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**Final Report**

# **Civic Stratification, Gender and Family Migration Policies in Europe**

Albert Kraler

Vienna, May 2010

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Revised and updated public version, May 2010. The original version of the report was completed and submitted in April 2009

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Project Reference Number (GZ):BMBWK-28.132/0001-VI/3a/2006

## **About the project**

Family related migration has been the dominant legal mode of entry in Europe for the past few decades, but has become increasingly contested in recent years. Granting migrants the right to family reunion has traditionally been considered as promoting the integration of migrants into receiving societies. However, in current debates over the ethnic closure of migrant communities and the alleged "failure" of integration, the "migrant family" is increasingly seen as an obstacle to integration - as a site characterised by patriarchal relationships and illiberal practices and traditions such as arranged and forced marriages. As a result, family related modes of entry have been increasingly subject to restrictions, while the existing conditionality has been tightened up.

The research project analysed family migration policies in nine European countries from two angles. First, the project analysed policies and policy-making in regard to family related migration in a "top-down" perspective through the analysis of legislation, public debates, as well as through expert interviews. Secondly, the project analyses family migration policies from a "bottom-up" perspective, by investigating the impact of conditions and restrictions on migrants and their families and the responses and strategies migrants adopt to cope with these and to organise their family lives.

This project was financed under the programme New Orientations for Democracy in Europe (NODE, [www.node-research.at](http://www.node-research.at)) which is committed to exploring the future democratic development of Europe and its effects on citizens as well as politics. Within the perspective of the NODE-Research, the project on Civic Stratification, Gender and Family Migration Policy in Europe aimed at:

- Providing an empirically grounded analysis and evaluation of family migration policies in a broad range of immigration countries in Europe, including Eastern Europe;
- investigating how family migration policies create civic stratification;
- providing empirical evidence for the consequences of stratified rights for migrants immigrating for family related reasons;
- analysing how migrants challenge and cope with the constraints imposed by family migration policies;
- analysing the relationship between "civic integration" and social and political integration, and conversely, relationship between civic stratification and social and political exclusion;
- applying a gender based analysis both to the analysis of family migration policies and the impact of these policies on migrants; and
- developing basic principles that might help governments to design and implement fairer immigration legislation.

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# Preface

This report presents the final results of the project *Civic Stratification, Gender, and Family Migration Policies in Europe*. It is revised and updated version of the final project report originally submitted in April 2009.<sup>1</sup> The first part of the report presents the results of the main elements of the project. The introduction (chapter 1) describes the broader background of the report and undertakes a review of the literature on family related migration (WP1). Chapter 2 sets out the analytical framework we have used to analyse family migration policies and their impact on migrant families and others affected by regulations on family related admission and describes the methodology of the project (WP2 and WP3). Chapter 3 provides an overview of patterns of family related migration, contrasting broader patterns of family migration with family related admissions (WP5). Chapter 4 presents the results of the analysis of family migration policies in the 9 countries covered in the project and describes the recent evolution of family migration policies and the political debates which accompanied and influenced recent changes in family migration policies (WP6). In addition, the chapter reflects on the evolving framework for family related migration at the European level (WP7) and presents an overview of civil society activism surrounding family migration policy in three countries covered by the project. Chapter 5 presents the results of the empirical investigation of the impact of family migration policies on persons affected by these and the experiences of migrants who have migrated for family related reasons in their migration (WP9). The concluding chapter summarises the main conclusions from the project and discusses normative implications and policy recommendations (WP11 and 12).

Section II of the report describes the design and the workplan of the project and includes a summary table on the status of deliverables (milestones) of the project.

Section III of the report then presents a summary overview of project related publications and project related activities, including a listing of published and forthcoming project reports, an overview of project related presentations and papers given at conferences, a listing of articles, book chapters, edited volumes and working papers directly resulting or otherwise related to the project, an overview of panels, workshops and conferences organised in the context of the project and finally, other dissemination activities.

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<sup>1</sup> I wish to thank Madalina Rogoz (ICMPD) for editing the report and adding results from the French case study to chapter 5.

# **Part I**

## **Project Results**

## **Chapter 1: Setting the stage – the background of the study**

Over the past few years, family-related migration has increasingly moved to the centre of public debates on migration and integration in Europe and in this context has become subject to increased state regulation. In the current context, family migration derives its political significance from the fact that family-related modes of entry have become one of the main, and in many countries, virtually the only legal but at the same time highly contested means to find admission (see chapter 3).

While admission on family related grounds has in the past been advocated as promoting the well-being and integration of migrants, in current policy debates family related admission is often portrayed as undermining integration and seen as a threat to social cohesion rather than promoting it. In the context of debates over ethnic closure of migrant communities and over the alleged “failure” of integration, the “migrant family” thus is increasingly seen as an obstacle to integration – as a site characterised by patriarchal relationships and illiberal practices and traditions such as arranged and forced marriages (See Grillo 2008, Kofman, Kraler, Kohli & Schmoll 2010). Similarly, debates over separated families and in particular, children left behind, problematise the migrant family as a failing institution and family related migration as disruptive and problematic in both sending and receiving contexts. This view stresses the moral responsibility of migrant families to ensure the wellbeing of children, implicitly suggesting that parents’, and particularly mothers’ migration decisions are selfish and irresponsible. In a similar vein, debates over educational failure among children of migrant background partly blame the lack of support children of an immigrant background receive from their families for their poor performance in school, low educational attainment of second generation migrants and the low scores children of a migrant background achieve in international student assessment exercises such as PISA, TIMMS, and PIRLS.<sup>2</sup> Finally, the migrant family is also problematised in the context of debates on youth violence and delinquency. Although academic studies highlight the role of exposure to poverty and inequality as the main factors explaining delinquent behaviour, in public debates the focus is on supposed deficiencies of the migrant family as a source of violent behaviour and involvement in delinquency – strained relationships within the family, patriarchal gender identities, and intergenerational conflicts resulting in lack of parental control (see Suárez-Orozco & Baolian Qin 2006).

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<sup>2</sup> PISA: Programme for International Student Assessment, TIMMS: Trends in International Mathematics and Science Study, PIRLS: Progress in International Reading Literacy Study



But there is also the opposite view, which celebrates the alleged cohesiveness of “the” migrant family as a contrast to the “erosion” of traditional family in mainstream society, characterised by family breakdown, patch-work families, and single parenting (Grillo 2010). Both perspectives, contradictory as they may seem to be, highlight that the family, apart from being a social institution, is a (contested) moral and social order, for individuals as well as for the wider society (Grillo 2008).

While the problematisation of the migrant family in the context of debates on integration is of relatively recent date there are also important continuities in the perception of family migration and the migrant family to earlier debates on the migrant family and indeed, debates on the family in general, for example, in the way the family has been constructed in terms of an opposition of “the social” (to which the family is thought to belong) and “the economic” – the realm of employment and productive activities. Gendered forms of dependency which family related migration is widely thought to entail, by contrast, are seen as specific to the migrant family. Thus, family members are often assumed to be economically inactive or if active, employed in lesser skilled occupations and the secondary labour market; and family members have been constructed as “tied movers”, merely following the primary migrant. While some of these assumptions may empirically be true, the social and political context which give rise to such forms of dependency as well as persistence of the ‘male-as-breadwinner’ model at least as a normative model in the mainstream society are often not taken into account or simply assumed as ‘facts’.

Recent debates over family migration policies as well as changes in family migration policies in EU Member States reflect these broader debates on family related migration and it is no coincidence that migrants admitted for family related reasons have become the main focus of integration policies in the EU.

Apart from the problematisation of family related migration in recent debates on integration, multiculturalism and diversity, family related migration has also been increasingly problematised from a migration control perspective. Family related migration has become one of the main entry gates for non-EU migrants into the European Union and quantitatively is by far the largest channel of migration in all but the Southern European countries, in which employment related entries, often in the form of ex-post regularisations are quantitatively more important. As described in chapter 3, however, also in Southern European countries, family related admissions have recently considerably grown in importance.

Because of human rights obligation and the establishment of a right to family reunification in the European Union, family related migration cannot be controlled in the same way as for other purposes, for example by setting a ceiling of the

maximum number of family admissions.<sup>3</sup> In the context of the increasing focus on selection of prospective migrants on the basis of specific labour needs (short term unskilled labour, skill shortages in certain highly skilled occupations), family related migration is increasingly perceived to undermine migration control and to be in contradiction with selective migration policies. Indeed, under a migration control perspective, family related migration appears as a form of unsolicited and by implication, unwanted migration. In this vein Nicolas Sarkozy, then French Minister of the Interior, described family related migration as 'immigration subie' (migration to be 'endured'), which he opposed to selected migration or 'immigration choisie'. Reflecting these tensions, recent reforms of family reunification policies in various European countries have introduced various elements of selectivity, for instance through integration requirements and pre-entry testing of family members.

Thus, although the establishment of family reunification as a right under European Union law limits the power of states to restrict family related migration and European states may not be able to refuse the admission of family members of established migrants on quantitative arguments or principle arguments, states have a variety of options to indirectly control and restrict family related migration, both quantitatively and in terms of selecting migrants for the purpose of admission on family related reasons.

In general terms, family migration policies thus have two functions: they define the family for the purpose of immigration and thus classify migrants into those eligible for family related admission from those who are not. Secondly, family migration policies define conditions under which family members are admitted for family related reasons. Family migration policies thus not only define which family members are eligible for family related admission and under which conditions, but they also go some way in defining the "quality" of migrant families through various substantial conditions attached to the right to family reunification and in prescribing legitimate modes of family life, in other words, how family life should be lived or, as we have called it, how family should be 'performed' (Strasser et al. 2009).

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<sup>3</sup> Austria uses 'quotas' as an instrument of migration control also for the admission of family members of third-country nationals on the basis of a derogation clause, specifically included in the family reunification directive (2003/86/EC) on the insistence of Austria. Nevertheless, after a maximum of three years, an applicant has to be granted admission, except if the conditions set out by the law are not met. Moreover, the majority or some 85% of family related admissions take place outside the quota system, namely in the case of admission of family members of citizens and EU nationals from third countries.

Family migration policies constrain migrant choices through various demands on family members admitted for family related reasons as well as on their sponsors. However, not only are conditions and restrictions differentiated by different migrant categories, but rights that go along with a particular legal status of those admitted for family related reasons are differentiated too, creating a hierarchy of stratified rights, which we, following Lydia Morris (2002) and Eleonore Kofman (2003) conceptualise as 'civic stratification'. Not only is civic stratification central for the operation of family related migration, but differential rights of admitted migrants as well as restrictions and conditions imposed on prospective migrants operate in ways that are highly gendered. The ensuing civic stratification is problematic from the standpoint of both theories of justice and democratic theory. But equally important, the stratified hierarchy of rights allocated to non-nationals is also in contradiction with the concern to facilitate the integration of migrants in European societies more generally and in more general terms, with the objective to promote equality and non-discrimination. In this study we argue that family migration provisions have to be seen as part of the opportunity structures of western societies that circumscribe the scope for agency of migrants.

In order to analyse these, we have undertaken (1) a historically informed analysis of family related modes of entry; (2) an analysis of the ways and the extent family migration policies allocate different rights to different categories of migrants and according to gender; (3) an analysis of recent debates on family related migration and the rationales behind conditions and restrictions placed on family migration; and finally, (4) we have investigated the empirical consequences of gender-differentiated family migration policies on migrants and how migrants in turn respond to and challenge restrictive rules on family migration. Finally (5), we have undertaken a review of advocacy and campaigning around issues of family related migration in selected countries under study, although time and resource constraints did not allow a fully fledged analysis of advocacy and civil society activism.

## **Research background**

Since the late 1980s, migration researchers have adopted the family as an appropriate unit of analysis to study causes and consequences of migration as well as decision-making in regard to migration, in particular researchers using analytical frameworks that look at migrant networks and migrant transnationalism (Basch, Glick-Schiller & Szanton-Blanc 1994, Boyd 1989, Salih 2003). In addition, the family is analysed as a key site where gender roles are negotiated and where, through migration, gender roles are also transformed and "restructured" (Phizacklea 1998). This focus also highlights gender as a relational analytical category, connecting both men and women and thus helps to

move beyond the almost exclusive focus on women dominating studies on gender and migration (Carling 2005). However, in spite of the increasing number of studies on the family dimension of international migration since the second half of the 1980s which highlight the role of the family in international migration, the family has remained a fairly marginal issue until relatively recently. In recent years there has been a growing research interest in family related migration, resulting in a growing number of research projects, conferences and publications on family related migration. Several reasons account for the accrued interest in family related migration, including the diversification of family related migration and in particular the rise in marriage migration and binational marriages, the increasing political salience of family migration as an admission channel, the problematisation of the family in the context of debates on multiculturalism, integration and social cohesion, the effects of national and European legislation and issues related to transnationalism and globalisation (see Kofman, Kraker, Kohli & Schmoll 2009).

The gendered nature of policies towards family migration, however, has so far received scant attention despite the fact that they are often based on gendered assumptions of dependency and traditional concepts of gender roles (Bhabha & Shutter 1994; Carling 2005).

Although there is a growing body of legal literature on family migration policy, in particular following the adoption of the EU Family Reunification Directive (86/2003/EC) and in the context of the right to family reunification under free movement legislation (European Migration Network 2008, Groenendijk et al 2007, Van Walsum & Spijkerboer 2007, Walter 2009), there is relatively little research on policy debates on family related admissions and even less research on the implementation and the impact of the legislation on persons affected by it is still largely absent. In addition, existing research largely is limited to a legal analysis of family related migration, while more theory informed approaches to the study of family migration policy are largely absent. Our study has sought to address some of these research lacunae and in particular sought to reflect the theoretical implications of family admission policy and the impact of these policies on those affected by them.

Since the 1980s and in particular the seminal special issue of the *International Migration Review* on Women in Migration (International Migration Review 1984) there is a growing body of literature on gender in migration. Feminist critiques of the male-as-breadwinner-model have highlighted the fact that women were also migrating as workers and independently (See Morakvasic 1984, Kofman 1999). Yet the fact that it is also both genders (indeed increasingly: men) which use family-related modes of entry has been largely neglected. As a result, family related migration has so far been largely seen as a feminised form of migration and seen as largely involving women and children. This perception of family

related migration unwittingly reinforces the male-as-breadwinner model and at the same time, constructs family members as social and economical dependants of the sponsor, firmly placing family migration in the reproductive sphere and sharply separating it from the economic.

These deficiencies in accurately conceptualising family related migration are reflected in the confusion admission for family related migration with actual processes of family reunification and family formation. Indeed, as Hein de Haas and colleagues remind us, "policy and legal categories may be useful tools for states; they only become problematic when they are uncritically adopted as analytical categories and projected onto social realities". And, [t]hey seem to become even more problematic when they are applied to persons rather than to migratory phenomena." (de Haas, Bakewell, Castles, Jónsson & Vezzoli 2009:3 ). Given the predominance of administrative data on family related migration and the scarcity of more general statistical data which would allow to study processes of family related migration outside official legal channels, disentangling family related migration as a legal admission channel and thus as a politically constructed form of migration from broader processes of family formation and reunification remains a challenge but all the more so should be a primary objective of any serious investigation of family related migration.

Available evidence suggests that family related migration was already substantial during the period of labour recruitment, although largely hidden from official statistics as many family members were similarly admitted as labour migrants, rather than family members. Recent analyses of survey data on family reunification patterns provide some evidence of this mismatch of family admission statistics and the reality of family reunification and formation (see for a discussion Kofman, Kraler, Kohli & Schmoll 2010). Family related migration as a social phenomenon thus has to be analytically distinguished from family related migration as a legal admission channel. It is family related migration as an admission channel, which is the focus of this study. In focusing of family related migration as an admission channel, however, our focus has been on how the legal framework for family related migration impacts on those affected by it.

Generally, there is little research on the effects that using these channels has on social and gender identities of migrants, their socio-economics standing and integration pathways as well as on gender relations within the family (but see George 2005 for a seminal study on the US and Charsley 2005 for a study on the UK). Thus, the economic and social consequences of family migration policies on both men and women have been understudied and have also largely been ignored in the emerging debate on anti-discrimination, integration and civic citizenship in the EU (Kraler 2006: 38). Yet immigration regulations significantly constrain opportunities of migrants and shape their life experiences, for example, by restricting or denying access to the labour market, social benefits and recourse to

public funds as well as other rights or by making high demands on prospective family migrants and/or sponsors such as income requirements or passing language tests before entry. In addition, even if formulated in seemingly gender neutral terms, the differentiated bundle of rights generated by immigration and residence regulations often operates in gendered ways (Freeman 2003).

Our study is set against this background and aims to fill some of the research gaps described above. In particular, we have sought to move away from the focus of much of the existing literature on formal rules, procedures and the law and have focus instead on the lived reality of family related migration as constrained by the legal framework on family related admission under the perspective of civic stratification.

Our methodological and conceptual approach is described in the next chapter (chapter 2).

## **Chapter 2: Research approach and Methodology**

### **Conceptual approach**

Although physical controls at the border or within a country and related policing practices (detention, expulsion, deportation) remain important, contemporary migration management largely operates through allocating differential rights to different categories of migrants and thus through legally discriminating against (certain categories of) foreign nationals. Thus, in contrast to the optimism of the thesis of the emergence of 'postnational citizenship' advanced by Yasemin Soysal in the early 1990s (Soysal 1994) who argued that social and civic rights are increasingly decoupled from formal citizenship in western countries of immigration, legal status still matters, in terms of the access to basic rights, in terms of the scope of rights enjoyed and in respect to broader social, economic and political opportunities (see for a critique of Soysal's thesis and similar arguments advanced by Saskia Sassen and others Joppke 1998).

Indeed, as sociologist Andreas Wimmer has observed, resident aliens experience the full force of the the janus-faced nature of the modern nation-state as both highly inclusionary and exclusionary at the same time – inclusionary based on universal principles, including equality based citizenship and the rule of law and exclusionary on the basis of nationality. The more rights immigrants are granted as denizens – in respect to family reunification, access to the welfare state and in terms of permanent residence – the more restrictive, he argues, the immigration regime becomes in regard to prospective migrants (Wimmer 2002: 267-9). However, as we argue in this study, although the main fault line may coincide with the geographic and political 'border' of a given state and the main issue at stake may be under what conditions admission is granted, the border is also located within the geographical and political borders of a state in the form of temporary, restricted and transitional legal status that block migrants' access to full membership and thus full enjoyment of rights. More precisely, it is not only the external effects of differential admission regulations in terms of migration control which need to be considered, but the post-immigration effects of these regulations on those admitted as family members.

Migration laws allocate differential rights through various mechanisms – through classification and selection, admission procedures, conditionalities, and restrictions; and they do so along various axes, notably along nationality, skills level and socio-economic status, and gender. As Catherine Dauvergne has remarked, the "criteria that immigration laws enshrine read as a code of national

values, determining who some 'we' group will accept as potential member" (Dauvergne 2008: 123). "The citizenship law – migration law dichotomy", she continues, "functions to ensure for citizenship law a rhetorical domain of formal equality and liberal ideals. The messy policing of the national boundary by inquiring into debt and disease, criminality and qualifications, is left to migration law" (ibid). Although Dauvergne may overstate the liberalness of citizenship law, since her observations are informed largely by an analysis of the more inclusionary citizenship regimes of Australia, Canada and the US, her fundamental point – the simultaneity of exclusionary mechanisms and liberal norms of equality – and the fundamental tension between the two sides of the liberal 'migration state' are important to understand current dynamics of citizenship and social inclusion and exclusion in contemporary Europe.

As a result of these dynamics, contemporary migration management involves a proliferation, fragmentation and polarisation of different statuses and related bundles of rights with regard to admission, residence, work, social rights, and other domains, resulting in different forms of 'partial membership' (Brubaker 1989) or civic stratification (Morris 2002), a term borrowed from David Lockwood (1996) and a key concept guiding this study.

In relation to immigrants, civic stratification can be conceptualised as the hierarchy of stratified rights resulting from processes of exclusion and inclusion which classifies and sorts out migrants and the realisation of rights formally associated with these locations (Morris 2002: 7).

As a result of processes of civic stratification, some categories of migrants are left with almost no formal civic and social, let alone political rights, which applies in particular to irregular migrants who have – for whatever reasons – fallen outside the system of migration management and as a result, also largely outside the effective protection of the law of basic human and social rights. Indeed, in various countries, most starkly in France, family related migration has been associated with irregular migration, suggesting a mismatch between the legal framework in place and actual processes of family migration. In response to such situations, regularisation measures in a number of countries specifically regularise irregular migrants on family grounds (see Baldwin-Edwards/ Kraler 2009).

