CONTROLLING EUROPE

Immigration versus European identity

CONTENTS

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TIIVISTELMÄ

Tämän pro gradu työn tarkoitus on tutkia Euroopan unionin siirtolaispolitiikkaa. Yhtenäisen siirtolaisuuspolitiikan merkitys Euroopan unionissa on tullut tärkeäksi vuodesta 1985 lähtien, jolloin ensimmäiset suunnitelmat vapaan liikkuvuuden alueesta julkaistiin. Eurooppalaisen siirtolaisuuspolitiikan suuri merkitys heijastuu myös vilkkaassa julkisessa keskustelussa, jota on käyty erityisesti 1990 luvulla. Tämän vuoksi tämä tutkimus keskittyy siirtolaispolitiikan tarkasteluun 1985-2000 välisenä aikana.

Tutkimusmateriaalina käytetään Euroopan komission julkaisemia siirtolaisuutta ja siirtolaispolitiikkaa koskevia tiedonantoja. Tiedonannoilla ei ole oikeudellista sitovuutta, vaan ne toimivat eräänlaisina aloitteina yhtenäisen lainsäädännön muodostamiselle. Työn tavoitteena on pyrkiä tulkitsemaan tiedonantoja diskurssiivisen tulkinnan kautta ja pyrkiä liittämään ne siirtolaisuutta koskevaan taustakirjallisuuteen ja työssä käytettäviin teoreettisiin avainkäsitteisiin, joita ovat siirtolaisuus, turvallisuus ja kansalaisuus.

Työn tärkein tavoite on tutkia, miten Euroopan komissio käyttää siirtolaispolitiikkaa yhtenä välineenä pyrkiessään luomaan Euroopan unionille ideologisia rajoja sekä yhteistä identiteettiä. Yhteisen identiteetin merkitys EU:lle on tärkeä, koska se vahvistaa yhteisön asemaa legitiiminä instituutiona. Siirtolaisuus ja yhtenäinen siirtolaisuuspolitiikka tarjoavat yhden mahdollisuuden identiteetin rakentamiseen korostamalla yhteisiä eurooppalaisia arvoja ja tavoitteita peilaamalla niitä toiseuteen, tässä tapauksessa siirtolaisuuteen.

Avainsanat: siirtolaisuus, kansalaisuus, turvallisuus, eurooppalainen identiteetti.

ABSTRACT

The focus of this thesis is to examine common immigration policy in the European Union. The importance of a common immigration policy in the EU has increased after the year 1985, when the plans of the creation of an area of free movement were announced. The meaning of European immigration policy is also reflected in an expansive public discussion on immigration, which has taken place during the 1990s. Because of this, this thesis concentrates on the period between the years 1985-2000, when examining immigration policy in the EU.

As a resource material I will use European Commission's communications concerning immigration and immigration policy. Communications have no legally binding effects, but their role is rather to function as initiatives when creating a common legislation for the EU. My objective is to read the communications with the help of discursive interpretation and try to relate them to the wider theoretical literature on immigration and to important theoretical concepts such as immigration, security, nationality and citizenship.

The main purpose of this thesis is to examine, how the Commission uses immigration policy as one means in defining the ideological boundaries and common identity for the EU. The meaning of a common identity is important for the EU, because it strengthens the role of the Union as a legitimate community. Immigration and immigration policy provide one possibility to build this identity by emphasising common European values and traditions by reflecting them against 'the other', which in this case is immigration.

Key words: immigration, nationality, security, European identity.

1. INTRODUCTION

1.1 Background and objectives

Through the ages people have immigrated for various reasons. Some move out of necessity to escape violence and persecution, some to improve their economic conditions or because of changes in life and some just for joyful purposes. During the second half of the twentieth century, migration has become one of the major global issues because it has been thought to have increasing influence on the development of society and politics. Politicians and the media are talking about a mass migration, flowing from South to North and which could shake the stability of western societies. Similar development can also be seen in EU states. Large inflows of migrants and refugees have been seen as a burden, leading to problems in the fields of labour markets and social welfare systems. Immigration is also thought to have an impact in national security and national identity, as the composition of the population radically changes. As a consequence, feelings of racism and xenophobia have risen in EU states.

Control of borders has usually been considered as a fundamental attribute of sovereignty. This fact is radically changing with the deepening of European integration. In 1986, European Single Act created an area of free movement, which was to be the core component in building an economically integrated Europe for the European people. Successful realisation of free movement meant the abolition of frontier controls in the area. However, the inability to control their national borders has made the member states even more concerned about the question of their sovereignty and internal security. At the same time, the EU is confronting a so-called 'identity crisis'. According to some authors, (see for example Preston, 1997), the European Union lacks a common basis, an idea of Europe, which would legitimise its existence as a political entity with the citizens of its member states.

As a consequence of free movement, the immigration policy of the European Union and its member states has been much concentrated on control. What is typical for the present situation in the Union is the similarity of free movement, with open borders inside the EU and increasing controls for migrants coming from outside of the Union. Increasing control leads easily to selective politics towards the migrants. Some migrants are considered to be more desirable to receiving countries than others. In the case of the EU, the question to be asked is "Who is allowed to be a European?" Who is to be included and who excluded from the brand new Europe?"

My hypothesis is that immigration policy has become more selective and has concentrated more on control in past fifteen years. On the basis of this, I will focus my attention in this thesis how the European Commission produces selective immigration policy, and why immigration policy is becoming more and more restrictive, at least for certain migrant groups. When reading the Commission's communications, it appears that the status of different migrant groups in the EU is not similar. Also the policies applied to immigrants vary depending on the group. This fact is behind the argument that the immigration policy of EU has the dimension of being selective. I also intend to examine for what purpose this immigration policy in EU is needed and what are the interests behind it. Given official reasons for immigration control are not always the only ones why control is exercised. This is why the meaning and the aim of immigration control have to be questioned. How we act and relate towards immigrants and foreigners often reflects what kind of society we want. In order to be considered as a legitimate community, the EU needs to construct an idea of 'Europe', which it members can relate themselves to. My intention is to point out how immigration policy and immigrants, among many other identity building strategies such as creation of common symbols and traditions and development of common foreign and economic policies, can be used to help to construct the boundaries and define the identity of EU, and thereby build the idea of 'Europe'. Common identity is often built by reflecting the common characteristics of a certain community to 'the other', who is different. By placing immigrants in the

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role of 'the other' enables the EU to strengthen its sense of community and identity.

Immigration policy in general can be divided in two parts. One dimension of immigration policy is immigration control, the aim of which is to regulate people entering and leaving the territory of one nation-state. Immigration control can be distinguished from the integration of migrants. This part of immigration policy aims to improve the situation of legal migrants into the host society. This thesis solely concentrates on the dimension of control on the common European immigration policy. The aim is not to examine how migrants already resident in a member state are treated and what kind of policy is applied to them. This distinction is made on the basis that common immigration policy carried out by the EU is mostly concentrated on control of the potential migrant entering the territory of EU, and the part of integration is left more to the individual member states.

1.2 Source material and the role of the Commissions

My primary sources consist of the communications of the Commission of the European Communities (CEC) on immigration and free movement. Communications published by the Commission are official documents of EU. They have no binding effects on EU member states, but their role is to give information on important matters, take an attitude to them, and give suggestions. As official documents, communications are placed beneath the legally binding documents such as enactments, directives, decisions, resolutions and conclusions. The communications are mostly directed to the European Council and the European Parliament, which discuss them and draw up responses to them. Other EU organs may also discuss the communications and respond to them if they so wish. Since the documents are only *communications*, they are not binding on the council, on the parliament or on any of the member states to take any action

suggested in the communications. The Commission itself states, *"these texts are political rather than legal, and have no legally binding effects"* (CEC, 1997c, 6).

For research material I have chosen the following documents: *White paper on the Completion of the Internal Market (1985), Guidelines for a Community Policy on Immigration (1985), Communication on Immigration and Asylum Policies (1994), Proposal for a Decision on Establishing the Convention on Rules for the Admission of Third Country Nationals to the Member States (1997), An Action Plan for Free Movement of Workers (1997), Proposal for a Joint Decision on a Joint Action Adopted by the Council Introducing a Programme of Training, Exchanges and Co-operation in the Field of Asylum, Immigration and Crossing of External Borders (1997) and Communication from the Commission to the Council and the European Parliament on a Community Immigration policy (2000).* I will also use the action plans of the Commission for the year 2000 and 2001. The period that I will examine in my thesis ranges from 1985 to 2000, when the last communication was published.

The reason I have chosen these documents is that the Commission being the 'conscience and voice of the Union' and initiator and proposer of legislation and of policy (Cini, 1996, 15), it best represents the opinion of the EU as a single entity on immigration matters. The starting point and the publishing year of the first communication was chosen on the basis that 1985 was the year when the creation of the Single Market and an area of free movement became actual. Consequently, I consider it also as the year, when the development of a common immigration policy for EU became relevant. I will not pay attention or try to analyze the actual actions taken on the Commission's communications. I assume that the communications represent the view and the aim of the Commission and EU on immigration issues, and are as such political acts, which influence the Union.

The precise role and political status of the Commission is defined fairly fragmentarily in the treaties on European Communities and European Union. The

Commission's tasks have been divided from four to six different categories, depending on the commentator. However, there is a general agreement that one of the Commissions major roles is to act as an initiator and proposer of legislation and more generally of EU policy. Having only the right to initiation, the Commission cannot enact laws. One of the means the Commission can use to influence decision-making within EU is to produce communications, in which it can promote and bring up matters it considers to be important for the development of the EU. Communications are thus one way how the Commission can use its power and try to influence decision-making in EU structures. (Cini, 1996, 14-17)

In general it can be said that institutions are social constructions designed to create order in our political and social environment and as such, institutions are able to influence political life. This fact also signals the Commission's capacity to shape and influence European political agenda and the outputs that emerge from it. When reading communications, it is however important to notice that the Commission's status and influence are partly dependent on the political arena in which it acts. Legitimacy is what gives the Commission the authority to influence the course of action in the EU. The power of the Commission and its initiatives to shape the political direction of the Union can be reduced for a number of reasons. One example is the reluctance of member states or other EU institutions to accept the Commission's proposals. (Cini, 1996, 224-225) It is therefore relevant to assume that not only does the Commission aim to legitimise its points of views to the audience of its communications, but it also tries to maintain certain 'neutrality' in order not to annoy any of the readers. Communications concerning immigration are written in a neutral way and, at first glance, they seem to say hardly anything. The language the Commission uses is very formal, but I assume that the importance and meaning of the communication lies more in the facts they hide.

1.3.2 Theoretical approach and methodology

My intention is to read communications as political documents, the aim of which is primarily to influence the decision-makers and politicians in EU institutions as well as in member states. Discursive interpretation is a useful tool when reading Commission documents. In politics, the question is almost always about giving values and meanings to the issues discussed. Texts do not only represent reality, but they also create it. This is also why common European identity can be produced in the communications, by constructing an image of immigration as 'the other'. Communications can be seen as political and rhetorical texts because they value and emphasise different issues in different ways. Their meaning is to influence the reader and make him convinced of the necessity of the importance of the EU immigration policy. Also according to the Commission the meaning of the communications is to *"stimulate the debate"* (CEC, 1994, 2) on the actions taken by the Council and by the Parliament in the field of immigration policy. The politically meaningful part of the communications lies, in what they considers as important and with which kinds of concept and expressions they speaks about these issues.

My intention is also to pay attention to those categories, by which different migrants groups are defined in the communications. Concepts such as control, security and migrant are also important for my study and therefore it will be important to discover how these concepts are reflected in the Commission's immigration policy. Defining how these concept are treated and emphasised in the text, combined with the categorising of migrant groups, will tell how the Commission relates itself to immigration as well as in which kind of a community it sees itself.

In chapter 2 I will concentrate on the concepts of migrant and immigration. By using different authors from different times, I will point out how migrants are often seen as 'the other' in host societies. The traditional distinction between 'us'

and 'them' is commonly done by using citizenship as a distinguishing factor, but also only by referring to different characteristics of migrants. I will also pay attention on how and why immigration is often used for political purposes.

Chapter 3 concentrates on more 'practical' sides of the phenomenon of immigration. It deals with the history of immigration in Western Europe as well as with the development of a common immigration policy in the European Union. Although the content of this chapter is rather informative, it is useful because it gives the context for the Commission's communications. The final part of the chapter 3 concentrates on the issues how migrants and immigration are seen in communications.

The meaning of chapter 4 is to distinguish different categories of migrants and policies applied to them in the communications. I will also concentrate on two important determinants by which immigration policy is produced in the communication, economy and nationality. The end of the chapter concentrates on how immigration is constructed as a security problem in the communications. In chapter 5 I will try to analyse the different categories of migrants and the reasons behind this categorising. My aim is also to link the immigration policy produced in the communications more closely with the identity building process of the European Union.

2. DEFINING MIGRATION

2.1 International migration

Migration in general is a spatial phenomenon. People move from one place to another for various reasons, for a varying period of time. Spatiality is understood here as shifting places by moving from one space to another. Some authors have expanded the meaning of space in migration. According to Papastergiadis (2000), the concept of space also includes possibilities and disadvantages, which affect the decision of a potential migrant to move. Faist (1997) states that *migratory space* not only refers to physical features, but also to larger opportunity structures; the social life and the subjective images, values and meaning that the specific and limited place represent to potential migrants. World can be seen as a nominally fragmented but pragmatically continuous space, whose existence is made possible by immigrants and other displaced people. In this continuous space, building a home anywhere is possible because of the fragmentation of cultural, social, and economic activities. Space offers a possibility to forget the past and begin something new. (Faist, 1997, 252-255)

Because the world is divided into territories of sovereign states, some migration crosses national borders. This is when migration becomes international. *International* migration thus requires crossing of national boundaries, whereas *internal* migration takes place within the territory of one nation state. Within migration, two terms need to be differentiated. Emigration refers to the movement away from a certain nation state, immigration on the other hand means movement to a new country. In the case of emigration, a state is thus loosing its population, whereas in the case of immigration the population increases. A migrant's country of emigration is regarded in this thesis as his 'home country' or 'country of origin', while country of immigration is called 'host country' or 'country of destination'. These terms are only meant to indicate the difference between emigration and immigration countries, for example 'home country' does not

assume, that a person moving away should have the citizenship of that specific country.

International migration is usually regulated by the destination states since each state is sovereign to decide who it allows to settle and reside within its territory. Because nation-states have the undisputed sovereignty to control their borders, there is no corresponding right to immigration under international law. According to this, the right to regulate and control immigration movement to a country's territory is not a decision of a potential migrant, but totally under control of the specific nation-state. As a consequence of this, a host country also retains the right to deport migrants who have entered their territory illegally, unless they are seeking for asylum.

