

Sussex Migration Working Paper no. 5

Promised Borderland:

On the 'exceptionalism' of the UK system of migration control

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July 2001, revised April 2002

Summary

Compared to the two continental European cases of Germany and Austria, the system of migration control in (and outside) the United Kingdom displays distinct differences. In part, this results from the country's status as an island, which provides 'natural' borders. This is a geographical advantage, which can be exploited for the purpose of migration control concentrated on the ports of entry. On the other hand, migrants and their facilitators continue to find ever-new ways to undermine this border control regime focused on pre- and on-entry checks. Meanwhile, the corresponding lack of post-entry controls and 'easy access' to public services once inside the country may represent additional attractions to the increasing number of migrants who choose the UK as their final destination.

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List of abbreviations

AAPD	Asylum and Appeals Policy Directorate (IND)
ALO	Airline Liaison Officer
CIREA	Centre for Information, Discussion and Exchange on Asylum
CIREFI	Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration
ECO	Entry Clearance Officer
EEA	European Economic Area
ELO	Europol Liaison Officer
EU	European Union
FCO	Foreign and Commonwealth Office
FRG	Federal Republic of Germany
FSU	Facilitation Support Unit (Dover)
HLWG	High Level Working Group for Asylum and Migration
ICMPD	International Centre for Migration Policy Development (Vienna)
IDA	Inadequately Documented Passenger
IGC	Inter-Governmental Consultations
IND	Immigration and Nationality Directorate (Croydon)
INPD	Immigration and Nationality Policy Directorate (IND)
IOM	International Organisation for Migration (Geneva)
ISED	Immigration Service Enforcement Directorate (IND)
ISPD	Immigration Service Ports Directorate (IND)
JECU	Joint Entry Clearance Unit (London)
NASS	National Asylum Support Service
NCIS	National Criminal Intelligence Service (London)
OSCE	Organisation for Security and Co-operation in Europe
RDS	Research Development and Statistics Directorate (London)
RHA	Road Haulage Association (Weybridge)
SED	South East District
SIRENE	Supplementary Information Request at the National Entry
SIS	Schengen Information System
TCN	Third-Country National
TUC	Trade Union Council
UK	United Kingdom
UNHCR	United Nations High Commissioner for Refugees

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Preface

This paper is a result of a three month stay at the Sussex Centre for Migration Research from January-March 2001, which formed part of a larger PhD project comparing the different migration control systems in Germany, Austria and the UK. As in Austria and Germany the year before, much time in the UK was spent on gathering material and conducting interviews in different migration control or policy agencies (see Appendix), which form the primary sources of the paper. The paper provides a brief overview of the findings of this fieldwork, whilst situating them within a theoretical framework based on sociological systems theory. Secondary sources include scientific works, parliamentary debates and hearings, reports and coverage of migration issues in the domestic print media.

The paper aims to:

- show how the specific system of migration control works and the underlying policy guidelines on which it is based;
- explore both the efficiency of control measures and how they are viewed in both domestic and EU politics; and
- compare the UK case with the German and the Austrian systems of migration control

The author would like to thank Dr Richard Black for his kind guidance, staff at the Graduate Research Centre for Culture, Development and the Environment at Sussex for technical support and the European Commission for funding the stay by granting the author a Marie Curie Fellowship. Furthermore, I am grateful to Dr Adrian Favell, Prof. Michael Bommers and Prof. Stephen Castles for their support to get me to the UK. Last not least, my final thanks go to all of my interviewees in the different offices of the south-east area for their willingness to help and for providing valuable 'first hand' insights into how UK migration control works.

1. Introduction

At the time that fieldwork for this paper was conducted, the debate on migration issues in the UK was characterised by huge political and public concern about a sharp rise in the number of persons seeking asylum in the country - a problem that hardly seemed to exist even in the recent past. As in other Western European countries, there was a rise in the figures at the end of the 1980s because of the end of the so-called Cold War period and the opening of the 'iron curtain' (see Table 1). Some countries were able to restrict this rise in the early 1990s through new legislation to improve the efficiency of asylum procedures. However, unlike in Germany, where the 1993 amendment of the basic right of asylum was highly controversial and widely perceived as involving the abolition of asylum, the public responses to the new Asylum and Immigration Appeals Act of the same year in the UK remained rather moderate.