In this way, immigration regulations produce new forms of inequality, but also reinforce "traditional" social inequalities and cleavages which are often of a gendered nature. Clearly, legal statuses allocated to foreign migrants by immigration laws are important in constraining or enabling the scope for migrants' agency. In this sense, immigration legislation can be regarded as an important, if often neglected part of the political opportunity structure and an important factor determining migrants' participation in the wider society (see



Kraler, Bonjour, Cibea, Hollomey, & Reichel 2010, chapter 5 for a discussion of civic stratification and legal discrimination).

One category of migrant where this particularly applies are migrants entering for family related reasons (Kofman, Kraler, Kohli & Schmoll 2010). Family migration policies produce civic stratification along various axes and different mechanisms: restrictive conditions tied to the granting of family-related permits; through narrow and conservative legal concepts of the family that fail to accommodate "non-conventional" family forms; through differential entitlements and obligations for different modes of family migration (reunification, formation, marriage) and for different categories of migrants (long- term vs. short term migrants; family members of nationals, third country nationals and EU-nationals). Different degrees of security / insecurity of a legal status is an important dimension of civic stratification, as is the degree to which the legal hierarchies of rights as reflected in the system of legal statuses available for migrants is closed, or conversely, open and the ease with which migrants may change from one to another status. Finally, civic stratification is linked to, and interacts with 'stratified reproduction', a concept originally developed by Shellee Colen\_(1995). In the context of family related migration, 'stratified reproduction' is about the ability of migrant families to reconstitute their families during processes of migration. Legal entitlements – or civic stratification – are a crucial dimension in these processes, although other dimensions, including global asymmetries of power, resources and labour market opportunities, are important too and interact with legally established opportunities (or the lack thereof) for global mobility.

The various restrictions and conditions tied to family migration constrain migrant choices. As such, they can be expected to have concrete consequence on migrants migrating for family related reasons and other family members affected by these regulations. These consequences are not necessarily limited to the immediate implications of these restrictions (as for example in the case of restricted or lack of access to the labour market), but may work in more indirect ways, for example in terms of psychological distress experienced by separated couples or a reluctance to change employment to avoid the risk of failing to reach minimum income requirements (see IPRS 2002).

## **Methodology**

The methodology of the study combined methods of comparative legal analysis and political science with qualitative social research and applied a mixed methodology adapted to the basic research questions described above. Methods used included a review of the relevant literature, secondary data analysis, comparative policy analysis, focus group discussions, narrative interviews with migrants and expert interviews. Through the combination of different methodologies and a triangulation of different types of data (Flick 2007) we have

sought to go beyond unidimensional analyses of migration policy, which have been largely focused on the analysis of legal dimension of policies and the analysis of policy-making (issue framing, policy debates, decision processes and the administrative implementation of policies), but have neglected the social, economic and other impacts of such policies on persons affected by them (Kraler 2006).

The project investigated family migration policies from two angles, from a top-down perspective with a focus on the regulation of family migration and from a bottom-up perspective, focusing on the experiences of migrants and others involved in family migration. Focusing on the regulation of family related migration, we have investigated the legal and policy framework governing family related migration in 9 EU countries (Austria, Czech Republic, Denmark, France, Germany, Italy, The Netherlands, Spain and the UK) through an analysis of legislation, public debates, as well as expert interviews with policymakers, NGOs and other specialists in this area. The analysis focused on how family migration policies position migrants within an overall system of stratified rights as well as on the rationale of policies in the context of broader public debates on family related migration. The aim here was not to fully explain policies (this was outside the scope of the study), but to contextualise these as well as to identify their main rationale in a comparative perspective. The policy analysis was embedded in a broader analysis of the evolution of patterns of family related migration based on available secondary literature as well as available statistics.

Secondly, the project has investigated experiences of family migration through qualitative interviews and focus group discussions with migrants and other persons involved in family migration as well as expert interviews with NGOs in 6 out of the 9 countries covered by the project. The empirical investigation of the impact of family migration policies on migrants and their responses has been a central element of our research. Qualitative methods were used to explore the impact of family migration policies as well as to explore how migrants (in bi-national families: also citizens) make sense of these rules and what coping strategies they develop. Essentially, we have applied two approaches, namely focus group interviews and narrative interviews with individual migrants, both male and female. In addition, however, we have also aimed to include members of the same family in our sample to be able to solicit gendered perspectives on family migration policies and their impact. A total of 110 migrant interviews have been carried out in 6 of the 9 countries covered by the project (Austria, Czech Republic, France, The Netherlands, Spain and the United Kingdom).

Although the main rationale of the qualitative interviews with migrants and others affected by family migration policies was to study the impact of family migration policies, the focus was broader and centred on the complex interplay of state norms, migrants' ideal conceptions and lived reality of family life, and how this

constant negotiation of the family impacts on family structures, roles within the family and gender roles more generally, including the negotiation of rights and obligations. In addition, we have also investigated family decisions and decision-making. Well aware that family migration policies are but one among many external factors – such as the labour market, administrative structures, social institutions – which influence the ways in which migrants 'do family', the emphasis of our empirical investigation has been on individuals' struggle to bring their own family norms and ideals into line with state policies and other factors constraining families' scope of agency.

A summary survey of patterns of advocacy around issues of family related migration, an analysis of the politics of family migration on the EU level and an evaluation of family migration policies from a normative perspective has complemented our two main research approaches.

## **Chapter 3: Patterns of Family related migration and admissions for family related reasons**

Though to varying degrees, family-related migration has been the dominant mode of legal entry into European Union states for the past two decades. Family migration constitutes at least half of these flows in a number of European states, and particularly those where labour migration is relatively low (e.g. Austria, France, Norway and Sweden) or where refugees constitute a very low proportion of long-term immigration, such as Switzerland (SOPEMI 2005). Even in countries with high and – before the present economic crisis – increasing levels of labour migration as in the UK, Spain and Italy, family migration also increases in absolute numbers. And increasing population movements for purposes of work, education and tourism have also had the effect of increasing family-related mobility. So too have increasing refugee numbers contributed to higher levels of family reunification. Despite the longstanding quantitative importance of “family reunification” as the main legal entry gate into European countries, both family reunification policies and actual empirical processes of family migration have been a relatively neglected field of research in the European context (Kofman 2004; King, Thomson, Fielding & Warnes 2005; Kofman, Kraler, Kohli & Schmoll 2010).

In much of Europe, family-related forms of migration have become more important after the stop in recruitment and increasing restrictions placed on labour migration in the wake of the oil crisis of 1973. Although family-related migration came to dominate migration flows to Europe only after the recruitment stop, migrants recruited for employment purposes in the preceding decades had frequently also brought in their families, despite the underlying philosophy of the “guest worker regimes” which was based on the assumption of temporary, rotating migration involving single, male migrants. Thus family migration was already substantial during the labour migration period in France, Germany and the UK. In the UK, dependants (60% of which were children) eclipsed work permit holders (Kofman, Lukes, Meetoo & Aaron 2008: 5), while in Germany, women accounted for more than 30 per cent of migrants stocks from the main countries of recruitment (Italy, Spain, Greece, Turkey, Portugal, Yugoslavia) at the end of recruitment, clearly belying the perception of guest worker migration as involving predominantly single men. Family related migration increased once mass labour migration was closed down in the early 1970s, with family related migration also becoming more important in other countries (González-Ferrer 2007; Kofman, Phizacklea, Raghuram & 2000).

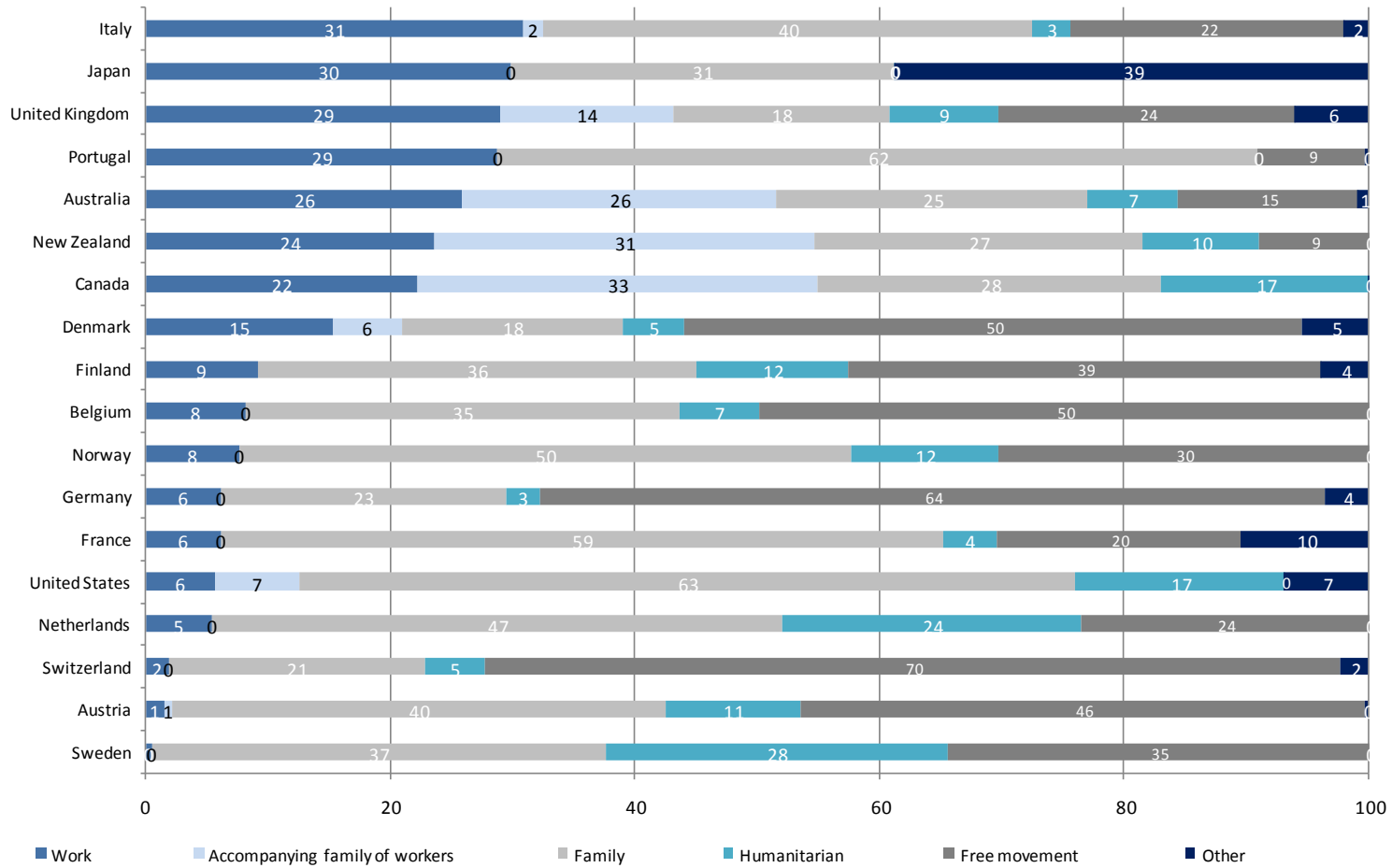
After the recruitment stop, many labour migrants who had not yet reunified with their families, increasingly did so, although often only bringing the spouse and leaving children in school age at home with grandparents or other relatives. The

recruitment stop, however, not only led to increased levels of family reunification, but the number of children born in the country of immigration also increased. Thus, the share of births of children born to two foreign parents in the total number of births in Western Germany increased from 3.6 per cent in 1965 to 7.8 per cent in 1970, and rose to 20 per cent of all births in 1975 (Wilpert 1977 quoted after Bilger 2010). This rise in the number of births to migrant parents is indicative of the increased rate of settlement after the recruitment stop. At the same time it also reflects the impact of policy changes after the recruitment stop, in particular the suspension of child benefits to children resident abroad in 1975, which in turn led to a rise in family reunification with children. Indeed, as a recent study suggests (González-Ferrer 2007), the change in child benefit regulations may have been more important for increasing family related migration than the recruitment stop itself.

Migrations from colonial countries to France, the Netherlands and the UK tended to include more family members than in the guest worker regimes. However, women also migrated independently as workers, sometimes jointly going through recruitment processes with their husbands or forming families later on. What distinguishes labour migrants from those admitted for family related reasons is that they were admitted independently and by and large had superior rights than those legally entering as family members and dependants.

Currently, the share of third country nationals admitted for family reasons is around 44% of all inflows (including free EU citizens) in the OECD region. The share is 40% in Austria, 47% in the Netherlands and 60% in France. In Italy, the recorded share of family related migrants is much lower (See Figure 1, overleaf), concealing considerable de facto family reunification and reflecting the high share of irregular migrants and migrants in precarious situations not formally eligible for family reunification. Nevertheless, also in Italy the trend is towards a rise in family related admissions. Thus, while in 1992 65.3% of the total number of permits issued to third country nationals were issued for the purpose of employment and only 14.2% for family reunification, by 2000 the share of family admissions had increased to 24.9%, while employment related admission had decreased slightly to 61.7% (Bonizzoni & Cibeà 2009: 10). Similarly, the share of family related admissions in Spain was on average 20% between 2002 and 2007 and stood at 39% in 2007 (González-Ferrer 2010). In response to rising numbers of family related migrants and the wider problematisation of the migrant family, family migration has recently been subject to a series of restrictions in almost all countries investigated by the project. As a result, admissions on grounds of family migration have declined in some of the countries studied, for example in Austria and France, while the share of migrants admitted for family reasons in Denmark has been one of the lowest in all countries under study for some time, reflecting earlier restrictions imposed in the mid-1990s.

**Figure 1: Permanent Type Immigration by Type of Immigration (Percentage Shares)**



Note: For information on the compilation of the standardised statistics, see [www.oecd.org/els/migration/imo2008](http://www.oecd.org/els/migration/imo2008)  
 Source: OECD 2008

Thus, the share of permits issued for family reunification has decreased from 27% in 1996 to a mere 9% in 2006 (Moeslund & Strasser 2010). The scope of these restrictions, which go far beyond those adopted elsewhere, however, also reflects the fact that Denmark has opted out of article IV of the Amsterdam Treaty and thus is not bound by the family reunification directive. Indeed, family reunification, which had been established as a legal right by the 1983 Aliens Act was abolished as an automatic right in 1992 and made dependant on the sponsor being able to support the family and a series of other conditions.

There are important quantitative differences between different legal categories of family admissions. Thus, in the Czech Republic, the share of family related migration is highest among permanent residence permit holders, of which 71% hold a permanent residence permit on family related grounds. By contrast, short term permits (called long term residence permits) are predominantly issued for employment and other reasons (Szczepanikova 2008: 18f).

In Austria, the majority of migrants admitted are family members of Austrian citizens (about 85% in 2003, see Kraler & Sohler 2005: 12), reflecting that family reunification for citizens is not subject to quota restrictions and until recently, material conditions were more favourable than for family members of third-country nationals. Although the share of family members of German citizens in Germany is somewhat smaller, there too, immigration of family members is significant and has been on the rise over the past decade. Thus, the share of spouses of German citizens in the total number of spouses admitted increased from 34.4% in 1996 to 54.6% in 2006 (own calculations based on data presented in Bilger 2010).

In France, the number of admission of third country nationals under the title of family reunification decreased from 14% of the total admissions in 2000 to 10% in 2006. However, in the same time, third country nationals admitted for being family of French citizens represented 23% from the total admissions in 2000 and almost 30% in 2006 (own calculation based on data presented by Kofman et al. 2010).

In quantitative terms, reunion with spouses or partners now by far exceeds reunification with children. Thus, in Denmark the share of cohabitants and spouses was 78% in 2006. In Germany, the share of spouses in total reunification oscillated between 75% and 79% between 1996 and 2006 and similar patterns obtain in the Netherlands. However, due to recent measures against spousal migration, the share of spouses admitted under family reunification provision has recently declined in the Netherlands and so too in the UK. In the case of latter, the share of spouses admitted for settlement has declined from 45.6% in 1995 to 25.7% in 2007. In absolute terms, admission of spouses remained stable between 2000 and 2005 (Kofman, Lukes, Meetoo & Aaron 2008, table 5.3).

However, in the same time family the number of accompanying family members as well as family members of humanitarian migrants has considerably risen, reflecting a significant change in the composition of migrants admitted for family related reasons, changed policies and the increase of work related migration before the current financial and economic crisis.

In long-standing countries of immigration family formation (marriage migration) has overtaken classic forms of family reunification involving the re-unification of families separated by migration, especially in countries with a longer history of immigration and large settled immigrant communities. Thus, in the Netherlands (one of the few countries actually distinguishing family formation from other types of family related migration) the share of family formation has risen from 39% in 1995 to 60% in 2003, although it dropped thereafter, due to restrictions on marriage migration (Bonjour 2008: 7).

The rise in family formation reflects, on the one hand the increase of binational marriages involving citizens with a native background and a spouse of foreign nationality and, on the other the increase of transnational marriages involving ethnic minority members born in the country of residence and marriage migrants from their country of origin. These in reflect long-standing transnational ties linking migrants and their descendants to their homelands and diasporas elsewhere and the incorporation of a growing number of regions into global marriage markets as a result of various processes linked to globalisation, including increasing global mobility of specific categories of migrants, notably students and the highly skilled which in turn reflect globalised educational and career trajectories, links created through long-distance tourism and opportunities for marriage related mobility through online dating and professional dating agencies (Kofman, Kraker, Kohli & Schmoll 2010). Transnational marriages and binational marriages are discussed in the next section.

## **The growth of transnational marriages**

The rise of transnational marriages reflects the transition of Western European countries of immigration from a labour recruitment to a settlement phase as well as the consequent growth of second – and in older countries of immigration – third generations. Transnational marriages are by no means a new phenomenon (see Hoerder 2002 on global patterns). But they have become much more important as result of globalisation and the growing numbers of persons with a migrant background in marriageable age in Western European countries of immigration. Generally, transnational marriages are a specific form of co-ethnic marriages, which involve the migration of one spouse to the country of residence of the other spouse. As such, marriage migration is a specific form of mobility linked to the formation of a new household in the course of marriage which is – in principle – a universal dimension associated with marriage as a social institution,



although specific rules differ widely in different societies. In the context of migration, however, traditional practices (such as uxori- or virilocality etc.) may be subject to considerable change and adaptation.

Marriage migration or family formation can be distinguished from classical forms of family reunification involving pre-existing families in that it involves both migration and a formation of a new family. In practice, however, there is a continuum between family reunification and family formation, in particular when it concerns first generation migrants involved in circular, transnational forms of migration and forming families after having spent some time as single migrants in countries of immigration.

In quantitative terms, family formation was still relatively insignificant in the early phases of post-War immigration. And as it concerned mainly first generation migrants, it was seen as little different from family reunification involving members of pre-existing family units. In general, co-ethnic marriage preferences were characteristic for most first generation migrants. Thus, most single first generation migrants during the recruitment phase and in the immediate period after the recruitment stop entered into marriages with partners from their country of origin and relatively few intermarried with citizens of the host state (Lucassen & Laarman 2009). However, there are considerable differences between different groups, which seem to be determined by religion, different family systems, and the degree to which migrants are subject to discrimination.

Partly informed by assimilation theory there was the tacit expectation that intermarriage would increase and co-ethnic marriages and thus transnational marriage migration decrease in the second generation and ultimately would become unimportant altogether. Although the general trend of an increase of the intermarriage rate among the second generation can indeed be empirically observed, the increase is much less than has been expected.

Yet the incidence of co-ethnic marriages or, conversely, the incidence of mixed marriage also varies enormously between different groups and within these groups by gender and generation. Thus, a recent survey of intermarriage patterns among major migrant communities in selected Western European countries (Lucassen & Laarman 2009) finds that women marry partners from outside their group less often than their male counterparts. While a higher proportion of second generation members tend to intermarry than the first generation, there are large differences: In the case of guest workers from Southern Europe and West Indians, intermarriage rates of the second generation are double that of the first generation, albeit intermarriage rates of women increased less than that of males. Among both groups intermarriage rates range between 15% (Southern European female migrants) and 26% (West Indians) among the first generation and 38% (Southern European female migrants) and 60% (West Indian males)

among the second generation, respectively. By contrast, intermarriage rates among Moroccans and Turks are far lower (between 5% and 11% for first generation females and males, respectively and 8% and 16% for second generation females and males) and overall remained at relatively low levels (Lucassen & Laarman 2009, table 3). Religion, family systems among migrant groups, discrimination, colonial and other ties are important factors explaining such patterns. In contrast to the US experience 'race' seems to be much less of a factor in Europe.

Another recent study on marriage patterns among immigrants in Germany (González-Ferrer 2006) has found marked gender differences in relation to the practice of 'importing' spouses, i.e. co-ethnic marriages involving the migration of one of the spouses. While importing spouses is associated with low educational levels among male primary migrants, the same is not true with respect to women. Research on Denmark suggests that such differences can also be observed along ethnic lines. Thus, while Pakistani marriage migrants are more highly educated than their spouses in Denmark, the reverse is true for Turkish marriage migrants in whose case importing spouses seems to be a way to maintain 'traditional' norms (Çelikaksoy et al. 2006).

