politics (cf. Moravcsik, 1998). A new research agenda seems to evolve focusing at changes in national political systems that can be attributed to processes of European integration (for more reflective contributions see Hix and Goetz, 2000; Radaelli, 2000; Börzel and Risse, 2000; Risse et al, 2001).

Europeanization has been defined as 'a reorientation of the organizational logic of national politics and policy-making' (Ladrech, 1994: 70), as 'a process by which domestic policy areas become increasingly subject to European policymaking' (Börzel, 1999: 574), or more directly as 'how Europe matters' (Knill and Lehmkuhl, 1999). The bulk of the literature indeed speaks of Europeanization when something in the domestic arena is affected by something European.[1] This *communis opinio* seems to be captured nicely by Hix and Goetz (2000: 27) in their definition of Europeanization as 'a process of change in national institutional and policy practices that can be attributed to European integration.' The research agenda of Europeanization, again analogous to the 'Second Image Reversed', seems to imply a 'comparativist's perspective' (Gourevitch, 1978: 882) in that it seeks to explain the variable impact of European integration on domestic politics. In this respect, the new research agenda looks explicitly away from questions traditionally posed with regard to the driving forces of the integration process:

> To be able to understand the impact of European integration on domestic systems it does not matter whether delegation is determined by domestic government preferences, driven by transnational economic actors, or 'cultivated' by supranational entrepreneurs. What matters for domestic actors and institutions is how the delegation to the European level changes policy outcomes in the domestic arena (Hix and Goetz, 2000: 4).

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[1] An exception are Risse et al (2001: 1) who define Europeanization as 'the emergence and development at the European level of distinct structures of governance.' Such a definition not only diverges with regard to the literature on Europeanization, but moreover does not seem particularly clarifying as it does not relate necessarily to the domestic level, and distinguishes hardly with the concept of European integration (cf. Radaelli, 2000: 2).

Although the concept of Europeanization has surely enriched the study of European integration by pointing at some new questions (in particular related to implementation, cf. Knill, 1998; Haverland, 2000), approaching Europeanization exclusively from a 'top-down rather than bottom-up perspective' (Börzel, 1999: 574)[2] may in the end fail to recognize the more complex two-way causality of European integration. Or, as Putnam (1988: 427) already argued, looking back to the earlier debate in international relations theory between the 'Second Image' and the 'Second Image Reversed':

> It is fruitless to debate whether domestic politics really determine international relations, or the reverse. The answer to that question is clearly 'Both, sometimes.' The more interesting questions are 'When?' and 'How?'

This entanglement of international and domestic politics applies *a fortiori* to the Europeanization research agenda; after all, if we want to understand how European integration impacts on domestic politics, it is crucial to realize that European integration does not come out of the blue, but may in itself be influenced by domestic actor coalitions. In order to analyze which political parties, movements, actors in the domestic arena benefit from European integration, who are the losers, and why this is the case, we need to study who did what to establish or prevent public policy coordination in a European context, why they did so, and to what effect.

This paper analyses Europeanization from both a top-down and a bottom-up perspective by taking into account the causes and consequences of European integration. Asylum policy is an interesting case at hand as it is highly topical and increasingly subject to the demands of Europeanization (section 3). The case of the Netherlands –a small but pro-active country– is studied to analyze both the domestic adaptation of, as well as the strategic contributions to, Europeanized asylum policy (section 4). Apart from the empirical interest deriving from a close examination of European and domestic level developments in the asylum sector, the analytical interest of this paper is to explain how national governments have managed to profit strategically from European integration by altering political opportunity structures to their advantage. Subsequently, the paper highlights such questions as why member states (in particular the Netherlands) have been eager to establish a European asylum policy, why it has been so difficult to act collectively, why policies have tended towards the lowest common denominator, and how these European policies reverberate in national politics. Basically, my empirical research suggests

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[2] Cf. Börzel and Risse (2000: 1), who 'self-consciously' restrict themselves to the top-down perspective on Europeanization, but are admittedly 'aware of the various feedback loops.'

that although Europeanization has been limited as a whole, it has nevertheless enhanced the effectiveness of domestic asylum policy at the expense of humanitarian safeguards and strengthened national executive power at the expense of democratic legitimacy. Drawing especially from Putnam's (1988) conceptual framework of 'two-level games', the paper furthermore suggests that although making asylum policies more restrictive was probably the only politically feasible reaction to the increasing number of asylum applications, national governments could not have done this so easily without the support of European cooperation.

2. European Asylum Cooperation and Two-Level Games

At this moment, and in contrast with the hesitant cooperation during the 1990s (see section 3), Europeanization of domestic asylum policies is far from unfeasible. Since the entry into force of the Amsterdam Treaty, it seems that with respect to the immigration domain as a whole, 'cooperation has gathered momentum' (Den Boer and Wallace, 2000: 493). The Belgian government has denoted asylum policy as one of the priorities for its Union Presidency during the second half of 2001, and the informal European Council of Ghent (October 2001) will be dedicated exclusively to the 'common EU policy on immigration, asylum and visas' (Belgian Presidency, 2001).

To see what has caused this momentum, we have to take into account the strategic incentives of member state governments who are still the principal negotiators at the European level, in this policy field at least. Summing up the basic problem as it is generally felt by member state governments under pressure from their electorates: there are simply too many applicants for asylum. The European level negotiations from the early 1990s to this day onwards can therefore be characterized primarily as a 'response of besieged national governments' (Alink et al, 2001: 303) to the problem of increasing numbers (Schuster, 2000: 121).

Influencing the number of persons that come to a specific European country to seek asylum, starts logically with influencing the actual decision by the applicant, or by so-called 'asylum-agents', to choose that country as final destination.[3] Having in mind this logic of reasoning, it is rather straightforward to figure out how to decrease the number of applicants, namely by making the asylum procedures in the country of destination as little attractive as possible. A number of 'deterrent measures' are commonly mentioned and practiced, such as a

[3] Whether this blueprint is actually true –it assumes much information from the side of the applicant or the asylum-agent as well as the absence of other reasons that make a certain country of destination attractive, as for example the presence of specific ethnic communities– is not a question I will deal with in this paper.

restrictive application of the Geneva Convention (most notably by excluding threat from civil war from the scope of the principle of non-refoulement, and by appointing 'safe third countries'); very short procedures; very modest social arrangements for applicants (in terms of money they receive, housing, possibilities for work, etc.); and a stringent expulsion policy.