However, in early 2001, when official figures show that the number of asylum applications lodged in the UK has nearly doubled within three years, there is a different situation. Initially, there was still no noticeable *public* response. But at the *policy* level, the 'asylum question' has suddenly been put on top of the political agenda, leading then to a broader public debate, which continues at the time of writing. As public concern has responded to, and then reinforced the political agenda on asylum-seekers, the debate has shifted also to so-called illegal immigration, as well as to UK migration policy in general.

In this sense, this paper is written in the middle of an ongoing debate and therefore cannot claim to paint a comprehensive picture of it. Rather, it aims to look at the 'state of the art' from a specific sociological perspective. It is divided into five main parts, each consisting of two sub-sections. The first part starts with a rough sketch of the theory used. It shows how the subject of migration control fits into a wider conceptual framework (2.1). Discussion then moves to issues of research design, again relating this to the conceptual framework (2.2).

After a rather theoretical starting point, an outline of initial results of fieldwork in the UK, Germany and Austria follows. Although the paper focuses mainly on the UK, it also sketches some of the most striking differences between the UK and the other two cases. It is argued that there are not only different notions, or ideas, of migration control, but also different control practices in the three countries. These practices correspond to

specific national ideas of managing migration. At the state level, specific attention is paid to how migration controls are generally related to (national) migration policies in each case (3.1), and how the different fields of migration management derive from such policies. This is illustrated with special regard to the field of asylum (3.2).

The next chapter then explores the focus of measures to control migration in each country, but especially in the UK (4.1). It examines the extent of domestic co-operation between state agencies in the different countries, and how such co-operation, where it exists, is organised and supposed to work. After a brief characterisation of different national migration control systems (4.2), the different ways in which migrants and their facilitators are able to circumvent or undermine control measures are considered (5.1). This is followed by discussion of possible reasons for this with respect to the UK (5.2). Finally, the UK case and the specific internal structure of migration policy are considered (6.1), including in relation to the EU level of political co-operation and decision-making (6.2). Finally, in chapter 7, the paper summarises the dominant forms of migration management found in each of the three countries, examining whether the UK really is an 'exceptional' case¹ in terms of its system of migration management.

2. Conceptual Framework

This chapter aims first to explain the general theoretical background on which the study is based, and then to consider how the specific issue of migration control can be related to it in abstract theoretical terms. The aim is to show how certain theoretical assumptions underlie the issue of migration, and the implications of this for comparative research design.

2.1 Theoretical background: Levels of systems

Three basic levels of systems are distinguished by the version of sociological systems theory that is used here and has been put forward in particular in the work of Niklas Luhmann.² This theoretical perspective draws an explicit distinction between individuals on the one hand, and society on the other. Society is conceptualised as the total of all possible communications, and is divided into several societal sub-systems with different

¹ See e.g., almost classical, in Cornelius, Martin and Hollifield (1994: 23).

² As a useful introduction into this specific type of sociological systems theory along different subjects, see e.g. Luhmann (1998).

'languages' in an abstract sense. In case of the *political system*, this is the language of power. Its specific function for society as a whole is to produce binding decisions and to carry them through at a local level. This is perhaps the most obvious reason why the political system consists of structurally similar segments called *states*. Only within certain territorial boundaries does the political system seem to be able to fulfil this function effectively. That is why states claim sovereignty not only over their people, which they have rather 'created' as so-called nations, but also over their physical territory. Apart from the fact that this is sort of basic state theory, it is moreover the reason why the political system can be regarded as the relevant sub-system of society if one is going to examine migration control. For this reason, it is of major importance here.

Migration itself is situated at the level of the individual who migrates, for whatever reason. While the state's aim is to maintain borders for the basic functional reasons mentioned above, namely to be able to know *where* and *to whom* its decisions can claim validity, the process of migration can transcend these borders. It thus can become a problem for the state and from the state's perspective.

At this point, it should be stressed that only territorial borders are considered here to be affected by migration control. Thus the paper focuses on matters of *primary* access to a territory and not so much on questions of *secondary* access either to public services or even to a certain national community through naturalisation. The transcending of further 'virtual' borders can be considered to occur once a migrant has already managed to get onto a particular state's territory. However, such (longer-term) effects of migration belong to a different field of concern usually referred to as the integration of migrants into society. Within the theoretical framework used here, migration is in a rather simplified way conceptualised as the pure process of border-crossing as a result of nothing but an individual's physical mobility. Hence, this paper is also not directly concerned with debates about possible personal and individual motives for migration, which in any case tend to be quite speculative.