The incidence of co-ethnic marriages is a reflection of the generally socially selective process of partner choice in society as a whole, in the context of which origin, class, education and occupation are major determinants of partner choice, and not just for immigrants. Given the socially selective process of partner choice and given the highly segregated social networks along the lines of class and ethnicity shaping's ethnic communities' interaction with the mainstream population (see Straßburger 2003), the large share of co-ethnic marriages should not come as a surprise. The reasons for the preference for marriage migrants rather than co-ethnic spouses from ethnic communities in countries of immigration, however, are less obvious. Gender imbalances and the small size of the 'native' marriage market are one important factor. The higher incidence of marriage migration among communities practising some kind of arranged marriages suggests that such practices are important in their own right, but opportunities for social mobility (from a sending country perspective) and opportunities to influence power relations between spouses and spouses and their respective kin-networks are important too. In addition, moral discourses about the 'low quality' of co-ethnics raised in the country of immigration constitute another crucial dimension (see Straßburger 2003 and Timmerman 2008).

In the face of massive global asymmetries of opportunities and resources, transnational marriages present opportunities to bridge these asymmetries on the level of individuals and families (Palriwala & Uberoi 2008). Their political significance derives from a variety of factors. First, there was an implicit expectation that migrants' would assimilate over time and differences between

migrants and natives would disappear and second and subsequent generations would increasingly intermarry with partners from the mainstream population. Secondly, even if some degree of co-ethnic marriage preferences was expected, the preference for marriage migrants from abroad rather than co-ethnics raised in the country of immigration is another source of political controversy. Among Turks in Belgium, for example, some 60% of second generation migrants marry a spouse from their homeland (Timmerman 2008), while in Denmark more than 80% of Turkish and Pakistani second generation migrants do so, compared to just 50% in the case of Turks and 74% in the case of Pakistani two decades earlier (Çelikaksoy 2008). As a result, the share of migrants with Pakistani or Turkish origin in Denmark who have come as marriage migrants has risen to 19 per cent in the case of migrants of Turkish background and 16 per cent in the case of Pakistani migrants. Third transnational marriage is a contested phenomenon because it involves significant chain migration and marriage migrants represent a large and growing share of inflows. Finally, transnational marriage migration is also associated with practices seen as problematic and contradictory to integration such as arranged and forced marriages.

### **The growth of binational marriages**

Binational marriages involving citizens and spouses of foreign nationality, too, have significantly grown over the past decades. These are due to a number of factors: the diversification of European societies due to the growth of immigrant populations and intermarriage of citizens with a native background with partners from a minority background often still holding a foreign nationality; the increasing mobility among Western European populations, partly as a result of globalised educational and career trajectories, partly as a result of the growth of long-distance tourism and the growth of short term business related travel; and finally, the growth of globalised marriage markets and associated institutions such as internet dating or professional marriage agencies specialised on brokering marriages between citizens of various Asian countries or Eastern Europe and citizens of industrialised countries.

Binational marriages do not necessarily entail marriage migration. However, in cases where the foreign spouse is already a resident of the country of immigration, marriage may entail a status change on the part of the foreign national, for example in the case of students switching from a student related permit to a permit for family members upon marriage or asylum seekers marrying a citizen-spouse and applying for a family related residence title under the 'normal' residence regime.

Reflecting dominant norms of partner choice and global 'marriage scapes' (Lautzer 2008), the majority of marriage migrants are female. However, males may dominate in specific migration streams, although these may not necessarily

be marriage migrants. Thus, while the majority of female marriage migrants migrate to join their (future husbands), in the few cases where males dominate it seems that marriage is often a strategy emerging only in the course of the migration process rather than as a main motive of migration from the very outset (see Fleischer 2010 for a study of male Cameroonian 'marriage migrants'). These gender differences reflect gendered differentials for opportunities for mobility, and one should add, legal entry and residence, and go along with different trajectories for men and women.

The gendered nature of binational marriages is mirrored by gendered debates about these types of marriages. Thus, female marriage migration is frequently discussed in terms of 'mail order brides' and framed in a trafficking perspective. Under this perspective, marriage migrants are portrayed as actual or potential victims - victims of global asymmetries of power, resources, gendered opportunities for mobility, and a global sexual order, in which women are subject to sexual fantasies about the exoticised other. However, such a perspective underestimates the agency of women involved. In addition, such a perspective tends to see such relationship as predominately instrumental: to gain mobility and access to resources and economic opportunities on the part of marriage migrants, and to satisfy sexual fantasies and profit from asymmetries of power resulting from the migration status of their partners on the part of the males involved in such relationships. As a result of this, such relationships are often viewed as suspicious and not-genuine both by immigration authorities and the immediate surroundings of such couples - friends, relatives and the closer family (see Kofman, Kraler, Kohli & Schmoll 2010 for a discussion of debates on marriage migration). However, the suspicion is much greater in the case of male marriage migrants, whose marital relationships with native women are much more likely to be seen as marriages of convenience than those of female marriage migrants marrying a citizen. Indeed, in recent years, binational marriages have been under increased scrutiny from state authorities. Not only have states stepped up measures against marriages of convenience in the area of migration law and policing of aliens, but several states are increasing the control of access to the marriage itself, for example, through obliging civil registrars to notify immigration authorities of each marriages concluded between a foreign national and a citizen such as in Austria or by trying to impose restrictions to access to marriage itself, as in the UK (although this attempt was unsuccessful) (see Sadjed, Lehofer & Vlatka Frketic 2009, Kraler 2010a and Kofman, Lukes, Meetoo & Aaron 2008).

In all countries under study, the share of binational marriages has considerably grown in the past decades. In Germany, some 16% of all marriages concluded in 2004 were binational marriages. In Austria, the rose from between 5% to 10% in the 1980s to around 14% in the mid-1990s and reached 28% in 2004, when restrictions on binational marriages which entered into force in 2005 led to a

short increase of binational marriages and a sharp decrease thereafter (Kofman, Kraler, Kohli & Schmoll 2010). In Southern European countries, by contrast, the share of binational marriages is still relatively insignificant. In Spain, the share was on average 8% over the period 1996 to 2005, although the share of binational marriages grew significantly from just under 5% in 1996 to just over 14% in 2005, thus almost reaching German levels (Gil Araujo 2010).

These statistics on binational marriages, however, also provide only superficial information, as they do not provide details on the actual background of citizens marrying foreign nationals. Thus, citizens not only comprise citizens with a native background but also those with a migrant background and the rise in binational marriages may thus to some degree also reflect the rise in transnational marriages between persons of migrant background and marriage migrants from the country of origin or the diaspora.

In this respect survey data on family forms and household patterns provide better sources of information.

### **Transnational families and transnational parenting**

An important aspect of family patterns in the context of migration is transnationality and related transnational family practices and patterns. The academic literature on transnationalism (Basch, Glick-Schiller & Szanton 1994, Faist 2000, Wimmer & Glick-Schiller 2002) has highlighted the fact that migration rarely leads to a complete break of social ties migrants have with their country of origin. Migrants usually maintain a variety of ties with countries of origin and the diaspora through regular visits, transactions such as remittances and a broad range of lower-profile activities. Thus, migration almost always goes along with transnational practices – ties, transactions and interactions of migrants and those left behind, whether belonging to the family in the narrow sense or not. A transnational dimension usually also is – in one way or another – an intrinsic part of family life. Even if an entire nuclear family migrates, there are always other family members – parents, siblings and more distant relatives that stay behind. Family life thus almost necessarily involves the maintenance of ties over distance and in the context of international migration – transnational practices.

Whilst a certain degree of transnationality is thus inevitably part of family life in migration contexts more intensive transnational practices arise in case of separation of close family members, for example parents (in particular mothers) and their children and in regard to caring for elderly family members. In both cases, the main issue are transnational caring practices and how these are determined by the social position of individuals, social capital and welfare regimes both in the receiving and the sending contexts (Kofman, Kraler, Kohli & Schmoll 2010). These issues are not in themselves new. In the Western European context

however, the fact that migrants recruited during the post-war labour recruitment period have reached or are reaching retirement age makes issues of transnational care arrangements much more pertinent. On the other hand, recent restrictions to family related admissions (in particular as income and housing requirements are concerned), issues related to access of migrants to child care facilities in the receiving countries, the problematisation of the situation of children left behind and the problematisation of experiences of children reunifying at an advanced age after long periods of separation raises a number of issues.

Generally, there is relatively little research on changing patterns of transnational family life, in particular as far as children are concerned. By contrast, there is a growing literature on transnational caring and "global care chains". Some of this literature (see for example the chapters in the volume edited by Zimmerman, Litt & Bose 2006) has begun to enquire how women involved in the care sector organise and experience care arrangements for their own kin – children and elderly. Yet relatively little research is conducted on either care arrangements of other migrants not involved in care work or transnational parenting.

The evidence collected by this study, although not representative, suggests that separation of close family members and resulting transnational family arrangements is a relatively widespread phenomenon. Separation with children seems to be particularly widespread in Southern European countries covered by the study (Italy and Spain). In both Italy and Spain, there are a relatively large numbers of female migrants with children from Latin American countries and Eastern Europe migrating alone and leaving their children behind. In the case of non-EU migrants the separation is often a result of the lack of legal status and hence the inaccessibility of legal routes to family reunification which leads to long-term separation. At the same time, the lack of legal status inevitably also reduces the scope to maintain close ties with children and others left behind. This is different with migrants from Eastern European countries, notably Poland where separation is a much more voluntary decision and the lesser distance as well as the newly acquired mobility rights makes frequent visits and the maintenance of transnational ties much easier (See Banfi & Boccagni 2010; Bonizzoni 2010, Bonizzoni & Cibeà 2009, Gil Araujo 2009, 2010). Evidence on traditional countries of immigration in Europe suggests that on the whole experiences of prolonged separation are still important – both in respect to intra-EU labour migrants such as Poles and in respect to third country nationals. For third country nationals the policy framework in place for family related migration is an important factor contributing to situations of prolonged separation. In the case of Austria, evidence collected for the project suggests that the length of separation had actually increased from the 1970s to the late 1990s and early 2000s as a result of growing restrictions on family related migration (Kraler 2010b). In addition, evidence on France also highlights the importance of opaque and often

contradictory administrative practices in delaying family reunification and prolonging periods of separation (see Sohler/ Lévy 2009 and below).

## **Chapter 4: The policy framework – admission for family related reasons**

### **Introduction**

This chapter analyses the legal framework for family related admission in a historical and comparative perspective. It investigates the origins and the evolution of family related provisions in migration law and related areas of legislation and compares current rules on family migration policies of the 9 countries covered by the study. In addition, the chapter analyses family migration policy making on the European level and provides a summary analysis of the main issues and debates in the countries covered and the European Union as a whole.

### **Family Reunification as a right under international law**

Underpinned by human rights considerations, granting migrants the right to family union has traditionally been justified as promoting the well-being of migrants and their integration into receiving societies (ILO 1999, para 472, Lahav 1999). However, the emergence of the right to family migration also needs to be seen in the broader context of gendered norms about marriage and family and citizenship (see Harzig 2003). Indeed, historically, citizenship and marriage and related movement rights were seen as closely intertwined. As a corollary, the right to residence for (male) labour migrants was thought to almost “naturally” involve the right of dependents to join the male head of household.

In the post-war context, the legal notion of a right to family reunification has been derived from an understanding of the family as a superior good which the state is obliged to protect. As such, the obligation of states to protect the unity of the family and family life of its citizens has been enshrined in a number of instruments under international law, including the Universal Declaration of Human Rights (1948), the European Convention of Human Rights (1950, and subsequent protocols) and a number of other conventions and declaration and has, in various ways subsequently also entered national legislation. Instruments specifically relating to migration under international law reflect this basic understanding of the right to family life as a fundamental right. Thus, although the ILO Migration for Employment Convention (C97 of 1949) does not provide for a right to family reunification, its several provisions mentioning family members clearly reflect an underlying thinking that states should respect the unity of the family and take

into account responsibilities of migrant workers towards their families. The Migrant Workers (Supplementary Provisions) Convention (C149 of 1975) adopted 26 years later is more explicit and includes a provision (article 13) encouraging states to facilitate the reunification of migrants with their families. This said, instruments under international law do not establish a right to family reunification and a related obligation of states to admit non-nationals for family related reasons. Nevertheless, family reunification is clearly established as something desirable and beneficial which states should aim to grant to non-nationals resident in their respective territories.

Apart from the specific legal framework on migration, also broader human rights provisions under international and national laws protecting family life have been increasingly important for the elaboration of the right to family reunification. Thus, national courts have increasingly invoked article 8 of the European Convention of Human Rights (ECHR), which protects family life of individuals, in cases involving family members of non-nationals from the 1980s onwards.

Since the early 1990s, there is also increasing case law of the European Court of Human Rights in Strasbourg on family related cases. Generally, case law on article 8 stresses the unity of the family as a higher good, which the state should strive to preserve and which in some case – by far not in all – establishes a right to admission on family grounds (Guiraudon & Lahav 2000, Thym 2008). European legislation on family related migration, both in respect to the considerable expansion of free movement rights of not economically active family members and in respect to third country nationals follows similar rationales and is informed both by an understanding of family reunification as a version of the right to family life in migration contexts and as favourable to the integration of migrants.

However, rights to family union are not equally enjoyed by all migrants. On the contrary, they are highly dependent on factors such as class, ethnicity, nationality of the “primary migrant” and gender. With the increasing Europeanisation of migration policy and the concomitant expansion of mobility rights of EU, EFTA and Swiss citizens and their family members, and within the EU, of long term third country nationals, these inequalities have not disappeared. Rather, family migration policies increasingly pit European migrants against migrants from non-European countries, and poorer migrants against richer ones and thus reinforce civic stratification along the lines of class, “race” and gender. Before analysing the policy framework on family related migration in the countries covered by the project, however, a brief historical survey of the evolution of family migration policies is warranted.



## **Family migration policies – a history**

Although family considerations have long been part of regulation of migration, relatively few countries had elaborate immigration legislation which would have clearly distinguished different grounds of immigration, including for family related reasons until fairly recently. This partly reflects the more fundamental fact that immigration policy in today's sense – as a policy regulating international movement crossing national borders – emerged as a distinct policy field differentiated from other forms of population controls such as poor laws or anti-vagrancy legislation only in the second half of the 19th century. The emergence of modern immigration policy in turn must be placed in the context of the growing importance of nationality as a fundamental legal status across Europe since the Napoleon wars, the removal of restrictions on internal movement and wider processes of administrative, economic and political homogenization of territorial administration, in other words: the emergence of “nation states” during the ‘long 19<sup>th</sup> century’, and the emergence of nationally bounded regulated labour markets and the modern welfare state in the same period, and extending into the 20<sup>th</sup> century (Kraler 2007a). Before World War II, by and large immigration regulations in European and settler countries were relatively undifferentiated. In very few cases did explicit provisions for family reunification exist, for example in the South African Immigration Act of 1913, which exempted family members of skilled Indian immigrants from the general ban on Indian immigration (Kraler 2007b). A similar provision was enacted in Canada, also for wives of Indian men in 1919, while Canada's immigration laws otherwise remained silent on family reunification (Côté/ Kérisit/Côté 2001:20, see also Harzig 2003). In general, immigration policies then were more elaborate on the conditions under which immigrants could be expelled (notably on grounds of lack of means, becoming a public charge, illness, criminality) than defining positive grounds of their admission.

### ***Marriage, migration and citizenship***

At the same time, other legal provisions, for example nationality laws had major implications in terms of family related migration. In particular, nationality laws had major implications for women who, in most European states automatically acquired the nationality of the husband (and lost their previous nationality) upon marriage and could be deported or denied re-entry in their country of birth, in some case well until after WWII. For example, in early 20th century, German women who had acquired the nationality of their husband upon marriage were equally threatened by expulsion if an expulsion order was pronounced against their husband (Reinecke 2008). In the Netherlands, women lost their citizenship upon marrying a foreign national until 1964 and could be denied (re-)entry despite being born in the Netherlands and irrespective of other family ties in the

Netherlands (see de Hart 2006). In the Netherlands, debates over loss of citizenship and the rights of divorced and widowed wives of Dutch men in Indonesia sparked a significant public debates in the 1950s and 1960s and, in the case of the latter, also provoked a public advocacy campaign rallying for the rights of entry into the Netherlands for these women (Schrover 2009, Van Walsum 2009). Citizenship and marriage thus were closely intertwined institutions. In this light, Bryan S. Turner (2008) has recently argued that 'reproductive citizenship' was an important dimension in the evolution of modern citizenship. Indeed, marriage itself – perhaps the key institution in respect to families and the core institution constituting the family as a social institution – can be seen as an important mechanism through which individuals become members of a specific community or, in modern times, the "nation" and acquire (or lose) citizenship. In the wake of the emergence of the modern nation state and the modern state system and the concomitant processes of the monopolisation of power and the transformation of the state to the ultimate arbiter of social relations marriage itself has been transformed into a triangular relationship, between the spouses, society and the state. As both a social and legal institution, marriage also is located at the intersection between the public and the private and thus a key site where boundaries between the public and private are negotiated (Strasser, Holzleithner, Markom, Rössl & Sticker 2007).

***Family reunification policies after WWII: Preserving family units and "stabilizing" migrant worker***

After World War II, family migration became more prominent. Not only did International Labour Office recommendations and conventions after WWII increasingly refer to family reunification as a means to "stabilize" (i.e. integrate) migrant workers (see the introductory section to this chapter), but several states also endorsed family reunification as an element of their national policy frameworks, including France which endorsed family reunification in an administrative circular of 1947 (John 2003) and the US, which introduced a preference system for family members of US nationals in its 1952 Immigration and Citizenship act (Hawthorne 2007: 813). In the US, already the 1921 and 1924 immigration acts, which introduced national quotas based on the distribution of the population in the 1890 census, had intended to avoid separation of families and facilitate their reunification (Sussman/ Settles 1993: 210).

Until very recently, however, family considerations were often not made explicit in relevant rules on entry and residence of foreigners, but were implicit in administrative practice or, entirely absent. Thus, neither Austrian nor German legislation made explicit reference to family reunification until 1990 in the case of Germany and until 1992 and 1993, respectively in the case of Austria. However,

recruitment agreements and other provisions governing the recruitment of foreigners in the context of "guest worker migration" often included family related provisions. For example, in some countries, contracts recruited workers had to sign required the worker to be single or, as in the German Democratic Republic (GDR), restricted the right to marry or form a family once in the country. Indeed, pregnancy constituted a ground for expulsion under recruitment agreements signed by the GDR.

However, even in countries such as Austria and Germany without an explicit framework for family related admission, the very concept of "rotation" upon which "guest worker" recruitment was based, rested on the notion of single, temporary workers without family members and thus aimed at restricting family related migration. Thus, even though explicit provisions on family reunification might have been absent before the spread of the paradigm of "managed migration" and the related development of differentiated immigration laws distinguishing between and giving different rights to different categories of migrants, family migration policies in a broad sense were not.

Like in Austria and Germany, Denmark had no explicit provisions on family related admission until the 1983 Aliens Act which introduced a right to family reunification for settled migrants. Until the late 1960s, virtually the only criterion for admission was to be able to support one-self and no further limitations or restrictions were placed upon foreigners (Moeslund & Strasser 2010).

France stands out in that it actually promoted family reunification from the early post-war period onwards (Kofman, Rogoz & Lévy 2009).

In the Netherlands, family reunification in the 1960s was tied to the possession of at least a one year job contract, having sufficient funds and sufficient accommodation. In addition, applicants for family reunification were also subject to a waiting period (differentiated for EC citizens and citizens from elsewhere, respectively). Family reunification of family members of Dutch citizens was easily available only for family members of male citizens until 1964, until when a foreign wife automatically became Dutch citizen upon marriage thereby also acquiring the right of residence in the Netherlands. After 1964, foreign wives retained the right of option to citizenship (and thus rights of residence) whereas foreign husbands of Dutch women had to fulfil normal residence requirements to be admitted to the Netherlands (Bonjour 2008: 11). The underlying assumption was that women would – by default – follow their husbands, rather than the other way round. Similarly, in the UK women lost their citizenship upon marriage until 1948. Under the 1948 British Nationality Act, Commonwealth citizens were able to enter Britain without much restriction and thus could easily bring in family members. The right of entry of Commonwealth citizens was restricted in a series of laws issued from 1962 to 1971, when the Immigration Act, the basis of the current

framework governing immigration was adopted. While Commonwealth citizens lost their absolute right to family reunification in the course of these legal reforms, the conservatives further restricted family reunification upon acceding to power in 1979 through the primary purpose rule. The primary purpose rule was mainly directed against male immigration from South Asia and required from foreign nationals married to British citizens to prove that the primary purpose of marriage was not residence. The rule was finally abolished in 1979 (Kofman, Lukes, Meetoo & Aaron 2008). In both the Netherlands and the UK, therefore, the male-as-breadwinner model explicitly served as the template for legislation. In the Netherlands, however, family reunification was considerably liberalised in the mid 1970s. In the course of the reforms, non-marital relationships were acknowledged as grounds of entry, income requirements for Dutch women wishing to bring in male partners were discontinued and foreign women were for the first time allowed to bring family members over to the Netherlands in 1975. While gender differences remained, the reforms moved somewhat away from the male-as-breadwinner model. By contrast, family migration policies in the UK remained premised on sexist and racist assumption until the mid-1980s, restricting in particular immigration of male family members who were perceived as threat in particular for the labour market. By contrast, women were not perceived as a threat, since they were not expected to enter the labour market. When immigration rules for family members were challenged before the European Court for Human Rights in 1985, the UK's government response was to level down the conditions for both sexes – indeed, this strategy was also adopted by a number of other countries pressed for reforms on human rights grounds or on grounds of gender equality.