Without any European coordination, this dynamic would lead to a situation where all countries tend to make their asylum policies more restrictive on a unilateral basis. In terms of collective goods, such a race to the bottom may be suboptimal for Europe as a whole, but in particular to the 'frontrunners' of more generous asylum policies who are not prepared to lower the standards of their asylum procedure at the cost of 'dehumanizing' it (Baldwin-Edwards, 1997: 513). So, for example, in 1992 Germany found itself faced with the necessity to water down the constitutionally safeguarded right to asylum because it wished to cease being the 'reserve asylum country of Europe' (Joppke, 1998: 129). This situation may resemble in a crucial way a large-number Prisoner's Dilemma where 'free-riding is a dominant strategy for each individual actor that, if adopted by all participants, must lead to collectively suboptimal outcomes' (Scharpf, 1997: 76). Individual countries *may* increase the standards of their asylum procedures in comparison to other countries, or stick to their relatively high standards as in the case of Germany before 1992, but are discouraged to do so by the (not unrealistic) calculation that making procedures more 'attractive' will significantly increase the number of applicants and result in an outcome that is even worse for the individual country than a collective 'sub-optimum'.

Country	1985-1987	1988-1990	1991-1993	1994-1996	1997-1999	Total	Per capita[1]
Austria	26.770	60.460	48.300	17.990	40.630	194.150	0,024
Belgium	18.920	26.159	59.700	38.200	69.540	212.519	0,021
Denmark	25.590	35.580	49.460	25.430	18.600	154.660	0,029
Finland	90	2.980	8.620	2.400	5.350	19.440	0,004
France	82.890	150.580	103.810	63.540	74.690	475.510	0,008
Germany	230.860	417.460	1016.910	371.520	298.100	2334.850	0,028
Greece	12.560	17.590	5.330	4.250	8.860	48.590	0,005
Ireland	–	–	160	1.960	16.230	18.350	0,005
Italy	22.930	8.190	34.160	4.200	46.340	115.820	0,002
Luxembourg	–	–	–	650	5.050	5.700	0,013
Netherlands	24.970	42.600	77.370	104.000	118.960	367.900	0,023
Portugal	790	570	3.040	1.490	980	6.870	0,001
Spain	7.120	17.250	32.470	22.400	20.040	99.280	0,003
Sweden	47.210	79.360	148.950	33.440	33.730	342.690	0,039
U.K.	12.920	41.850	91.820	106.440	149.670	402.700	0,007
Total	513.620	900.629	1680.100	797.910	906.770	4799.029	0,013

[1] Total numbers of asylum applications (1985-1999) divided by the population (1998) in the member states.

Table 1. Asylum applications in EU member states from 1985-1999.
Source: own calculations from UNHCR and OECD statistics.

Without going into a more detailed game-theoretical exercise, this straightforward example clarifies both the need (avoiding a collective sub-optimum) as well as the difficulties (lurking free-riding) to Europeanize that arise from a domestic point of view. Moreover, statistics show that the interests of European countries diverge greatly in terms of the need to Europeanize (see Table 1), with the consequence that for some more than others 'defecting' might be more rewarding than 'cooperating'. As long as some member state governments value their prerogative in this domain higher than an alternative common policy, unanimity will remain the rule of decision-making in the Council of Ministers. The threat of 'joint-decision traps' and sub-optimal outcomes deriving from the unanimity rule is therefore not unrealistic (Scharpf, 1988), although it is important to realize that the member states of the European Union are already engaged heavily in joint policy-making, which could offer room for side-payments to unwilling countries.

Member state governments find themselves facing a tricky situation in the 'asylum problem'; on the one hand they face pressure from their domestic electorates to stop the 'streams of asylumseekers', while on the other hand, either humanitarian norms may prevent them from engaging in a race to the bottom, or their (electorates') unwillingness to surrender autonomy over domestic policy may prevent them from engaging in European cooperation. It is precisely with a view to these domestic interests that are seemingly difficult to coalesce, that the metaphor of 'two-level games' (Putnam, 1988) can be usefully employed to understand the strategic behavior of member state governments in the politics of Europeanization. In fact, Koslowski (1998: 175) explicitly suggests applying the metaphor to European asylum cooperation:

> Given that efforts to enact restrictivist migration policies are hampered more by domestic economic interests and human rights concerns, change in international norms within an international migration regime may be useful in changing domestic policies. In this case, multilateral cooperation can be viewed as part of a 'two-level game' in which states justify the curtailment of certain rights and increased state interference in the domestic economy in terms of prevailing international norms and adherence to multilateral commitments, much in the way leaders in developing states who wish to effectuate painful economic reforms find it politically useful to blame the International Monetary Fund for their actions.

In this paper I elaborate on this suggestion on the basis of empirical evidence from the Netherlands, which is an interesting case at hand, taking into account the more than average display of interest in Europeanizing asylum policy by the Dutch government over the years and the increasingly sensitive executive-legislative relationship brought about by this. Basically, the

metaphor of two-level games assumes that in international negotiations national executives appear at two strategic levels:

> At the national level, domestic groups pursue their interests by pressuring the government to adopt favorable policies, and politicians seek power by constructing coalitions among those groups. At the international level, national governments seek to maximize their own ability to satisfy domestic pressures, while minimizing the adverse consequences of foreign developments. Neither of the two games can be ignored by central decision-makers, so long as their countries remain interdependent, yet sovereign (Putnam, 1988: 434).

Following this metaphor, within the European Union national executives have to negotiate at two distinct levels, possibly with some difference in rhetoric; at the European level (Level I) with their colleagues from other member state governments and at the domestic level (Level II) with their constituency for 'ratification' of Level I agreements. Imperative to the success of every negotiator is his 'win-set', which may be defined 'for a given Level II constituency as the set of all possible Level I agreements that would "win" –that is, gain the necessary majority among the constituents– when simply voted up or down' (Putnam, 1988: 437). Stricter domestic ratification procedures tend to reduce the size of the domestic win-set.