For the state, there are quite essential reasons to maintain its borders in any way possible. This includes strategies of bilateral or multilateral international co-operation, which themselves depend upon, and reinforce the existence of states. Considering the structural reasons mentioned above, a state would simply not be a state if it failed to define, preserve and defend its borders. However, migrants can also transcend

borders, which are protected by states. This is not necessarily a contradiction, but it indicates a field of tension that both sides have to deal with. The theory provides *organisation* as an important intermediary: organisations represent a mediating level between the individual and society. Both the migrant and the state use organisations in different ways. To control their borders against unauthorised entrants, states assign responsibilities to certain agencies for relevant tasks. Indeed, different states use different agencies for this purpose. On the other hand, as controls get tougher, migrants are forced to make use of facilitation services in order to transcend borders. Thus, migrants use agents not only to cross borders, but also to circumvent border controls.

In this way, the organisational level serves both, to defend the state's territory, or, in a more abstract sense, to uphold the principle of territoriality; as well as to undermine this same principle. These processes not only happen simultaneously, but with explicit reference to each other. They also lead to certain pitfalls for migrants as well as states and their control agencies, as the undermining of territorial borders becomes an increasingly high-risk game for migrants and their facilitators, yet defending them an ever growing illusion for the state.

Indeed, defence of borders seems increasingly difficult, whether we consider countries with mainly land borders (as in Germany and Austria), or those with mainly sea borders as in the UK, which are supposed to be easier to control. Interestingly, one result of the interviews conducted at the working level of migration control, is that in all three countries, staff in migration control agencies are quite aware of the indefensibility of political territory. It remains an open question whether politicians are as aware. However, since they are at the decision-making level of policy making and so must, at least to a certain degree, trust in the efficient transformation of their decisions into measures of migration control and in this way keep the illusion of defensible territories alive, this seems to be very unlikely.

2.2 Research Design: Explaining self-stabilisation

The basic theoretical approach outlined above requires that case studies are situated within the conceptual framework, rather than ad-hoc theory being built around them. However, it should be noted that at least some of the systematisations here have also been deducted from fieldwork findings. In this sense, the work involves a methodological mixture of theoretical assumptions and empirical evidence.

It should be stressed here that migration is conceptualised within this framework as a process that happens anyway, whatever the underlying motives of migrants. It is only at the policy level that a distinction is made between, for instance, so-called 'genuine' refugees and economic migrants. This is very much a political construction, with the 'true' motives of migrants remaining hard to prove. Indeed, the possibility cannot be excluded that both political *and* economical reasons motivate many migrants. The simple fact that migrants must take high risks to move shows that there must be reasons for their movement. Yet, the search for what those reasons are is a self-created problem of migration control, and not one that should necessarily concern the social scientist, still less attempts to distinguish them into right and false, eligible or ineligible to enter or stay in a chosen country.

The migration control dilemma consists of the fact that it is necessary to draw such distinctions between migrants - indeed this is a central part of efforts to control migration - but that this process makes it more difficult at the same time to be completely sure about the 'real' or 'true' motives of migrants. For sociology, this is very much a 'black box', which is why the level of the individual is put to one side in this study. Instead, this study focuses sharply on the more 'technical' mechanisms of interactive stabilisation of organisations. Whether intentional or not, these mechanisms help to preserve the phenomenon of migration that is deemed as, or indeed politically constructed as 'illegal'.

At the state level, there are certain national or even supranational policies, which help both to create 'illegal' migration, and then to control it. First, by establishing a strict 'no-entry' rationale for migration policy (Rasmussen, 1997) states ensure that 'illegal' migration is not so much 'irregular', as it is often described (International Migration Review, 1984; Gosh, 1998; Cinar, 2000), but rather very much the norm. In turn, the effect of these policies is to require migration control. The corresponding measures at the level of organisation, which need to be systematically distinguished from political decisions at the state level, are aimed at detecting exactly those migrants who are labelled as 'illegal' by migration control. These measures consist not only of the detection of 'illegals', but also enforcement action to follow. This includes the apprehension, detention, and ultimately the removal of migrants, as soon as the 'fact' of their 'illegality' is proven.