In much of Europe, family-related forms of migration have become more important after the stop in recruitment and increasing restrictions placed on labour migration in the wake of the oil crisis of 1973.

### **Curbing Numbers: Policy Reforms in the early 1990s**

The increasing shift towards “managed migration” across Europe in the 1980s and in particular, the 1990s, which in turn has been underpinned by related policy developments at the EU level, has again heightened the importance of family related migration as an admission channel. In contrast to the 1970s and 1980s, when family related migration was largely conceived as family reunification of pre-existing family units, the focus of current policy making has increasingly shifted to marriage migration, reflecting both changing patterns of family related migration and the intensification of public debates centring on the migrant family and family related migration.

The early 1990s in many respects were a turning point. First, the collapse of the communist systems in Eastern Europe and the related end of the strict exit

controls led to rising numbers of immigrants from these countries, many of which came as refugees in the immediate transition period from communism to democracy. Secondly, the collapse of the former Yugoslavia engendered massive flows of refugees, although inflows had already started before the break out of the war in Bosnia. Third, the number of asylum seekers from developing countries had already increased significantly during the late 1980s. By the early 1990s, however, these numbers had become significant, leading to the perception of an "asylum crisis". In response to these changes and a renewed wave of anti-immigrant mobilization in major countries of immigration, migration policies were considerably restricted and in some countries, like in Austria, Germany or Denmark, put on a completely new basis. In Germany, the main focus of policy reform was the asylum system and secondly, rules governing the entry of ethnic Germans from the former Soviet Union ("Spätaussiedler – late repatriates"). While changes in these policy areas have not been directly concerned with family related admission, arguably led to a wide-reaching transformation of migration to Germany in general and in particular are at the source of the emergence of a large "tolerated" population – persons whose removal procedures are suspended but who do not possess a regular status. The most important change in respect to family related migration was the incorporation of explicit rules on family related migration in the 1991 reform of the foreigners law (Bilger 2010). In Austria, the reforms of the early 1990s constituted a complete break with earlier aliens legislation. The most important novelty introduced by the reforms of the early 1990s was the introduction of "purposes of stay" and related quotas – maximum ceilings for the admission of non-nationals – as the main instrument of managing migration (Kraler 2010b,). The new quota requirements not only went along with considerable implementation difficulties, pushing many family members already resident into irregularity, as quotas were quickly exhausted, but also went along with long waiting periods. These were finally restricted to three years after the transposition of the family reunification directive. In Denmark, the automatic right to family reunification – introduced in 1983 – was abolished in 1992 and admission as family member made dependent on the sponsor being able to support the family. In France, the 1993 Pasqua laws and the 1994 decrees based on these similarly tightened conditions for family related admission, requiring the sponsor to dispose of sufficient income, appropriate housing and at least two years of regular residence, thus also producing long waiting periods (Kofman, Rogoz & Lévy 2010).

While changes in the policy framework regulating migration in general and family related migration in particular were informed by essentially quantitative considerations and the objective was to reduce the number of new migrants policy reforms in the Netherlands adopted in the early 1990s went a step further. While also introducing new conditionalities intended to limit the number of entries, the Dutch reform of 1993 was the first in a series of reforms in the

Netherlands and subsequently elsewhere which increasingly made family related migration a moral issue increasingly tied to "integration" rather than a mere issue of migration control. In the context of the 1993 reform this essentially was done through the emphasis on the "personal responsibility". The same reform also tightened conditions for family formation, which was made dependant on a three years residence period and a minimum age of 18 years, while introducing much stricter document requirements (Bonjour 2008: 14).

Only in the UK there were no significant reforms of the legal framework governing family related migration in the early 1990s, reflecting the already strict legal framework.

The experience of the Czech Republic, Italy and Spain is yet again different. In the Czech Republic, the transition from Communism to democracy and the resulting need to adapt the legal framework more generally was the main driving force of reforms of aliens legislation. In contrast to major countries of immigration, reforms went largely unnoticed by the wider public and sparked very little debate. From the 1990s onwards, then, reforms and the direction of the reforms were driven by the accession process and the main objective to adopt "European standards". Again this was largely a process driven by the public administration without much public debate and without much reflection on the policy objectives (See Szczepanikova 2008). The main focus of policy reforms in Italy and Spain which had become countries of immigration in the 1980s was to establish a functioning legal framework for the management of labour migration in the context of massive irregular migration and repeated regularisation programmes. Family migration was not an issue and even today is marginal to the public debate on migration policy in general (See Bonizzoni & Cibebe 2009 and Gil Araujo 2010). While irregular migration was and still is greatest in Southern European countries, irregular migration was an issue too in Northern Europe. In addition in some contexts irregular migration was closely linked to family reunification – or spontaneous family related migration for that matter. Issues concerning families were thus a major defining element in French regularisation policy since the mid-1990s, but also in Austria, Belgium and Germany. Also in the UK issues related to family members gave rise to – admittedly – small-scale regularisation programmes focused on family members after 2000 (see Kraler 2009).

## **The European dimension**

The development of common European policies on migration, asylum and integration following the Amsterdam Treaty of 1997 has been another turning point in the evolution of family migration policies. Indeed, the proposal for a directive on family reunification was the first proposal on legal migration in the wake of the Tampere summit (1999) and the first to be adopted.

Apart from the legal framework for the admission of third country nationals, the legal framework for freedom of movement rights of EU citizens and their family members includes important provisions for family related migration, above all for EU citizens themselves but also for third country family members of EU citizens. For third country nationals who are long term residents of EU member states under directive 109/2003/EC there is a separate framework regulating movement of family members of these persons. However, there is also an important gap: notably, there are no common rules on the admission and rights of family members of citizens of an EU Member State who have not made use of EU mobility rights, a gap which is unlikely to be closed in the current context.

The content of the first far reaching legislative proposals at the European level derived their impetus very much from the 'liberal moment' around the Tampere summit and the institutional opportunity structure at the time which allowed European pro-immigrant NGOs and associations to influence the drafting of the first directive (see Geddes 2000 on the involvement of NGOs in the late 1990s). Due to resistance by some Member States the final directive, however, was quite different from the original version.

Nevertheless, the basic principles on which an EU migration policy should be built have not been contested. These were outlined in a Commission Communication on a Community Immigration Policy of 2000<sup>4</sup>: transparency and rationality, clear and simple procedures, and differentiating the rights of third country nationals by length of stay. Other key principles addressed in the same Communication are the right to family reunification and the right of persons in need of international protection to access protection. An important additional principle in the development of an EU migration policy also was the overarching concern to promote legal equality and equal opportunities, embodied in the context of migration policy in the concept of "civic citizenship", promoted in various communications by the Commission after the Tampere summit (see Kraler 2006).

However, in practice, the actual legislation and the implementation of the legislation adopted at the European level falls considerably short of the original intentions, not only in respect to the right of family reunification of third country nationals but also the unsatisfactory implementation of the right of family reunification for family members of EU citizens.

Rights to family reunification under free movement legislation (consolidated in 2004 in Directive 2004/38/EC) originally had served as the yardstick in the elaboration of the family reunification directive. Successive directives and regulations on freedom of movement of EU citizens as well as the 2004 directive

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<sup>4</sup> COM(2000) 757 final, *op. cit.*

replacing these define a relatively high standard of rights. In particular, the 2004 directive follows an unusually wide definition of the family.

Although the intentions behind EU-wide legislation for third country nationals as expressed in the Tampere Declaration in 1999 saw family reunification as facilitating integration and economic and social cohesion, by the time of the Directive in 2003 migrant families were seen as hindering integration and a burden to the welfare state. As a result, the initial proposal was considerably watered down and the resulting minimal consensus laid down in the final – the third version – of the directive. In addition, while under the original proposal both third country nationals and citizens of EU Member States not enjoying freedom of movement rights were covered, the final version of the directive only covered third country nationals and thus left rights to family reunion with citizens of EU Member States not covered by freedom of movement legislation to the discretion of Member States.

In comparison to the family reunification directive, Directive 2004/38/EC, which consolidates various earlier directives and regulations into one single piece of legislation and also incorporated the considerable jurisprudence of the European Court of Justice provides a much more open legal framework, both in terms of the scope and in terms of the strength of the rights the directive accords to family members.<sup>5</sup> Because EU nationals not enjoying freedom of movement rights are not covered, the difference in the relatively liberal regime of EU mobility rights and national policies regarding family members of citizens who have not moved has had the perverse effect that the latter have lesser rights than EU citizens in a number of EU Member States, a practice that has been dubbed 'reverse discrimination'. Thus, in Austria, conditions for reunification are more restrictive for family members of Austrian nationals compared to those of EU nationals regarding financial means of the sponsor and concerning family members' obligation to fulfil integration requirements. Similarly, third country national spouses of German nationals are now admitted under the same (restrictive) conditions as spouses of third country nationals since 2007 and thus, amongst others, also have to prove a minimum level of German language proficiency before entry, whereas family members of EU nationals are exempted from this requirement (European Migration Network 2008, 19). A similar situation applies in the Netherlands. As a result of the unequal treatment of family members of nationals vis-à-vis family members of EU-nationals an increasing number of bi-national families have opted for temporary relocations to other EU Member States to 'gain' mobility rights and therefore faster access to family reunification and other rights associated with freedom of movement which are by and large far

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<sup>5</sup> Rights enjoyed by beneficiaries of the directive may only be suspended on serious grounds of public policy or in case of grave violations of the law



superior than those of family members of third country nationals or citizens without free movement rights.

Contrary to the general harmonising impetus of EU legislation, one of the most striking results of policy making on family related migration on the European level is an increasing fragmentation and differentiation of the right to family reunification, thus reinforcing and creating civic stratification – the differential positioning of individuals within a hierarchical and stratified systems of rights (Morris 2002; Kofman & Kraler 2006). Partly, this is a consequence of the differentiation of rights according to the nationality and legal status of the sponsor (i.e. whether the sponsor is a national, a national of another EU Member State, a national who enjoys freedom of movement rights, a third-country national, a refugee or a third-country national who is a long term resident).<sup>6</sup> It is also the result of relatively weak standards with respect to these individual categories within current legal instruments under EU legislation. Thus, as third-country nationals are concerned, a major reason for the poor record of the directive in bringing about comparable minimum standards with respect to the right to family reunification can be found in the altogether 27 derogation clauses of the directive (Huddleston 2008).

Rather than a harmonisation of the definition of the right to family reunification, we thus see an unintended harmonisation to the bottom, based on a harmonisation around various derogation clauses, for instance with respect to the minimum age for spouses and integration conditions. Family migration policy – like migration policy in general – thus oscillates between a logic of inclusion and a logic of exclusion: the expansion of the right to family reunification has been accompanied by increasing barriers to legal statuses that are associated with these rights and increasing policing of the boundaries between migrants and family members eligible for family reunification and those who are not (see also Wimmer 2002, 267-269).

Yet, the Europeanisation of family migration policies not only established (admittedly weak) common standards, but also initiated horizontal processes of policy diffusion, with governments adopting policies elaborated elsewhere in their own countries, most evident in the case of integration contracts and pre-entry tests. In Eastern European countries without a prior history of migration policy making policies were generally developed based on Western European models and the EU-acquis and with little or no public debates and often without concrete objectives behind policy proposals – except from bringing countries' legislation in line with what were regarded as 'European standards' (see Szczepanikova 2008

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<sup>6</sup> Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents

on the Czech Republic). In Western European countries, policy makers have similarly increasingly drawn on models developed elsewhere, however, usually in the framework of home grown debates on family related migration. Several key concerns have driven policy developments in individual countries or have been invoked as a justification for policy changes. These include numbers and related attempts to restrict family related migration, the abuse of family reunification provisions (marriages of convenience), debates on forced and arranged marriages, and more far reaching concerns about the negative implications of co-ethnic marriage migration from traditional sending countries.

## **Current policy developments**

In continental Europe reforms of the legal framework for migration in the 1990s, while restricting new immigration, increasingly acknowledged the long-term perspective of the majority of migrants present in the respective countries through the introduction of permanent residence titles, thereby acknowledging that migrants should be granted superior rights according to the duration of stay. In that context, the right to family reunification was – in principle – acknowledged as a guiding norm in relation to admission of family members.

However, at the same time, family migration was increasingly problematised, especially in long-standing countries of immigration. Recent policy debates and policy changes in particular focus on three main issues: (1) the issue of marriage of convenience; (2) forced and arranged marriages and 3) integration.

### ***Marriages of Convenience***

Marriages of convenience have been the target of legislative reforms since the mid-1990s. Although the number of known cases of marriages of convenience are relatively small, concerns about marriages of convenience have led to a massive expansion of measures aimed at discouraging and preventing marriages of conveniences in 6 of the 9 countries under study. In particular, the scope of the powers of enforcement agencies to investigate cases of alleged marriages of convenience have been significantly expanded. Thus, investigated couples have to accept a close scrutiny of their private lives and to what extent it conforms with mainstream notions of a “family life”. Increasingly, it is not only couples suspected of being in a marriage of convenience, but binational marriages in general who may become subject to preventive investigations. Thus, in Austria, civil registrars are obliged to notify the aliens policy of all marriages involving citizens and third country nationals. The police then undertakes a systematic risk analysis on the basis of which it may launch more specific investigations. Similarly, in the UK marriages involving persons subject to immigration control were made subject to permission by the Home Office, although the law was later ruled to be in breach with human rights by the High Court.

Marriages of convenience have been a major focus of public debates on family related migration in particular in Austria, France, Germany and the UK, although in the Czech Republic “sham marriages” and “sham adoptions” have similarly moved to the centre of political debates.

### ***Forced Marriages***

Forced marriages have become a major issue in public debates in some countries, notably Denmark, France, Germany and the UK since the late 1990s. At the same time, forced marriages are also a showcase example of the Europeanisation of debates on migration and asylum and the spread of policy debates originating in one or two Member States to the European level and to other EU Member States.

Generally, public debates fail to distinguish forced and arranged marriages. The net result of this inability and unwillingness to distinguish different forms of arranged marriages according to the degree of coercion or conversely, the degree of voluntariness involved in entering into such a marriage has been the problematisation of “ethnic marriages” in general. Consequently, several of the countries covered by this study have used migration policy as an instrument in the fight against marriages and in doing so, have disregarded questions as to whether immigration law is an appropriate tool to deal with forced marriages.

Thus, age of marriage for sponsors and spouses has been increased in the Denmark, Germany, the Netherlands, and the UK supposedly to protect girls from forced marriages and the desire to slow down the continual inflow of new migrants into communities deemed to be living apart or in parallel lives. In Germany concern with low levels of intermarriage amongst Turkish migrants led to an increase in the age of marriage to 18 years.

Although argued in terms of protection of young migrant women brought in as spouses, policy makers are often adamant that one of the main objectives of increased age levels is not mainly to protect young girls, but to restrict marriage migration and reduce overall levels of migration. Thus, the Dutch Minister of Alien Affairs and Integration expected that the increased marriage age in conjunction with raised income levels would lead to a reduction of family formation by no less than 45 per cent (Bonjour 2008, 25). A study commissioned by the UK Home Office on the likely effects of raising the marriage age highlighted that such a move would involve more risks than benefits and concluded that immigration policy is not an appropriate tool to address forced marriages (Hester, Chantler, Gangoli, Devgon, Sharma, & Singleton 2008). Despite this recommendation the UK Border Agency raised the age of marriage to 21 years for both spouses in

November 2008.<sup>7</sup> Although the use of immigration policy as a tool to fight forced marriage remains questionable, the raising of marriage age has also been supported by various feminist NGOs. Integration criteria, such as knowledge of the country's language, has also been attached to admission criteria in Germany as well as in France and the Netherlands (Bilger 2010; Bonjour 2008; Kofman, Rogoz & Levy 2009), and are debated in other countries such as Austria and the UK.

### ***Family reunification and integration***

Although the relevance of the family for processes of integration has long been recognised – indeed when Germany established an “integration commissioner” in the late 1970s, the official name of the commissioner was “Commissioner for the Integration of Foreign Workers and their Spouses” (Bilger 2010). However, issues of integration have become the focus of debates on migration in general only in the 1990s. The general debates do not concern us here, as they have been discussed in preceding chapters. The result of these debates has been the incorporation of integration considerations in admission policy, pioneered in the Netherlands and its 1998 Integration Act, which required new immigrants to attend so-called integration courses, mainly consisting of language training. Similar courses have subsequently been introduced in Austria, Denmark, France, Germany and the UK.

In France, immigrants must sign a “reception and integration contract” (Contrat d'accueil et d'intégration) in addition to taking courses. Amongst others, immigrants thus pledge to raise their children according to the principle of the Republic.

While such integration courses, whether obligatory or not, can be argued in terms of supporting migrants to adapt to the country and learn basic skills to navigate in their new environment, the introduction of pre-entry tests – again pioneered by the Netherlands – represents marked shift in integration policy.

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<sup>7</sup> The underlying report was not accepted by the Home Office on grounds of “low quality” and only released after a formal request under the Freedom of Information Act. According to the “Freedom of Movement” website, the Home Office reasoned that “the report (rather than how the research was conducted) is not of sufficient quality to be published in the Home Office research series. The report contains unsubstantiated findings and what appear to be potentially misleading statements. It is also difficult to establish how individuals or groups/organisations have responded to certain questions.” (See <http://freemovement.wordpress.com/2009/09/05/forced-marriage-unit-warned-home-office-of-risks-in-increasing-spouse-visa-age/> )

Against an earlier understanding that states do have responsibilities and obligations towards migrants and need to design their immigration policies accordingly, reflected among others, in the right to family reunification, the granting of secure residence rights for long term immigrants, etc and also a major rationale on the European level, the emphasis of current debates on admission and integration is now on the responsibility of individual migrants and their sponsors rather than on the responsibility of the state. The effect of these developments is that "integration" is increasingly used as a principle of selection and understood in terms of certain characteristics of immigrants (including language proficiency, income, good character etc.) rather than in terms of integration being a goal and a desirable outcome of the settlement process.

### **What does the state do when it regulates family related admissions?**

The focus of the following analysis of the current legal framework governing the admission of family members in the 9 countries covered by the study is on the principled ways family migration policies shape opportunities for family related admission and what they exactly do when defining eligibility criteria and conditions attached to admission as a family member. The section does not purport to provide a comprehensive legal analysis of the countries covered in a comparative perspective (see for such analyses European Migration Network 2008 and Groenendijk et al. 2007). Rather it seeks to draw out more general points concerning the modes of regulation and the effects of these modes of state regulation on those affected by them.

#### ***State constructions of the family: What is the family?***

The state constructs the family in several, and not always consistent ways and in different (legal) areas. In the context of family related admission, immigration regulations provide the most important definition of the family. In defining what the family is, however, immigration policies do not solely define the family in terms of its members, that is, who is thought to belong to the closer family and who is eligible to enter as a family member, but equally important, they also define the family in terms of the qualitative characteristics, both of individual family members and the family as a whole. Finally, in defining rights and obligations of migrants brought in as family members, family migration policies also contribute to the construction of public and private roles of family members, and, seen on a macro-level, they contribute to the construction of the boundaries of the private/ the public realm and the parallel, but not synonymous division between the productive and the reproductive. These constructions in turn also influence the (legal) construction of family relationship as dependency relationships.

Usually, family admission is restricted to a narrowly conceived nuclear family, i.e. spouses and (minor) children. The exact definition of a nuclear family under immigration law, however, varies considerably between countries. Thus, although a growing number of European states allow for reunification with partners in a long-standing relationship and/or same sex-partnerships, a marital relationship is still the most accepted definition of a legitimate relationship. Children usually include biological children, adopted children, and step children. For the latter two categories, there are additional requirements, including sole custody, the consent of the other parent or a proof that the child cannot be adequately cared for in the country of origin. While most countries treat children from polygamous relationships as step-children or adopted children (often formally asking for adoption), France has specific provisions restricting reunification with children from polygamous relationships (reunification with another spouse from such a relationship is ruled out explicitly).