Crucial in this respect, however, is the insight that large win-sets may seem attractive at first sight to negotiators, but may lead to 'pushing around' by the other Level I negotiators. 'Conversely, a small domestic win-set can be a bargaining advantage: "I'd like to accept your proposal, but I could never get it accepted at home"' (Putnam, 1988: 440). In this way it has been shown why, for example, precisely because the Bundesbank made the domestic win-set for the German government very small during the EMU negotiations, and precisely because the other countries were aware of this, Germany could achieve that the ECB was constituted according to the Bundesbank model and was willing to give up its strong *Deutschmark* (Hosli, 2001).

3. European Asylum Cooperation from Maastricht to Amsterdam and Beyond

Although the earliest attempts to establish flanking measures to counteract unwanted side-effects of the free movement of persons can be traced back to the foundation of the Trevi Group in 1976 (cf. Bunyan, 1997, no. 10; Ireland, 1995: 239), especially 'throughout the 1990s European governments have been constructing a partial international regime of immigration controls' (Baldwin-Edwards, 1997: 497-498). However, as the complex compromises of the treaties of

Amsterdam and Nice show, 'many legal and institutional issues remain to be settled before this policy domain becomes firmly rooted' (Den Boer and Wallace, 2000: 493).

Intergovernmental cooperation before and during the Maastricht era

On 20 October 1986, on an initiative of the UK presidency, the Trevi Ministers decided at their meeting in London to set up an Ad Hoc Group on Immigration, 'with a view to achieving freedom of movement within the Community in 1992, as provided for in the Single European Act' (Bunyan, 1997, no. 33). At its first meeting on 28 April 1987, the Ad Hoc Group defined the general outline for future work. For our purposes, the most important tasks were the coordination of national rules on granting asylum and refugee status. In December 1988, at the Rhodes European Council, a Coordinators' Group on the Free Movement of Persons was set up to overcome the different national views and to develop proposals on the measures to be adopted and the timetable for their implementation. The most needed measures with respect to asylum, according to the 'Palma document' (named after a meeting from 4 to 6 June 1989 in Palma de Mallorca), concerned:

> -acceptance of identical international commitments with regard to asylum;
> -determining the State responsible for examining the application for asylum;
> -simplified or priority procedure for the examination of clearly unfounded requests;
> -conditions governing the movement of the applicant between Member States;
> -study of the need for a financing system to fund the economic consequences of implementing the common policy.

The proposed measures set the framework for cooperation on asylum policy as it has substantiated in the 1990s. On 15 June 1990 the preparations by the Coordinators' group on the Free Movement of Persons resulted in the signing in Dublin of the 'Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities.' Although responding to Community objectives ('harmonization of asylum policies'), and signed at the time by 11 Member States of the European Communities (not by Denmark, which signed only in 1991; Austria and Sweden acceded in 1997, Finland in 1998), this Dublin *Convention* is an instrument of international law and *not* of Community law.

Concerning the content of the agreement, the title of the Convention is sufficiently revealing: one state, and only one, should be responsible for the application for asylum by one 'asylum seeker'. Criteria are therefore established to prevent the so-called 'asylum shopping' where applicants would supposedly go to those countries with the most liberal interpretation of

Article 1(a) of the 1951 Geneva Convention, even after they have already lodged an application for asylum in another state (and have, for example, been rejected). Generally, according to the Dublin Convention, the state where an application for asylum has initially been lodged is responsible for this applicant (Article 8).

With the enhanced 'Schengen' cooperation and the semi-community method chosen for the Dublin convention, in 1991 the scene was set for the pillar-structure introduced by the Treaty on European Union (TEU or Maastricht Treaty). Next to the EC framework, a so-called second and third pillar were erected for all intergovernmental cooperation involving respectively common foreign and security policy (CFSP) and justice and home affairs (JHA). The JHA pillar is set out in Title VI of the TEU. Article K.1(1) declares asylum policy as a matter of common interest. National differences could be overcome by sending policy proposals back and forth between a maximum of five levels in the Council hierarchy, from the Working Parties to the actual ministerial meetings of the JHA Council (for an extensive oversight of the working methods under the Maastricht Treaty, see Hayes-Renshaw and Wallace, 1997: 94-100; for an account of the procedures under the Amsterdam Treaty, see Den Boer and Wallace, 2000: 515).

On the basis of Article K.3(2) TEU the Council could –unanimously– adopt joint positions, joint actions and conventions. Because the usual Community instruments –regulation, directive and decision– were not to be used in the third pillar, the legal effects of these new instruments are far from unambiguous. Conventions are enacted under international law and consequently only obtain legal effect after ratification by Member State parliaments; with the ECJ only having competence when this is explicitly granted by the wording of the convention (Art. K.3(2)(c) TEU). The Commission is 'fully' involved in the JHA activities (Art. K.4(2) TEU), but does not retain its sole right of initiative: it shares the right of initiative with the Member States. The European Parliament has to be updated regularly on JHA issues, but can only put forward its opinion on developments (Art. K.6 TEU). These limitations to the competencies of the Community's supranational organs –some even speak of 'an orgy of national discretion' (Guild, 1998: 625)– can clearly be seen as an attempt by national governments to hold their prerogative over asylum policy.

Aside from obvious democratic deficiencies, due to the unanimous decision-making method this 'diluted intergovernmentalism' (Kostakopoulou, 2000: 498) lacks most of all effectiveness. As the continuing negotiations over the External Frontiers' Convention (still not adopted due to the dispute between the United Kingdom and Spain on the status of Gibraltar) show, with one or two member states 'defecting' it can be hard to act collectively. Moreover, even under enacted international public law as in the case of the Dublin Convention, the absence of

enforcement mechanisms makes it hard to get unwilling states to obey. In terms of Europeanization of domestic asylum policy, to shed a more conclusive light on the European level developments from November 1993 (coming into force Maastricht Treaty) to May 1999 (coming into force Amsterdam Treaty), little seems to have been achieved. Except for many resolutions, recommendations, conclusions (for a summary up to 1997, see Baldwin-Edwards, 1997: 501), the 'soft law' of the JHA pillar led to much ado about the secrecy of 'Fortress Europe' but to little binding legislation. The limited impact of the EU on asylum policies of the member states will be illustrated later from a domestic point of view. It is necessary, however, to first display the achievements of the Amsterdam Treaty which sets the stage for the increasing Europeanization of the years to come.