However, it is not only the control side that is highly organised. Tough measures of control and enforcement provoke new forms of (unwanted)

migration, so that this process is not only deemed illegal, but also becomes increasingly organised itself. This manifests itself in human, or in many cases inhuman smuggling or even trafficking. While smuggling involves just the 'facilitated' and clandestine crossing of borders, trafficking includes, besides this basic 'event', some additional services provided by the facilitators such as forged documents, a job in the informal economy etc. Due to the higher prices of such migration 'packages', this often forces the migrants into certain businesses to make them able to pay the cost back in instalments over a lengthy period of time. In this way, they become dependent clients of their facilitators for a far longer time than the actual process of border-crossing lasts.³ This is one of the main reasons why those migrants as well as their widely 'demonised' facilitators (Carroll, 2001) can increasingly be criminalised. Yet, not all migrants are unsatisfied with the services provided.

The more the degree of organisation grows on this 'migration' side of the game, the more likely this will lead to tougher measures on the other side, which will then again either strengthen the established facilitators, or even build up new organisations. So each side has a tendency to create their own opponents. This can be described as a vicious circle built on the basis that migrants are victims, in spite of the possibility that they might be 'satisfied customers' in the migration market. But based on the theoretical background sketched above, it should and can be described rather as a self-stabilising and permanently self-recreating system initiated by policies and preserved by mutual references between migration and efforts to control it. It remains an open question whether this might at some time reach a point where it can not go any further. Then, one can only wait and see if there will be a possible backlash from the organisational level of both migration and its control back to the level of policies, possibly changing the current 'no-entry' rationale into one that accepts a certain level of entry.

3. Stating the evidence

This chapter seeks to relate both the theoretical and the empirical framework to the three country cases, as different national versions of this basic structure. It starts by examining the extent to which the systematic distinctions made in the previous chapter remain valid when looking at each of the concrete cases. Afterwards, it exemplifies

³ see for the definitions Morrisson (2000: 9-13), its combating OSCE (1999), for the "evidence" IOM (2000) and for literature Salt and Hogarth (2000).

plifies how migration is made illegal by certain policies not only at the national, but also at the EU level.

3.1 Migration policy as migration control

Considering the rather complex circle of mutual references and connections between the different levels of examination outlined above, a selected one week press coverage with regard to the subject by respected UK print media appears, unsurprisingly, to be a rough simplification. One of the main occasions for the large public coverage about migration related issues during this time was the publication of the latest figures of asylum applications lodged in the UK in 2000. These have risen to nearly 100,000 (see table 1) and compared to their decline in other countries this has widely been deemed as a warning signal and led to great public concern about British migration policy in general. Looking at the headlines of that week is quite revealing. Although often, and understandably, 'theory-blind' in their view, they illustrate some of the points made in the last chapter. Most of those headlines use 'hard' language to focus solely on the various (national) policy responses to the phenomenon of organised illegal migration as a (just) 'war' on it. By doing so, they do not take into account either that this phenomenon has been made, nor that it is permanently reproduced by migration control measures and their underlying 'no-entry'- policies. Rather, these are now regarded to be in charge of its 'fighting' against migration. Demands to stop, or at least to curb migration seem to be the media's own contribution to the creation and constant re-creation of the 'problem'.

What is even more interesting, is the fact that at the same time, but surely not coincidentally with less emphasis, the provision of more or at least wider legal channels of migration is often suggested or thought as a 'solution' of this self-created problem. This seems to be exactly what has been described above as a possible backlash from 'no-entry' policies.⁴ Nevertheless political, and partly media backed proposals to 'solve' things seem to concentrate on defensive measures of control. Moreover, they obviously do not remain on the national level, as some of the headlines show as well. They can also be bilateral, such as the Anglo-Italian initiative shows (Blair/Amato, 2001), and they can have an impact on supranational politics (as in the way that the EU is encouraged to 'look at' UK ideas to tackle illegal immigration or even to 'unite' to get 'tough

on immigrants'. There is far less media evidence for the other way around - that is, any EU impact on state 'solutions'. Finally, connecting the issue of illegal migration explicitly with the issue of asylum reinforces political suspicion and prejudice that 'most' applicants are 'only' economic migrants or so-called bogus asylum-seekers.