Eurostat defines a migrant as a person entering from abroad with the intention to reside in the country for a certain minimum period. [1] According to this, an international migrant is considered to be a person who has moved from one country to another with the intention of staying there for a certain period of time. An important criterion in the definition is thus the time of stay. A migrant is not a tourist or a business traveller who only pays short visits to the destination country but someone who has the intention to settle in the country of destination. The term migrant is also independent from legal definitions. According to this the term includes not only legal, registered migrants but also asylum seekers, undocumented or illegal migrants. The legal status of a person entering a country has no importance on whether this person is considered to be a migrant or not. According to the differentiation of emigration and immigration, an emigrant is person leaving his home country while immigrant is someone entering another country other than the one of his origin. In this study the term migrant is used to refer to a person entering a new host society unless otherwise mentioned.

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[1] Eurostat, statistics in focus: population and social conditions, manuscript completed on third of July, 2000 by European Communities.

2.3 Immigration as a resource

The debate whether immigration is a good or a bad thing, dates back to the nineteenth century. Economic advantages and disadvantages were particularly discussed in the early debate. Too often, immigrants are seen just in a negative light. The current debate on immigration in the EU seems to concentrate only on the negative side of immigration, such as a rise in racism and xenophobia. Much of the research on immigration also concentrates on finding explanations why immigrants are often seen as foreigners or a burden on the host society and the actual positive effects of immigration often gain only little attention. It is therefore important to emphasise the positive side of immigration and look at the benefits that immigration brings to host societies.

Immigration and immigrants should rather be seen as recourse than as a burden to host societies and especially for the EU as a whole. There are many factors, which emphasise the continuing importance of immigrants. Immigrants are major sources of recruits to the European labour market and are therefore a valuable source of income sustaining the financial viability of the welfare state in countries of the Union.

Demographic trends in EU show the importance of immigrants for European societies. The rapidly ageing profile of European populations indicates that immigration may be required to provide the goods and services demanded by a relatively older population and is therefore a necessity for the EU. However, this fact is usually not recognised by the host societies. The contribution that immigrants make to host societies and economies tends too often to be denigrated by politicians and the mass media. This is because of the fear of consequences of large-scale and uncontrolled immigration, and also because immigrants and foreigners are unpopular and can easily be cast as scapegoats. (Brochmann & Hammar, 1999, 329-330)

2.2. Migrant as stranger

Historically, migrants have been seen as strangers in the society in which they live. Distinction between the stranger and the local has existed since the birth of the nation state and this distinction has usually been defined by means of inclusion and exclusion. By the end of the twentieth century, the notion of immigration has been re-defined several times. The position of migrants in host societies has been seen from different aspects. For some people, migrants reflect a positive image of cosmopolitanism whereas to others they are seen as a group of refugees and 'dirty foreigners' who present a threat or a burden to society and its welfare. Since migrants often represent different cultural and political values than those of the host societies, their definition, be it positive or negative, is often based in the distinction between 'us' and 'them'.

One of the most passionately defended distinctions in society is the division into 'we' and 'the other'. This distinction is made to be as exact and absolute as possible because it is the vital attribute of our existence. 'Us' does not exist until 'them' is accurately defined. We define our identities and existence in relation to others; we can be 'us' only if there are others who are different to 'us'. Both of the notions get their meaning from this distinction because without it neither of them exists. Immigrants are often defined by this distinction. Natives (i.e. members of a certain society) draw borders, which include some and exclude others; excluding migrants is an inclusion of natives. Thus by identifying the migrant as the other, who does not belong, one creates 'us', those who do belong. Categorising the migrants as the other is therefore an important means of creating an identity for an individual himself, as well as for the nation as a whole. According to Huysmans (1995), the exclusion of a migrant as the other is defined in negative terms. Migrants are excluded because they lack something, which is considered to be crucial to the natives. Consequently, they cannot share what is most important for the natives; their cultural identity and way of life. Huysmans argues that a migrant is therefore seen as a threat to cultural identity, although he also emphasises the interpretation of a migrant as a threat to a political or economic system, or to

employment or to other such aspects of individual security. (Huysmans, 1995, 60-61)

In modern societies, the formal distinction between strangers and natives is often defined in terms of citizenship. The stranger is defined as one who does not have the same nationality as the natives. Usually the state has the authority to draw the line between inside and outside, and by doing this has the right to control its own population and to exclude others. Citizenship, as a bundle of civil rights enjoyed by free and equal citizens, came into existence with the birth of territorial nation-states. Specific legal rules codified the formal requirements, which individuals had to meet in order to be able to become citizens of a particular state. Reflecting individual's political emancipation and equality in front of the law, citizenship rights became the exclusive privilege of those who were recognized as nationals of a particular state while the subjects of other states were excluded from these rights. Construction of 'the other' in a negative light is not a new phenomenon. The term foreigner or 'étranger' was used for example in France in the middle of the nineteenth century in order to distinguish foreigners from nationals. Already during that time, the term 'étranger' had a negative tone since it referred to political enemies and traitors who were disloyal to the nation. (Bader, 1997, 61)

Citizenship can be considered as an exclusive concept. States have the monopoly of authority to restrict the movement of people across certain spaces and borders, and they have a legitimate power to decide who is allowed to enter their territory. In the world of states and the passport, people are either 'nationals' or 'non-nationals'. People are dependent on states for the possession of an identity and citizenship, which guarantees them the right to be part of the society. (Torpey, 2000, 4-5) Citizenship guarantees a person certain political, social and economic rights, but citizenship also has an important symbolic aspect. It links people together as a certain nation. It provides a feeling of belonging to a certain place. On the basis of citizenship, a person can be part of a nation while non-citizens are excluded from it.

Migrant as 'the other' is not always seen from a negative point of view. Georg Simmell (1950) constructs a different image of a migrant in his essay "The Stranger". A migrant is someone who has come from elsewhere, who speaks a different language and has different practices. A stranger is seen as a wanderer who has the freedom of coming and going as he wishes. Because of this freedom, he has chosen himself the part of being 'the other'. In Simmel's discourse, the interaction between familiar and foreign is important when defining a stranger and the identity of a stranger reflects ambivalence. Simmel does not see a stranger as a person outside the perceived group but rather as someone who takes part in a dialogue with the group. A stranger's position in a group is defined by the fact that he has not belonged to it from the beginning but imports qualities into it, which do not and cannot stem from the group itself. A stranger is thus seen as a specific form of interaction, who brings positive qualities to the group and forces it to re-define new boundaries to identify itself. In a way, a stranger is seen as a source of positive change in society. A stranger is not really thought of as an individual, but rather becomes strangeness, a specific human category, which is a common element in all the strangers. For Simmel, the strangeness of a migrant was seen in a positive light, a stranger is not entirely excluded from the society since he forms an important part of the communication within the groups. When treating Simmel's concept of a stranger (a migrant), one should remember that times were different at the turn of the century. A stranger brought to host society qualities that we can see and reach in the media in today's world; different cultures and experiences. Opening the door for migrants meant for many people the only possibility to achieve a feeling of 'multiculturalism', whereas in today's Europe most of the people have the possibility to have these experiences for example through the media, which has made the world smaller today.

Zygmund Baumann (1990) also sees a migrant as a stranger. He emphasises that familiarity is the most notable feature of the migrants, even though they are unknown to us. Baumann explain this by the fact that in order to be able to consider someone as a stranger, we already have to know something about him. Strangers live in the same society as we and have come to stay. If this were not be

the case, migrants would be anyones, not strangers. Migrants as strangers are people that we see and hear constantly and whose existence is not indifferent to us. Anyhow migrants are not part of 'us' or part of others', they are neither friends nor enemies, and this is why their position in host societies can be very complex. For this reason migrants also cause fear and confusion. We do not know what to think of them because they are simultaneously strangers and known to us. Migrants do not fit in the clear parameters by which we perceive our society and this makes the understanding of our lives more difficult. (Baumann, 1990, 69-75)

Because of the familiarity of the migrant, Baumann sees them as a source of change. This is because a stranger threatens the distinction between 'us' and 'them'. The making of this distinction is of vital importance for us; we exist only as long as there is 'them'. What seems to be important is to make this distinction as accurate and absolute as possible. Absolute distinctions enable us to construct our society in a simple and explicit way, world our place in it is easier to understand if we can divide the reality into two opposite sides. The problem, however is that the reality is not as simple, difference is only rarely as accurate and absolute as the distinction into two opposite side lets us assume. A migrant as a stranger challenges the simplicity of the social world by obscuring its simple classifications and distinctions. Here lies the importance of strangers, they uncover the artificiality of created borders and reveal the true nature of the distinction; the fact that borders are just invented and can be re-invented over and over again. (Baumann, 1990, 70-75)

For most human beings, making distinctions is of vital importance since one of our primary intentions is to establish stable societies. However, most distinctions are artificial and have to be re-created and constantly defended. Everything that endangers or obscures created distinction has to be demolished since it takes the ground from beneath our order. According to Dal Lago (2000), society constantly tries to reconstruct its unity and test the possibilities of extending its own borders. In this sense, migrants are the motors of social change since they show the untenability of distinctions and force society to redefine its narrow boundaries.

Dal Lago describes the position of immigrants in society in a negative light. According to him, a migrant represents the border or margin of society, defined in terms of subordination, migrants have the lowest and most marginal roles in the hierarchy of society. Dal Lago claims that migrants have become a *"pure labour force having no voice and being invisible, yet considered a public enemy when, whether deliberately or not, they show their desire to exist"*. (Del Lago, 2000, 176)

Papatergiadis (2000) argues that in today's societies the relation between a stranger and a local has changed. Our prior knowledge and expectations of strangers have increased and therefore they are no longer at the margins of social existence; migrants are more manifest in today's society. Papatergiadis however continues that increased knowledge and awareness of the existence of migrants have not necessarily made attitudes towards them better. Even when known, migrants are still different to us. Therefore they are often excluded from the society and accused of being the cause of illnesses in society. Papatergiadis sees the role of migrants as ambiguous, they have been separated from their original country and at same time have only few ties to their new home country. They are strangers in both sides. (Papastergiadis, 63-64)

Various definitions of immigrants indicate the distinction between migrants and 'us'. Even when seen positively, immigrants are not seen as part of the host society but as 'the other'. When seen positively, 'the otherness' of the migrants is seen as something interesting about which we wish to learn ourselves. When defined negatively, migrants are usually seen as threatening the society and immigration is identified as something, which endangers the existence of national identity. This is because migrants force us to see the artificial nature of the distinctions we make in order to define our common identities. Migrants force us to change the way we see the society we live in and ourselves. Many human beings are reluctant to do this, and therefore migrants easily become targets of frustration and anger.

2.3 Migrants as tools in politics

According to Barrero (1996), the distinction between population and the people (*demos*) is important when defining immigration policy. Foreigners (immigrants) belong to a certain population but are excluded from the *demos*. According to him, immigration policy should work according to the logic of inclusion by expressing the willingness to equate *demos* with the population, citizenship and residence, and not against the integration of these two. However, immigration policy rarely follows this ideal logic and is often exclusive for foreigners for various reasons. Barrero argues that a national, or similar identity is often seen as a basis for division between demos and those who are excluded from it. This is to say that immigration policy often functions as means to create or strengthen common identities and immigrants are used as a tool to be able to do that. Barrero points out that exclusion of foreigners is not necessarily applied to all foreigners and therefore one can make a distinction between *universal* or *selective* exclusion. Universal exclusion refers to *all* foreigners, whereas selective exclusion is made for example on the basis of language, culture or historical and geographical affinities. This means that foreigners considered to be close enough to the national identity can be included in *demos* because they do not threaten the traditional ties of identity, while foreigners representing too much difference remain the opposite to *demos*, the others against who the national identity is reflected. (Barrero, 1996, 161-163)

According to Brubaker (1992), modern states are supposed to be able to make the distinction between citizens and other residents. This is because of economical and security reasons, but more importantly because of ideological reasons. The legitimization of a state is partly based on its ability to construct boundaries for the nation by defining who belongs and who does not. Immigration policy is a useful way of doing this while providing legal basis for distinguishing citizens from other residents of a certain state. Citizenship is a legal and political status. From the legal point of view it offers a membership of the state, politically citizens form a modern and democratic foundation of a state's legitimacy.

Citizenship also has a moral and symbolic dimension; it is not only about who *gets*, but also about who *is* something. Brubaker argues that citizenship offers states a possibility to make 'identity politics', where self-comprehension, and the question of relation between citizenship and belonging to a nation are central. (Brubaker, 1992, 28-30)

Dal Lago (2000) argues that migrants are useful tools in political arena because they have *symbolic value*. The reason why immigrants have become useful in the political arena is related to the fact that the structure of developed countries is under change, and a part of this change is the progressive loss of control of state power. One reason for the loss of state control is the increasing transnationalisation of enterprises and markets, which have taken away from states the autonomous capacity of control and governance of their economies. As a consequence of this, the idea of a national economy has become obsolete. Related to economic changes, educational systems and mass media have, at least partly, been privatized, which has seriously diminished the nation-state's control over large systems of cultural transmission and reproduction. The state is no longer able to produce a common national identity, which provides people with personal protection and security. The nature of so called national identity has become more and more arbitrary, which related to an unpredictable situation in economy, has created a general feeling of global uncertainty where individuals have no longer understandable means to interpret their position in the world. According to Dal Lago, this situation is a consequence of the loosening of social ties and of the social contract that the national states guaranteed in the last century. Such a loosening on the other hand jeopardizes the cultural and ideological justifications of the existence of the modern state. (Dal Lago, 2000, 169-173)

In this new context of uncertainty, the state has to readapt and invent new means of production of identity and social security to be able to justify its existence as an ideological and sovereign entity. This is where immigrants come in to the picture. An uncertain situation in society drives people to channel their fears towards

foreigners and other marginalised people in society. Management of people who citizens consider a threat gives politicians *symbolic* control. Producing an image of otherness by excluding immigrants from society helps to re-construct social ties and social contract between citizens. Even thought these ties were imagined, as in this case they are, they help people to identify themselves to a certain nation and community, which provides them with a feeling of security and belonging. By making immigrants citizens, politicians would also remove the symbolic basis of exclusion of migrants. Dal Lago (2000) argues that displaced people (i.e. immigrants) have become the new political objects of today's society. This is to say that immigrants can be easily used as a tool in order to achieve political objectives. Excluding immigrants from society represents a powerful symbolic resource for granting control over society and the functioning of the public apparatus of social control. (Dal Lago, 2000 175-180)