Communitarization after Amsterdam

At the 1996 IGC, government leaders decided to partially 'communitarize' the working methods. This was done by shifting the immigration and asylum provisions from Title VI TEU to the new Title IV 'Visas, Asylum, Immigration and Other Policies Related to the Free Movement of Persons' of the EC Treaty; and thus from the third to the first pillar. Although immediately after the Amsterdam Summit many observers reacted not overly enthusiastic to the complex compromises of the so-called 'Immigration Title', two years after the coming into force of the Amsterdam Treaty it seems that nevertheless an unmistakable step was made in the direction of a more coordinated European immigration policy.

The Immigration Title did however not imply an immediate shift to supranationalism, far from that. First, during a transitional period of five years following the entry into force of the Amsterdam Treaty, the Council still only decides by unanimity, the Commission has to share its right of initiative with the member states, and the European Parliament (EP) is only to be consulted (Art. 67(1) EC Treaty).[4] Second, although the Commission regains its sole right of initiative in May 2004, the future is not altogether certain with respect to decision-making procedures. Art 67(2)EC Treaty spells out the *possibility* of co-decision and judicial control by the European Court of Justice (ECJ), but such a move to supranational working methods would have to be decided unanimously by the Council, and may also apply only to parts of the areas covered by the Immigration Title.[5] Third, in line with the Protocols attached to the Amsterdam

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[4] Derogating from this general rule, the list of third countries and the uniform visa format would be decided by QMV (but *not* by co-decision!) on a proposal by the Commission, immediately after the entry into force of the Amsterdam Treaty (Art. 67(3) EC Treaty).

[5] Only procedures and conditions for issuing visas as well as the rules on a uniform visa will be for sure

Treaty, the principle of flexibility possibly opens the way for enhanced cooperation on immigration issues by all member states except Denmark, the United Kingdom and Ireland (Art. 69 EC Treaty; for a more extensive account, see Kuijper, 2000, especially pp. 346-356).

In an unprecedented display of interinstitutional cooperative spirit –for the field of asylum policy– the Council and the Commission argued in the so-called Vienna Action Plan of December 1998 that indeed much of the Amsterdam Treaty still needs to be translated into reality. They concluded from the achievements of the pre-Amsterdam period that

> the instruments adopted so far often suffer from two weaknesses: they are frequently based on 'soft law', such as resolutions or recommendation that have no legally binding effect. And they do not have adequate monitoring arrangements. The commitment in the Amsterdam Treaty to use European Community instruments in the future provides the opportunity to correct where necessary these weaknesses (European Council, 1998).

This 'active' spirit would be visible even more so at the special European Council meeting on justice and home affairs in Tampere, Finland of 15 and 16 October 1999, where the heads of state and government underlined their determination to make 'full use of the possibilities offered by the Treaty of Amsterdam' and committed themselves to establishing a 'Common European Asylum System' (European Council, 1999).

In October 1999, another impetus was given to the developing European asylum system by instituting in the new Prodi Commission a directorate-general on justice and home affairs under Commissioner António Vitorino (replacing the small JHA Task Force that had existed since 1992). The increased Commission involvement is intended to overcome some disadvantages of the previous intergovernmental procedures (remember the five-tier decision-making procedure of the Council), and the Commission is to take responsibility for proposing policies and actions, as well as for implementation. The Commission was further endowed, by means of a 'Scoreboard' that would have to be presented twice a year to the European Parliament and the Council (the first Scoreboard was presented in March 2000), with the task to ensure openness and, in the words of Vitorino (2000: 4), 'to keep under constant review the progress made towards implementing the necessary measures and meeting the deadlines set by the Treaty, the Vienna Action Plan and the Conclusions of Tampere.'

On the whole, all intergovernmental measures, not only recommendations and resolutions but also conventions, adopted in the pre-Amsterdam period need to be renegotiated and translated

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decided by the co-decision method in 2004 (Art. 67(4) EC Treaty).

into secondary Community legislation like directives or regulations, in order to affect domestic policy more conclusively. The Dublin Convention is central to a Common European Asylum System, but the impact on domestic policy is limited, and not altogether evident (see also the following section on the Netherlands); for one because there is no authoritative enforcement mechanism. Dublin cooperation is a clear example of a case where communitarization is hoped (or feared by some) to bring an end to the problematic effectiveness of the results of lengthy intergovernmental negotiation. These hopes are clearly shared by Commissioner Vitorino (2000: 5):

> On the basis of over two years' experience of implementing the [Dublin] Convention, there seems to be widespread agreement that it is not functioning as well as had been hoped. Following the entry into force of the Treaty of Amsterdam, the Convention needs to be replaced with a Community instrument.

Under the new Immigration Title, the Eurodac Regulation (Council Regulation No. 2725/2000 of 11 December 2000) and a European Refugee Fund (Decision No. 596 of the Council of 28 September 2000) have already been adopted, and proposals for directives are now under discussion (cf. CEC, 2000). In the Immigration Title, Articles 62 and 63 spell out in more detail the framework for a European immigration and asylum policy. It needs to be stressed that these Treaty provisions only provide a legal basis for a common policy, and consequently much depends on the changing decision-making procedures as laid down in the Amsterdam Treaty as well as in the recent Treaty of Nice which was signed officially at 26 February 2001. After the Nice Summit some government representatives gave the impression that much progress was made in the immigration domain, in this case regarding the transfer from unanimity to co-decision (that means decision-making in the Council by QMV, and with EP involvement). A closer look however reveals that the preconditions for the actual move to co-decision (or QMV) are severe and still require a unanimous decision at some time. On external borders, for example, measures can only be adopted by QMV 'as soon as agreement has been reached on the scope of the measures concerning the crossing by persons of the external borders of the member States of the European Union' (Declaration to be included in the Final Act of the Conference on Article 67 EC Treaty). Also, all provisions on asylum –from the reception of asylumseekers to a common temporary protection status– are decided by way of the co-decision procedure 'provided that the Council has previously adopted [acting unanimously] Community legislation defining the common rules and basic principles governing this issue' (Article 67(5), second indent EC Treaty,

as inserted by the Treaty of Nice). From such provisions it becomes clear that even though a 'momentum' can be detected in the immigration domain, at least some member states hold on to their national prerogative.