Beyond this narrow definition of the nuclear family, few other categories of family members are eligible for family reunification, and if so, such family members are mostly only accepted in certain circumstances, mostly if such family members are or might be in need of care and/or are (financially) dependant. Thus, reunification of parents is usually only allowed if parents are over 65 that is, once they are no longer economically active and potentially dependant, both financially and in terms of care.

In some countries, it has to be proven that no one else can take care of the parents in the country of origin, while proof of dependency is required in several countries.

Other family members (siblings, aunts and uncles, grandparents) can be admitted as family members in even fewer countries. In the UK, other close family members can be reunified, but only if a dependency relationship or other humanitarian grounds can be invoked. Thus, generally, European states limit family reunification to the nuclear family, defined by spouses, and increasingly, cohabitant or registered partners and dependent children. Other family members, notably siblings, parents, only can be admitted in exceptional circumstances (See table 1, below).

**Table 1: Definition of the family (Reunification with Third Country Nationals) – Who can be brought in under family reunification provisions?**

Country	Spouse/ Partner	Children	Parents	Other
Austria	Spouse	under 18	-	-
Belgium	Spouse	Only if both parents reside in B.	-	
Czech Republic	Spouse	Minor and dependant adult children/ step children,	Over 65 and solitary; or if in need of care	-
Denmark	Spouse, co-habitant partners, registered same sex partners	Children under the age of 15	-	-
France	Spouse, partners in a long term relationship/ registered partners (PACS)	Minor children, older children with strong family ties in France	In case of strong family ties (discretionary)	Other relatives in case of strong family ties (discretionary)
Germany	Spouse, registered same sex partners	Children under 16, between 16 and 18 in exceptional circumstances	Parents over 65	
Italy	Spouse	Minor children, dependant adult children, child of spouse from previous relationship if other parent gives consent	Dependant parents	-
Netherlands	Spouse, registered partner	Minor children, adult children if non-admission would cause hardship	Solitary parents over 65	-

<b>Country</b>	<b>Spouse/ Partner</b>	<b>Children</b>	<b>Parents</b>	<b>Other</b>
Spain	Spouse	Children, children from previous marriage/single parent if sponsor exercises sole custody	Dependant parents	Dependant grandparents
UK	Spouse, partner in a long-term relationship	Minor children, older children for humanitarian reasons, minor children of single parent only if parent has sole custody	Parents over 65, under 65 for humanitarian reasons only	Aunts, uncles, siblings of sponsor for humanitarian reasons

Source: compiled from Node country reports, EMN 2008, Gronendijk et al. 2007



### ***Conditioning the family***

In all cases, additional requirements are attached to the right of family reunification, including, for example, (financial) dependency in the case of children and parents, minimum income requirements, the requirement that spouses/partners, and sometimes also children need to physically join the sponsor in his/her place of residence, or “active family ties” (i.e. not having being separated for too long). These conditions as well as the restrictions placed on family related migrants in some countries (e.g. in terms of access to the labour market), not only constrain and define the choices and opportunities available for individuals and their families, but also go a good way in defining what the family is or should be about, in other words, conditions and restrictions also express certain understandings of the family as a social institution and how it should be structured internally.

Dependency is probably one of the key concepts in state constructions of familial relationships.

Dependency is constructed in several ways: first, dependency is constructed by defining the rights and obligations of a family member in relation to the sponsor – a family member is by definition admitted *qua* family member of the sponsor. He or she does not have an independent right of residence and may acquire an independent title only over time, a right, however, not given to persons on temporary titles. Indeed, the rights of secondary migrants are defined in relation to the sponsor – if the sponsor has lesser rights, so has the secondary migrant. Second, dependency is constructed as (financial) dependency of some secondary migrants, notably parents and others not directly member of the nuclear family. A similar concept of dependency is the underlying principle of age limits for children. And indeed, some states explicitly require that children (even if minor) be dependent and be unmarried. Underlying this conception of dependency is an assumption that the family primarily belongs to the realm of reproduction: in other words, the right to family reunification is primarily construed as right to reproduction and to a lesser extent, in terms of the family as a unit of solidarity.

However, it is important to note that there is no single regime for the admission of non-nationals for the purpose of family reunification and that the definition of the family may differ between different regimes. Conceptionally, three regimes can be distinguished: a) family reunification with citizens; b) family reunification with EU nationals and c) family reunification with third country nationals, which, for the selected countries, is represented in table 1 (see above). The most significant differences in terms of the definition of the family can be observed between rules governing family reunification of family members of citizens/ third

country nationals on the one hand, and those governing the family reunification of family members of EU nationals, on the other.

***The gap between conceptions of the family in immigration law and the increasing diversification of family patterns***

The widening gap between changing norms of family life and the much narrower and simplistic conception of the family as formulated in migration law has often been noted (see Kofman & Kraler 2006). Much less clear is why the pluralisation of family models in contemporary European societies has not, or only to a very little degree been reflected in definitions of the family in migration legislation. To be true, law often lags behind developments in society, but in other areas of law, such as family law, law has adapted to changing realities of family life much faster. One explanation may be that family norms in contemporary European societies have actually changed much less than the diversification of family patterns seems to suggest. Indeed, despite the diversification of family patterns reflected in the increase of patch-work families and a multitude of partnership arrangements (with or without children), many Europeans still seem to cling to traditional notions of the family. As Yvonne Riaño in her case study of binational marriages in Switzerland (Riaño 2010) suggests, the unequal positioning of men and women in relations of dependency by family reunification provisions in Swiss aliens legislation may reflect, rather than contradict, Swiss 'gender culture'. In a recent article, Turner (2008) shifts the locus of the explanation back to the state and argues that the narrow conception of the family for the purpose of migration is an expression of a more fundamental tenet of the relationship of the modern state to citizens – which he theorises under 'reproductive citizenship'. Against alternative genealogies of modern citizenship Turner (2008: 53) argues that 'a familial ideology of procreation has been a major legitimating support of the contemporary ensemble of entitlements that constitute the social rights of citizenship'. In this context the family is at the same time seen as a fundamental institution guaranteeing the reproduction of society at large and therefore enjoys far-reaching protection and support from the state. The flip-side of the understanding of the family as the primary site of reproduction, however, is that other forms of ways of life do not only not enjoy the support and protection of the state, but may be discouraged altogether. At the same time, the family is not simply the primary site of biological reproduction, but more specifically a key site for the reproduction of specific national societies and therefore also a site of contestation and social engineering and subject of moralising political and public discourses.

However, the gap between the lived reality of different forms of familial relationships and the narrow conception of the family in immigration law also reflects a more fundamental tenet of immigration and citizenship law, namely that

it embodies normative conceptions of the “good citizen” (Schmidt 2007) and thus constructs those eligible for admission – or citizenship for that matter – on the basis of an ideal type conception of the characteristics of ‘good citizen’ : as self-responsible individuals which are able to support their lives without recourse to public funds, usually measured through income levels set at relatively high levels; as persons who have a clean criminal record and show a willingness to engage with the wider society, examined through language and integration tests (see also Dauvergne 2008).

## **Chapter 5: The impact of policies on those affected by them**

As has been argued in the above, the impact of family migration policies on those affected by them has hardly been studied. At the same time, legal admission rules are not the only constraints shaping experiences of family life. Although the focus of our analysis thus was on the impact of particular legal regimes on family related migration, the overall scope of the empirical analysis was much wider. Our methodological approach – semi-structured qualitative interviews and focus group discussions – was particularly appropriate to explore these various dimensions of the lived reality of family related migration. On the one hand, our analysis explored how migration policies are experienced by those affected by them and how migrants and others shape their migration strategies accordingly. On the other hand, we also investigated how the migration process in general impacted on family and gender relations and the daily routines of family life. This chapter, however, focuses on the immediate impact of family migration policies on those affected by them, as other aspects have been addressed elsewhere (Strasser et al. 2009).

The analysis of experiences of persons affected by family migration policies shows that many of the assumptions underlying state policies as well as public debates on family related migration do not do justice to the reality and complexity of family migration and the migrant family. In particular, the narrow definition of the family under immigration law constrains migrants' ability to live their family lives according to their own wishes. In the face of increasing suspicions of migrants and others 'abusing' family migration policies persons affected by family migration policies constantly have to 'prove' that their motives are genuine and that they conform to notions of the 'good family'. At the same time, the conditions attached to family reunification such as income requirements and others as well as bureaucratic obstacles render the realisation of family reunion a difficult task for many.

Other issues such as access to employment and labour market position and experiences of deskilling affecting in particular female spouses, work-life balance, child care, and access to education create additional pressures on migrant families and interact with legal frameworks in complex ways. In sum, the legal framework for family reunification tends to increase inequality and unequal access to rights. While the consequences of policies might be more serious for vulnerable groups, they also affect highly skilled migrants, albeit they generally have better access to personal networks and resources to respond to constraints imposed by the legal framework in place.

## **Narratives**

The way our respondents frame and narrate their experiences of processes of family migration and family migration policies is itself indicative of the powerful role of the state in shaping migrants' experiences, while also reflecting wider patterns of gender identities and gender relations.

Three main narration strategies can be identified:

- Family formation as a love story
- Interpreting failure of official family reunification as personal failure
- Gendered narratives.

### ***Love story***

Many interview partners presented their family story as a 'love story'. This narration strategy can be considered as a reaction to the suspicion of sham marriage that most interview partners were confronted with by authorities and persons from their immediate social surroundings or more generally in public and political discourses. Most interviews with family forming migrants or couples, no matter whether co-ethnic or bi-national marriages, whether arranged by the family or based on individual decisions, thus referred to idealised notions of love and family life, such as 'love on first sight', or emphasized that 'it clicked' between them and their partners. This indicates the powerful normative role of the state and public discourses in shaping migrants' and others' discourse strategies and social identities.

### ***Men/ women: impersonal 'We' versus a personal I***

Men often blame the system, the entry requirements, legal regulations, discrimination and racism to legitimize failures in the process. As example in the Dutch case, several Moroccan men tended to refer to discriminations on grounds of religion and ethnicity when talking about failed procedures of family formation. Women refer more to the results the process has on them, they talk about their feelings resulting of the process.

### ***Personal failure***

'Very often the problems related with residence permits, social isolation or xenophobia are projected into the individual's biography and interpreted as personal failure. This phenomenon of self-responsibility is embedded in the neoliberal maxim that perceives success or failure as dependent on the capabilities and efforts of the individual. As Sociologist Stefanie Duttweiler has shown (2007), this mechanism blinds out social structures and thus related

inequalities, while liberating instances of social regulation such as the state from their respective responsibilities.

A major point impacting on the daily lives of migrants are discriminatory treatment by both authorities and the social environment. Such discriminatory treatment however was not easily brought forward in the interviews in a direct way, although experiences of discrimination and criticism on the legal system were rather expressed by persons who already had obtained a more secure status.

## **The changing scope of the family**

As has been analysed in more detail in chapter 4, the definition of the family in immigration law is relatively narrow, usually only permitting to reunify with members of the nuclear family. Irrespective of the legal framework, however, migration almost inevitably leads to changes in the scope of the family. These changes in the scope of the family and in particular the 'shrinking' of the family to the nuclear family, however, are experienced differently by different migrants. Thus some respondents experienced the absence of wider family members as liberating and allowed them to lead their life according to their own wishes and to escape from pressures from parents and others.

*In Algeria or in Morocco we could not have lived together before marriage. That is something very French. That was luck for me. Because I always wanted first to live together with a woman, before marrying her. I already wanted this in Algeria. Live in partnership before marriage. (France: Algerian man, independent migrant, in irregular status for 3 and 1/2 years, regularisation after marriage with French-Moroccan woman)*

For other respondents, the absence of the wider family had completely different connotations. In conjunction with limited availability of alternative social networks this, on the one hand, contributed to a sense of loneliness and isolation and the feeling that life was reduced to a daily routine, focused mainly on work and devoid of any social activities. In addition to the impact of the absence of the wider family on the sense of well-being, many respondents also missed the practical and psychological support provided by kin-networks. In particular women with children found that their families had become "much too nuclear", as a result they lacked someone looking after their child and consequently found it much more difficult to reconcile their working lives with their family lives.

NGO and state migrant support activities such as language courses and the like can offer important opportunities to rebuild social networks and to avoid social isolation and loneliness:

*I heard of a teacher that there is an adult education centre that also offers German classes. For me, that was THE information. That was my start. That was my access to living. (...) when I started with the German course, then my*

*circle of acquaintances grew broader and broader, I can now call them friends'*  
(Austria: Romanian woman, sponsored)

## **Performing family**

The narrow definition of the family in migration law pushes many migrants in a relationship to legalise the relationship through marriage and to make "the big step" where otherwise they would have not done so. However, in the current context, it is precisely this move – to enter into a marriage – which makes those involved also suspicious in the view of authorities and the wider social environment. Indeed, the suspicion experienced from friends and relatives of not living in a genuine relationship was often experienced as more difficult than the institutionalised suspicion of state authorities:

*The marriage was official. I didn't like the idea really, because some people do a fake marriage to get a visa to someone you don't love, so I was feeling uncomfortable already because I know those stories and I didn't want to be suspicious about that. Still some people are suspicious about that and they are quite rude directly. Even my class mates. They said, you married him because of a visa? I was shocked. So now I understand that some people can see it like that because of so many fake marriages going on. I have a probation visa now, so that means officially they do not believe our marriage now. That's ok, I can understand that. We married 2 years ago, 2005. (United Kingdom: Korea, female migrant brought in as spouse of UK national).*

By producing glossy photo albums, showing love letters, or talking about their future plans migrants try to demonstrate to administrations deciding about success or failure of their application that their family relationships or their motives to form a family are 'genuine'. Which motives are considered authentic and which are not varies from country to country. While queries about 'real love' stood at the centre of administrations' suspicions in the Netherlands, getting children was set as marker for 'real' family life in the Czech Republic. In contrast to these highly idealized notions on family and marriage produced to the outside world, our respondents are clear that decisions to form a family are rarely taken only on the basis of 'pure love', nor are they only involving two persons. Marriage is always a mutual alliance in which both parties want to realize certain purposes. Some of these are however judged not to be genuine enough in the eyes of the state and its administrative bodies. As a result of these processes, the state thus creates a hierarchy between genuine and 'not-genuine-enough' reasons to marry.

## **Meeting conditions for family reunification**

As has been demonstrated in chapter 4, the very design of family migration policies is geared towards selective admission: In the context of contemporary forms of migration management admission is tied to a broad range of conditions which migrants have to meet in order to gain admission.

The empirical analysis shows that meeting these requirements depends on a variety of factors, including the social and economic resources those involved in family reunification dispose of. The analysis suggests that social capital is an important dimension in processes of family migration. Given the complex nature of immigration regulations and the complex nature of the conditions that have to be met it is social networks, including access to professional organisations counselling migrants through which information on requirements and ways to meet these requirements can be met. Relative isolation, lack of social networks or lack of access to the 'right' social networks by contrast acts as a considerable barrier to realising family reunification.

Of the various conditions attached to admission as a family member, income criteria were experienced as most burdensome. Generally, the income requirement is based on steady, full time employment relationships, making it much more difficult to meet the requirements for those in more precarious forms of employment or those who do not yet have a permanent contract. In addition, it is usually only the sponsor's income which is taken into account and who thus has to carry the whole burden of meeting the income requirement. Thus, a Dutch teacher married to Russian women only could bring in his wife after he got a permanent contract. In that context, employers become crucial gatekeepers, as the following quotes illustrate:

*Now I have to earn € 1370,- and also I need to have a fixed contract for one year. This was really difficult man... They give you three months to fulfill the criteria; if you don't succeed the residence permit of your wife is not expended. Fortunately I succeeded to find a job and an employer who was willing to give me a fixed contract for one year. I recently applied to prolong her permit for one more year. We are waiting now for the result of that. (I 10, man, Morocco, sponsor)*

*My elder brother also came later to France for his university studies. At the end of his studies he should leave the country. But my father did everything to keep him here. He took lawyers. We received a letter of eviction (order), which we appealed. This happened some years ago, end of the 1990s. My brother had to provide an employment contract that an employer would keep him here. Or he would marry. But he had not yet met the woman of his life. So he had not that much choice. But my father had a good relation to his employer, he talked with him, and the employer gave my brother a job, as a computer specialist. Then he had the residence permit immediately, whereas my father had fought for it three years. And he spent all his money on it. It was a large part, because the lawyers are expensive. With every letter we had to take a new lawyer, my brother always had three month permits during the new procedures, with each appeal we made. During the 90s it was a bad situation in Algeria, and my father did not want at all that my brother returned. Moreover, my brother had lived with us already for 6,7 years at that time. (IP7: French-Algerian woman grown up in France, 27 years old, family reunification with father as child, sponsored her Algerian husband, university degree, searching employment)*

The income criteria is particularly burdensome for single mothers who may find themselves in a catch-22 situation: Should they work part time and take care of



their children themselves, thus risking to fall below the minimum income required for family reunification or should they work full time and resort to paid child care arrangements which they might find difficult to afford? While this dilemma and the resulting choice between job and family is not specific to migrant mothers, especially in countries with less developed child care facilities, the consequences – the risk of failing to meet income criteria for sponsored family members are.

While the income criteria – and in some countries also housing criteria – are experienced as burdensome by many of our respondents, there are also a series of other barriers, such as providing the correct documents required in the application procedure. In particular citizens of less developed countries with inefficient and cumbersome bureaucracies and inadequate registration and documentation systems often fail to provide the documents as the following quote illustrates:

*Everything takes so long. So, for example, when we arranged some paper which was supposed to arrive from Nigeria, before we could actually use it, it already expired and Czech officials didn't want to recognize it. So there comes another round of paying a lot of money to get this paper again. (Czech woman married to a Nigerian citizen, 25 years, focus group participant)*

Proof of a kin relationship or marriage, straightforward for most citizens of industrialised countries may similarly become an obstacle – and costly:

*But when I claimed asylum I already stated that I am a married person so everyone knows that if they accept me they have to accept my wife. Legally I have the right. There is no official way. We have been married for 7 years and we have stayed apart for 4 years. It is like a punishment, for what, I don't know. We both claimed asylum in the Bora area. We can stay together even though we stay in a camp. But when I came here .....there is no good treatment for us. We should raise our voice loud and they should listen to us... We married, but not in official way, because we are illegal migrants in Thailand, and we cannot go through any legal process. So we have a marriage documents, but the UK system does not recognize that form of marriage certificate. What does marriage mean? They should think about that I think. (Burmese refugee trying to bring in wife United Kingdom)*

The newly introduced pre-language entry tests – introduced first in the Netherlands in 2006, followed by Germany and France in 2007 (in the case of the latter in a somewhat less restrictive version) and currently considered by other countries such as Austria and the UK – are probably the most socially selective conditions. Not only do the tests themselves favour more educated and in the case of the Netherlands computer literate migrants, but the fact that the tests themselves and corresponding courses are available only in a relatively small number of embassies of those countries puts applicants from countries without an embassy and in general persons from a less favourable socio-economic background at a massive disadvantage:

*Together with my guidance councillor I contacted the Dutch embassy over there to see what possibilities there are for her to follow a test there. But they*

*had no idea where she could follow this course. You just do not have the opportunities in Eritrea to do that... (Netherlands: male sponsor, Sudan)*

Persons without any or with a precarious legal status such as irregular migrants, asylum seekers or rejected asylum seekers usually have no legal right to reunification (although in the case of asylum seekers family reunification in principle is possible), a situation which is experienced as stressful and degrading:

*But I want to marry, I want to study, I want to work, I want to have an apartment, I don't just want to stay here and the country gives me money for a long time. I don't want that. (...) I want a family with children and a husband, like all women do. But the problem is, I can't marry, because I'm asylum seeker" (Austria: woman, Algeria, asylum seeker).*

The legal requirement to apply for a residence permit from abroad is a particular obstacle for irregular migrants, even if they are in principle entitled to entry as a family member, for example through marriage to a citizen:

*To ask for a MVV (permit to stay with one's partner) he has to go back to Somalia. Well this is impossible for several reasons. First of all he does not have identity papers, so he cannot travel back. Secondly, it is not safe for him to return. In the media you hear about Somalis who return 'voluntarily' and never arrive or are detained upon arrival. This would be really dangerous for him. (...)*

*I don't know, but IF we would take such a risk it would still be really difficult for him to get his papers in Somalia. You never know whether they would give him an ID and then also you don't know whether the Dutch accept these papers. (...)*

*I think it is crazy, we do our best to create a safe environment for our child, if her father and mother are torn apart because of immigration rules that would be tragic! For us it would be really good if this MVV duty was skipped, why does someone have to apply from one's own country, this is ridiculous, he did not come to the Netherlands for nothing! (Netherlands: Dutch woman with Somali partner, sponsor)*

The consequences of not being able to meet requirements and the principally long waiting periods made family reunification in France a difficult and lengthy process for many. For example, it took a Turkish woman 3 years to bring in the husband. In order to be eligible to bring in her husband she had to rent apartment and change her job to earn more. Similarly, it took a Moroccan woman 3 years to bring in her husband. Initially, she was refused the application on grounds of insufficient income and had to work long hours to reach the minimum income required by the law. This also implied that friends took care of her two children. A Chinese couple was refused family reunification with a son on grounds that their flat was considered too small. They had to acquire larger flat that conformed to the 9 m<sup>2</sup> per person.

