

*Promotionsvorhaben an der GraSP*

# A Common European Asylum Policy: the Eastern enlargement doors - Internal and external cooperation potentials -

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Das Promotionsvorhaben ist in der offenen Forschungsgruppe angesiedelt.

*Abstract:*

The research goals are to analyse the developments in the European Asylum Policy since the beginning of the nineteen's. The investigations' focus is what effects the European Eastern Enlargement will have on the overall character of the European Asylum Policy. In particular, the following questions will be examined: does the European Eastern Enlargement offer a chance for a deeper and more harmonious common European Asylum Policy, or does it mean for the now 25 Member States a new form of cooperation and/or does it allow to draw on a new asylum model<sup>1</sup>. To answer these questions, references will be made to the collaboration between EU Member States and selective Central European and Baltic candidate countries on asylum and illegal migration issues, and empirical investigations will focus on cooperation outcomes.

These investigations can't be spread up to the 10 new Member States, that's why two of them were selected as standard examples. Poland is an interesting country because of its

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<sup>1</sup> Founded on a geographical specialisation clause based on the reception capacities of Member States at the EU external borders.

geography<sup>2</sup> as well as the exhaustive nature of its political relations. The Czech Republic seems more relevant for the illegal migration channels.

Time limits were also set up. The investigations are going to begin in the nineteen's and this for three reasons:

- During the nineteen's, more precisely before Enlargement took place, the Central European and Baltic States signed a certain amount of bilateral and multilateral accords, which open the way for cooperation in the asylum field.
- Before this century, none of the two selected states had an asylum system nor signed the Geneva Refugee Convention of 1951.
- When the Berlin Wall and the Iron Curtain fell (in 1989), it meant a new century for the East-West relations.

They are several reasons why the research's focus is based on the European Eastern enlargement. The Eastern enlargement, to begin with, has resulted in a redrawing of the external borders of the EU: the 3 Baltic States (Lithuania, Estonia and Latvia) presently make up the North-Eastern border; Poland, the Slovak Republic and Hungary form the outer Eastern border and Cyprus forms the South-Eastern and Eastern most border of the EU. This change in the political map of the EU has brought with it new challenges including of course questions concerning asylum policy. As a result of their accession into the EU for which they have to take over the asylum acquis, the new Member States become now destination countries for many refugees. If we consider the Dublin rules allocating responsibility for asylum application to one Member State, they could not be transit countries any more for people fleeing persecution, a status they used to have some years ago. For the 15 Member States prior the 4<sup>th</sup> of May 2004 it has the advantage that the number of countries agreeing to common criteria for the acceptance of asylum seekers has grown. If the EU Member States are willing to find a way to respond to the European asylum challenge, a growing number of receiving states could turn to be an asset. For example, there is the possibility that specialisation could develop in certain European regions for certain asylum seekers minorities. As example, the Eastern European countries could specialise for Gypsies minorities, whereas Spain, Italy or France could take over responsibility for refugees coming from North African countries. However, it is also possible that the Eastern Enlargement could lead to additional costs for the Union in the developing of adequate structures for refugees

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<sup>2</sup> The length of its -nowadays- European external border; the fact that it is the largest candidate country - 313,000 km<sup>2</sup>-; and it shares common borders with four other Member States, Belarus as well as with Kaliningrad -an enclave of the Russian Federation-

in the new countries or outside the European borders. A positive effect for the new Member States themselves will be that laws, which regulate and protect refugees will be given greater importance. But it has to be seen with precaution as it could also lead to the elaboration of restrictive elements.