4. Domestic implications: evidence from the Netherlands

In the Netherlands, contrary to for example in Germany and the United Kingdom where a separate Asylum Act exists, the Aliens Act includes both rules on short-term and long-term residence of aliens, as well as asylum provisions. In this section I concentrate on the asylum part of the Dutch Aliens Act, and study both the European 'opportunities' for the Dutch government, as well as the preliminary impact on domestic policy resulting from European cooperation. Moreover, since the executive-legislative power balance can *a priori* be expected to be affected by European integration (cf. Raunio and Hix, 2000), I analyze changing political opportunity structures in the asylum sector as a more indirect manifestation of Europeanization.

European Opportunities

On 1 April 2001 a new Dutch Aliens Act replaced the 1965 Aliens Act. The basic principles of the 'Aliens Act 2000' (as it is called because it was adopted in December 2000) had already been laid down in the 1998 government coalition agreement between the Labour Party (PVDA), the Liberal Party (VVD) and the Democrats (D66). One of the main objectives was to realize 'a more balanced way of distributing streams of asylumseekers over Europe.' The procedures to distinguish between 'genuine' refugees and 'bogus' asylumseekers, according to the criteria of the Geneva Convention, should be more efficient and especially more 'expeditious'. The number of asylum-statuses would be brought back to one temporary status and one permanent (thereby *de facto* abolishing the 'refugee status'), and administrative appeal to a decision would be abolished in favor of a new possibility to judicial appeal (cf. Van Selm, 2000). The detailed enshrining, long before the actual plenary debate in June 2000, of a compromise between the traditionally more permissive social-democrats and democrats on the one hand, and the more restrictive liberals on the other, indicates the political salience of the matter. The stakes were apparently too high to allow dissent within the government coalition. The adoption of the Aliens Act 2000 was a matter of much political prestige for the governmental coalition. In fact, opposition parties would complain loudly, for example in the words of a Green MP, of a 'pre-arranged' debate that would

leave little room for meaningful discussion (HTK[6], 6 June 2000, No. 83, p. 5347).

The Dutch asylum policy sector has found itself in a state of constant organizational crisis since the early 1990s. Together with negative media attention, some say, the endemic weakness of the sector sparked serious legitimacy problems and called for a 'firm policy compass' (Alink et al, 2001). Basically, Dutch asylum policy suffers from three problems. First, the number of applicants per year has been steadily increasing from roughly 5 thousand in 1985 to a peak of around 52 thousand in 1994 (and then decreasing slightly to around 40 thousand in 1999), giving the Netherlands in Europe a high ranking, both in absolute and relative terms (UNHCR, 2000; see also Table 1). Together with the knowledge that many of these applications for asylum are rejected (of all applications over the period 1980-1999, two-thirds has been rejected), the impression that too many applicants are 'abusing' the Dutch asylum-procedure is often not far away. A second factor leading to decreasing legitimacy of the asylum policy sector, is the fact that procedures to establish whether applications for asylum are founded or not, became unacceptably lengthy due to the 'endless' use of administrative and judicial appeal once a decision was taken by the administration. Third, even when a negative decision is confirmed after procedures have finally ended (sometimes after more than two years), *de facto* removing the rejected applicant from Dutch territory proves nearly impossible; according to UNHCR statistics, over the period 1980-1999 only around 11 thousand rejected applicants were resettled by the Netherlands.

From the perspective of this paper it is interesting to note that the 1998 coalition agreement already spelled out that 'the Netherlands will make a strong plea within the European Union for a good harmonization of European asylum and immigration policy' (Coalition agreement 1998, chapter IX 'International policy and defense', section 5 'Asylum policy', subsection 5g 'International cooperation'). This European dimension to domestic asylum policy was underlined again in the explanatory note to the Aliens Act 2000, which stated that the 'proposed new Aliens Act can not be seen apart from (...) measures that should be enacted in international context with a view to a harmonization in the near future (...) of European asylum and immigration policy' (BHTK[7] 1998-1999, 26732, No. 3, p. 1).

Interviews with the spokespersons of the most important political parties in the Lower House of the Dutch parliament confirm that all MP's are aware of the opportunities offered by the EU. Most parties *grosso modo* seem to agree 'that migration is an international problem asking

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[6] *Handelingen Tweede Kamer* (HTK) [Proceedings of the Second Chamber of Dutch Parliament].
[7] *Bijlagen Handelingen Tweede Kamer* (BHTK) [Appendix to the Proceedings of the Second Chamber of Dutch Parliament].

for an international solution' (interview with J.G. Wijn, MP, CDA (Christian-Democrats), 19 June 2000) and view the EU as a unique opportunity to counter the decreasing legitimacy of the sector. Depending on ideological backgrounds, of course, noticeable differences with regard to 'Europe' come to the fore; whereas the Liberal Party sees a more equal distribution of asylum-seekers over EU member states and less 'asylum-shopping' as important opportunities (interview with J.M.L. Niederer, MP, VVD, 21 June 2000), the Greens would denote this as an undesirable step towards 'Fortress Europe' (interview with F. Halsema, MP, *GroenLinks* (Greens), 19 June 2000).

For a long time, the Dutch legislature seemed to be rather skeptical with respect to the actual impact of Europeanization, as strikingly put into words by one MP in early 1996:

> Is this (...) really so terribly relevant? The answer to that question is of course: no. I look at the agenda and the relevant documents. Five documents are non-binding. Five documents relate to treaties (...) which need a separate ratification procedure. Finally there are some documents of which the status is unclear (...). There is only one legally binding decision, of which it is moreover highly uncertain what will happen as there are no new proposals. This indicates that the efficacy of the third pillar is extraordinarily weak and that the Union-level of the third pillar is often missing (B. Dittrich, D66, BHTK 1995-1996, 23490, no. 45, p. 6).

In a parliamentary discussion, the Minister of Interior frankly agreed that 'it is of course useless to carry on in this way' (BHTK 1995-1996, 23490, no. 45, p. 15) and spoke out the ambition of the Dutch government to make the third pillar an important theme at the oncoming IGC (over which the Dutch government would preside). As appears from a Benelux position paper of the period before the 1996 IGC, the Dutch government aimed at a transfer of all matters related to freedom of movement and immigration policy, especially asylum and visa policy, to the Community pillar.[8] This would have to imply a shared right of initiative for the Commission, consultative powers for the European Parliament, a return to the notion of the directive as it exists under the first pillar –thus conferring binding character on the decisions adopted– as well as establishing competence of the Court of Justice to ensure uniform interpretation.