## Experiencing dependency

As argued in chapter 4, dependency is one of the key concepts employed in contemporary regulations of family related admission. Historically, dependency was inextricably linked to the "male-as-breadwinner-model" and thus was a deeply gendered concept and in many ways still is so today. The notion of dependency directly or indirectly is based on the separation of the social and the economic, the productive and reproductive, and public and private tasks, with the primary migrant (the sponsor) being responsible for the productive part of the labour division and the secondary migrant being constructed as dependant, belonging to the reproductive, social sphere.

The growing share of (adult) men entering as family members, however, means that the gender implications of dependency rules are quite different today from what they used to be. In particular, the construction of secondary migrants implies a reversal of traditional gender norms and as a result may go along with tensions within the family. Conversely, carrying the full (financial) responsibilities as a sponsor may be experienced as more difficult by women, in particular in the context of generally less favourable employment opportunities for women and if there are children and related child caring responsibilities. In addition, whilst inactivity and social isolation was experienced as problematic by women too, in the case it conflicted much more with presumed role identities as men and providers of the family.

In many cases husbands are unable to cope with this situation of their wives being officially responsible for their 'right to exist in this family' resulting in situations of 'waiting with a lot of tension'. Finally, as soon as the secondary migrant obtains all these rights for himself negotiations over male and female roles start again with the wives not necessarily ready to step back to the 'reproductive' position in family.

In other cases it may very well be the economic reality making it necessary for both spouses to work as soon as it is possible. This requires that the husband realizes that balance work and family life and that raising children is a shared right and responsibility of men and women. In fact this is where women have suffered a lot in the process of changing roles 'because the husband expects you to be there when he comes home at night, to be available ... and maybe you are not, because you have been working all day.' In any case, and as probably valid for family changing process in the wider society, also in our study women highlighted that their husbands did not see their role in the domestic sphere but that the women had to find ways to get the support needed to balance work and family life.

In some cases however the redistribution of gender roles worked out, and changes in gender relations and responsibilities were experienced in the way that

the man took over the cleaning to disburden his wife who had to clean all day, or cared for the children as long as he had no access to the labour market. In other cases, by developing all kinds of funny or wise tricks some women successfully managed to at least 'convince' or 'force' their husbands and children to realise that to this 'ladies thing ... everyone should contribute equally' and as 'women go out and earn money too ... it cannot just be a woman's thing.' (Spain: women, Nigeria, sponsor)

Forced dependency is experienced as extremely degrading experience, both by men and women. Women who were used to manage their life independently before immigration, as secondary migrants find themselves totally dependent on their husbands. They feel deprived of their rights and position as full members of society: 'In Argentina I was a woman. But here I am like a child. Because I need my husband more than I did in Argentina', put it one woman who migrated to Austria together with her Argentinean husband. By being attributed the position of a dependent family member, women may be pushed into roles they were consciously objecting before, as a Romanian woman remembered: "Suddenly, I was the woman who was waiting for the money of her husband."

The legal dependency on the sponsor lead to situations in which women suffering under domestic violence were not able to leave their husbands as they would risk losing their residence permit. In some extreme cases, men or families in law would even misuse and reinforce this asymmetric relationship and prevent women from becoming more independent, for example by contending that there would be no language courses available, by prescribing when and whether the woman should take the birth control pill, or by claiming control over her money and threatening her to call the police if she would not conform. In this, the state's legal framework reinforces asymmetric power relations within families and contributes to the vulnerability of women to be exploited and controlled by their families.

## **Changing policies, changing strategies**

Family migration policies have moved to the centre of political debates on migration relatively recently. As a result of these debates policies have undergone considerable change and in particular, conditions for admission as a family member have been considerably aggravated:

*At that time we could still regroup them here directly. While now we can't. All the following generation of Ecuadorian mothers and fathers go through the process of presenting their second card, they present their papers to the Government Delegation of their community and they are asked for an apartment in good conditions ...an employment contract, a lease contract, and then a person like from social services goes to check out the apartment, then there is also intervention at an authorities level... Once they see what conditions it is in and they give you the go-ahead, the report is submitted and*

*you have to wait for them to send you a letter so that they can present themselves over there... (Spain: woman, Ecuador, 40-50, sponsor)*

The experience of change towards more restrictive conditions is echoed in France: One case came 10 years ago and experienced 3 "generations" of family reunification. As the generations go on, family reunification is experienced as more and more difficult: The respondent experienced her own case of family reunification as relatively easy, the family reunification for her child was already more difficult. Her son then got married, and in his case, the family reunification remains unsolved. As a consequence, she now advises her other children to marry someone in France (Civic stratification, gender and family migration policies in Europe project workshop Florence 2007: 15).

Similarly, an Algerian woman who joined her husband in France through family reunification and left her 11 years old son in Algeria in order to continue school could not later on reunify with her son due to housing and income conditions:

*I made a mistake, something stupid. I applied for family reunification to the authorities, I did not work, my husband worked, we had 3 room apartment, when we made the application for family reunion, the prefecture refused it. Reason was that the apartment was too small, 66m2, we were 6 persons. They demanded that we move to a bigger apartment so that our son could come. It was not easy to change the apartment, the income of my husband was 8000 Francs (1220 €), that is not enough. I ran after the social service (assistance) to find another apartment, I tried everything. I made a second family reunification application, in 1992 they changed the law. For 7 persons 66 m2 would be sufficient now, they told me. But they refused again, this time because the salary was not sufficient. Then they demanded that I work part-time. The prefecture demanded that from me. I did not find part time work. I ran around for three months, but without success. (IP15: Algerian woman, 52 years old, reunited with her Algerian husband 21 years ago, sponsor for her oldest son, child carer)*

As the following quote of a Moroccan man in the Netherlands suggests, migrants are acutely aware of the symbolic dimension of increasing restrictions:

*[Before the 1990s] 'we were working and it was okay' ... But today they talk about us as if we are very different from them. They see us as a threat. And they don't want threats in their country. That is why they don't want us anymore. (Netherlands: Moroccan man sponsor)*

In particular in the Spanish context, migrants frequently resort to irregular strategies in the face of legal requirements which they are unable or unwilling to meet. Thus gaining provisional entry to the country via tourist or student visas was not only a strategy used by persons not able to comply with the criteria for family migration, but also newly formed couples who wanted to 'give the relationship a chance'.

Illicit practices, such as using forged documents, forging employment contracts to meet the income criterion or engage in a marriage of convenience were widespread also elsewhere, signalling often the inability of other means to realise

family reunification. However, also in this case, social and economic resources were a key factor whether such a strategy could be realised:

*At that time however I was working only 20 hours and that was not enough to support him [the husband, in Kenya] so I could not invite him to come legally. Also I did not have money to smuggle him to the Netherlands." (Netherlands: woman, Somalia, sponsor)*

## **Using EU mobility rights as an alternative to national family reunification provisions**

Freedom of movement is one of the cornerstones of the European Union and has been significantly expanded over the past decades. Although originally geared towards citizens of the European Union, the expansion of mobility rights to family members of EU nationals irrespective of nationality has made these rights also important for third country nationals married to an EU citizen or a citizen benefiting from mobility rights. For nationals, the prerequisite for benefiting from EU mobility rights in the country of citizenship, however, is that the anchor person – the citizen – has made use of EU mobility rights before, i.e. that the EU citizen family member has lived in another EU Member State for a certain time. As a strategy, therefore, gaining EU mobility rights and benefiting from these is a long term strategy.

Although our sample does not allow any conclusions on the quantitative scope of what respondents referred to the "Belgian", "Spanish" or "German route", it seems that an increasing number of binational couples make use of EU mobility rights in the face of obstacles to realising family reunification in native country of the citizen involved in the relationship. The reasons for using EU mobility rights are various: to avoid the return of the third country national partner and an application from abroad in the case of rejected asylum seekers and others in an irregular situation; to avoid higher income criteria for reunification with a third country national or to benefit from less burdensome marriage procedures. Generally, using EU mobility rights as an alternative to national family reunification provisions is considered only as a second best option, not least since it involves considerable resources and plenty of time:

*'It is not easy, I mean you have to move house, learn a language, travel a lot. I think only serious couples do that' (Netherlands: woman, sponsor)*

## **Dealing with the state: the experience of application procedures and dealings with the authorities**

For most people with only rare contact with authorities, going through administrative procedures is a challenging experience. Unfamiliarity of procedures, lack of information and – at least from the perspective of the applicant – anxiety over the outcome of the application is an element which renders contact with authorities a stressful experience. In addition, however, the

way the application procedure is designed, the extent of service orientation and the concrete treatment by authorities is another important element in applicants' dealings with authorities. Three major issues were identified by the respondents of the study: the low service orientation of immigration authorities and the lack of information, the low quality of the information received and the often discriminatory and arbitrary treatment, in particular by consulates and embassies abroad.

A respondent in the Czech Republic, for example, described the degrading experience of having to queue for long hours every year:

*It was a catastrophe! So demeaning to wait there at Olsanska; you had to stand there among various strange individuals. I could not understand why do I have to stand there again and again? Even after four years! That was probably the biggest flaw of this period of residence here; that I had to go through this queuing. (CZ: Slovak man, whole family migration, 53 years)*

Whilst citizens may be at an advantage they too experience the process as stressful:

*It costs a tremendous amount of energy to do everything right', a Dutch sponsor stressed (Netherlands: man, sponsor).*

The basic principle of applying for a first residence permit from abroad makes embassies and consulates key sites in the application process. Even more so than in the case of immigration authorities within the country, many respondents experienced the treatment as arbitrary and officials at consulates and embassies as arbitrary and hostile. Thus, a respondent from the UK described embassy staff as "rude people in their little kingdoms". Another respondent in the UK, a Columbian man, similarly experienced the attitude of embassy staff as degrading:

*The bad thing was how they said it [it made me] feel very bad. [United Kingdom: Colombia, initially irregular, then brought in his wife as refugee]*

Inconsistencies in decision making between embassies and consulates on the one hand and immigration on the other are another potential source of problems. In most countries this is solved through clear rules on precedence of immigration authorities over embassies. Among respondents in France, however, two persons were not given entry visa despite the fact that their applications for family reunification had been approved by immigration authorities in France.

In this context, many of our respondents experienced more direct forms of discrimination by authorities. Thus, migrants from Muslim countries, Roma and other categories of migrants deemed more problematic often are subject to much higher hurdles and different standards during administrative procedures than migrants from other backgrounds. In their dealings with authorities several respondents also experienced moralising and presumptuous attitudes by officials handling their application. Thus, in one case of a citizen who had a child with an undocumented person, the respondent recounted that authorities "told us that we

should have thought better before we started this family” (Netherlands: women with Angolan partner, sponsor). By contrast, another woman was told to get pregnant to increase the chance of getting a permit.

### **Family members “caught” in an irregular status**

Restrictive family migration policies means for some family members that they risk to slip into an irregular status, or, because family reunification is not available for individuals, to organise family reunification in an irregular manner in the first place. The main rationale of restrictions of access to family reunification in regard to irregular migrants is to prevent the regularisation of irregular stay through marriage, with a citizen or a legal migrant (See for example Bonizzoni 2010, Gil Araujo 2009). One key element of restrictions to family reunification is the requirement for family members of third country nationals and citizens not enjoying freedom of movement rights to apply for a residence permit from abroad. Income and housing conditions are another important constraint that might push family members into irregularity or prevent family reunification altogether. In France, for instance, family members of those legally residing in the country might be “caught” in an irregular situation because of economic and administrative constraints. In contrast to what legal regulations for family reunification stipulate, i.e. to file an application for family reunification from abroad family members often decide not to return to home countries from where they are entitled to apply for family reunification, but to remain with their families in France, although in an irregular status.

This is, for instance, the case of a Chinese couple who entered France illegally in the beginning of the 1990’s and had a child shortly after. The husband was arrested and expelled in China in the first year, while the woman remained in France with the new-born child, due to whom her status was later on regularised. The husband came again in France and applied for family reunification, but the application was refused and he was told to return to China and apply from there. As the couple did not fulfil the income and housing conditions required for such an application, he decided to remain in France irregularly. When they earned enough and have a big enough flat, he returned to China in order to apply for family reunification. However, this process required longer than expected, as the embassy in China wanted proof that they are still a couple, as his irregular residence in France was not counted as time spent together as a family. All in all, the couple was separated for eight years. Only after four years after the application, with the help of a Franco-Chinese association, the husband’s status was regularised (nine years after the regularisation of his wife). (Sohler & Lévy 2009:18-19)

Another case is that of a Malian woman, the first of two wives in a polygamous relationship, who joined her husband (Malian worker) in France in order to pursue



medical treatment, as she wanted more children. Their first daughter remained in the care of another family member in Mali. Meanwhile her husband applied for family reunification with his second wife from Mali, keeping this from his first wife who was already in France. The woman had been staying for two years in an irregular status when the authorities discovered her and her child born in France, when they pursued the control visit required in the course of family reunification procedures. As the authorities acknowledged the presence of this family in France, they refused the application for family reunification for the second wife. The woman already in France was “caught” in an irregular status, as she refused to return to Mali and apply for family reunification, because she mistrusted her husband that he would support her in the process and not the other wife. Years later she could legalise her status through exceptional regularisation (family ties). However, she did not manage to bring to France her other child from Mali, as her husband continued to oppose. (Sohler & Lévy 2009: 17-18)

These examples point to the fact that people who stayed irregularly in France face many barriers when they try to make use of the right of family reunification. It also shows the complexities of the application process, the power relations between family members when it comes to regularisations, as well as the arbitrariness of family reunification procedures in home countries. (Sohler & Lévy 2009: 21). While the “irregularisation” of family related migration is perhaps strongest in France (see also Sohler 2009), France is by no means an exception and also in the other countries studied processes of irregularisation can be observed.

## **Uncertain outcomes**

Insufficient or deficient information leave many migrants with an acute apprehension of insecurity: As a Dutch sponsor phrased it, “You never know what to expect”. As a result, migrants often perceive the administrative procedures as arbitrary. As a female asylum seeker from Columbia explained it “You are in a lottery – it is one yes and one no”.

One factor contributing to the perception of the application procedure being more like a lottery are changing regulations and requirements (see above).

In order not to lose control over the process ‘to be prepared’ was considered as decisive even if aggravated by the factors just described. ‘To be prepared’ means to get as much information as possible about the requirements one has to fulfil, the questions one will be asked by the administrative officers, additional material like proof of the authenticity of the marriage (love letters) asked by them, etc. However, many applicants do not collect sufficient information prior to starting the process, so while they start the project of family migration positively, they

have to revise their initial expectations as they are soon disenchanted by the complications the process brings along: *'And our future looked bright, I had an established life in the Netherlands and she would come with me'* (Netherlands: man, Morocco, sponsor).

As a result of the feeling of security, many respondents described their situation as a phase of transition period and projected a stable life on to the future. Plans to start ones' 'real life' are postponed time and again, although 'real life' may start unexpectedly, in the midst of insecurity:

*In the beginning we were in love and thought we could survive anything, but we are young and in our surrounding everybody is moving forward, they start to settle and for us that was the most difficult thing to do. (...)*

*In 2003 I got pregnant, it was not planned because we did not have the permit yet so that was really not practical. We wanted a child for a long time already but we did not plan it because of the insecure situation we were in. But when it happened we just went for it. In December 2003 our son was born and we were so happy!* (Netherlands: woman with Angolan partner, sponsor)

### **'You slowly find out how the system works' – access and barriers to information**

The complexities of family reunification procedures renders access to correct, reliable and appropriate information a central resource and by implication also to a factor of civic stratification. Indeed, well-connected migrants, who have sufficiently diverse social networks, good language skills and the skills to deal with legal and procedural information have a much higher chance to be able to successfully complete processes of family migration. By contrast, persons without large networks who have a lower educational background find themselves in a clearly disadvantaged position. Migrants who have a good command of the national language or are married to native citizen find it easier to collect information and also to get in contact with the authorities. Not knowing the language makes persons dependent on information provided by others, as the following comment by a migrant woman from the Dominican republic illustrates: *'... normally, in my country, each day radio, you always have information. But now you have no information, you can only watch the weather forecast'* [Austria: women from the Dominican Republic, participant in a focus group interview].

Sponsors who already have established social networks can be important resources for collecting information about legal procedures, but also employment or education. However, especially migrants married to a native sponsor may be totally dependent on the sponsor in the first time, as they have to rely on his/her language and social skills to organise daily life (see dependency on sponsor).

Sources of information vary, although in no case were state agencies mentioned as significant sources of information. Indeed, several respondents reported to having been given false information and to have to double check each piece of information received from state agencies. Thus a Dutch respondent explained:

*I ignore that website [the website of the immigration service IND, AK]. I looked at it once but there wasn't a lot of information on it so I thought never mind. I am also studying law now... so sometimes I look things up on legislation; but that is only on legislation... not on procedures. You slowly find out how the system works... in the beginning you just trust that the information given to you is correct...but after a while you learn to become more critical and you double check things... but it takes a while to get to that stage. It takes a lot of time to get the right information. [Netherlands: woman, NL, sponsor]*

In addition, to uncertainty about the quality of information obtained from state agencies and the length of time it takes to obtain such information, the responses by our interviewees also indicated a more fundamental mistrust of state authorities. As a consequence, other sources of information seem to be much more important for migrants.

As the reports on the advocacy landscape (WP8) document, there are numerous NGOs and counselling centres that offer support to migrants, although the degree to which there are counselling centres specialised on issues of family related migration varies. In general, the reports on advocacy suggest that family related migration is not a priority, neither in terms of counselling and advocacy nor in terms of campaigning.

In addition to NGOs, immigration lawyers and other professional brokers of information – including brokers engaged in and brokering illicit pathways to (family) migration are another potential source of information. However, informal networks – relatives, friends and the ethnic communities seem to be by far the most important channels through which relevant information is accessed. While the barriers to accessing information from informal channels are lowest, however, it also bears the risk receiving false information that is never verified and circulates as 'fact' within certain communities.

## **Chapter 6: Conclusions and Policy Recommendations**

### **Continuity and change: Family migration policies and changing constructions of dependency**

Arguably family related migration has always been deeply gendered and so have the institutions, norms and values shaping family related migration. Both in historical and in contemporary perspective, marriage has been a central institution around which broader notions of family related entitlements (such as family reunification) and family obligations as well as related state practices have been defined. In particular, gendered notions of dependency have been central to the construction of marriage and family and the formulation of family migration policy. Historically, marriage legislation, the nascent legislative framework governing (family) migration, and, above all, citizenship legislation, defined dependency in a relatively simple way: women's legal status and associated citizenship rights were directly dependent on the husband.<sup>8</sup> Hence, with marriage to a foreigner, native women lost their citizenship and hence any protection from expulsion and social rights attached to citizenship such as access to poor relief. In this way, the legal status was also directly linked to the social and economic positioning of individuals producing distinct forms of "civic stratification" (Lockwood 1996, Morris 2002). Indeed, "public charge" provisions – in the form of minimum income requirements, proof of stable income, etc. have remained one of the core elements of family migration (and selective immigration policies in general) up to the present.

What has changed historically is not so much the presence of dependency as a core principle of legislation framing family migration as such, but how dependency is constructed. First, legal norms governing family migration are no longer explicitly gendered and by and large, formulated in gender neutral terms. Reforms of citizenship legislation in the post-War period have removed the direct status dependency of women on the status of husbands by abolishing the automatic loss of citizenship of women upon marriage and/or the automatic acquisition of citizenship through marriage. Similarly, access to nationality for foreigners marrying a national was equalized in the 1980s. The removal of provisions restricting the transmission of citizenship via the male line in the 1980s was the last step of bringing more gender equality (see de Hart/ van Oers 2006: 340-344). Similarly, after the 1980s, family reunification provisions in countries, where explicit rules existed (as in the UK) removed gendered provisions, notably

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<sup>8</sup> Similarly, children's status depended on the father and in this restricted sense, were treated equally as "legally minor" and not fully autonomous.

restrictions on wives to bring in their husbands, often resulting in a more general leveling down and increased restrictions for family related migrants in general (See Bhabha/Shutter 1994).