Grete Brochmann (1999) emphasises the symbolic meaning immigrants offer to politics. She states that immigration policy has recently been politicised and many politicians have gained unexpected success with their xenophobic policies towards immigrants. Immigration politics is though to have a symbolic quality in current political situation. Long periods of unemployment, public deficits and other social problems cannot be easily solved by political decisions. In such situation tighter immigration control offers a way for politicians to gain success, especially when foreign workers and immigrants are often seen as unwanted competitors for native employees in the labour market. Uncertainty about the future also makes people mistrust the politicians. Many environmental problems remain unresolved and ethnic conflicts in Eastern Europe have created large streams of refugees to European Union countries. The changing role and meaning of European Union creates national uncertainty in member states. For many it seems that the future is not under control, and politicians have to reassure their voters. As immigrants are seen as a threat to society it is easy to try to create an image of a better future by controlling the flows of immigration. (Brochmann & Hammar, 329-330)

One of the most striking pieces of evidence of the use of immigrants as objects in politics is the rise of the extreme right in western European counties. One of the key factors in the extreme right's politics is the issue of immigration control. Central of their discourse are the questions of nationalism and identity, and specifically national identity. (Hainsworth, 1992, 9) This is why the concepts of nation, nationalism and national identity require closer examination. Gerald Delanty (2000) argues that nationalism is a product of the internal crisis of the state in the age of globalisation, as well as the product of the post-modern search for community and identity. 'Crisis' does not only mean the decline of the state sovereignty, but also decomposition of industrial society and its system of social integration. Dal Lago (2000) refers to the same when he speaks about the loosening of the social ties and the social contract in society. Delanty makes a difference between old and new nationalism. Old nationalism was based on common language, religion, territory and ethnicity and was closely related to the nation-building process. 'The other' in old nationalism was usually other nation-states and national identities. Today, the process of nation-state building on a homogenous population is over and nationalism appeals more to identity and material interests than ideology. According to Delanty, in the new discourse of nationalism the other is more likely to be immigrants than other competing nation states, and the otherness is today more a matter of xenophobia than that of jingoism. As a consequence for this, the other is considered to be more the 'internal' other, someone who already exists inside a certain territory. (Delanty, 2000, 95-97)

According to Hainsworth (1992), nation and nationalism are used as basic values in the rhetoric of the extreme right. Extreme nationalist movements define national identity by reference to immigrants and not, for example, by reference to other western European societies. Immigrants, unless assimilable, are projected as dilutants of national culture. (Hainsworth, 1992, 11) But it is not only the national culture that is in danger. When considering the materialistic nature of the new nationalism, one can see that how extreme nationalists speak about immigrants often concentrates on economical factors. In today's national identity, cultural,

social and also economic interests are bound together, and material well being defines people's relation to the state. This means that exclusion of 'the other' is partly done on a material basis. Delanty argues that hostility towards immigrants is based on the fact that they are seen as a risk to the economy, and therefore also as a risk to identity. (Delanty, 2000, 98)

In the discussion about the political meaning of immigrants the concepts of identity, nationality and citizenship are central and all these concepts get their meaning, at least partly, by being reflected against immigration and immigrants. There is however a change in the relation between immigration and production of nationality, citizenship and identity. Previously, for example in the writings of Simmel, immigrants were seen as strangers against whom the identity could be reflected. Immigrants were still not seen as threatening the identity, but only as 'useful' tools to construct it. In current times, immigrants are seen as more threatening to the nationality and identity of people. Many authors I have used for research, explain this fact by the decline of state sovereignty and its ability to control the process of constructing identity and nationality, which causes uncertainty about the future and feeling that everything is not 'under control'. Being 'the other' and on the margins of society, immigrants are easy targets in the political agenda. Their existence has become increasingly important for politicians and decision-makers in times, where old ways of creating social cohesion and common identity no longer function and controlling immigration 'flows' gives the impression of having things under control. Immigrants are a tool for political actors when making difficult decisions or trying to obtain one's targets. From the point of view of my study, the interest lies in if and how the Commission uses migrants for its own political purposes because old social ties have vanished and new ones need to be created in order to be able to justify the existence of an European entity.

3. IMMIGRATION AND EUROPEAN UNION

3.1 Immigration within the European Union

3.1.1 History of immigration in (western) Europe

International migration, the large-scale movement of people from one country to another, is a phenomenon as old as human history. Many publications and articles still give the impression of international migration in Europe as a considerably recent phenomenon. It is not until the post-war period that the countries of the European Community have been considered as having become migration "magnets" and migration as a phenomenon influencing the development of society and politics has gained wider interest. International migration movements in the area of the current EU have had an important role in history and migration has in the past, as today, been an important demographic, social, economic and cultural process linking communities, regions and nations. It is therefore important to have a short look at immigration trends and figures in Western Europe to be able to put the Commission's immigration policy in perspective.

At the beginning of the sixteenth century, the technical and mercantile achievements of western capitalism had already revolutionised patterns of migration and the invention of tall ships and improvements in cartography and navigation made transoceanic trade and migration more viable. From the sixteenth century onwards, European colonial regimes developed expansionist programmes and colonial ventures in order to create new capitalist markets and to bring civilisation to the New World. As a consequence, large numbers of Europeans were transferred to settle and administer the colonies. Migration can be seen therefore to have played an important role in the expansion of European imperialism. During the same period, the transportation of slaves was central to western capitalism and between 1500 and 1850 about 10 million slaves were transported from Africa to the Americas. Even though the destination of the slaves

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was mostly America, Western Europe was involved by providing the means of transportation and taking advantages slave labour through purchasing raw materials like sugar and cotton. Largely due to slavery, migration during the period of colonialism was predominantly forced and coercive. (Papastergiadis, 2000, 25-27)

Another important period in Western European migration began at the turn of the 18th and19th centuries. This phase was characterised largely by two related processes, the massive transfer of population from rural communities to the urban centres, and the industrialisation of the New World. As a consequence of the latter, migrants from Europe headed for South Africa, Australia, New Zealand, South America, Canada, and the vast majority to United States of America, which had by the end of the nineteenth century come the greatest industrial power in the world. Even though most international migration at the turn of the 18th and 19th centuries was emigration away from Europe, some British cities have had substantial and stable minorities of African, Afro-Caribbean and Asian populations since the nineteenth century. Europe also experienced significant population movements inside the continent. (Waever, Buzan, Kelstrup & Lemaitre, 1993, 150) It is only after the Second World War that a lot of similarities in immigration emerged in Europe. From the 16th to the middle of the 20the century the developments on migration pattern in European societies were rather different.

Large-scale immigration to Western and Central Europe in the 1950s and 1960s coincided with the late stages in a fundamental transformation of receiving countries' societies, polities and economies. Most of the countries had become comprehensive welfare states, based on universal criteria of inclusion of their citizens. During the late 1950s and 1960s, Western Europe was confronted with a sudden unpredictable economic growth. The economic situation in Western Europe thus encouraged large-scale migration as it was considered to be a surplus value to the Western European economies. The first migrants recruited in Western Europe to fill labour shortages were Mediterraneans, followed by the Turks and

then Maghrebs[2]. Ten or fifteen years after the Second World War, most indigenous ethnic and religious minorities had been included in political communities but the large waves of post-war migrants were not. Citizens of host societies generally deemed them to fall outside the core communities established in the course of the construction of the welfare state. They were seen neither as participants in the building of social market states nor as descendants from those who had participated. (Waever, Buzan, Kelstrup & Lemaitre, 1993, 153)

Table 1. The amount of immigrants (non-EU citizens) in EU countries.

	1997	1996	1995	1994	1993	1992	1991	1990	1985
Belgium	49,240	51,884	53,138	55,965	53,042	55,050	54,130	50,469	37,542
Denmark	27,388	31,527	39,145	20,977	20,479	21,484	22,122	19,715	20,201
Germany Ex-GDR 1991)	(incl.615,298 from	707,954	792,701	777,516	989,847	1211,348	925,345	842,364	429,455
Greece	22,078	22,204	20,859	18,287	16,382	14,936	13,353	24,978	27,281
Spain	35,616	16,686	19,538	18,551	15,361	18,219	10,553	13,730	6,176
France	65,750	46,688	50,387	n.a.1)	94,152	25,483	102,109	94,855	53,800
Ireland	n.a.1)	21,500	n.a.1)	n.a.1)	15,000	15,200	10,600	n.a.1)	n.a.1)
Italy	n.a.1)	143,151	68,238	52,716	n.a.1)	59,067	70,931	96,719	20,504
Luxembourg	9,376	9,235	9,590	9,123	n.a.1)	n.a.1)	n.a.1)	n.a.1)	n.a.1)
Netherlands	76,735	77,177	66,972	66,497	87,573	83,022	84,337	81,262	43,996
Austria	56,859	57,100	n.a.1)	n.a.1)	n.a.1)	n.a.1)	n.a.1)	n.a.1)	n.a.1)
Portugal	3,298	3,644	5,025	5,653	9,852	13,735	n.a.1)	n.a.1)	n.a.1)
Finland	8,098	7,539	7,345	n.a.1)	10,874	10,350	13,238	6,492	2,590
Sweden	33,302	29,318	36,079	74,734	35,057	39,534	43,926	53,320	27,889
United Kingdom	188,000	160,000	154,000	135,000	118,000	113,000	149,000	161,000	123,000

1) information not available

Source: CBS (Centraal Bureau voor de Statistiek), 2001

The Post-war immigration to Europe has continued despite strict immigration controls imposed by Western European governments in the mid 1970s. The collapse of the iron curtain has paved the way for the resumption of large-scale migration from East to West. As the table shows, in most of the EU countries the amount of immigration has not risen radically during the period of my interest and

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[2] The Maghreb countries consist of Morocco, Tunis and Algeria.

most of the growth can be explained by the increased amount of asylum seeker in EU.

Chart 1. The amount of asylum applications in the EU

Thousands   EU - 15
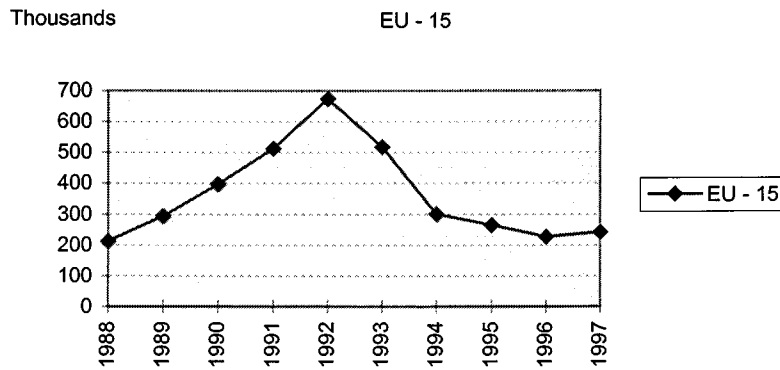
Source: Eurostat, statistics in focus, July 2000

As the figure shows, the number of asylum applications has tripled in five years from 1988 till 1992, (the 1992 peak can of course be explained by the war in ex-Yugoslavia). Increased amount of asylum seekers is a fairly new phenomenon in European immigration history, because usually the increased immigration flows, like during 1960s, have consisted more of labour migrants than migrants seeking for an asylum. According to Waever, the sudden rise of asylum applications has been one of the major political issues influencing shaping the EU's common immigration policy. (Waever, Buzan, Kelstrup & Lemaitre ,1993, 151)

Illegal immigration has gained a lot of attention when talking about current immigration flows to the EU. Illegal immigration has occurred in Western Europe since the Second World War but it was not until the late 1980s that it has been considered as a huge problem in the context of increased immigration pressures. Because illegal immigrants gain admission by many different routes, and also for various reasons, it is fairly difficult to characterise and estimate the phenomenon. However the ILO estimates that there were around 2,600,000 illegal residents in EU in 1991, representing some 14 per cent of the total foreign population. Illegal immigration is particularly high in Southern countries of the Union such as

Portugal, Spain and Italy. Demographic pressure and social conditions in North Africa, Egypt and Turkey increase the amount of people willing to migrate, and since EU countries are more difficult to reach legally, the immigration is likely to attain increasingly illegal forms. Illegal immigration besides asylum seekers represents another increasingly influential trend in European immigration regime. (Santel, 1995, 76-77)

3.1.2 Chancing context of European migration

International migration takes place in a system of sending and receiving countries and is largely dependent on existent structural conditions in the countries concerned. International migration can be explained both by push factors, which occur in the countries of origin, and by the pull factors, which refer to the situation in the countries of destination. According to this, the course of immigration changes when the explaining factors change. Historically, international migration has been explained by various factors. These explanations include economic contrasts between rich and poor countries, cultural linkages between colonial power and their former dependencies, political factors such as conflicts in the country of origin, or uneven demographic growth, which pushes people to move from over-populated developing countries to the developed countries.

In recent times, the context in which international immigration takes place has changed radically in the EU. Due to this change, the nature and extent of immigration have also overcome some changes. From the EU perspective this means that more persons are willing to move to the EU while at the same time the willingness of the EU member states to give access to all potential migrants has dramatically decreased since the previous 'immigration flow' to western Europe during the 1960s. During recent decades, internationalisation and globalisation have made rapid and incontrovertible progress, which is manifested in number of areas. Economic activities and products in general are now restricted far less by

national boundaries. At the same time technology has opened new possibilities for information, communication and transport systems. A more intensive and relatively cheap system of transport, as well as the increase in the amount of information available, have both increased and facilitated the movement of people from one country to another. As a consequence, EU countries are seen as more reachable immigration destinations for many more potential migrants than before. (Faist, 258-260) Dal Lago (2000) states that the supreme law of the globalised world is movement. By this he means spatial movement, which is a consequence of the reduction and removal of economic and communicative borders, allowing a wider and faster circulation of goods, symbols and ideals, as well as persons.