It may be clear by now that the Dutch government only partially obtained these goals, as the 1996 IGC did not lead to a full communitarization of immigration and asylum policy but only to a half-hearted 'Amsterdammization'. Notwithstanding, optimists could say that at least a new

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[8] Memorandum on the IGC from the Governments of Belgium, Luxembourg and the Netherlands, 7 March 1996. See also 'European Cooperation in the field of Justice and Home affairs.' Third Memorandum from the Dutch Government for the 1996 Intergovernmental Conference, 23 May 1995. Summaries of both documents to be found at http://europa.eu.int/en/agenda/igc-home/eu-doc/parlment/peen2.htm.

road was taken away from the intergovernmentalism of the Maastricht era (for one, by spelling out a framework for future measures based on separate Treaty articles), and that the Netherlands should not be fully dissatisfied with the results obtained in Amsterdam. The Dutch government would continue its pro-active attitude in the following years 'to ensure that, as a first step, the non-binding agreements made over the years are incorporated into EC law and thereby elevated from soft to hard law' (Memorandum on the position of the Netherlands at the meeting of the European Council in Tampere, 28 June 1999, BHTK 1998-1999, 21501-20, no. 94. See also a position-paper with the Benelux priorities for the meeting of the European Council in Tampere, BHTK 1998-1999, 21501-20, no. 96; and 'Paper by the Netherlands and Sweden on a common asylum procedure and the uniform status for those granted asylum in the European Union,' November 2000, BHTK 2000-2001, 23490, No. 174).

Domestic Impact

As it is in fact the only instrument with legal binding force (albeit within international law and not Community law) it seems logical to concentrate on the domestic implementation of the Dublin Convention when looking at the domestic impact of European asylum cooperation. The possibility to refuse applications for asylum on grounds of an earlier application in another European country, *de facto* existed already since the Schengen Implementation Convention (SIC) came into force in the Netherlands in March 1995.[9] After the entry into force of the Dublin Convention *and* the 'Dublin Protocol' –which replaced all asylum provisions of the SIC by those from the Dublin Convention– applicants could not only be send back to Schengen-states Belgium, Luxembourg, Germany, France, Spain and Portugal, but also to Italy, Greece, the UK, Ireland and Denmark; to Austria and Sweden (since 1 October 1997); and to Finland (since 1 January 1998).[10]

There has been much ado about the effectiveness of the Dublin Convention, not in the least because only few applicants carry valid identity cards (not more than 20 percent), which makes it very difficult to trace possible previous applications in other countries by the same applicant when applicants use different names in different countries. In an interview of June 2000

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[9] Probably in 1990 the six Schengen-countries feared, and rightly so, that ratification of the Dublin Convention by the 12 (and later 15) Member States would take a long time. They nevertheless already agreed that the asylum provisions in the Schengen Implementation Convention (particularly Title 2, Chapter 7) would be replaced by those in the Dublin Convention, when the latter would enter into force (Article 142).

[10] A circular of 7 August 1997 of the Deputy Minister of Justice spelled out the administrative consequences in more detail (published in the official governmental journal *Staatscourant*, No. 153, p. 4), which was replaced by a new circular on 24 March 1998 (*Staatscourant*, No. 78, p. 15).

a Christian-Democratic (pro-Dublin) MP criticized the government because it would lay a 'Dublin-claim' on only 4 percent of all applicants of which 'few would be honored' (interview with Wijn). Illustrating the importance that is given to this problem by the Member States, the recently adopted Eurodac Regulation is one of the first Community instruments adopted on the basis of the Amsterdam Treaty, and should increase the effectiveness of the Dublin Convention by using fingerprints. The Dutch administration explicitly views the Eurodac Regulation (not yet implemented), but also the European Refugee Fund (only recently put out to tender), as 'first steps towards a more proportional distribution of responsibility for asylumseekers within the European Union' (BHTK 2000-2001, 19637, No. 559, Appendix 2, p. 25).

In another interview from the same period, however, a Green (anti-Dublin) MP criticized government policy for its harshness as there would be 'many Dublin-claims, of which more than 85 percent is honored' (interview with Halsema). It may be clear that in this case the evaluation by the MP's of the effectiveness of the Dublin Convention –of actual Europeanization– depends strongly on their ideological backgrounds. For a long time –probably because of such contrasting political views– the Dutch immigration service was not keen to provide actual numbers. A government report from February 2001 provided some clarity in the end: not many claims were made in the year 2000 (3408 on a total of more than 40 thousand applications), but the great majority of these (2733) were honored (BHTK 2000-2001, 19637, No. 559, Appendix 1, p. 7).

Although, as I said earlier, the Dublin Convention is the only legally binding result of European asylum cooperation, it is not the only European instrument that has affected domestic asylum policies; other manifestations of Europeanization, perhaps more indirectly, can be noted as well. First, there is the notion of 'manifestly unfounded applications for asylum' which has distinct European origins following a Council of Ministers Resolution from 1992 (Bunyan, 1997, no. 27) but has now found its way into most domestic asylum policies. The explicit conviction underlying this notion was that domestic 'asylum policies should give no encouragement to the misuse of asylum procedures.' Hence, the European immigration ministers formulated some 'conclusions on countries in which there is generally no serious risk of persecution' (Bunyan, 1997, no. 28) and thereby brought into existence the notion of 'safe countries of origin.' Also, following a 'resolution on a harmonised approach to questions concerning host third countries' (Bunyan, 1997, no. 26), asylum-seekers were deemed to act illegally by leaving a transit country or 'safe third country' where they could have claimed asylum, and their applications for asylum would consequently be denoted manifestly unfounded.