Table 1: Asylum applications in Germany, the UK and Austria 1983-2000⁵

	Germany	UK	Austria
1983	19,737	4,300	5,900
1984	35,278	4,200	7,200
1985	73,832	6,200	6,724
1986	99,650	5,700	8,639
1987	57,379	5,900	11,406
1988	103,076	5,700	15,790
1989	121,318	16,800	21,822
1990	193,063	38,200	22,789
1991	256,112	73,400	27,306
1992	438,191	32,300	16,238
1993	322,599	28,000	4,744
1994	127,210	42,200	5,082
1995	127,937	55,000	5,920
1996	116,367	27,900	6,990
1997	104,353	32,500	6,720
1998	98,644	58,000	13,805
1999	95,110	91,000	20,100
2000	78,760	98,000	18,280

Sources: IGC, Geneva (Annual Reports); UNHCR, Geneva; Eurostat, Luxembourg.

From there, it is only a small step to assume that both legal and illegal migration should be controlled. This seems to be the way the UK deals with migration in general: both issues are put together in a single immigration policy package. There is evidence for this in recent headlines: the possible widening of opportunities to get into the country legally serves as a kind of sub-text for the necessity to also 'close the back door'. However, this is not seen as giving migrants more opportunities to enter the country by legal means, but rather as part of 'joined-up' migration control, which is explicitly declared as a major political goal in the UK. This is to be achieved by exploiting the country's geographical advantage of being an island - an aim expressed not only at the policy level, but also at the working level of the different control agencies. Thus, one can quite easily get the impression that in the UK, migration policy is regarded and dealt with as being almost identical with migration control.

UK policy does include the possible provision of legal channels of immigration in cases of labour shortages, especially in sectors such as health,

⁴ See also e.g. Steinberg (2000), Roche (2000), Waker (2001) or Glover a.o. (2001) as a scientific expertise voting for "economic" migration.

⁵ The annual figures for Austria and the UK include spouses, children and other family members of asylum-seekers. In Germany, they are, with effect since July 1993, only counted when they (or their parents) have applied for (their) asylum separately.

education and information technology. Thus, a programme to attract foreign specialist workers to the UK is in the making, similar to the one already administered in Germany. However, in Germany, nobody would call this programme a measure of migration control, since this expression is solely used for reactive measures to combat forms of migration deemed as illegal. Rather, Germans prefer a term such as 'steering' in order to describe such an active migration policy. There are also differences between Germany and the UK at the structural level, resulting in different national profiles of migration control. In sharp contrast to what has been observed in the UK, the distinction between migration policies and migration control is quite obvious in the German case. This is not so much an 'official' political distinction, coming from the policy level, but rather an empirical distinction, which seems common sense within the different control agencies within Germany. Many of those interviewed in German migration agencies argued that they just do their jobs and cannot really influence what is decided on the policy level.

So, the sharp distinction between migration policy at the decision level and migration control at the working level is *deduced* from the empirical level. However, on the other hand, it also fits into what has been conceptualised in the theoretical framework above. In the version of systems theory referred to in this paper, the phenomenon of (re-)drawing a distinction from the other side of exactly the same distinction is called a 're-entry', using an expression taken from a formal mathematical model by Spencer Brown (1969). In this case, such a re-entry can be, to use a methodological term by Luhmann (1993), 'observed' at the working level of migration control, explicitly distinguishing this from the policy level of decision-making.

In fact, in Germany, there has not been any 'real' immigration policy since the 1973 cessation of state organised labour migration from Southern European countries (which had begun back in the mid-1950s). Correspondingly, there was supposed to be no need for an explicit (single) immigration law. Until the (recent) establishment of an 'immigration council', the Federal Republic even refused to describe itself, at least 'officially', as an immigration country. This denial of the obvious always seemed bizarre, considering the well-known fact that nearly all kinds of immigration except of 'legal' labour migration have continued. For the different agencies in charge of one or other aspect of migration control, the corresponding lack of a clear policy rationale or common legislation led to a kind of 'muddling

through', which nevertheless turned out to work quite well.