One of the most important differences with preceding periods of immigration has to do with the way the international economic system works and the international division of labour. In the past, economic growth usually also meant growth in employment and consequently created demand for unskilled and semi-skilled migrant workers. According to some theorists, employers in the destination countries seeking to recruit workers for specific tasks may recruit migrants. This was certainly the case during the 1960s, when the receiving countries originally invited labour-migration from the Mediterranean and North Africa. Today, the economic context has changed, at least in European societies, which have become more specialised in high technology, provision of high-value international services and labour extensive production. This means that the economic growth has gone together with the decline in the demand for labour. In more precise terms, the demand for unskilled and semi-skilled labour is in steep decline, while that for highly skilled labour is on the increase. As a consequence, a big part of potential immigration has become unnecessary and therefore also unwanted. (Doomernik, Penninx & Amersfoort, 1999, 15-22)

3.2 Legal significance of European immigration policy

Until fairly recently, immigration policy was strictly the preserve of the national state. Since the mid-1980s, there has been a clear intensification of co-operation in this field among the member states of the EU. The EU's capacity to influence in immigration policy is to create a legal, political and institutional context by which it can guide national policy responsibilities concerning immigration. In the Treaty of Amsterdam (1997), the member states made immigration and asylum policy part of the first pillar[3] of the EU. This meant that all matters regarding those policy areas were supranationalised, although member states still expected unanimity on decision making. The Treaty of Amsterdam also created an area of freedom, security and justice. With this the EU wanted to emphasise the fact that the abolition of border control must not lead to a decrease in the security within EU's borders. (Geddes, 2000, 110-131)

3.2.1 Development of a common immigration policy

In general the development of the EU's common immigration policy can be divided into three different phases. Even though there have been common activities regarding immigration policy as early as in the late 1970s, the creation of the European Single Market (SEA) can be seen as a starting point for the harmonisation of the immigration policies between EU member states. The second phase in the development began with the signature of the Treaty on European Union (TEU) in Maastricht 1992. The third and final phase started from the Amsterdam Treaty in 1997 and still continues. Even though the Treaty of Rome (1951) established the idea of free circulation of labour, it was the Commission's White Paper, which really started to promote the idea of the European Common Market in which free circulation of goods, services, capital and persons could be realised. The main target of the single market program was

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[3] The treaty of Amsterdam is divided into three pillars. The first pillar is supranational and consists of all of the former treaties on European Communities. The second pillar includes foreign and security policy. Third pillar consists of justice and home affairs. These two are intergovernmental and EC law has no direct effect on them.

to remove trade barriers but it also encouraged the cross border movement of people. (Baldwin-Edwars & Schain, 1994, 168-170)

SEA brought with it the pressure for closer co-operation on immigration and asylum policies. The aim of removal of internal frontiers between member states caused concern about security issues within the Community, especially questions of external frontier control were transplanted to those member states on the edge of the single market. The chosen form of action on issues related to immigration was *ad hoc* intergovernmental co-operation outside the treaty framework, since part of the member states[4] were reluctant for supranational co-operation. This meant that all decisions made on immigration policy had to be agreed unanimously between the member states. The European Parliament and European Court of Justice were excluded from actions taken, and the Commission was only loosely associated with the work. (Geddes, 1998, 67-85)

In order to promote the development of a common immigration policy, the Ad Hoc Group on Immigration was established in 1986. The group was composed of high-level immigration policy officials from member states and was divided into six subgroups; asylum, external frontiers, forged papers, admissions, deportations, and information exchange. On the basis of 'the Palma document'[5], the group turned its attention to two of the most important issues; asylum policy and external frontier control. As a result, the Dublin Convention was signed in 1990. The main principle of the Convention was that in a frontier free Europe only one member state would be responsible for judging any one particular asylum application. To attain this, an application for asylum would be made in the member state that the applicant had arrived in, unless joining a spouse or dependant in another member state. A further significant development on immigration issues during this period was the draft on External Frontiers Convention, concerning conditions for access to the territory of EC member states

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[4] The member states in 1985 were Denmark, Great Britain, Ireland, Netherlands, Belgium, Luxembourg, Germany, France, Crece, Spain and Portugal.
[5] 'Palma document' was established in 1989 by a Group of Co-ordinator, established in 1988. The Group of Co-ordinators was composed of representatives of the member states and its purpose was to report to the European Council on the progress on a common immigration policy, or lack of it.

by third country nationals. From the start, demands on unanimity placed serious challenges to the development of a common immigration policy, and the Dublin Convention and External Frontier Convention quickly showed this. Unanimity presupposes that such conventions need to be signed by all member states and then ratified at national level. Because of disagreements between the countries, the Dublin Convention was not ratified until September 1997, after being introduced in the Maastricht Treaty. The External Frontier Convention remains still to be signed. (Geddes, 1998, 67-85)

The second stage the Treaty on European Union (TEU), signed in Maastricht in 1992, transformed work on asylum and immigration matters from informal to formal inter-governmental co-operation as they were incorporated to the TEU, under the pillar of justice and home affairs (JHA).[6] The European Commission was given an official role as joint initiator with member states, now sharing the right of initiative with member states with a possibility to adopt joint actions, positions and conventions, but not the exclusive right of initiative of the right to adopt directives and regulations. Also the European Parliament was to be informed of projects in the field of asylum and immigration. (van Selm-Thorburn, 1998, 627-638)

During this period, new emphasises on common immigration policy appeared. In addition to asylum issues and external frontier control, attention was also paid to admission policies for family reunion, work, study, or humanitarian reasons. A common policy for the prevention of illegal migration was also regarded as vital. During this second phase, the Commission attained a more active and more effective role in shaping a common immigration policy for the EU. The Commission also let member states understand that previous methods to set immigration policy had failed to produce meaningful result, as it states already in

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[6] Incorporating immigration and asylum matters under the JHA pillar meant, that they were treated as matters of 'common interests', but not as matters of 'common action'. Immigration and asylum matters were still decided on the basis of intergovernmental co-operation, which required unanimity of all member states.

the introduction of the Communication on immigration 1991. (Geddes, 1998, 87-93)

3.2.2 The Amsterdam Treaty

The Amsterdam treaty is expected to take the process on immigration and asylum matters first into the realm of *semi-community activity* and then into *full community activity*. Asylum and immigration matters have come, via the Amsterdam Treaty, into the Treaty establishing the European Communities (TEC) as Title IIIa, under the heading 'Visas, asylum, immigration and other policies related to free movement of persons'. During the first five years after entry into force (*semi-community activity*), the European Council is to act unanimously, although qualified majority voting will apply for deciding on the lists of third countries, whose nationals require and do not require a visa to enter the EU and on the uniform format of visas. The Commission continues to have a right of joint initiative during this five-year period, and the European Parliament will be consulted. (van Selm-Thorburn, 1998, 631-635)

Full community activity will come about five years after the entry into force of the Treaty. Voting concerning immigration and asylum matters will remain unanimous until the European Council unanimously decides otherwise. When this new phase begins, three of the member states (Denmark, Ireland and the UK) will be outside the integrated policy area. The remaining 12 EU countries have the intention over time to integrate their political and legal access controls to their territories, and to integrate their approaches to asylum and immigration matters. According to van Selm-Thorburn, this integration of immigration policies may lead to increasingly restrictive policies because of the intention of member states to keep up with greater restrictions so as not to become more attractive to immigrants that the rest of the EU. (van Selm-Thorburn, 1998, 633)

The general opinion is that the EU's immigration policy tends to be *ad hoc*, reactive in its nature, and systematic policy development has been limited. It can still be concluded that the further integration has gone, the more intensive planning and co-operation on immigration issues has appeared. Den Broer (1995) states that in general European immigration policy is inspired by the concept of "crisis", and is somehow confusing. This is a result of the absence of strategy leading to a situation, where immigration policy has resulted in a number of agreements being invoked because of unexpected emergence of phenomena threatening the internal security of the EU member states. This is why agreements concerning immigration are more reactive than pro-active in their nature and reflect the concerns of national security. (den Broer, 1995, 93-94)

3.2.3 Schengen *acquis*

The Treaty of Rome set out to establish free movement of labour but the Treaty of Maastricht significantly extended the objective to free movement of persons. The aim of free movement was to guarantee the EU citizens the right to reside anywhere within EU, for reasons other than those of employment. Closely linked to aim of the free movement is the Schengen agreement, first established in 1985 by France, Germany, Belgium, Holland and Luxembourg. Because of fears of the effectiveness of the border controls, implementation of the agreement did not begin until in 1990. Italy, Spain, Portugal and Greece joined the agreement soon after and today all EU states with the exception of UK and Ireland are part of the Schengen area. Outside the EU, Norway and Iceland have negotiated individual agreements to join the agreement. (Gubbay, 54-55) The accords of Schengen (1985 and 1990) were incorporated into the EU in the Treaty of Amsterdam. What was important in the incorporation of Schengen was that all decisions concerning free movement, immigration or asylum made by executive committee of Schengen would become Community law. This means that those decisions have the superiority over national law related to these matters.

The Schengen agreement moved immigration policy and especially border controls onto a new stage. According to this agreement, national border control between signatory countries should be abolished. As a consequence of this loss of control of national borders, entry control is supposed to be reinforced at the external Schengen borders and so called 'compensatory measures' should be developed in each country. These compensatory measures include increased mobilisation of security and internal control systems. (Brochmann, 1999, 308-311) Mainly because of loss of border controls, member states have had difficulties in following the Schengen agreement. To accept the abolition of national border control, one has to rely on the countries supervising the common external borders and gaining this trust has taken, and will still take, a long time for signatory countries. The Commission has also noticed these difficulties as it states that *"there is a lack of administrative flexibility towards the special situation of migrants and the level of co-operation between the member states is sometimes insufficient."* (CEC, 1997a, 4)

The Schengen agreement is closely connected to the concept of sovereignty. The principle of sovereignty has traditionally been the basis of international politics. The principle of sovereignty divides the world into territorial states, which have absolute authority over their territory and the nation living inside it, as well as independence to make political decisions concerning both its internal and external relations. The sovereignty of nation-states means the absolute control of the state over its borders, and control over whom the state will let inside and who is kept outside its territory. The Schengen agreement, by opening the internal border of nation-states, has radically challenged the principle of state sovereignty, as well as their absolute control over their territories. Immigration control is usually practiced in order to protect the territory of a sovereign state. It could be assumed that the purpose of the Commission is to protect the territory of the EU, e.g. the territories of all the member states, to be able to achieve adherence to its immigration policy.

Many authors have stated that it is the Schengen agreement, which has led both to the necessity to shape a common immigration policy for EU countries, and consequently to an increasingly restrictive control mechanism concerning immigration. According to Brochman, the Schengen agreement has had an inconsistent impact on immigration control in Europe (Brochmann, 1999, 309) Overbeek (1995) states that the establishment of the Single Market and the abolition of internal border controls can be seen to have led to the intensification of a common immigration policy. However, he continues to claim that the abolition of border controls is not *per se* a sufficient condition for a common policy, and that the Single Market cannot explain the form, which intensification of co-operation has taken. (Overbeek, 1995, 28-31) It is also my view that the Schengen agreement and the Single Market cannot solely explain the need for common immigration policy. Quite the contrary, I believe that there are other reasons behind the Commission's immigration policy, I will return to this in the following chapters.

3.2 What is immigration policy needed for in European Union

My intention in this chapter is to examine what the Commission means when it talks about migrants and immigration, what is considered to be important, and what is secondary when promoting a common immigration policy for the EU. I assume that the way the Commission talks about migrants and immigration reflects its attitudes towards the phenomenon. Also, it tells something about what kind of a community the Commission pictures the Union to be in the future. A common impression of the EU is an image of a multicultural community, with different languages, religions and nation states living in harmony. The Commission emphasises the same by saying, that *"the Community has always been a multi-cultural and multi-ethnic entity whose diversity enriches the Community itself and benefits all its citizens"* (CEC, 1994, 1). According to this, immigration is seen as a positive issue, which can broaden the cultural understanding of the Union and its citizens. The question that remains to be

answered is, whether there are limits for accepting diversity in the Union. The question of the ambivalence of the immigration policy will be treated more specifically in chapter 5.

3.2.1 Migrants according to the Commission

When talking about migrants, the Commission uses several terms. The term migrant is of course commonly used, but almost as popular is *third country national'*. By this the Commission refers to all migrants residing legally in the territories of the member states, and whose country of origin is other than one of the member states. (see for example CEC, 2000, 6). Immigrants are also mentioned as *foreigners* (CEC, 1985b, 9) or as *non-nationals* (CEC, 1994, 16). These terms already distinguish immigrants from natives as they are seen as opposite to citizens of member states and placed in the role of 'the other'. Citizens of member states are usually mentioned as *community nationals* (CEC, 1985b, 1) or *native population* (CEC, 1985b, 6), and in later communications, *EU citizens* (CEC, 2000, 9). This is of course because citizenship of EU was introduced only during the Treaty of Maastricht in 1992, which is why the term did not exist before. By distinguishing citizens and non-nationals the Commission formulates two spheres of people; those who officially belong and those who do not. European citizens are seen as insiders who have the legal rights to be part of the Community whereas third country nationals are labelled as foreigners coming from outside. It is up to the EU to decide, who it wants to let enjoy the rights of the citizenship and who are to be excluded from them. According to the distinction made by Barrero (1996) in chapter 2.3, third country nationals or non-nationals belong to the Union's population, but they are not included in its *demos*, which is only formed by its citizens.

Patterns of migration from the Third Countries are varied and differ between migrant groups. Third country nationals, or non-nationals, are therefore divided

into different sub-groups. The first migrants group is refugees who have constituted an increasing proportion of the volume of migration from third countries (CEC, 1985b, 11). From the 1985, refugees were considered as the most significant group of third country nationals. The word refugee was not accurately defined until 1994 communication, when the Commission considers a refugee as a person, "...who has a well-founded fear of persecution in his country of origin..." (CEC, 1994, 14). Closely related to refugees are persons in need of international protection. This group consists of persons requiring protection, although they do not fulfil the definition of refugee as laid down in the Geneva Convention[7] (CEC, 1994, 15). The existence of this category of immigrant became relevant during 1990s, when the amount of asylum applications increased due to the war in ex-Yugoslavia in the beginning of 1990s. According to the Commission, the concept of 'temporary protection' has been developed in order to avoid an over-burdening of asylum procedures in cases of mass influxes (CEC, 1994, 7). Immigrants granted the right to temporary protection are in a way in position of 'a visitor'. When the crises situation in his home country is over, he can no longer legally stay in the host country, unlike refugees whose are granted a long-term permits to stay.

The Commission is also talking about labour migrant and foreign labour force (CEC, 1985b, 2). This category of immigrant consists of people from outside member states, who have come to work in the Union. In the later Communication, the term economic migrant (CEC, 2000, 7) is used for the same purpose. The Commission describes this type of immigration as something, which is "...generally driven by economic and market forces..." (CEC, 2000, 12). There can be different kinds of economic migrants, short-term and long-term migrant workers, as well as semi-skilled and skilled workers are mentioned in the communications. The importance of economic migrants for the Union is emphasised especially in 2000 communication. According to the Commission, the role of economic migrants is vital since they can contribute to the EU economy and European Employment Strategy (CEC, 2000, 3).