Although legally non-binding, these resolutions are generally seen as 'very influential' (Lavenex, 2001: 29), with the strongest impact probably in Germany where they legitimated 'the

SPD's final about-face in favour of constitutional change' because 'Germany had to follow Europe' (Joppke, 1998: 128-129). And, following its eastern neighbor, in 1995 the Netherlands also revised its Aliens Act by means of a 'Safe Country Act' and a 'Safe Third Countries Act'. Indeed, Dutch MP's fearing 'asylum-tourism' explicitly demanded that Dutch policy would not deviate from German policy (for a governmental report comparing Dutch with German policy, see BHTK 1995-1996, 19637, no. 139). In November 1995, the Council of Ministers took an even more restrictive turn with respect to European asylum cooperation, by means of the joint position on the harmonized application of the definition of the term "refugee" in Article 1 of the Geneva Convention (OJ L 1996/63, pp. 2-7). In particular, persecution by non-state agents, for example in a 'civil war or a generalized armed conflict', was determined as 'not in itself sufficient to warrant the grant of refugee status.' The impact of this joint position on domestic asylum policies has been less unequivocal, probably because it was heavily criticized, amongst others by the UNHCR (Koslowski, 1998: 171).

Besides policy shifts following legally non-binding Council resolutions, conclusions and joint positions, there are domestic changes which are even less visible manifestations of Europeanization. These are the result of Council institutions where member states consult each other and cooperate at the level of the ministries of Foreign Affairs, particularly with respect to the specific determination of 'safe' and 'unsafe' countries. Let me illustrate this by briefly going into CIREA and HLWG. The Center for Information, Reflection and Exchange on Asylum (CIREA) was set up by the Council in 1992 on a Dutch initiative as an informal information exchange and consultation group aiming to facilitate the coordination and harmonization of asylum policies and practices (Bunyan, 1997, no. 29). Since the entry into force of the Treaty of Amsterdam it is one of seven working parties of the Council of Ministers. One of the main objectives is to establish common positions on countries from which applications are 'manifestly unfounded'. In 2000, the Dutch ministry of Foreign Affairs –which drafts up the so-called 'country reports' on the political situations in countries of origin that serve as principle instrument for the decision whether it is safe or not to send applicants back to their homeland– in particular 'discussed' in CIREA such countries as Angola, Pakistan, Democratic Republic of Congo, Iraq, Russia and Sudan (BHTK 2000-2001, 19637, No. 559, Appendix 2, p. 26). Although it is difficult to assess the extent to which common positions are reached in CIREA (officially it has no decision-making powers), it is quite obvious that much can be gained in terms of preventing uneven streams of asylumseekers to the member states. Moreover, as it will be easier to reach a common position on 'safe' countries than on 'unsafe' countries (having in mind the decreasing danger of defecting and free-riding), a more restrictive policy is on the outlook. It is precisely for

this reason that pro-migrant lobby groups such as Amnesty International strongly protest against 'politicization' of country-information at the cost of more 'independent' sources of information such as the UNHCR (Interview with A. B. Terlouw, Amnesty International, 27 June 2000).

The High Level Working Group on Asylum and Migration (HLWG) was instituted in 1998, also on a Dutch initiative. It was envisioned as a follow-up to the EU Action Plan on the influx of migrants from Iraq and the neighboring region, as adopted by the General Affairs Council of 26/27 January 1998 (5573/98 ASIM 13). According to the Dutch proposal, the HLWG should realize 'a common interest for all member states, i.e.: controlling the coming to the EU of persons who wrongly call upon asylum-procedures' (Note of the Dutch delegation, 'Task Force Asylum and Migration', presented at the General Affairs Council of 9 and 10 November 1998, BHTK, 1998-1999, 19637, No. 390, pp. 2-3). The Dutch Deputy Minister of Foreign Affairs stated in a parliamentary discussion:

> The situation in countries of origin are being judged differently in different member states. That is why we choose to coordinate analyses of the countries of origin. This is a first step on the road to European country reports (BHTK, 1999-2000, 21501-20, No. 95, p. 15).

The 'cross-pillar approach' (i.e. involving foreign and security policy in immigration issues) implies an institutional position that is even less subject to democratic control than for example CIREA, as the HLWG is not even an official Council working party but resorts directly under COREPER. So far, action plans have been drawn up for Afghanistan and the neighboring region, Iraq, Morocco, Somalia, Sri Lanka, and more recently for Albania and neighboring region.

Impact on Executive-Legislative Relations

Although Dutch MP's are generally skeptical with respect to the practical impact of the HLWG, they also worry that 'despite the documents they send us, you never know what the government says in the HLWG' (interview B. O. Dittrich, MP, D66, 20 June 2000). The Greens are even more worried from a human rights point of view:

> Civil servants can not be held responsible in parliament and the information on which conclusions are based are secret. There is no role for NGO's when country-reports are made, which could hamper a careful and balanced conclusion. (...) The fact that member states analyze a country where most asylumseekers are coming from, increases the risk that the ambition to decrease migration-streams influences the assessment of the human rights situation in the country of origin, as well as the action plan that will be drawn up. While the factual analysis of the Iraqi situation

was devastating, all measures were aimed at stopping migration-streams to Western Europe (BHTK, 1999-2000, 21501-20, No. 95, pp. 3-4).

Generally, one could say that the criticisms from these two MP's point at the increased sensitivity of executive-legislative relations due to the process of European integration. Let me give two illustrations by going into the ratification of the Dublin Convention and the Eurodac Regulation in greater detail.

Although the 'asylum treaty' –as the Dublin Convention is called in Dutch parliamentary discussions– dates back to 1990, it came into force only on 1 September 1997 (see also Section 3), not in the last place because the Dutch Parliament ratified the convention only in September 1996. The legislature was generally dissatisfied with the absence of competence for the Court of Justice (remember that the convention was already signed before Maastricht and could not be understood as a 'convention' in the sense of Article K3(3) TEU, which would enable ECJ competence). The late ratification must not be understood as lacking support for the idea of combating 'asylum-tourism', or for European asylum cooperation as a whole; on the contrary, all parties were generally in favor of the asylum treaty, with an exception for the Greens who were 'ashamed of the Dublin Convention' (HTK, 1995-1996, No. 45, p. 3428). Because of the large domestic support for European asylum cooperation as a whole, the domestic 'win-set' for the Dutch government in European negotiations was quite large. However, since all parliamentary factions from left to right demanded a built-in possibility for judicial control as a prerequisite for ratification of the Dublin Convention, this domestic win-set was –at least theoretically– narrowed down substantially.