Austria was expected to be more similar to Germany than the UK. However, in this case, this assumption proved wrong in certain aspects. One is that there obviously is, compared to Germany, a significantly stronger connection between political decisions and legislation on the one hand and migration control measures on the other. The Austrian State is slightly less federalised than Germany, and it continues to have an 'official' migration policy in the shape of a quota system. Although different agencies are involved, the co-ordination of migration control is very much centralised in Vienna, whereas in Germany, the different agencies are not only spread over the country and thus separated from each other geographically, but also work quite independent from each other. This often leads to tensions, as described below.

3.2 Paradoxes of asylum

Before describing the co-operation (or, in certain cases, the non-co-operation) between different national agencies responsible for different aspects of migration control in the next chapter, this section outlines the fields of control of concern. In Germany, the fields, or targets, of migration control are just as separated from each other as the different responsible agencies are. This rather decentralised organisational structure (described below) is the most plausible reason why German border control is regarded as a completely different issue to labour market control. Similarly, and perhaps less surprisingly, the (control) system of checking asylum applications is also separate. Although there are, for instance, fast-track procedures at airports, the UK system of border control seems much more linked to asylum issues. This, plus the fact that labour market controls in the shape of conducting workplace checks play only a minor role in the UK, at least when compared to the other two cases, has something to do with the maintenance of a traditional border control system. As long as most of those who arrive at a port of entry and are under suspicion or accused of being illegal migrants, claim asylum, the question of how to deal with these claims becomes an essential part of border control. Moreover, this leads to the difficulties mentioned above already at this stage and in this basic field of control regulating primary access onto the state's territory. These difficulties are mainly centred on the question of how to distinguish between genuine refugees and so-called bogus asylum-seekers. This is becoming even more difficult considering the fact that EU-level agreements such as the Dublin Convention make the arrival of asylum-

seekers almost unavoidably illegal, yet the legitimacy of their stay might be fully legally backed by the Geneva Convention. To make matters even more complicated, these agreements and conventions are interpreted differently by the different member-states.

Table 2: Dublin Cases in Germany, the UK and Austria 1998-2000⁶

	Germany	UK	Austria
1998			
<u>Sent</u>	3,479	2,493	264
To	1 Italy 2 France 3 Austria	1 Germany 2 France 3 Belgium	1 Italy 2 Germany 3 Greece
Accepted	1,682	1,950	76
Transfers	809	876	21
<u>Received</u>	12,044	139	1,303
From	1 Netherlands 2 UK 3 Sweden	1 Ireland 2 Belgium 3 Netherlands	1 Germany 2 Netherlands. 3 France
Accepted	9,263	84	688
Transfers	3,054	65	340
1999			
<u>Sent</u>	5,960	2,202	1,272
To	1 Italy 2 France 3 Austria	1 Germany 2 France 3 Netherlands	1 France 2 Italy 3 Germany
Accepted	2,819	1,679	912
Transfers	1,720	883	64
<u>Received</u>	8,213	163	2,220
From	1 Netherlands 2 UK 3 Belgium	1 Ireland 2 France 3 Germany	1 Germany 2 Netherlands. 3 Sweden
Accepted	7,652	86	1,317
Transfers	3,403	38	955
2000			
<u>Sent</u>	3,917	1,790	
To	1 Italy 2 France 3 Austria	1 Germany 2 France 3 Netherlands	
Accepted	3,651	1,391	
Transfers	2,142	297	
<u>Received</u>	7,247	131	
From	1 Netherlands 2 Belgium 3 UK	1 France 2 Ireland 3 Germany	
Accepted	5,662	58	
Transfers	2,008	29	

Sources: Danish Refugee Council (2001: 129-162); BAFI, Nuremberg; BAA, Vienna (own inquiries).

The Dublin Convention came into force in 1997 and was supposed to serve as a common tool to avoid so-called 'asylum shopping', by obliging member states to deal with asylum-seekers who

arrive first on their territory. Under this system, states are required to return asylum-seekers to the EU country where they first arrived (Table 2).

Whilst officials in both German and Austrian asylum offices commented that they have quite good experiences with the implementation of this Convention so far, although at the same time they talk about a need to 'improve' it, in the UK the Convention is seen to have failed at both the policy and the working level of migration control. But this different judgement reflects another British 'peculiarity', namely that the Geneva Convention is significantly more adequately interpreted by the UK than by most of the other EU member-states.