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[7] International Convention relating to the Status of Refugees was signed 28 July 1951 in Geneva. The

The third significant group of third country nationals is persons following a member of a family, who has already migrated to the EU. 1985 communication mentions these persons as an integral part of the 'main' immigrant. The Commission speaks about *the immigrant and his family* and emphasises the importance of the role of family members in the well being of the immigrant. (CEC, 1985b, 17). 1994 communication already defines family members as individual immigrants as they are introduced under the title *'family reunification'* (CEC, 1994, 21). Now the Commission stresses that the right to family reunification is closely linked to human rights. At the same time, attitudes towards admission of family members have become more restrictive. In 2000 communication family reunification has already risen to be one of the main vectors of immigration (CEC, 2000, 11).

The last, but certainly not the least group of immigrants are illegal immigrants. The concept of illegal immigration has many names and is interpreted in various ways. Some call it 'clandestine immigration', or 'irregular immigration'. It generally means immigration, which is unaccounted for by the authorities. An illegal immigrant is a person entering a country without the permission of its authorities. The Commission uses the term *illegal immigration* or *irregular immigration*. According to the Commission, the number of illegal immigrants is impossible to determine, but already in 1985 it states that the volume of this group is *considerable* (CEC, 1985b, 14). In 2000, the Commission estimates that the amount of illegal immigration is 500,000 people per annum (CEC, 2000, 13). Illegal immigration takes a number of forms. The Commission mentions following illegal means of entry: the use of false documents, evasion of immigration control, or overstaying after having entered the Community lawfully (CEC, 1994, 27). The Commission relates illegal immigration closely to the economy. Illegal immigrants and illegal employees are often standardised. As one of the major reasons for the increase of illegal migration Commission mentions the development of the 'submerger' economy and work in the black market in

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Convention defined the term refugee and his status, rights and duties in the country of reception.

general. (CEC, 1994, 29) It is worth noticing that illegal labour forms a considerable part of the economy in European countries. Baldwin-Edwards (1994) argues that entire sectors of economies would not exist without illegal immigration. Another reason for the growth of illegal immigration is increased immigration control. According to Commission, "*with opportunities for legal migration being increasingly restricted, people wanting to enter the Union are likely to continue to turn to illegal immigration*" (CEC, 1994, 27)

When distinguishing migrant groups, the Commission does not seem to refer to cultural factors as basis for categorisation. One reason why immigrants are divided into different groups is *economic*. Economic migrants are seen as more important than other migrants, because they are productive and therefore useful to the EU. Other types of migrants (asylum seekers, refugees, and family reunification) on the other hand have to be looked after more than economic migrants. Distinction is also made on another basis, the *legal position* of different migrants groups. Community nationals have special rights as regards to migration. According to Commission, "*...Community nationals have a special position, in that their rights as regards migration are protected by Community legislation under the Treaty of Rome...*" (CEC, 1985b, 1). Nationality and citizenship have played an important part in defining the status of different migrants since 1985. Third country nationals are also distinguished on the basis of their legal position. The Commission speaks about those, who reside *legally* in the Union, and on the other hand about *illegal* immigrants, who have no legal rights in the Union.

3.2.2 Immigration policy in Commission's Communications

In communications immigration is clearly seen as an *important* issue for the EU. In 1985 the Commission emphasises the importance of developing common positions in migration policies vis-à-vis third counties (CEC, 1985b, 3). During that time the developments of a common policy for EU was not yet considered as vital. In 1994 the Commission continues to underline the significance of

immigration for EU and reminds, *"immigration has continued to occupy an increasingly prominent place in the political agenda of the European Union and its Member States"* (CEC, 1994, 1). It also emphasises constantly that immigration is a matter of common issue and therefore needs to be tackled on co-operative basis. By the year 2000, the importance of the immigration and common immigration policy has increased due to institutional changes in the Union. The Commission states, *"...there is now a more acute recognition than a few years ago of the importance of immigration matters at the EU level as of the necessity for a common approach to them. This is emphasised by the fact that these areas are now the subjects of specific Community policies and no longer complementary..."* (CEC, 2000, 5) Communications show that the importance of immigration has increased during the past fifteen years. By the end of 1990s the Commission is also more demanding on the development of a common immigration policy for the Union, because it seems to be the only possibility to handle the issues related to immigration.

Immigration is also considered a *complex* phenomenon. In 1985 complexity of immigration was explained by the fact that patterns of immigration differ according to Community countries, and consisted of varied migrant groups. Complexity of immigration continues to come out through the communications. In 2000, the Commission states that immigration flows consist still *increasingly of mixed flows of migrants* (CEC, 2000, 8). The concept of complexity creates an image that immigration is something, which is difficult to master. One could assume, in accordance with the thoughts of Bauman (1990) that the complexity of immigration challenges the simplicity of the social world. By being a complex phenomenon, immigration does not fit into our simplified distinction between 'us' and 'the other' but is left in the 'grey zone'. Because of this immigration obscures the simple classifications and distinctions we use in order to construct our society.

What is striking is that the Commission gives the impression that immigration is a *problem* which needs to be *tackled* by common action. For example, in the 1997 communication the Commission indicated clearly the problematic nature of

immigration. *"...Faced with the growing migratory pressure, Member States should tackle the problem with a common legal framework of rules governing admission..."* (CEC, 1997c, 5). Immigration is clearly seen as a problem which puts it in rather negative light and gives the impression that migrants are not welcomed in the Union. This contradicts with Commission's view that the EU is a multicultural entity where diversity is encouraged.

What then are the reasons behind the need for restrictive immigration control, and why is immigration seen as a problem for the EU. One obvious reason is naturally the increasing amount of migrants trying to move to EU. The amount of immigrants became problematic only during 1990s, as illustrated by 1985 communication indicating, *"... the flow of immigration has became negligible..."* (CEC, 1985b, 13). By the 1994, the Commission changes its argumentation and speaks about *"...migration pressure that needs to be kept in within manageable structures..."* (CEC, 1994, 2) This line of argument refers to the fact that it is specifically a large amount of migrants, which causes problems. The term *migration pressure* is commonly used throughout the 1994 and 2000 communications (see for example CEC, 1994, 13 and CEC, 2000, 13). The Commission also explains why large amounts of migrants are undesirable for the Union. *"Large-scale movements of people do not fit patterns with which Western Europe is familiar or equipped"* (CEC, 1994, 7). Immigration thus causes problems, because the EU has no means to deal with it, and more importantly, the EU is not used to dealing with significant amount of immigrants. As main sources of immigration pressure the Commission mentions ex-Soviet Union and its previous sphere of influence, the South and particularly North-Africa, and ex-Yugoslavia. It also reminds that due to demographic and economic reasons the pressure is likely to continue. Also illegal immigration is mentioned as an increasingly important source for migration pressure in the future (CEC, 2000, 3).

Another explanation may be that immigration is sometimes related to crime and therefore it is thought to cause increasingly problems for European societies. Even though immigration is not said directly to be the cause for criminality, they are

often mentioned simultaneously, and thereby one is understood to influence the other. Examples like this can be found for example in Commission's working program for the year 2001. *"...Commission will pay special attention this year to the approximation of legislation and national practice on asylum and immigration, as well as judicial co-operation. It will also continue its efforts to endow the Union with appropriate instruments which will enable it to tackle in a more effective manner problems relating to crime..."* (CEC, 2001, 10).

1994 can be seen as a kind of a turning point on how the Commission approaches to immigration. During the 1990s the Commission started to see immigration as something more problematic than before due to an increased amount of immigrants, and due to increased criminality, which had risen alongside illegal immigration. Another factor, which has changed in the Commission's argumentation on immigration, is that immigration is introduced as a *challenge* to the Union in 1994 communication. According to the Commission, it is *"the deepening of the European integration process, which calls for common measure to the challenges, which migration pressure poses for the Union as a whole"*. The Commission also reminds, that immigration is not a temporary phenomenon and therefore requires durable solutions. (CEC, 1994, 1)

In 2000 communication, the Commission calls for a new approach to immigration issues. By the 'new approach' the Commission refers to the fact that 'zero' immigration policies of the past 30 years are no longer appropriate. This means that the Commission requires adjusting immigration control to the economic and demographic developments of the Union. It states that *"...as a result of growing shortages of labour, a number of member states have begun to actively recruit third country nationals from outside the Union..."* (CEC, 2000, 3). Later on the Commission however reminds, *"...on the other hand large numbers of third country nationals have entered the Union in recent years and these migratory pressures are continuing with an accompanying increase in illegal immigration, smuggling and trafficking..."* (CEC, 2000, 3). The Commission has clearly recognised the importance of immigration for the Union in the future, but it still

wants to remind the audience that there are problems such as criminality related to immigration, and therefore it should be kept as low as possible.

The Commission also emphasises the positive sides of immigration. According to the Commission, "*immigration policy should be based on the recognition that migratory pressures will continue and that there are benefits that orderly immigration can bring to the EU, to migrants themselves and to their countries of origin (CEC, 2000, 13)*. It also mentions immigration to be "*a positive process which has brought economic and broader cultural benefits to the host countries, and the immigrants themselves*" (CEC, 1994, 1). Immigration is a positives issue but the Commission still points out that the *pressure* continues and thereby gives the impression that only a certain level of immigration welcomed.

In the communications of the Commission, immigration and especially the amount of migrants trying to enter to EU, is usually looked at only from the point of view of the EU. Examining international migration from the point of view of countries of origin in Asia, Africa or Latin America, the whole migration phenomenon looks different. When picturing international immigration as an uncontrollable, massive phenomenon, it should be kept in mind that most people of the world remain within the borders of their country or even at their very place of birth. Usually only a small share of potential emigrants would have the means to migrate, even if migration across the national borders would be free of control. (Malmberg, 21-22) Examining international migration in this context, one can hardly talk about massive immigration flows, or immigration pressure, as the Commission constantly mentions in its Communication.

3.2.3 Immigration policy as means to guarantee the stability

What are then the reasons behind the immigration control in EU? Maintaining stability and the internal security in the EU comes up as one of the major reasons. Public security is connected to immigration from the creation of the Single

Market. The Commission emphasises the meaning of security for removal of internal barriers, when it states, *"...the reasons for the existence of the physical barriers will be eliminated, when alternative ways of dealing with other relevant problems such as public security, immigration and drug control have been found..."* (COM, 1985a, 6). Again, immigration is pictured as a problem for the Union. The importance of immigration policy to the stability of the EU becomes clear in the Commission's Communication from 1994, when it questions the future development of the Union unless immigration is *'properly controlled'* and kept in *'manageable structures'*.

"...the deepening of the European integration process calls for an integrated coherent response, to the challenges which migration pressures and the integration of legal immigrants pose for the Union as a whole. Failure to meet these challenges could, indeed, endangers the future stability of the Union itself..." (CEC, 1994, 1)

The Commission continues to emphasise the meaning of security in its work programme.

"On asylum and immigration, a balance must be struck between openness reflecting both Europe's traditions and international obligations, and the need to secure the Union's external frontiers" (CEC, 2000,15)

It is thus justifiable to say that, concerning migration, the biggest worry of the commission seems to be the ability to guarantee the security of the Union and member states. In 1994 immigration as such became a real security threat for the Union. In the middle of 1980s, immigration was seen as problematic for security regulations, but in 1994 immigration was already clearly introduced as something, which could *endanger* the future stability of the Union.

Communications reveal two main issues, which could endanger the stability of the Union. Both of these reasons are caused by increased immigration in EU. The first

security threat caused by immigration is the spread of crime. " *The European Union has set itself the task of creating an area of freedom, security and justice. In this context, the Commission will pay special attention this year to the approximation of legislation and national practice on asylum and immigration, as well as judicial co-operation. It will also continue its efforts to endow the Union with appropriate instruments, which will enable it to tackle in a more co-ordinated and effective manner problems relating to crime, which are becoming increasingly transnational in nature.* " (CEC, 2000, 16). In its statement the Commission emphasises the need to create common mechanisms such as approximation of national legislation to regulate immigration to the EU. This is important because, according to the Commission, immigration might bring with it possible side effects like crime. The *transnational* nature of criminality refers to the fact that high amount of immigrants may also increase the rate of criminality; criminality is *transnational*, but not *national*. According to the Commission, crime is something that must be fought against in an effective and co-ordinated manner. The problem is that high rate of crime related to immigration can easily be used for legitimising tighter immigration controls.

The second factor, which may cause instability in the EU is the link between immigration and instability caused by xenophobia and racism. Commission states itself, "*... there are people who are genuinely concerned by the perception that large numbers of people are immigrating to Europe...*" (CEC, 1994, 4). Commission emphasises the importance of the fight against racism and requires rapid responses to the questions related to it, because manifestations of racism and xenophobia have included physical attacks, arson and murder which may lead to internal security problems. (CEC, 1994, 38) The danger that lies in the statements connecting racism and increasing immigration is the possibility to use them for legitimising ever increasing immigration control in order to keep organised xenophobia at a low level.

4. POLITICS OF CONTROL

As mentioned earlier, a common immigration policy in the EU is mainly concentrated on controlling immigration flows entering EU. In this chapter, I will therefore examine more closely the concept of control, and how different immigration control strategies are produced in communications. I will also return to the concept of security, which according to the Commission, seems to be one of the reasons why immigration control has to be exercised. I also intend to examine by which means immigration is controlled in EU. Citizenship is a commonly used tool when controlling immigration, but economic factors also play an important part in control strategies.

4.1 The origin of immigration control

The role of state has often been left without importance in the immigration analysis. Immigration flows have been explained by socio-economic processes such as push and pull factors that promote or prevent immigration. However, in periods of strict immigration control the significance of state policy is of vital importance, even though states and political communities such as the EU are able to construct control policies that effectively direct the immigration flows. Controlling immigration is rarely a neutral issue and phases of increased immigration control are often related to other changes in societies. The reason behind immigration control is not always regulation of the amount of immigrants *per se*, but the question is more about controlling the issues, immigrants represent in a certain society.