Although explicitly gendered provisions may have been removed, family migration policies still often are highly gendered in practice, in particular, with regard to dependency. Thus, being admitted as a spouse with limited access to employment and with one's status being dependent on the sponsor carries different implications for men and women and has major implications for gender relations and their re-negotiation.

In regard to the "guest worker regime" there is increasing evidence that family reunification as a social process often started with recruitment – a fact that has been concealed by the absence of the variable sex in statistics on migration and the foreign population in the early days of the guest worker regime (in some cases, until the 1990s) and the absence of specific admission categories that would have clearly identified family related migrants, but equally important, the bias of migration research up to the 1980s which paid little attention to female migration and family related migration. Although the recruitment stop and other measures following the end of active recruitment (such as the discontinuation of family benefits for family members resident abroad as in Germany) after 1973 might have additionally stepped up the number of family reunifications and family related entries, the main effect of the recruitment stop and restrictions on migration arguably has been the exclusion of family members and in particular wives from the labour market. Whereas wives (or for that matter: husbands) joining their spouses before 1973 usually entered as independent immigrants and workers, after 1973 they could increasingly only enter as economically non-active, dependent family members. Thus, these restrictions implied increased economic dependency. At the same time, economic dependency mostly was "individualized" – only few countries introduced explicit provisions on family related migration and economic dependency was a result of general restrictions of access to the labour market.

Economic dependency in turn often turned into a selection principle (e.g. the primary purpose rule), in particular with the spread of the paradigm of "managed migration" and the concomitant classification and selection of migrants into different categories according to the purpose of stay.

### **Managed migration and family as a grounds of admission**

With the increasing shift towards "managed migration", there has been a proliferation of different status positions and a related differentiation of dependency along lines of nationality (- family members of citizens vs. family members of EU nationals vs. family members of third country nationals) and

admission categories (highly skilled, temporarily admitted persons, unskilled workers, students, etc.) with different rights and dependency constructions.

What distinguishes the regulation of family related migration under conditions of “managed migration” from the period after the recruitment stop and earlier periods is that family related migration in most countries only then became defined as a distinct admission category and a principle of – both negative and positive – selection. The definition of family related reasons as a grounds for admission implies a precise definition of who the family is in terms of membership and what other core elements are defining characteristics of the family, for example economic solidarity and/or dependency, co-habitation, formal family links (marriage or registered partnership) rather than any intimate relationship. With growing concerns over marriages of conveniences, intimacy has become a defining characteristic of bi-national marriages involving spouses of native background on the one hand and foreign spouses on the other. In these cases, adequately “performing” family and intimacy has become a pre-condition for being accepted as a legitimate spouse, while as a flip-side, policing strategies have become ever more intrusive.

What is important here is that one major effect of the establishment of “family channels” was to give more visibility to family related migration – and its gendered characteristics. At the same time, these admission categories and related statistics on family reunification for example (or on marriages, for that matter), also construct a certain “reality” as these categories suggest that they may be taken as indicators for real migration motives of individuals – not only in the sense that persons admitted for family related reasons primarily have family related reasons for migration, but also that persons in other categories don’t have family related reasons at all.

### **Creating differential outcomes: migrants’ lived realities and civic stratification**

The reality of family life as evidenced by our empirical results is quite different from the neat categories as they are defined in immigration legislation. “Ordinary” men and women usually have a variety of motivations for migration and “using” the family channel might simply result from the lack of other opportunities. In turn, using the family channel might have other implications, for example, the need to marry in order to be eligible for family reunification, whilst under ‘normal’ conditions couples would have first desired to give the relationship a try. Conversely, others may not be able to use the family channel, for example, because they are too old or economically independent (in the case of children) or too young and not in need of care (in the case of parents) and might find other channels easier.

In addition, the reality of the diversity of family forms is not only poorly captured by definitions of the family in immigration law, but the legal framework has very different effects on different individuals. As our results show, respondents' wider social positioning, their access to social capital (family networks and other social networks such as NGOs, friends, etc.) and cultural capital (being "literate" in dealing with application procedures and bureaucracies, language) have major implications how they were able to cope with constraints imposed on them by the immigration legislation framework. Thus, in all countries covered by the study it is likely that for women the income criteria will be more difficult than men, in particular if they have child care responsibility. In order to meet income requirements they have to work full time. If they have children, they subsequently require help from friends to look after them in order to be able to work long enough hours to qualify. Good and cheap child care facilities would help to alleviate the dilemma between income generation and child care. However, even with good (public) child care facilities available, full time work almost necessarily also requires additional private care.

In addition, constraints imposed on family related migrants by immigration policies are only one among several constraints. Thus expectations by family members, others and migrants' own expectations also place constraints on migrant families and shape their decision-making and coping strategies, as do characteristics of the labour market in countries of immigration. All these factors influencing the lived reality of migrants lives can be mutually reinforcing.

For example, the predominance of informal work opportunities in Southern Europe, opportunities primarily open for (or taken by) women, largely rules out formal family reunification, as formal employment contracts are a prerequisite for using the family route. Family reunification thus often is no option at all or can be achieved only at the cost of illegality of those joining the primary migrant already present and thus potentially reinforce a positioning of individuals on the margins, socially, economically and legally. The ability of migrants to re-constitute their families and to reproduce transnationally is stratified, which can be conceptualized under 'stratified reproduction', following Colen (1995).

Contemporary family migrations thus have to be seen in the context of a proliferation, fragmentation and polarisation of different statuses and related bundles of rights with regard to admission, residence, work, social rights, and other domains. These political opportunity structures interact in complex ways with other social and economic structures, institutions and processes and result in different forms of "partial membership" (Brubaker 1989) or civic stratification (Morris 2002). In relation to immigrants, civic stratification can be conceptualised as the hierarchy of stratified rights resulting from processes of exclusion and inclusion which classifies and sorts out migrants and the realisation of rights formally associated with these locations (Morris 2002: 7). Processes of civic

stratification - definitions of rights and obligations and eligibility for or exclusion from rights (such as family reunification) thus are a major factor in contributing to stratification and inequality in general. And last, as we have shown they have major implications for gender relations.



## Policy Recommendations

### *Improving policy making*

- Our findings suggest that the many assumptions on which policies as well as broader public debates on family migration are built fail to account for the reality of migrant family lives and family related migration. At the same time, little attention is paid to the consequences of policies on persons affected by these, nor whether policies and policy measures actually attain their objectives.
- We recommend that
  - o policies and policy development should be firmly based on evidence, and
  - o policies should be systematically evaluated in terms of a) whether they attain their objectives and in terms of b) their consequences on the persons affected by them.

### *Ensuring equal access to rights*

- **Conditions attached to family reunification**, narrow rules on the eligibility for family reunification and the often tedious practical administration of family reunification means that access to family reunification is highly uneven.
- In designing conditions for admission as family members **due account of the different social positioning of individuals should be taken**. For example, income thresholds should not only be set at reasonable levels but also the types of income taken into account should be broad enough to capture the diverse sources of subsistence of real families.
- **Avoid legal insecurity:**
  - o **Pathways to citizenship** should not be designed in a way that locks certain persons in inferior and precarious positions. The system of legal statuses should be designed in a way that allows to switch between different statuses relatively easily. Applications for permit switching should not be subject to the same requirements as applications for first permits, e.g. in respect to the requirement to apply for residence from abroad.
  - o **Handle conditions attached to admission as a family member flexibly** and under due consideration of personal

circumstances so as to avoid that persons status is not renewed upon expiry of first permits

- **Recognise gender inequalities**
  - o **Resources and resource requirements.** As has been demonstrated in this study, resources and resource requirements have different implications for men and women, in particular if child care obligations are involved. These should be systematically considered and conditions designed accordingly.
  - o **Effects of probationary periods:** Probationary periods have been one of the major instruments against marriages of convenience. Although virtually all countries covered by the study foresee to waive probationary period provisions in the case of domestic violence, divorce by the partner and death, the high standards of proof demanded in the case of domestic violence risks keeping spouses, and particular women, in violent relationship. Accepting low profile testimonies, e.g. from social workers or NGOs might help to alleviate possible negative effects of probationary periods.
- **Reduce bureaucratic requirements,** such as excessive and strict document requirements, e.g. requirement of official legalisation of documents and limited validity of legalised documents or excessive fees.
- **Governments should consider to waive the basic principle of applying for residence from abroad** in case of persons already resident in the country whose entry would be granted if applying from abroad and in whose case return and submitting an application from abroad essentially is demanded in order to comply with the procedures foreseen by the law.
- **Address the increasing gap between rights of EU nationals, citizens and third country nationals** not protected by freedom of movement (reverse discrimination)

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## **Part II**

# **Workplan, Deliverables and Dissemination Strategy**

# **Project Organisation, Workplan and Project Deliverables**

## **Project Organisation and Workplan**

### ***Summary description***

The following section describes the organisation of the project – its workpackages, the project deliverables and the project workplan.

The project work was organised in 12 workpackages. The first three workpackages (WP1 - Theorising Civic Stratification and Gender: the theoretical and conceptual framework; WP2 Conceptualising family migration and family related legal modes of entry, WP3 Preparation of Research Instruments) served to prepare the conceptual, theoretical and methodological framework of the project which were then discussed and refined in the first project meeting (WP4 – Kick-off workshop). Under WP5 (Gendered patterns of migration: Empirical developments) and WP6 Comparative legal and policy analysis) empirical developments in family related migration and the policy framework were analysed for the 9 countries covered by the project (Austria, Czech Republic, Denmark, France, Germany, Italy, the Netherlands, Spain, the United Kingdom). WP7 (Gender and Migration Policies at the European Level) was devoted to an analysis of family migration policies on the European level, including an investigation of policy making, European level policy debates and an analysis of the overall framework for migration policy making from a normative perspective. Under WP 8 (Advocating equal rights: Campaigning, advocacy, resistance) we investigated the advocacy landscape in 4 of the countries covered by the project (Austria, Czech Republic, Spain, and the United Kingdom) In WP9 (Creating differential outcomes: Analysing the impact of family migration policies) we undertook an empirical investigation of the impact of family migration policies on migrants and others affected by these in 6 out of the total of 9 countries studied (Austria, Czech Republic, France, the Netherlands, Spain and United Kingdom). In the second project meeting (WP 10: Conference and Second Workshop: Discussion of empirical findings) we discussed our preliminary empirical findings and developed our framework for analysing the interviews with persons affected by family related migration. In addition, a conference on gender, generation and the family in international migration was organised jointly with the IMISCOE network and the Robert Schuman Centre for Advanced Studies (RCAS) at the European University Institute (EUI). The second project meeting also served to draw first conclusions from our findings, based on a normative analysis of our empirical results (WP11 - Normative Evaluation of empirical findings). WP12 (Policy Recommendations) had two purposes: First, to disseminate the project results, including through the media, and secondly, to develop a number of policy recommendations.

### ***Changes to the original workplan***

The original workplan of the project foresaw that the project would be implemented over a period of 18 months. Due to delays, changes in the respective teams and changes in the workplan of the project, the duration of the project was extended to 24 months and finally to 27 months and officially ended on 30 September 2008.

### ***Project Related IMISCOE Activities***

The most important change in the original project planning concerned the development of a workpackage on gender, generation and the family in cooperation within IMISCOE as a joint activity of the project team, the IMISCOE clusters B3 (Legal Status, Political Participation and Citizenship), B6 (Ethnic, Cultural and Religious Diversity) and C8 (Gender, Age, Generation) and the Robert Schuman Centre of Advanced Studies at the European University Institute (EUI) in Fiesole/ Florence). This joint workpackage involved a two day conference following the second project meeting in Florence and the subsequent preparation of an edited volume with selected papers from the conference as well as additionally commissioned chapters (Kraler, Kofman, Kohli & Schmoll 2010, see for detailed bibliographical references part III of the report).

The conference in Florence was the most important in a series of project related activities organised in the framework of the IMISCOE project. A paper focusing on the general topic of the project has been presented at the B3 cluster spring conference in Budapest in 2006, while an informal workshop on the project was organised in the framework of the 3<sup>rd</sup> annual IMISCOE conference in September 2006 in Vienna. In addition, the project team organised a panel on family and migration at the joint A2 and B3 cluster spring conference 2007 in Warsaw, in the framework of which also an internal project meeting with external participants was organised (see first interim report).

The work on the joint NODE-IMISCOE workpackage was also the main reason for delays in the project workplan.

### ***Additional country study on Italy***

In addition to the originally 8 policy reports (country studies) to be produced in the framework of WP5 and WP 6 an additional report on Italy commissioned and drafted by Paola Bonizzoni, a Phd student at the University of Milan. The cooperation with the University of Milan did not imply any additional costs, but required additional efforts in harmonising the country reports and editorial work in view of the publication of these reports.

## Project deliverables

The following overview lists the project's deliverables by workpackages

Work-package	Deliverable/ Milestone	Status	Outputs
WP1	Adaptation of the concept of civic stratification for the purpose of the project.	Completed	Working documents discussed at kick-off workshop
WP2	Typology of forms of family migration, corresponding legal concepts, and relevant legal categories of migrants (short-, long-term, family member of citizen/non-citizen, etc.)	Completed	ICMPD team: "extranet" – internal project website, preliminary literature database ICMPD team: Typology of Forms of Family Migration (Legal Classification, excel format) Veena Meeto (Middlesex): Forms of Family Migration (Word Doc) ICMPD team: Literature Database (excel format)
WP3	Draft research instruments	Completed	ICMPD team: Guidelines for Expert Interviews (Word Doc) ICMPD team: Topics for Migrant Interviews [interview guidelines] (Word Doc) Interview Methodology (Word Doc)
WP4	Detailed implementation plan for fieldwork.	Completed	Workshop minutes Workshop presentations <ul style="list-style-type: none"> <li>○ Michaela Lehofer, Ariane Sadjed (MAIZ): Presentation on Austria (*ppt)</li> </ul>

			<ul style="list-style-type: none"> <li>○ Alice Sczepanikova (Project Associate, ICMPD): Presentation on the Czech Republic (*ppt)</li> <li>○ Elisabeth Strasser (ICMPD): Presentation on Denmark (*ppt)</li> <li>○ Eleonore Kofman, Florence Levy (Middlesex University): Presentation on France (*ppt)</li> <li>○ Veronika Bilger (ICMPD): Presentation on Germany (*ppt)</li> <li>○ Haleh Chahrokh (ICMPD): Presentation on the Netherlands (*ppt)</li> <li>○ Sue Lukes (Consultant, Middlesex University): Presentation on the United Kingdom (*ppt)</li> <li>○ Albert Kraler (ICMPD): Framework for Policy Analysis (*ppt)</li> <li>○ Albert Kraler (ICMPD): Options for EU Policy Report (*ppt)</li> </ul>
WP5	Country reports on empirical patterns of migration in a gender and family migration perspective.	Modified	<p>Sections in policy reports on empirical developments of family related migration (instead of stand-alone reports)</p> <p>Additional country (Italy) added</p>
WP6	Country reports on current policies towards family migration.  Comparative report on family migration policies in Europe.	Completed  Modified	<p>9 country reports, see part III for an overview of published/ forthcoming country reports</p> <p>A fully fledged comparative policy analysis was dropped. Results of the comparative policy analysis are described in this report (chapter 4) and have also been incorporated in Kofman/ Kraler &amp; Schmoll 2010 and Strasser et al. 2009 (see part 3)</p>
WP7	Report on gender and migration policy at the European level.	Modified	<p>Instead of a separate report on the European dimension, an analysis of the relevant European legal framework was an essential part of the country reports;</p> <p>Other aspects of European policy making, including the normative</p>

			dimension and impact of European legislation on policy debates, etc. are addressed in this report and in other publications (see for example Strasser et al. 2009 & Kofman, Kraler, Kohli & Schmoll 2010)
WP8	Comparative report on campaigning, advocacy and migrant agency	Modified	<p>Analytical report on advocacy and campaigning surrounding issues of family related migration was dropped</p> <p>Instead 4 country reports with a more practical focus on the advocacy landscape around issues of family migration policies were written for four countries (see part III)</p>
WP9	Report on impact of family migration policies	Modified	<p>Comparative interview analysis with a broader focus going beyond issues directly related to family related migration</p> <p>5 country reports with national level results of interview analysis written; a 6th report under preparation</p>
WP10	Workshop Minutes containing a sketch of issues to be discussed in the normative evaluation (WP11) and issues to be addressed in the policy recommendations (WP 12).	Completed	<p>Workshop Minutes</p> <p>Minutes of Discussion Groups</p>
WP11	Report on normative principles in family migration.	Modified	<p>Separate report dropped</p> <p>Results of this workpackage incorporated in the GEMMA and IMISCOE policy briefs/ the NODE project folder and other publications</p>
WP12	<p>Radio feature on family migration &amp; family migration policy.</p> <p>Synthesis of project results and recommendations.</p>	Completed	<p>Radio feature (report on the panel discussion "Familienmigrationspolitiken und Geschlecht in Österreich" on 14 December in Linz), Radio FRO</p> <p>OE1/ Dimensionen 'Nur für ein halbes Jahr'. Die zurückgelassenen Kinder der Arbeitsmigranten'</p>

			Final project report (=project synthesis) Various smaller sized project synthesis (NODE project folder, GEMMA policy brief on the project and IMISCOE policy brief [in preparation])
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## **Dissemination Strategy**

The projects dissemination strategy rested on four main pillars:

- 1) Publication and dissemination of project reports and other academic publications
- 2) Presentation of project findings at academic and policy conferences
- 3) Cooperation with stakeholders and key academic networks such as IMISCOE, and
- 4) Dissemination of project results through the media.

### ***Publication and dissemination of project reports and other academic publications***

At the time of writing this report, 10 out of a total of 21 direct project reports have been published on the project website under <http://research.icmpd.org>. In addition, several other working papers and one academic article in scientific journal have been published. Additional publications are currently in preparation, including a summary of the project's result in the form of an IMISCOE Policy Brief, a collective volume resulting from one of the conferences organised in conjunction with the project and several other smaller publication projects. Part III of this report provides a listing of all published and forthcoming project publications.

### ***Presentation of project findings at academic and policy conferences***

The project's general theoretical framework as well as results from our analysis have been presented in a wide range of conferences. Project results were presented at altogether 10 academic conferences between 2006 and 2008. Presentations were also given at the Department of Political Science, University of Vienna in 2006, in the course of a dissemination event held at Middlesex University in 2008 and at a meeting of the European Migration Network in Brussels in 2007.

The project will also feature in national dissemination workshops organised in the framework of the FP7 project Gender and Migration (GEMMA), for example in May 2009 workshops in Italy and Austria. A list of conference presentations as well as conferences, workshops and panels organised in conjunction with the project is attached in part III of this report.

***Cooperation with stakeholders and key academic networks such as IMISCOE, and***

From the very start of the project, the project team sought a close cooperation with other stakeholders such as the European Women's Lobby, the European Migration Network (EMN) and the EU funded Network of Excellence on Immigration, Integration and Social Cohesion (IMISCOE). Altogether 2 workshops and 1 panel were organised in conjunction with IMISCOE conferences. In addition, the project team organised a conference jointly with IMISCOE and the European University Institute in Florence.

***Dissemination of project results through the media***

In the original dissemination plan of the project, the project team intended to jointly develop a radio feature on family related migration with journalists. Although the specific form of the radio feature did not materialise, two radio broadcasts resulted from the project. These are listed in part III of this report.

## **Part III**

# **Project Publications, Workshops and Conferences**

# Publications

## Project Reports

All project reports are published at <http://research.icmpd.org/1291.html#c2575>

### ***Final report***

Kraler, Albert (2010): Civic Stratification, Gender, and Family Migration Policies in Europe. Final Report. Revised and updated version (Original version: 2009). Vienna: BMWF/ICMPD.