All these questions remain unanswered, as the enlargement process has just begun. But the discussion on the harmonisation of European asylum policy has been lasting for years and has not been achieved until today. There are two reasons I personally see for this, which are going to be a foundation upon which this thesis rests. I call them “coherence and efficiency problems”. Since the Treaty of Amsterdam in 1997 and the resulting europeanisation of the asylum policy, asylum is no longer a matter of common interests but has rather become a communitarian matter, and therefore considered of vital importance to the furtherance of the European integration process. To achieve this, the Member States have to give up their sovereignty in this policy area and transfer authority to the Union’s supranational governing bodies. But in order to ensure that this europeanisation of the asylum policy takes place, there must be the political will of the respective national governments to make it happen. It is very likely that the main obstacle standing in the way of a harmonisation has been the lack of political will on the part of the Member States. Harmonisation can neither develop so long as sincere attempts at compromise are lacking, as these form the basis of any attempts at a sound and coherent Common Asylum Policy. Now that they belong to the third pillar, questions of asylum are questions of common interests that can’t be solved within individual nation states and this is what I call “coherence problems”. On the other hand, “efficiency problems” refer to the nature of the formal instruments that the Community and/or the Member States want or are willing to apply in asylum matters: most of the instruments of the European asylum acquis lack of binding effect.

To reflect on the “coherence problems”, the first part intends to describe the development of the European asylum policy until Amsterdam with the support of the Advocacy-Coalition theory<sup>3</sup>. In order to do this, the nature of the asylum cooperation between EU Member States will be first analysed. Then the study will go behind the supranational framework, i.e. it will analyse the nature of the asylum cooperation between Member States and candidates countries before their EU application. This is meant to answer the following question: when

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<sup>3</sup> Paul A. Sabatier/ Hank C. Jenkins-Smith (eds.), Policy Change and Learning. An Advocacy Coalition Approach, Boulder/ San Francisco/ Oxford 1993

does cooperation actually begin? The reason why the Advocacy-Coalition theory has been chosen is not only because it permits to analyse the development of policy fields in the long term and in a dynamic way, but particularly because it contributes to demonstrate which actors share common basic ideas in a certain political field.

The second part will consist on the analysis and summary of the empirical investigations, which are meant to show the development of asylum policies in Poland and the Czech Republic since the beginning of the nineteen's. I not only plan to make a review of asylum policy rules, but also to undertake a field work in specific structures, organisations and/or institutions responsible for refugee issues.

To conclude with the last part will come back to the central questions: does the European Eastern Enlargement offer a chance for a deeper and more harmonious common European Asylum Policy, or will it lead to a new form of cooperation -which one-, and/or does it allow us to draw a completely new asylum model? In order to try and give answers, a three steps analysis will be undertaken. In a first study, the level of implication of the new Members States in the EU decision-making-process will be compared with the one of the Mediterranean States after their EU accession, and this in order to draw conclusions on the stand of the European cooperation concerning asylum issues after enlargement. Than a second study, elaborated on the comparison between the asylum policies of Poland and the Czech Republic with those of Western States, wants to make a report on the stand of harmonisation after enlargement. The third and last step will consist on evaluating the possibility of a specialisation in asylum policy issues. The analysis relies on two theoretical supports: Scharpf's theory of "positive and negative coordination"<sup>4</sup> and the concept of "multi-speed Europe"<sup>5</sup>. The so-called "multi speed Europe concept" is an interesting support because it has integrative components and, as already mentioned, since Amsterdam asylum issues have become a communitarian matter and are therefore of great importance to the furtherance of the European integration process. Scharpf's concept, on the other hand, can be connected to the efficiency and cooperation problems I was mentioning before. If the case of positive coordination seems to be appropriate to qualify the cooperation between EU Member States after enlargement, i.e. if the Member States try to increase the efficiency and effectiveness of the European asylum policy by using common preference's choices, it could be a potential answer to these efficiency problems. In the case of negative coordination (de-

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<sup>4</sup> Positive und negative Koordination in Verhandlungssystemen. In: Adrienne Héritier (Hrsg.), Policy Analyse. Kritik und Neuorientierung. Politische Vierteljahresschrift, Sonderheft 24. Opladen: Westdeutscher Verlag

<sup>5</sup> The European Union, Report of Leo Tindemans, First Minister of Belgium in the European Council, EG-Bulletin, 1/76

defined as rise of troubles that might occur when an actor, which is specialised in a very particular unite has to cooperate with another unite that doesn't share these very same ideas), the cooperation problem will become even more present. I believe in a mixture of the two components, but to be able to draw conclusions, I first want to begin with my investigations.

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