According to the Universal Declaration of Human Rights (1948), migration within a state as well as emigration from a state are considered as basic human rights, but there is no right to enter a country of one's choice. As a consequence, several mechanisms of immigration control and regulation are recognised by international law in order to secure a country's sovereignty. It is thus up to a state to make laws concerning migrants and to decide about substantial rights, which are given to

foreign people in the state. (Ahmed, 164) Nevertheless states have not always had authorised control of movement into their territory. Under feudalism in the Middle Ages particular social groups and private entities controlled the right to migrate. For example, the rights of slaves and of servants to move were under the control of their masters, not the receiving state. (Torpey, 2000, 7-9) The state was however not without surveillance over movement of people in its territory. In England, the statute of 1381 forbade all but peers, merchants and soldiers to leave the kingdom without a licence, even though Magna Carta[8] had guaranteed all English subjects the freedom of departure. In France passport controls were an important mechanism of domination under the 'ancien' regime, Louis XIV had forbade his subjects to leave the territory of France in 1699. These controls of movements remained internal matters and quite irregular in their nature, and therefore one cannot speak about state's full control over its population. (Thorpey, 2000,18-20)

The process through which states took control over the legitimate means of movement took hundreds of years. One of the preconditions for it was the transition from feudalism to capitalism. The process coincided with the shift of orientation from a local to a national level that accompanied the development of national states. The Congress of Vienna in 1815 guaranteed a century-long period of relative peace in Europe. Simultaneously, the liberation of peasants and of trade from traditional dues began as a part of abolition of feudalism. As a consequence, peasants previously controlled by their masters were now travelling across the country unhindered. It was partly this lack of patronage, which slowly lead to the initiatory nation-states to take over total control of population movement during the nineteenth century. (Thorpey, 2000, 57-66) According to Ahmed (1997), it was the emergence of the territorial state, which was the precondition for regularised control of immigration. When European states grew in size and territoriality became one of the most important factors defining them, restrictions

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[8]Magna Charta was a declaration and charter given by John Lackland in 1215. The purpose of Magna Charta was to guarantee the participation of the nobility and the Church in the regulation of taxation and to assure the freedom of the Church over the state.

of movement concerned national boundaries, not those of municipalities as previously in feudal times.

Immigration control as a way to regulate a country's population is thus a fairly recent phenomenon and the process is closely related to the birth of the nation-state and nationality in the nineteenth century. As mentioned earlier, it was during the nineteenth century, that foreigners and aliens began to be considered as enemies. (see Bader 1997, 61) As a consequence, states became more preoccupied with protecting their national interest *vis-à-vis* aliens. (Ahmed, 1997, 159) The rise of the nation-state also meant that the legal distinction between citizens and aliens began to play a central role in unified states. This ideological distinction was put into practice by means of border guards and immigration controls. It was however not until the end of the First World War that passport controls on national borders became common worldwide, and immigration control in the modern sense began to spread. During the nineteenth century passports and making detailed checks on the citizens was considered as 'barbaric'. Controls were exercised at the time for example in Russia and Ottoman Empire, but European states saw them as an action against 'respectability of the state'. (Dale & Cole, 1999, 27-28) From that time systems of immigration and alien control have increased with the exception of 1960s, when foreign labour was recruited systematically in Western Europe to facilitate the shortage of manpower and push forward the European economy. (Ahmed, 159-161)

Immigration control has often been viewed nearly as an intrinsic part of the development of the modern nation state. Thorpey argues that passport and other documentary controls on movement have been an essential feature in the development of modern, territorial states, and that protection of a territorial state from population movements has been a fundamental attribute of a state's sovereignty. Immigration control and the distinction between citizens and non-citizens has also functioned as a useful means of nation-state building and in the construction of national identity, since they gave states the legal possibilities to define who is considered part of their nation. Immigration control is also related to

the legitimacy of the existence of a state. For example, Brochmann (1996) states that a state ultimately "ceases to be a state if it does not control the implantation of foreigners on its soil" (Brochmann, 1996, 11). This is to say that the modern state gains it legitimacy by protecting its boundaries and the population living inside it from external threats, and immigration control is seen as one way to practice this protection.

4.2 Control strategies in EU

Immigration control is exercised at different points on a migration route and with different control mechanisms. Diverse control policies are also used for different migrant groups, and it is therefore useful to specify the control strategies that appear in the communications. Immigration policy produced by the Commission concentrates on control. In this chapter, my intention is to examine more closely what kind of control strategies can be found in communications, and to find out how these strategies reflect the Commission's attitudes towards immigration.

Developing common strategies for immigration control is of vital importance to the Union. According to the Commission, the EU has to take action on migration pressure because, *"despite changes in the patterns of migratory movements, the overall pressures have not diminished and are unlikely to do so"* (CEC, 1994, 11). Control is seen as vital because of the amount of immigrants. As a basis for any kind of immigration control, the Commission requires accurate information on immigration flows. " *The Union needs that information in order to formulate and justify the necessary policy measures*" (CEC, 1994, 12). Exact information also gives the Union the possibility to forecast major migratory movements, which according to Commission can function as '*early warnings'* (CEC, 1994, 12)

The Commission divides a comprehensive immigration policy into three different parts; taking action on migration pressure, controlling migration flows and strengthening integration policies for the benefit of legal immigrants. (CEC, 1994, 11-12) Since the first two measures concentrate on decreasing the number of immigrants coming to the EU, is can be concluded, that the emphasis of the Commission's view on immigration policy is more on controlling migration flows than on integration. Controlling immigration only seems to have become an issue in EU during the 1990s. 1985 communication recognised only that there is a tendency in the member states "*...for reduction in the number of immigrants from non-member countries who are allowed to settle...*" (CEC, 1985b, 4). The

Commission itself does not suggest any real action to be taken in order to decrease the amount of migrants. The reason of lack of paying attention in controlling immigration in 1985 may be the fact that in 1985 communication the Commission does not speaks about immigration pressure, as it does in following communications. Immigration is not yet seen as a problem for the Union and therefore it does not suppose major actions concerning control.

Dealing with the root causes of immigration is one of the strategies by which the Commission wants to diminish immigration pressure in the EU. According to the Commission, dealing with root causes refers to the need to reduce push factors, primarily through economic development in countries of origin, but also through activities such as legislative reform, law enforcement capabilities and modern border management systems. (CEC, 2000, 7) To be able to influence the root causes of immigration, the Commission requires the Union and its member state co-ordinate its foreign, trade and development policy. Dealing with the root causes is an important part of control strategies, according to the Commission ". *EU asylum and immigration policy must necessarily involve co-operation with the countries of origin...*" (CEC; 2000, 7). Control mechanisms like economic development, legislative reform and modern border management systems in countries of origin refer rather to developing countries than to western ones. It is therefore justifiable to assume that the intention is to decrease immigration from poor developing countries rather than from rich ones. Brochmann (1999) calls this type of action *preventive* measures. The meaning of preventive measure is to strengthen and diversify *external* immigration control (which includes action such as visa restriction and border controls) by hindering the potential migrants from reaching the borders of Western European countries.(Brochmann, 1999, 12-15)

Dealing with root causes of migration is an important strategy in communications and according to the Commission it reflects *responsible* attitudes towards the effects of emigration on sender countries. The Commission also emphasises that *European values* and *traditions* require this kind of action (CEC, 2000, 7). As European values, openness, respect for human rights, fundamental freedoms and

social justice are mentioned. (CEC, 2000, 13). Here the Commission wants to emphasise common European values, and thereby strengthen the sense of solidarity in the EU. As a control strategy, reducing the push factor of migration is interesting. As a strategy, it has a kind of *dual meaning*; it indicates the Commission's objective to prevent migrants from reaching the EU, but at the same time it reflects the Commission's desire to produce an image of the EU as a coherent entity with common values and common objectives.

Hermele (1997) argues that in the case of unwanted migration, the receiver countries may find themselves morally and politically obliged to intervene on behalf of the migrants, who reluctantly have been pushed into migration by an incompetent sender state. Receiving countries therefore improve economic and social conditions of the sender countries in order to justify increasing restriction on admitting immigrants into their territory. (Hermele, 1997, 70) It could be assumed that the Commission emphasises a willingness to improve economic and social developments of sender countries in order not only to help the countries of emigration, but also to legitimise the restriction it imposes for immigration. In addressing migration pressures, as the Commission states, the Union has to honour its basic traditions of openness and respect for human rights. However, these values must not deter the Union from seeking to reduce migration pressure. To justify this, Commission refers that everyone is actually better off in their home countries. 1994 communication indicates: *"For example refugees, although their protection is part of the traditional openness of European countries, would normally have preferred to stay in their country of origin, and had the human rights situation been better there"* (CEC, 1994, 13).

The second part of control strategy consists of admission policies. This refers to all kinds of regulations, which aim to control the entry of third country nationals into the territory of member states. Communications present different control mechanisms depending on the migrant group in question. Differentiation of control strategies in communications is made according to distinction of different migrants groups made in the chapter 3.2.1. According to this, the Commission has

diverse strategies for admission to the EU for humanitarian reasons; family reunification, economic reasons and illegal immigration. A common asylum system, including common asylum procedure and uniform status for those granted asylum, is seen as vital part of a common immigration policy in the EU. One reason for the necessity of developing a common aspect for asylum issues is the concern of the misuse of asylum. The Commission requires already in 1985 communication determination to combat illegal immigration and the misuse of refugee status (CEC, 1985a, 4) The Commission begins to define a clear strategy for admission of refugees and persons in need for humanitarian protection only during the 1990s. According to the Commission, a common strategy should include "...*managing the examination of asylum applications in such a way that every application can be considered in a fair and efficient manner...*" (CEC, 1994, 22), as well as harmonisation of the definition and the status of a refugee in member counties (CEC, 1994, 23)

According to the Commission, control strategies concerning economic migrants should enable the EU to respond quickly and efficiently to labour market requirements at national, regional and local level (CEC, 2000, 15). The Commission wants to lay down clearly the conditions under which third country nationals may enter and stay in the EU as employed or self-employed workers. It suggests the implementation of a *job-seeker visa*, which would help to regulate and monitor labour migrants entering the EU, and simultaneously prevent the presentation of potential labour migrants as asylum seekers, whom the Commission considers as misusing asylum procedures (CEC, 2000, 18). Communications emphasise strongly *adjustment* and *flexibility* of admission strategies for economic migrants. Flexibility is seen as important because of changing economic needs and labour markets. The Commission stresses the necessity to guarantee the economic development of the Union and produces an image of EU as economically coherent and important space. Economy is here constructed as an important value for the Union, which functions as a means of creating common objectives for the Union. Immigration in this context only plays a role of a resource, which is regulated according to the needs of the EU.

Because illegal immigration forms a large part of immigration in the EU, it requires coherent and co-ordinated measures to be properly regulated. The Commission is continuously speaking about *the fight against illegal immigration* (see for example CEC, 2000, 16) and mentions it as a matter, which *needs to be tackled systematically with specific measures* (CEC, 2000, 12). Control measures against illegal immigration consist of preventive measures combined with direct control mechanisms. As preventive measures, the Commission mentions information campaigns by which potential migrants can be informed about legal possibilities for migration and of the *dangers* of illegal migration (CEC, 2000, 12). The final measure in the fight against illegal immigration is voluntary, or forced return to the country of origin. (CEC, 2000,12)

Waever (1993) argues that it is especially the growth of illegal immigration that has given EU the legitimacy to increase surveillance of people. Because the exact amount of illegal immigration is impossible to determine, it is easy to over-estimate the figures and thereby demand for stricter mechanisms of control. According to him, realisation of the Schengen arrangements has increased a high degree of police co-operation and co-ordination of police forces to control non-citizens. In order to prevent the possible risks to internal security of the Union, effective policy co-operation between the member states is needed. The Schengen accord is backed up by a computerised intelligence and information system (the Schengen Information System). The system provides data concerning people who are denied the access to EU. These people consist of asylum seekers who have already had their application refused, illegal immigrants and criminals. (Waever, Buzan, Kelstrup & Lemaitre, 1993, 164)

In the light of the communications, control mechanisms have developed and increased during the last fifteen years. 1985 did not mention control of immigration whereas during the 1990s it has seemed to become almost the only method of dealing with immigration, at least from the Commission's point of view. Despite increased control on immigration, the number of immigrants has

remained the same, or only slightly increased (see table 1 in chapter 3.1.1) On the basis of this fact, one could question the efficiency of controlling immigration in the first place. The United Nations High Commissioner of Refugees' Ruud Lubbers in Refugee has also raised this question[9], "...*it is a real problem that Europeans try to lessen obligations to refugees... In any case, no wall will be high enough to prevent people from coming...*" (Refugee, 2001, 7). Doornernik, Penninx & Amersfoort (1999) raise the same question. According to them, a comprehensive supervision of migration by means of government policy is an illusion. One could therefore assume that the purpose of immigration control is not only to decrease the actual number of immigrants, but also to attain other important objectives. As mentioned earlier, immigration control is closely linked to the birth of nation-state as it gave a state a possibility to define its population and thereby construct a nation based on a unified identity. Immigration control can therefore be considered on of the means of practising identity politics and constructing a 'unity' identity for a certain community.

4. Reasons to control in communications

International migration does not just happen, but is largely dependent on the receiving countries and their willingness to accept migrants. In a system of sovereign nation-states, no country is able to survive without controlling the population moving in and out of its territory by some means. This fact is also revealed by the Commission's anxiety to control its borders, i.e. the member states situated at the external borders of EU. Immigration control is therefore a necessary and important part of the Commission's policy. Immigration control and control strategies are produced by using different determinants which are considered to be important for the one controlling. It is therefore important to examine more closely the Commission's control strategies. Knowing what is considered important when practising immigration control can tell something about 'hidden' goals of Commission's immigration policy.

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[9] UNHCR's magazine, which discusses refugee issues.

4.3.1 Economy in determining control

Economical interests are often considered as important when practising immigration control. According to Brochmann (1996), economy as a defining factor of immigration control is closely related to a welfare state. According to her, a welfare state brings a dual dimension into migration context; on the other hand it becomes pertinent to control the limited benefits of the welfare societies; on the other hand the welfare aspect makes it more attractive to enter from 'the other side'. A welfare state, however, is a closed system, the ability to enjoy its benefits supposes membership (citizenship); inclusion of members on the other hand means exclusion of others. Immigration control in this context means the ability of a state to guarantee welfare benefits to its members by denying the others from enjoying them. It also means the ability to protect economic interest of a state by regulating the number of immigrants in labour market. By controlling immigration, states also want to control economic consequences of the immigration. (Brochmann, 1996, 18-21)

Economic factors play a significant role in defining immigration control in communications. Especially the functioning of labour markets seems to be of vital importance for the Commission. Labour market situation and immigration control are related already in 1985 communication. " *Within the framework of overall labour market policy, keeping migration of foreign workforce under control is important*" (CEC, 1985b, 12) Labour market situation is seen as important also in 1994. " *It will be necessary to monitor closely labour market developments in order to ensure that admission policies are capable of adapting to new demands*" (CEC, 1994, 22). Later on the Commission still emphasises, " *...if there was a long-term need for labour supply, migration should be allowed in order to fill up these gaps*" (ibid. 22). Economic migrants in communication can be seen as a supplement to European labour market. From the economic point of view, immigration is important for the Union because it allows the Union to promote

positive development in economy of the Union, which on the other hand is considered an important value holding the Union coherent.