### ***Policy Reports***

#### *Published*

- Bonizzoni, Paola and Alina Cibeá (2009): Family Migration Policies in Italy, NODE Policy Report, Vienna: BMWF/ICMPD
- Bonjour, Saskia (2008): Family Migration Policies in the Netherlands, NODE Policy Report, Vienna: BMWF/ICMPD
- Gil Araujo, Sandra (2009): Family Migration Policies in Spain. NODE Policy Report, Vienna: BMWF/ICMPD
- Kofman, Eleonore; Sue Lukes, Veena Meetoo and Pauline Aaron (2008): Family Migration to United Kingdom: Trends, Statistics and policies, NODE Policy Report, Vienna: BMWF/ICMPD
- Kofman, Eleonore; Madalina Rogoz and Florence Lévy (2010) Family Migration Policies in France. NODE Policy Report, Vienna: BMWF/ICMPD
- Szczepanikova, Alice (2008): Family Migration Policies in the Czech Republic, NODE Policy Report, Vienna: BMWF/ICMPD

#### *Forthcoming*

- Bilger, Veronika (2010): Family Migration Policies in Germany. NODE Policy Report, Vienna: ICMPD
- Moeslund, Karina; Elisabeth Strasser (2010): Family Migration Policies in Denmark. NODE Policy Report, Vienna: BMWF/ICMPD

#### *Unpublished background reports*

- Sadjed, Ariane; Michaela Lehofer, Vlatka Frketić (2009): Family Migration Policies in Austria. NODE Policy Report. Linz: MAIZ

## ***Advocacy reports***

### *Published*

- Gil Araujo, Sandra, Virginia Montañés (2009): Advocacy on Family Migration Policies in Spain. NODE Advocacy Report, Vienna: BMWF/ICMPD
- Kofman, Eleonore; Sue Lukes and Pauline Aaron (2008): Family Migration Policies in the United Kingdom: Actors, Practices and Concerns, NODE Advocacy Report, Vienna: BMWF/ICMPD
- Lehofer, Michaela; Ariane Sadjed, Vlatka Frketic (2008): Advocacy Bericht Österreich, NODE Advocacy Report, Vienna/Linz: ICMPD/BMWF/Maiz
- Szczepanikova, Alice (2008): Family Migration Policies in the Czech Republic: Actors, Practices and Concerns, NODE Advocacy Report, Vienna: BMWF/ICMPD

## ***Interview analyses***

### *Published*

- Gil Araujo, Sandra (2009) Civic Stratification, Gender, and Family Migration Policies: An exploratory investigation of migrants involved in Family Migration in Spain, NODE interview analysis, Vienna: BMWF/ICMPD
- Szczepanikova, Alice (2009): Family Migration in the Czech Republic: A Civic Stratification Perspective, NODE interview analysis, Vienna: BMWF/ICMPD
- Sohler, Karin; Florence Levy (2009): Civic Stratification, Gender and Family Migration Policies: An Investigation of Experiences of Persons Involved in Family Related Migration in France. NODE interview analysis, Vienna: BMWF/ICMPD

### *Unpublished background reports*

- Kofman, Eleonore; Veena Meeto, Sue Lukes and Pauline Aaron (2009): Civic Stratification, Gender and Family Migration Policies: An Investigation of Experiences of Persons Involved in Family Related Migration in the United Kingdom. NODE interview analysis, London: Middlesex University
- Hollomey, Christina (2008): Civic Stratification, Gender, and Family Migration Policies: An Investigation of Experiences of Persons Involved in Family Related Migration in the Netherlands. NODE interview analysis. Unpublished project report, Vienna: ICMPD
- Hollomey, Christina; Elisabeth Strasser (2008): Civic Stratification, Gender and Family Migration Policies: Comparative Analysis of Experiences of Migrants and Non-Migrants Involved in Family Related Migration. NODE interview analysis. Unpublished project report, Vienna: ICMPD
- Sadjed, Ariane; Lehofer, Michaela; Vlatka Frketic (2008): NODE interview analysis. Austria. Unpublished project report, Linz: MAIZ

## Project Related Publications

### **Monographs**

Albert Kraler, Eleonore Kofman, Martin Kohli, and Camille Schmoll (2010) (eds.): *Gender, Generations and the Family in International Migration*. IMISCOE Research. Amsterdam: Amsterdam University Press (forthcoming)

### **Scientific articles and book chapters**

#### *Published*

Gil Araujo, Sandra (2009) "Las periferias de la metrópolis. Políticas migratorias, género y estratificación de la población latinoamericana en España", Geneviève Cortes et Naïk, Miret (coord.), *Dialogues transatlantiques autour des migrations latino-américaines en Espagne*. Dossier des Mélanges de la Casa de Velázquez. Nouvelle série, 39 (1), pp. 57-74. Kofman, Eleonore; Veena Meeto (2008): *Family Migration*. In: International Organization for Migration (Ed.): *World Migration Report 2008*. Geneva: IOM, pp.151-172

Kraler, Albert; Paola Bonozzoni (2010): *Gender, civic stratification and the right to family life: problematising immigrants' integration in the EU*. *International Review of Sociology/ Revue Internationale de Sociologie* 20, 1, March 2010, pp.199-205

Pedone, Claudia and Sandra Gil Araujo (2008). "Maternidades transnacionales entre América Latina y el Estado español. El impacto de las políticas migratorias en la estrategias de reagrupación familiar", Sole, Carlota; Parella, Sonia and Calvancanti, Leonardo (coords.) *Nuevos retos del transnacionalismo en el estudio de las migraciones*, Ministerio de Trabajo e Inmigración, Madrid (149-176). [http://extranjeros.mtin.es/es/ObservatorioPermanenteInmigracion/Publicaciones/arc\\_hivos/Nuevos\\_retos\\_del\\_transnacionalismo\\_en\\_el\\_estudio\\_de\\_las\\_migraciones.pdf](http://extranjeros.mtin.es/es/ObservatorioPermanenteInmigracion/Publicaciones/arc_hivos/Nuevos_retos_del_transnacionalismo_en_el_estudio_de_las_migraciones.pdf)

Strasser, Elisabeth, Albert Kraler, Saskia Bonjour, Veronika Bilger (2009): *Doing Family. Responses to the constructions of 'the migrant family' across Europe*. *The History of the Family*

#### *Forthcoming*

Gil Araujo, Sandra (forthcoming) "La incidencia de las políticas migratorias en las formas de organización de las familias", *Migrant Researchers Interdisciplinary Group* (coords) *Familias, niños, niñas y jóvenes migrantes: rompiendo estereotipos*, Casa Encendida, Madrid (forthcoming).

Gil Araujo, Sandra (forthcoming) "Políticas migratorias, género y vida familiar. Una aproximación al caso de las migraciones hacia España", Quaranta, German and Benencia, Roberto (coords), *Proyectos y Trayectorias Migratorias, Mercados Laborales y Políticas*, CEMLA, Buenos Aires.

Gil Araujo, Sandra (forthcoming): "Políticas de migración familiar en Europa." In: Pedreño, Andres (Ed.): *Tránsitos migratorios: Contextos transnacionales y proyectos*

familiares en las migraciones actuales, Universidad de Murcia, Murcia (Spain).  
(forthcoming)

- Kofman, Eleonore, Albert Kraler, Martin Kohli & Camille Schmoll (2010): Introduction. Issues and Debates on Family Related Migration and the Migrant Family – a European Perspective. In: Albert Kraler, Eleonore Kofman, Martin Kohli & Camille Schmoll (eds.): Gender, Generations and the Family in International Migration. IMISCOE Series. Amsterdam: Amsterdam University Press (forthcoming)
- Kraler, Albert (2010): Ein umkämpftes Terrain: Familienmigration und Familienmigrationspolitik. In: Herbert Langthaler (Ed.): Handbuch Integration. Innsbruck: Studienverlag

### **Working Papers**

#### *Published*

- Eleonore Kofman, Albert Kraler (2006): 'Civic Stratification, Gender and Family Migration Policies in Europe'. Paper prepared for the IMISCOE B3 Cluster Conference in Budapest, 30 May to 2 June 2006. Online at <http://research.icmpd.org/1302.html>

### **Policy Briefs**

#### *Published*

- Bilger, Veronika; Albert Kraler (2008): Civic Stratification, Gender and Family Migration Policies in Europe. A Comparative Analysis of Family Migration Policies and Their Impact on Persons Affected by Them in 9 European Countries (AT, CZ, DE, DK, ES, F, IT, NL, UK). NODE Project Folder (English Version). Vienna: BMWF, also available online at [http://research.icmpd.org/fileadmin/Research-Website/Project\\_material/NODE/Civic\\_Stratification\\_EN.pdf](http://research.icmpd.org/fileadmin/Research-Website/Project_material/NODE/Civic_Stratification_EN.pdf)
- Bilger, Veronika; Albert Kraler (2008): Civic Stratification, Gender and Familienmigrationspolitiken in Europa. Eine vergleichende Analyse von Familienmigrationspolitiken und ihre Auswirkungen auf davon Betroffene in 9 europäischen Ländern (AT, CZ, DE, DK, ES, F, IT, NL, UK). NODE Project Folder (German Version). Vienna: BMWF, also available online at [http://research.icmpd.org/fileadmin/Research-Website/Project\\_material/NODE/Civic\\_Stratification\\_DE.pdf](http://research.icmpd.org/fileadmin/Research-Website/Project_material/NODE/Civic_Stratification_DE.pdf)
- GEMMA (2009): Civic Stratification, Gender, and Family Migration Policies in Europe. GEMMA Policy Brief [disseminated via e-mail]
- Kraler, Albert; Eleonore Kofman (2009): Family migration in Europe: policies vs. reality. IMISCOE Policy Brief Nr. 16. Available online at <http://www.imiscoe.org/publications/policybriefs/documents/PB16-Familymigration.pdf>

## **Other**

### *Published*

- Ataç, Ilker; Albert Kraller (2006): Gewünschte, Geduldete und Unerwünschte. Klassifizieren, Selektieren, Stratifizieren. Migrationspolitik als Strategie des Filterns. Malmoe 33, pp.25-26, online under <http://www.malmoe.org/artikel/regieren/1247>
- Jelinkova, Marie; Alice Sczeapanikova (2008): "Binational Marriages and Czech Immigration Policy: Sorting Truth from Fiction?" Migrationonline. <http://www.migrationonline.cz/e-library/?x=2074815>
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- Kraller, Albert (2006): "Wer Arbeit findet, der kann bleiben". Migrationspolitik zwischen Inklusion und Exklusion. Politix 22/2006, pp.6-8, online under. [http://politikwissenschaft.univie.ac.at/fileadmin/user\\_upload/inst\\_politikwiss/Politix/Politix22online.pdf](http://politikwissenschaft.univie.ac.at/fileadmin/user_upload/inst_politikwiss/Politix/Politix22online.pdf)

## **Radio Features**

- Radio FRO: Interview Vlatka Frketic/Veronika Bilger with Radio FRO (Frozine), 21 September, 2007 [http://cba.fro.at/show.php?lang=de&eintrag\\_id=8009](http://cba.fro.at/show.php?lang=de&eintrag_id=8009)
- OE1/ Dimensionen 'Nur für ein halbes Jahr'. Die zurückgelassenen Kinder der Arbeitsmigranten' (Gabriele Anderl, featuring interviews with Christina Hollomey und Albert Kraller on the NODE project). 24 November 2008.

# **Conferences and Workshops**

## **Conference and Workshop Presentations**

- Bilger, Veronika; Albert Kraller, Elisabeth Strasser (2008): 'Doing Family' - Civic Stratification, Gender and Family Migration Policies. Paper presented at the 7th European Social Science History Conference (ESSHC), Lisbon, 26 February - 1 March 2008.
- Frketic, Vlatka, Michaela Lehofer and Ariane Sadjed: Linking Research and Advocacy – The Benefits of Research on Family Migration (Policy) for Migrants. Presentation at the conference "Gender, Generations and the Family in International Migration", European University Institute, Badia Fiesolana/Florence 14-16 June, 2007.
- Gil Araujo, Sandra (2007): "Estratificación, género y políticas de migración familiar en Europa", Paper presented at the Congreso internacional de investigación sobre migraciones, familias y transnacionalidad, organizan Universidad de Murcia, FLACSO Ecuador, Universidad de Cuenca y Universidad de Buenos Aires, Murcia, 27-29 November 2007.



- Gil Araujo, Sandra (2008): "Políticas migratorias, genero y vida familiar. Una aproximación al caso de las migraciones latinoamericanas en España", paper presented at the Seminar Regional La Mujer y la Alianza de Civilizaciones. Oportunidades y Desafíos, organised by the Ministry of Foreign Relations, Buenos Aires, 28-29 April, 2008.
- Gil Araujo, Sandra (2008) "La incidencia de las políticas migratorias en las formas de organización de las familias", Jornadas Familias, niños, niñas y jóvenes migrantes: rompiendo estereotipos, organised by Migrant Researchers Interdisciplinary Group, Casa Encendida, Madrid, November 19th – 21th, 2008.
- Kofman, Eleonore; Albert Kraler (2006): "Civic Stratification, Gender and Family Migration Policies in Europe". Paper prepared for the IMISCOE B3 Cluster Conference in Budapest, 30 May - 2 June, 2006.
- Kofman, Eleonore; Albert Kraler (2007): The Impact of Family Migration Policies on Migrants/ Citizens Affected by Family Migration Policies. Presentation at the 22nd EMN Meeting (European Migration Network), Brussels, 6. July, 2007.
- Kraler, Albert (2006): Civic Stratification, Gender und Familiemigrationspolitiken in Europa. Presentation at the Department of Political Science, University of Vienna, Talk Series "Ganggespräche", 6 November, 2006.
- Kraler, Albert (2008): Access to the territory in Austria in a European perspective – the contradictions of managed migration. Integration of new comers in France. How do French integration laws compare with those in other European countries? MIPEX Launch Event.Cité internationale universitaire de Paris, 17 March 2008
- Kraler, Albert (2008): Doing Family. Family Strategies of Migrant Families and Bi-national Couples in the Context of State Regulations, External Expectations, Own Conceptions of a "Good Family Life" and Labour Market Constraints. Paper presented at the workshop 'Reshaping Europe: Migration and ist Contexts', Austro-Finnish Seminar, Helsinki, 4-5 September 2008
- Pedone, Claudia Sandra Gil Araujo (2008), "Maternidades transnacionales entre América Latina y el Estado español. El impacto de las políticas migratorias en la estrategias de reagrupación familiar", Paper presented at the Simposio Internacional Nuevos retos del transnacionalismo en el estudio de las migraciones, Barcelona, 14-15 February, 2008
- Szczepanikova, Alice (2007): Between Liberalism and Illicitness: Regulating and Experiencing Family Migration in the Czech Republic, Paper presented at the conference, "Transnationalism, Family Ties, and Migration in Europe", INED, Paris, 13-14 December, 2007.
- Strasser, Elisabeth (2008): Doing Family. Responses to the constructions of 'the migrant family' across Europe. Paper presented at the conference "Families, constructions of foreignness and migration in the 20th century Western Europe" KU Leuven, Belgium, 15-16 May 2008

## **Workshops, Conferences and Conference Panels Organised by the Project Team**

(in descending chronological order)

### ***Exploring Integration: Third Country Migrants in the EU Seminar.***

Middlesex University. 25th July 2008: Presentation of the Territorial Migrant Inclusion Index and the Civic Stratification, Gender, and Family Migration Policies Project, organised by Middlesex University

### ***Familienmigrationspolitiken und Geschlecht in Österreich.***

Diskussionsveranstaltung, Kunstraum Linz, 14. September 2007

### ***Gender, Generations and the Family in International Migration***

International conference co-organised with the network of excellence IMISCOE and the Robert Schuman Centre for Advanced Studies (RCAS) of the European University Institute, Robert Schuman Centre, Badia Fiesolana/Florence, 14-16 June, 2007 (organized by Albert Kraler, Eleonore Kofman, Martin Kohli and Camille Schmoll (both EUI).

Programme:

#### **Thursday 14 June 2007**

Opening Lecture – Ralph Grillo: The Family at Issue. Debating Cultural Difference in Europe

19:00 – 20:00 Film Screening

#### **Friday 15 June**

*09:15 – 11:15 Theme 1: Family Formation and Integration*

Chair: Martin Kohli

Discussant: Rainer Bauböck

1. Amparo González Ferrer: The Process of Family Reunification among Immigrants in Germany. Timing and Reasons
2. Jaap Dronkers and Fenella Fleischmann: Do Transnational Marriages of Immigrants within Europe Promote Integration of their Children More than Endogenous Marriages?
3. Annett Fleischer: 'Fluid Transitions'. Marriage and Birth over Time and Space among Cameroonian Migrants to Germany

*11:45 – 13:15 Theme 2: Transnational Family Life*

Chair: Rainer Bauböck

Discussant: Jean-Pierre Cassarino

4. Ludovica Banfi and Paolo Boccagni: Transnational Family Life: Looking for Patterns. A Comparative Case Study on Female Migration in Italy

5. Peggy Levitt: Achieving Simultaneity. Discontinuities and Renegotiation in Transnational Social Fields

*14:15-15:45 Theme 3: Intergenerational Relations*

Chair: Eleonore Kofman

Discussant: Stéphanie Mahieu

6. Aurélie Varrel: The Role of Family and Intergenerational Issues in the Circulation of Skilled Migrants. Some Inputs from the Indian Case

7. Djamila Schans and Helga de Valk: Filial Obligations among Migrants and Dutch. A Comparison of Perceptions and Behaviour among Ethnic Groups and Generations

*16:15 – 17:45 Theme 4: Changes in Family Structures and Relations*

Chair: Stéphanie Mahieu

Discussant: Ettore Recchi

8. Martina Giuffrè: Migration and Transformation of Cabo Verdean Matrifocal Families

9. Paola Bonizzoni: Civic Stratification and Stratified Reproduction. Strategies of Solidarity of Latin American Families in Italy

## **Saturday 16 June**

*09:00 – 11:00 Theme 5: Family Migration and Work*

Chair: Virginie Guiraudon

Discussant: Eleonore Kofman

10. Christine Catarino and Laura Oso: Labour Culture and Labour Commitment of Children of Entrepreneurs in France and Spain

11. Isabel Dyck, Gillian Creese and Arlene T. McLaren: The 'Flexible' Immigrant and the Family. Gendered Strategies in Economic and Social Integration

*11:15 – 13:15 Theme 6: Public Debates and Public Policies*

Chair: Albert Kraler

Discussant: Virginie Guiraudon

12. Irene Messinger: Suspected Sham Marriages

13. Vlatka Frketic, Michaela Lehofer and Ariane Sadjed: Linking Research and Advocacy – The Benefits of Research on Family Migration (Policy) for Migrants

14. Nuria Empez: Unaccompanied Minors from Morocco to Spain. Social Construction of Neglect

*14:15 – 15:45 Theme 7: Migrant and Family Strategies*

Chair: Camille Schmoll

Discussant: Sarah van Walsum

15. Yvonne Riaño: “He is the Swiss Citizen, I’m the Foreign Spouse”. Bi-National Marriages as a New Form of Family-Related Migration and Their Impact on Gender Relations

16. Panitee Suksomboon: Cross-Cultural Marriage as a Migration Strategy. Thai Migrant Women in the Netherlands

*15:45 – 16:30 Final comments*

Eleonore Kofman, Martin Kohli, Albert Kraler, Camille Schmoll

Closure of the conference

### ***Panel on Transnationalism, Gender, and Family Migration Policies***

IMISCOE B3 Cluster Conference, Warsaw, 23-25 April, 2007 (organized by Albert Kraler and Eleonore Kofman).

#### Papers:

Garbi Schmidt (Danish National Research Centre for Social Research): Good Citizens, Good Subjects and Good Lives: Transnational Marriages and Marriage Migration Policy in Denmark

Jørgen Carling (International Peace Research Institute): The demographic footprint of migration policy and family strategies

Louise Ryan/ Bernadetta Siara (Middlesex University): Gendered Relations, Family Strategies and Transnational Migration: Recent Polish migrants in London

### ***Pre-conference Workshop on Family Migration Policies,***

IMISCOE B3 Cluster Conference, Warsaw, 23-25 April, 2007 (organised by Albert Kraler and Eleonore Kofman). Discussion of draft policy reports of the project with non-project researchers invited as discussants.

***Cross Cluster Workshop "Civic Stratification, Gender and Family Migration Policies in Europe"***

3rd Annual Imiscoe Conference, Vienna 5-6 September, 2006 (organised by Albert Kraler). Presentation of the project concept and of discussion of follow-up cross-cluster activities (conference plans, which later materialised as the Gender, generations and the family conference in Florence)

# **Annex**

## **Project Team**

## **Coordinating institution**

International Centre for Migration Policy Development (ICMPD)

Gonzagagasse 1, 1010 Vienna

[www.icmpd.org](http://www.icmpd.org), <http://research.icmpd.org>

### **Project Team - ICMPD**

#### *Coordinators*

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Haleh Chahrokh

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Elisabeth Strasser

#### *Research Affiliates*

Karina Moeslund (Danish Policy Report)

Ilse van Liempt (Dutch Case Study)

Alice Szczepanikova, (Czech case study),

Karin Sohler (French Case Study)

## **International Partner Institution**

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<http://www.mdx.ac.uk/hssc/research/centres/sprc/index.asp>

#### *Team Leader*

Eleonore Kofman (Team Leader)

#### *Researchers*

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Veena Meeto

#### *Research Affiliates*

Florence Levy (French Case Study)

Sue Lukes

## **National Partner Institution**

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Sandra Gil

Cristina Vega (Spanish Case Study)

## **Collaborating Researcher**

Paola Bonizzoni, Department of Sociology, University of Milan (Italian policy report)