Studying the argumentation between the government and the legislature in greater detail shows a classic example of a two-level game where Level I (EU) and Level II (Domestic) negotiations are highly entangled, and 'central decision-makers strive to reconcile domestic and international imperatives simultaneously' (Putnam, 1988: 460). First, the government stressed 'that ratification of this treaty by the member-states is a clear sign of their will to realize [European] asylum cooperation' (BHTK, 1994-1995, 23659, no. 7, p. 2). Then, it stipulated that in conformity with domestic preferences it was prepared to propose to the other participants in the European level negotiations to expand the asylum treaty with a protocol which would enable the ECJ some powers to judicial control. But, 'at the same time, one must recognize that the negotiations will not be straightforward (...), already nine member-states have ratified the asylum treaty. One could expect that already for this reason these countries will dislike a supplement as proposed by the Netherlands' (ibid., p. 6). In the end all major parties supported the Dublin

Convention after the government promised to do its best to negotiate ECJ competence *after* the Convention would come into force. As one Democratic MP legitimated his about-face, 'non-ratification of the Dublin Convention would be a signal (...) that the Netherlands do not want a harmonized asylum policy' (HTK, 1995-1996, No. 45, p. 3424).

A similar tactical game between executive and legislative came into play again at the end of 2000, when the Dutch legislature had to approve the Eurodac Regulation. Very important from a democratic point of view, the Dutch legislature has obtained the right to veto Dutch participation in European asylum cooperation,[11] and this time threatened to withhold its approval because in the proposed regulation the authority over implementation of Eurodac was given to the Council in stead of the Commission. Implementation by the Commission would enable democratic control by the European Parliament, which according to one social-democratic MP, is imperative because:

> I am afraid of certain developments in the field of asylum and migration. That is, I fear that other presidencies [besides the French] will also try to move the emphasis over decision-making to the Council. I am thoroughly unhappy with this course (Van Oven, BHTK, 2000-2001, 23490, no. 178, p. 9).

With protest also coming from the Senate, the Dutch government consequently found itself lacking the necessary domestic support to approve the Eurodac Regulation during the Justice and Home Affairs Council meeting of 30 November and 1 December 2000, and had to make the usual 'reservation due to absence of parliamentary approval'. The Minister of Justice, in his turn, was thoroughly unhappy with this state of affairs:

> The Eurodac-system, which was originally a Dutch initiative, is imperative to the effective implementation of the Dublin Convention, and *a fortiori* vital for determining which member-state is responsible for an application for asylum in the Netherlands. Due to the Netherlands making a unilateral reservation for Eurodac, our country could be deprived of a very important instrument (...). This prospect is highly undesirable in the government's view (BHTK, 2000-2001, 23490, no.

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[11] Although no formal ratification procedure, this so-called 'procedure of approval' was instituted in 1992 when Dutch parliament ratified the Treaty of Maastricht (following a similar procedure for the Schengen Implementation Convention). Article 3(3) of this Act of Ratification states that with regard to all measures adopted by the Council of Ministers on the basis of Title VI (JHA affairs) that intend to bind the Netherlands, government representatives can only cooperate in decision-making after domestic parliamentary approval. As in principle all JHA decision-making would take place on the basis of unanimity, Dutch parliament (both the Lower House *and* the Senate) obtained a *de facto* veto power.

176, p. 2).

> [Our proposal] is out of order for some countries, France, Germany, and to a lesser extent the United Kingdom. These countries want to keep the prerogative over implementation to themselves. It is a simple choice: Eurodac will not be effective due to the Netherlands, or it will be effective in the proposed manner (BHTK, 2000-2001, 23490, no. 180, p. 5).

In the end, the legislature (with the exception of the Greens) backed off again after the promise of the government to set out its dissatisfaction in a declaration to the other member states. In the words of a Liberal MP: 'A pragmatic solution must be possible. When Eurodac will resort under the Council's competence, we will have to live with that' (Vos, BHTK 2000-2001, 23490, no. 180, p. 2). The Eurodac Regulation was adopted at a Council Meeting of 11 December 2000.

As could be noticed in both the cases of the Dublin Convention and the Eurodac Regulation, under conditions of unanimous decision-making, the unique veto power (only comparable to the Danish procedure) of a small country's legislature can surely adjourn European decision-making by failing to 'ratify' the negotiated result. The Dutch 'procedure of approval' shows that institutional arrangements which theoretically weaken national executives at home could strengthen their international bargaining position ('we will not get this accepted at home'). However, the Dutch case also shows that tight domestic win-sets need not necessarily result in a stronger negotiation position. When defecting is generally a non-option for a small, but pro-active country as the Netherlands, which has since long been a champion of European asylum cooperation, there may be no other choice than to follow the lowest common-denominator compromise of the other countries.

5. Conclusion: Limited Europeanization, National Executive Power and Two-Level Games

The empirical evidence from this paper shows that although there has been much ado about 'Fortress Europe', Europeanization of domestic asylum policy is not unambiguous. The pro-active attitude of some European countries, and of the Netherlands in particular, seems to be typically inspired by the hope that instituting control mechanisms at the European level might enhance the effectiveness of domestic asylum policy. European asylum cooperation has been hesitant during the 1990s as member states have been reluctant to delegate powers to the European level. Notwithstanding that since the Treaty of Amsterdam some 'momentum' can be detected, illustrated primarily by the more active involvement of the Commission, on the whole, Europeanization of domestic asylum policy has been limited.

The fundamental impact of European integration on domestic asylum policy is however more indirect and becomes manifest in changing political opportunity structures, especially related to the executive-legislative balance of power. National governments have pursued restrictive policies not that much different from those that they would have pursued in the absence of European cooperation, but they could get away with it more easily by strategically profiting from the European playing field. The about-face of Dutch MP's during the ratification of the Dublin Convention and the Eurodac Regulation, supports the idea underlying Putnam's metaphor of two-level games, which was pointed out earlier with respect to the German asylum-compromise of 1992 (Joppke, 1998), that international pressures can reverberate within the domestic arena and help to overcome domestic opposition.

Although generalizing beyond the specific case of asylum policy in the Netherlands is difficult, the tentative conclusion that comes to the fore from the empirical evidence presented in this paper is that Europeanization may have enhanced national executive power (cf. Kostakopoulou, 2000: 499). This conclusion seems to fit well with intergovernmentalism as a theory of European integration, and could even widen its scope beyond the sphere of economics (cf. Moravcsik, 1998); moreover, it could be a step towards putting much valuable empirical work on European immigration and asylum policies in a more analytical context.

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