Also 2000 communication emphasises economic importance of immigration to the Union. In 2000 communication the Commission suggests that the member states should give plans on how many labour migrants they wish to admit in the future. Later on the Commission calls for *a flexible approach* and continues that the amount of immigrants should be related to changing economical needs, but as well to *"...other factors such as public acceptance of additional migrants workers..."* (CEC, 2000, 16). In 2000 communication the Commission also speaks about *"...opening up of channels for immigration for economic purposes to meet urgent need for workers..."* (CEC, 2000, 13). Communication gives the impression that immigrants should be admitted according to economical needs of the member states. It could be claimed that in general the Commission wants to restrict immigration control, nevertheless it also wants to keep doors open for a policy of labour migration and hopes to keep some flexibility in relation to needs in the labour market in order to secure positive economic development of the Union.

Emphasizing economy and issues related to it as one of the major factors defining the intense of immigration control indicates the importance of economy for Commission and EU. The Commission is constructing economy as an important European value, which produces unity for the EU. Economy as a value defining the unity of EU is closely related to Delanty's concept of 'new' identity. Delanty (2000) emphasizes the importance of economic and material factors in a 'unity' identity of a certain community. According to him, the sense of belonging, and thereby also the unified identity, is partly formed on the basis of the economic and material benefits that a state (or other community) is able to provide its members. (Delanty, 2000, 100) As already mentioned, economy plays an important value in the Commission's immigration strategies. One could therefore assume that the Commission wants to guarantee the economic development of the EU to be able to provide its citizens with (economical) advantages of belonging to the Union.

Immigration, which can promote this objective, is seen as important. Other migrants groups on the other hand represent a burden for the Union, since they may endanger the economic development of the Union.

4.2.2 Citizenship as means of control

Above economical factors, national identity is often considered a primary determinant of immigration control, and societies are viewed as having different levels of tolerance for foreigners in relation to how the country regards itself and its own national mythology. (Money 1999) argues that in Europe, the membership of societies is tied to shared ethnicity and nationality. A common identity, and factors defining it such as common history and tradition, language, religion and racial characteristics, plays a major role in who is considered to be inside or outside a society. These states are called 'non-immigrants states'. As a juxtapose for European perspective, Money mentions Australia, Canada and United States of America, which she calls 'traditional settler nations'. In settler states national identity and citizenship are based on civic values of participation, and immigrants are therefore viewed as potential citizens. In contrast, in European societies citizenship and national identity are more based on ethnicity and immigrants are viewed as aliens or foreigners rather than potential citizens. This fact also explains why many European states consider immigrants from former colonies more positively that those with no previous connection to the host country. (Money, 1999, 6-10) This distinction is of course very basic, and should be handled with consideration. European states (EU member states) can be fairly different, and consequently their attitudes towards immigration vary considerably. It is still justifiable to assume that the history of immigration in countries like United States influences the way, how the country relates towards immigrants.

Definition of immigration control in terms of nation, nationality and national identity requires further examination. As already mentioned in chapter 4.1, the origin of immigration control regulated by the state is closely related to the birth

of the nation state in the nineteenth century. After the spreading of the nation-state, nation became one of the most important concepts defining a political sense of community. Compared to the state, which is mainly a legal unit, the nature of the nation is more human. The concept of nation is closely linked to nationality and citizenship. If one is born as a citizen of a certain state, one also belongs to that nation. Gubbay (1999) argues that nation-states adopt symbols and policies that identify citizenship with nationality, and thereby promote the idea that all subjects of the state are a single people with a common history and destiny. (Gubbay, 1999, 46) Nation and nationality are therefore inclusive concepts, through which people unite and differ from each other. This kind of separation also produces also a formal distinction between a citizen and a foreigner.

According to Gubbay (1999), international migration poses a fundamental challenge to nation-states that assume territorial, political and cultural boundedness. States struggle to control these intractable realities by routinely checking on the status of individuals and by laying down rules and procedures regulating work permits, residence and naturalisation. Immigration control provides the state with the possibility to re-produce the concepts of nation and nationality. By controlling migration, the state is able to draw the distinction between the citizens, who are included, and the foreigners, who are excluded from the nation. Making this distinction provides a state with the possibility to create a unique, political community, which enables it to be distinguished from other political entities, and consequently justify its existence among other political entities. (Gubbay, 1999, 45) Immigration control is thus a way to unite a certain group of people by excluding others. Creation of citizenship and a unified community by using immigration policy as a tool, becomes relevant already in 1985 communication. The Commission argues "...*migration policy at European level may gradually take shape as an integral part of the move towards European citizenship...*" (CEC, 1985, 5)

Citizenship is a vital means in producing strategies to control immigration. It gives the state a legitimate and a legal means to control movements of population

in its territory, and thereby the means to hold on to its sovereignty by protecting its territory. Citizenship also provides a state, or any other political entity like the EU, with a possibility to offer concrete advantages to its subjects of belonging to a certain nation. Torpey (2000) argues that because of the ability to control the movement of people, people have become dependent on states for possession of an identity. (Torpey, 2000, 19)

The idea of creating a common European citizenship dates back to the early 1970s and has been closely linked to the idea of creating closer political union between Community's member states. Lundberg (1995) argues that one of the reasons to create a European citizenship[10] is to establish the European Union as a nation and to create a feeling of belonging to the European construction. Citizenship creates a political society for Europeans, it makes EU citizens political beings while non-citizens do not have the possibility to exist in a political area. European citizenship can be considered to be exclusive by its nature, since one can be a European citizen only if one is first a citizen of any of the fifteen member states, immigrants having no right concerning of citizenship (Lundberg, 1995, 124-125)

Even though the Commission occasionally refers to the EU as a multicultural community, it seems that Commission still supports the old idea of nationalism and national identity. When the Commission is saying that refugees are better off in their home countries (CEC, 1994, 12), it could also be saying that 'Europeans' are better of on their own, without any confusion from other cultures and national identities which may endanger the existence of 'European' values and identity. It could therefore be assumed that Commission is constructing a common identity in the EU through immigration policy. When dealing with immigration, the

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[10] The treaty of Maastrich (1996) introduced the citizenship of the European Union and it consists of the following rights;

- the rights of freedom of movement and residence in the territory of the member state.
- the right to vote and to be elected in local elections and to elections of the European Parliament in the member state of residence.
- the right to diplomatic protection in a third country, and
- the right to petition the European Parliament as well as the possibility to appeal to an ombudsman. (Martinello, 1995, 38-39)

Commission emphasises common European traditions in order to construct an image of 'us' 'Europeans'. At the same time the Commission produces an image of 'the other', when it places immigrants outside of Europe, where, according to the Commission, they actually want to be and where they belong.

4.3 New security concept behind immigration control

4.3.1 The modern concept of security

Citizenship and nationality as determinants of immigration control leads to the concept of security. When giving reasons why the amount of immigrants entering a territory of a certain state or political entity need to be controlled, security is often mentioned as a major motive. What then is the main quality that makes something a security issue? According to Buzan (1998), security is about survival. However, security and survival do not exist unless there is a threat. The concept of threat does not operate in a void; it functions only by threatening something. Security is therefore about both threat and an object, which is threatened. For example, in the political sector, existential threats are traditionally defined in terms of the constituting principle - sovereignty, but sometimes also ideology – of the state. Threat is thus a main component of the security concept. It is the existence of security threat that justifies the use of extraordinary measures to handle them, and the invocation of security has been the key to legitimise the use of force and control. (Buzan, Waever & de Wilde, 1998, 21-40)

Herz (1959) argues that the origin of state security is closely linked to the birth of the modern territorial state. The existence of a certain legitimate territory supposed protection of those living within its boundaries. Closely related to the concept of territoriality is therefore the right of the state to control the population within its territory as well as the flows in and outside of its territory. Immigration control was then considered an important attribute of the state's power and existence. The practice of state control over people, and the legitimacy of the state were also justified by the concept of security. According to Herz (1959), *people, in the long run, will recognise authority, any authority, which possesses the power of protection.* (Herz, 1959, 40) The state's capacity to protect its population from external threats is thus the main justification of control. One could also argue that according to this perception, protecting the EU from so *called immigration*

pressure gives the Commission, and the EU as political entity, the legitimacy to its existence as a superior authority.

Security can also be seen as a concept closely related to the distinction between 'us' and 'them'. This distinction is formulated as a split between trust and fear. Security locates trust and fear and consequently separates the spheres of those who trust one another and those who do not. In the context of security, the distinction between 'us' and 'the other' is constructed through the concept of trust. Trust creates a kind of unity-identity. It constructs the relations between certain units uniting some and setting the others apart. Fear, on the other hand, is related to difference, it is located outside the unity-identity, which provides us with a feeling of security. Fear is something human beings desire to be freed from, and therefore *controlling* the fear can provide people with the feeling of security.

4.3.2 New concept of social security

The Commission's transformation of migration and refugee flows into a security problem leads us to see security in a new light, because the threat that causes insecurity is not another sovereign state or entity, but rather an unknown population flow. In the dominant literature of the international relations, the main object of reference has been the sovereign nation state, but lately the issue of the reference object, and its identity, has been complicated under the heading *societal security*. What is threatened in this security context is not the territory or state in a traditional sense, but more the right of the society to keep its own identity. (Huysmans, 1995, 53)

The concept of *societal security* is closely related to, but still distinct from, political security, which is about the organisational stability of states, systems of government, and ideologies that give governments and states their legitimacy. Societal security is more about the *nation's* security than that of the state's. The concept is important because only rarely are state and societal boundaries

coterminous. The state is usually based on fixed territory and formal membership, whereas societal integration is a much more varied phenomenon that can also occur at larger and smaller dimensions than that of the state's. This means that societal insecurity can exist, even if the security of the state is not in danger. The EU can easily be fitted to the new concept of societal security when one believes that EU already forms a society where individuals can identify themselves as members of a community. (Buzan, Waever & Wilde, 1998, 119-140) In the context of EU, this identification can for example be made by EU citizenship, which gives the members of the Union a sense of belonging by providing concrete advantages of being a member of EU and thereby distinguishing its citizens from others.

The organising concept in the societal sector is identity. Societal insecurity exists when communities define a development or potentiality as a threat to their survival as a community. Survival on the other hand can be endangered by loosing the common identity that holds the community together. Societal security refers to the level of collective identities and action taken to defend such as "us" identities. Societal security is about large, self-sustaining identity groups, which can vary in both time and space. Buzan (1998) says that these identity-based communities can be seen as self constructed 'imagined communities', their existence is based on a common identity, and loosing it would therefore mean the disappearance of the whole community. (Buzan, 1998, 121-123) Security of a 'unity' identity can also be in danger, if a superior authority no longer has the means of cultural reproduction. This fact was also noted by dal Lago (2000), when he stated that one of the main reasons for insecurity in European societies is the inability of the state, or other political authority, to control the means of cultural production because these had been commercialised. (dal Lago, 2000, 173)

Buzan emphasises that the security threat to identity is not only a question of the construction of something as threatening "us", but it is at the same time contributing to the construction or reproduction of "us". Huysmans (1995) also states that security is not only about threats and reference objects but also about

production and reproduction of units and their identities. According to him, threatened identity is placed in the centre of attention. While creating a centre, one also creates a periphery, an outside environment, where the threats are located. Conflicts and difference are moved to the external environments. The same distinction can also be seen through the concept of trust; relations at the centre are based on trust while relations between the centre and periphery are seen as something to be feared. The existence of the periphery, the outside environs, is however of vital importance for the process of identity creation. The existence of a disharmonious outside is important because 'unity' identity can only be built by facing the other, by reflecting the inside against the outside and thereby emphasising the unity of 'us'. According to this logic, while 'defending' the EU from the so called immigration pressure, the Commission is not only protecting the EU from immigration flows *per se*, but also constructing a so called 'us' identity for the Union.

4.3.3 Construction of immigration as a security problem

Security can be understood in many different ways depending on the context. According to the societal security concept, immigration can be seen as a threat because a 'native' community is confronted with a large group of foreigners that may endanger the existence of a native community as it used to be. Changes in total population caused by an immigration flow are then seen as something disturbing harmony. As a means of protecting oneself from the threat created by immigration, border controls and immigration legislation are commonly used. Transforming migration and refugee flows into a security problem is neither a neutral nor innocent activity. Chapter 3.2.3 already indicated that the Commission sees immigration, at least to a certain extend, as a security problem for the Union. Since nation-states are no longer in a complete control of their external borders, the EU must provide the means to maintain the national security of the member states in order to avoid the rise of extreme nationalistic or racist movements.

In the White Paper (1985a), the Commission emphasises that the abolition of internal border controls requires effective immigration control. *"If the objective of abolishing all internal frontier controls becomes reality, alternative means of protection will need to be found and strengthened"* (CEC, 1985a, 10). Even though security was mentioned as necessary for the formation of the internal markets and free movement, it was not until the 1990s before immigration as such was mentioned as a threat to the future stability of the Union. 1985 communication did not refer to security, or the stability of the EU when speaking about immigration. It was only in 1994 that the security dimension in immigration issues became relevant. Immigration was considered to threaten the Union because of increased criminality and racism.

The security aspect is also evident when the Commission is speaking about *protecting* EU. Also the word protection of immigration does not exist until 1994 communication. (CEC, 1994, 2) The word protection refers to the fact that EU is threatened by something and therefore needs to be protected. Here the so-called threat is pointed to immigrants. Protecting EU from the so-called immigration threat gives the Union the legitimacy to existence. As stated by Hertz, people recognise the authority that poses the power of protection. Constructing immigration as a security problem is important for the Commission and the EU because being able to *protect* European people from that threat increases its legitimacy.

The importance of security for the EU increased with the introduction of the Treaty of Amsterdam. According to the Treaty, the Union should be maintained and developed as *an area of freedom, security and justice*, in which the free movement of people is assured in conjunction with appropriate measures for external borders controls, immigration, asylum and the prevention and combating of crime. (CEC, 2000, 5) The EU has given a promise to its citizens to protect them form external, or internal threat, and its legitimacy to exist as a political entity is partly dependent on this promise. Immigration is also closely related to

crime, which pictures the phenomenon as something illegal as representing a threat to the Union.

But how do migrants become actors in this security agenda? Huysmans suggests that once turned into a security problem, the migrant appears as the other who has entered a harmonious world and, just by having entered it, has disturbed the harmony. The migrant is the source of disharmony and uncontrolled immigration feeds the feeling of growing insecurity in European societies. According to communications, disharmony is constructed by referring to criminality and racism, both caused by increasing immigration pressure, which both shake the stability and well being of European societies. These arguments indicate that if there were no immigrants in the EU, this kind of disharmony would not exist. By constructing immigration as a security problem, which endangers the inner stability of the EU, immigrants are put in the role of 'the other', who cannot be trusted. Immigration becomes something that should be feared. The concept of security divides the population of the EU into two. EU citizens form the inner circle of those who trust each other. Foreigners on the other hand are outside the circle of trust and represent disharmony, which is feared. By making this distinction, the Commission is not only protecting this 'unity identity' between people who trust, but also re-constructing this identity by placing immigrants opposite to 'us'.

5. AMBIVALENCY OF IMMIGRATION POLICY

5.1 Politics of inclusion and exclusion

It would be false to claim that European immigration policy is solely exclusive and only citizens of the member states are welcomed in other member states. Quite the opposite, as mentioned also in the communication from the year 2000, *"labour shortages and demographic trends have lead to the situation, where some of the member states have begun to actively recruit third country nationals from outside of the Union"* (CEC, 2000, 6). The purpose of this chapter is to find out, why different control strategies are needed for different migrants groups, and on what basis those strategies are implemented. When the Commission speaks about migration pressure, from which EU needs to be protected, it does not necessarily refer to *all* migrants entering EU, but only to *certain* migrant groups.

While Europe is becoming more and more international, distinction into "us" and "others" has become even deeper both at the European Union level and at that of national state. This distinction can also be seen in EU-treaties concerning migrants and asylum seekers. In the treaties, people are divided into two groups: wanted and unwanted migrants. (Ryynänen, 15-16) It is therefore justifiable to say that nature of the common European immigration policy is somehow ambivalent. Some forms of immigration are welcomed and stimulated, while others are excluded and restricted.

Citizenship is considered as an exclusive concept. It does not only define, who is entitled to certain rights, but also determines, who is something. Citizenship joins exclusively certain human being to be part of a certain community and thereby leaves the rest outside this community. Also Commission uses citizenship as

means of inclusion and exclusion in communication, it divides people to EU citizens (CEC, 2000, 9) and non-nationals (CEC, 1994, 16).

Citizenship is however not the only means of exclusion in the Commission's immigration policy. In many occasions the Commission stresses out the importance of fair treatment of third country nationals residing legally in the Union and the promotion of diversity (CEC, 2000, 6). This hospitality however, does not refer to all third country nationals. In the light of communications, it looks that the Commission divides third country nationals into two different groups. The distinction between third county nationals, or non-nationals as the Commission puts it, is made much on the basis of *economic* factors. Mobility (of people) is considered as important in the EU because it *"...represents a large number of opportunities for workers to find a job and for employers to find people with adequate skills, thereby enhancing employment and economic growth..."* (CEC, 1997, 3) People who move to the EU for work, with *adequate* skills, are important, because they promote economical growth and thereby the well functioning of the free market. The Commission itself states, "right to abode in another member state for long-term residents could be an important factor in promoting mobility within the labour market of the Union" (CEC, 2000, 10). This type of immigration should be thus encouraged. The Commission also sees as vital the integration of economic migrants by treating them as equals with EU citizens. It states that *"it is no longer justifiable that a worker who is covered by national security arrangements should be completely excluded from the protection offered by the Community co-ordination system simply because he or she is not an EU national"* (CEC, 1997).

On the other side are migrants entering the EU in the humanitarian basis, who are seen more as a burden to European societies, and with which the EU has no means and tradition to deal with. (CEC, 1994, 7) When speaking about refugees or persons in need of humanitarian protection, the Commission refers often to the term *burden sharing.* (see for example CEC, 1994, 15) These immigrants are not seen as productive for the Union, but rather as a burden. Member states do not

persuade these immigrants to migrate to the EU like in the case of economic migrants with *adequate* skills. The Commission is more emphasising that this group should be divided among the member state in order not to strain any of the member states too much.

Referring to Barrero's (1996) distinction between *universal* and *selective* exclusion, the Commission excludes migrants *selectively* from the Union. Only migrants representing too much dissimilarity with the EU's demos are excluded whereas migrants who are close enough to the 'European' identity can be included. According to communications, a common denominator between included migrants and EU citizens can be found in economical issues. Creation of an economically well-functioning and growing area seems to be of vital importance for the Commission. Economic migrants enable the EU to promote this idea and therefore they are considered to share sufficiently same values with the European *demos*.

The distinction between 'wanted' and 'unwanted' immigrants could also be done in accordance with the thoughts of Georg Simmel (1950). As it was already pointed out, Simmel sees migrant as 'a wanderer', who has himself chosen to be 'the other'. For him a migrant, or a stranger, is a form of interaction, which brings positive qualities to a certain group, which it could not achieve on its own. Immigrants, who the Commission sees in positive light, reflect the Simmelian concept of stranger. They are seen as global travellers, who have chosen to migrate in order to see something different. They also bring qualities to the group (EU), which it could not achieve without the existence of immigrants. By these qualities the Commission means for example efficiency in the labour market, or better function of the area of the free movement. Immigrants as refugees, persons in need for humanitarian protection or illegal immigrants on the contrary are seen more as a burden for the Union. When speaking about immigration pressure, the Commission usually refers to these groups. These immigrants do not place at the Simmel's romantic concept of a stranger, but are rather located at the most marginal roles in the hierarchy of European societies.

5.2 In search of the lost identity

European countries are in the state of historic transformation. The Treaty of Maastricht with the emphasis on European Union and the creation of the European citizenship has raised fears that the national identities and sovereignty of the member states will be eroded. States are no longer able to produce common identities as before, as a consequence the idea of national identity has become more arbitrary. This has created a feeling of general uncertainty, where individuals can no longer have clear rules of belonging to a certain nation.

In the situation of uncertainty people are looking for something that provides them with a feeling of security and belonging. Providing people with a sense of security and belonging is of vital importance especially for political communities such as EU, because failure of doing so could jeopardise the legitimacy and justification of their existence. If the European Union is to exist as a real entity, commanding popular loyalty, it must be built around a 'European identity', claims Dale & Cole (2000). The making of European Union also requires the making of Europeans themselves. The making of Europeans on the other hand supposes creation of a common identity, which implies a unity built around something that is real, and which relates Europeans to each other and provides them with a feeling of common belonging. Just as the concept of 'nation', the idea of 'European' implies similarities with some and differences from others. It therefore requires those who believe in the idea of 'Europe', to have criteria according to which some can be included and other excluded. (Dale & Cole, 2000, 17-28) The European Union consists of different cultures, as already stated by the Commission in 1994 communication *"the Community has always been a multi-cultural and multi-ethnic entity"*, (CEC, 1994, 1). But something must define the limits of this diversity and something must define the unity in the diversity, and therefore the idea of 'non-Europe' and the 'other' is necessary.

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Benedict Anderson (1991) constructs a nation as 'an imagined community'. He emphasises that the phenomenon of a nation or nationality are to be understood as manufactured. Nation is an idea that is invented and any community larger than a band of people, who all know one another directly, is imagined. Anderson states that the nation is imagined because the members of even the smallest nation will never know most of their fellow-members, meet them, or even hear of them, yet in the minds of each lives the image of their communion. What distinguishes nation from other communities is the style in which it is imagined. (Anderson, 1991, 6-7) As stated earlier by Dal Lago (2000), the idea of this imagined nation in today's societies has become more and more arbitrary because of the loosening of (imagined) social ties and social contract between members of a certain society. It is therefore of vital importance for the Commission to re-construct the EU as 'an imagined community' for that the members of the Union are able to form an idea of Europe where they belong.

The Commission is constructing the EU as 'imagined community' in two different ways. Firstly it refers to *European values* and *traditions* as uniting factors in the EU. Emphasising of common values and traditions have usually played a vital role in the process of common identity building, because they provide people with the feeling of belonging to a similar or same community. When the Commission emphasises the importance of a common immigration policy, it, at the same time, stresses out that EU, as a *unified* entity, has to deal *together* with immigration. To point this out, the Commission emphasises that "*...national concerns are also European concerns...*" (CEC, 1994, 5). National is thus also European. Immigration is produced as 'the other', who EU is confronting together.

In addition to emphasising common 'European' values as a basis for European identity, the Commission is producing EU as 'an imagined community' by construction an image of immigration as 'the other'. To be able to produce an imagined European identity, the EU needs something that it can distinguish itself from. Immigration provides the EU with a possibility to create 'an imagined other' because it is something that all members states confront simultaneously;

immigration is an experience that member states share together. By controlling immigration the EU is able to construct borders for the 'imagined community' it needs to create in order to legitimate its existence among the members of the Union. It allows the EU to decide, who is allowed to be 'European' and who is excluded from it. As an important factor in construction of the EU as 'imagined community, is the citizenship of EU. As mentioned also by the Commission, "...*migration policy at European level may gradually take shape as an integral part of the move towards European citizenship...*" (CEC, 1985, 5). Immigration policy (control) is thus a useful tool in constructing common citizenship, a vital building block of unified EU identity.

Identity is a very debated notion and it can be understood in several ways. However it can be said to be something that is subjective. It consists of ideas about what we are and where do we belong to. Identity can be produced through rhetoric means; it can be defined by including some features in it and excluding the other out. Delanty's (2000) concept of new nationalism provides a useful tool to explain what kind of 'imagined community' and identity is threatened by immigrants. As already mentioned before, materialistic factors play a vital role in defining common identities in today's world. Considering the importance of the free market for the European Union, it could be argued that the identity of the EU is also much based on material factors. According to Delanty, 'new' identity is partly based on the material advantages, which the community is able to provide to its subjects. EU's possibility to create 'an imagined' community' is to emphasise the European values and traditions, but also to offer an economically developing community for its citizens. Economy is constructed as a value, which relates people to each other. This is also why the Commission is willing to include migrants, who are able to contribute to the EU's economic strategies, into European *demos*.

It seems that the limits of supporting diversity are much based on economical factors. Diversity is tolerated and encouraged if it promotes EU's economical interests. 'Europeans' are included in the concept of European identity without

questioning by using EU citizenship. From the third country nationals who are anxious to enter the EU those, who can be economically productive, or who have needed qualification, do have the access and can be included to 'the European imagined community'. The rest of the immigration on the other hand is seen as 'the other' against whom the European identity can be built and reflected.

6. CONCLUSIONS

Immigration is pictured in various ways in communications. It seems that the Commission has difficulties in producing a uniform picture of immigration in the EU. Immigration is described as important, as problematic, as complex and as a challenge but it is certainly not considered a simple phenomenon. The shaping of common European immigration policy reflects, however, the importance of immigration for the EU. The importance of immigration, and therefore also immigration policy has gradually increased together with European integration. The more integration deepens, the more Commission emphasizes the need of creating a common approach to immigration.

The inability to produce a uniform image of immigration is mostly related to the fact that immigration patterns in the EU vary considerable. The Commission has categorised different migrant groups and policies applied to them, it also seems that this categorization has become more and more exact during the last fifteen years. The Commission also assumes that the amount of immigrants in the EU has increased radically in the 1990s. By increasing number of immigrants the Commission seems to refer especially to asylum seekers and illegal immigration, but exact numbers are impossible to estimate. From a statistical point of view, the number of immigrants has not changed as radically as the Commission claims. What has changed, is the way the Commission speaks about immigration. During the 1990s immigration the Commission started to speak about immigration as *a challenge*. It also referred to a *continuing immigration pressure*, from which the EU should be *protected*. Immigration was produced as a *threat*, which might endanger the stability of the EU.

Immigration and immigration policy in the communications are produced through the concepts of control and security, and by categorizing different migrant groups. By doing this, the Commission tends to produce exclusive immigration policy. Immigration policy (control) is a means for the Commission to make the

distinction between 'us' and 'the other'. As I have presented, migrants are almost always defined through this distinction. Migrants have been seen as strangers who are opposite to us, both in a positive and a negative sense. The distinction can also be found in the communications, by controlling immigration the Commission defined those who belong to the Union, and those who do not. EU citizenship is used in order to make the distinction concrete. It is not, however, only the 'traditional' strategies of exclusion like distinction by citizenship, which are valid in the communications. Commission excludes immigrants also on the basis of economic factors. Immigrants, who are 'wanted' in the Union, are usually the ones that are needed because of economical development and labor market situation. Economical migrants granted admission to the Union have, according to the Commission, *adequate* skills, therefore they are considered as productive for the Union. On the other hand, when speaking about migration pressure, Commission refers to refugees, family reunification and illegal immigration. It is these groups of migrants, whose admission the Commission wants to control more effectively, whereas economic migrants are actively recruited to the Union, at least in the sector where labor shortages exist. Going back to Barrero's (1996) theory of *universal* and *selective* exclusion, Commission has chosen the strategy of selective exclusion. One part of migrants can be included in the European *demos*, because they are close enough to 'European values', others are seen as a burden, from which the EU should be protected.

One could conclude, that restrictive and selective immigration control is used in order to legitimize the existence of the whole Union. It is commonly recognized that the EU needs something else, than economical development to be able to gain the acceptance and support of the citizens of the member states to the further development of the Union. Building 'a unity identity' for the Union is one part in legitimating the existence of the Union. Defining who belongs to the European *demos* gives the legitimacy for the Commission to exist as political entity. Defining who belongs, on the other hand, can be made by distinguishing European citizens from 'the other', immigration. The Commission is constructing the EU as 'an imagined community' where people are related together, even

though they are unknown to each other. The construction of 'a European imagined community' can be made by controlling immigration. One should however remember that immigration policy is only a small part of the identity building process in the Union. Identity in the EU is also build by creating common symbols and traditions for the Union, as well as developing common policies in other sector of societies. Controlling immigration, however, provides the Commission with a possibility of emphasizing common European values such as openness and respect for human rights, and is therefore an important part in defining the ideological boundaries of the Union.

More importantly, controlling immigration also provides the Commission with a possibility of making the distinction between 'us' and 'them'. Construction of immigration as the other is useful, because it is something that the EU countries face simultaneously. This is important especially in the case of EU, which is already as such a community with several languages, cultures, histories and values. Immigration provides the Commission a change to construct 'an imagined other' that all EU member stated can confront together. Immigration is constructed, *selectively*, as something that threatens the Union. Defining immigration as a threat forms the EU as 'a center of trust' but at the same time creates the outside, immigration, which must be feared. The existence of the outside threat is important because 'unity' identity can only be built by facing the other, by reflecting the inside against the outside and thereby emphasising the unity of 'us'. Therefore controlling immigration enables the Commission to define ideological borders and limits for the EU.

Immigration control in today's Europe (EU) has become one of the means to protect the idea of Europe and European values. What is paradoxical is that what was considered too 'barbaric' during the nineteenth century in Russia and the Ottoman Empire (see Dale & Cole, 1999, 28), has today become a way to secure EU from the 'barbarism', which threatens Europe in the form of immigration pressure.

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