In much of Europe, it is no longer an individual's subjective fear of persecution, as required in the Geneva Convention, but a obvious persecution on the part of a state, which is regarded as the main 'objective' criterion for granting asylum. But the UK has resisted this development, at least with regard to some high profile cases in 2000. Thus in the UK, some asylum-seekers have not been sent back to transit countries because their claim for asylum based on persecution *within* rather than *by* a country of origin has been accepted - something which would have been very unlikely in other member states. To cope with the dilemma of respecting international human rights obligations on the one hand and obligations towards EU partners on the other, the UK has defined certain other member states as 'unsafe' countries. This puts the UK at loggerheads with the Dublin Convention, and given that every member state is now defined as a safe country in the Amsterdam Treaty, the gap between the UK and the EU may grow. However, on the other hand, this inconsistency is unlikely to be legally questioned, as other member states are probably not keen to challenge the UK simply in order to have asylum-seekers returned to them. In this sense, pragmatic concerns are more important than a proper and efficient functioning of the Dublin Convention.

However, the pure existence of those cases, and the circumstances that have made them possible, points back to the paradoxes that arise from this binding supranational legislation. The fact that the countries declared as 'unsafe' by the UK - France and Germany - were part of the asylum-seekers travel route, illustrates that escape routes instead of the reasons for flight have become increasingly crucial in dealing with asylum applications. Moreover, these cases exemplify how illegality is 'created' by political decisions, in this case even at a supranational level. Before the Dublin Convention came into effect, it was not 'illegal' to claim asylum in a second member state,

⁶ The numbers of effected transfers might include older cases and consist of only pending cases for the UK in 2000; no figures for this year are yet available for Austria.

when the claim failed elsewhere. Now, not only is the claim itself outside the law, but a state also acts outside the European legal framework if it accepts an asylum claim that it is not responsible for under the Dublin Convention. This applies even though this national decision is backed by international legislation in shape of the Geneva Convention.

4. Defending the case for borders

The aim of this chapter is to describe and compare the different national profiles of systems of migration control in each country under study. The focus is on the organisational level, represented by the different agencies that are responsible for conducting various measures of migration control. First, the different kinds of migration control that are predominant in each case are identified; then, attention turns to the concrete ways in which control measures are coordinated and carried through.

4.1 Controlling the gates?

Germany has a system of internal migration controls that would be quite unthinkable in the UK, where checks are almost solely concentrated on its ports of entry. Not least due to its full involvement in the Schengen process, the German system includes regular checks of workplaces inside the country, and of travel routes well inside the border. In contrast, the UK system of migration control has traditionally relied on external controls (Morris, 1998: 951), which 'operate either before arrival or at the point of entry'.

This means that once somebody has managed to get into the country by passing those external pre- or on-entry controls (see section 5.1 for details), they are very unlikely to be stopped and forced to answer questions by the police. They need not expect to be asked to explain why they are there or even who they are, and there is (as yet) no obligation to carry an identity card (ID). In contrast, in Germany it is common for migrants to encounter a police officer, often in disguise, asking for their ID. Such ID checks are more likely, the more 'foreign' one looks, an argument commonly used against mandatory ID cards in the UK, since these are seen as unavoidably involving a 'racist' element. Interestingly, the same point has also been highlighted as a reason against systematic workplace checks,⁷ but is hardly ever mentioned with regard to border controls, even though such discrimination is just as likely. Indeed, the way someone looks or the colour of

their skin is often the crucial criterion for immigration officers to decide when to look at a document more precisely.

The fact that there are significantly more post-entry controls in Germany certainly does not mean that border controls do not exist. With the 'Schengen' rationale being to successively abolish controls at the internal frontiers of the EU, its external borders have been strengthened. In the case of Germany, there has also been a strengthening of bilateral co-operation with Polish or Czech border control agencies.

The fact that this is quite a new situation for Austria might explain why border control bodies there seem to be even keener on doing their job than those in Germany do. Moreover, they are more sceptical about co-operation with their eastern and south-eastern counterparts and prefer to rely on their own solutions to fulfil their European obligations. However, being the new frontiers of the EU seems to be a huge challenge for both Austrian politicians and border control agents. This leads to tougher entry controls at what is now the EU and Schengen border with the Czech Republic, Slovakia, Hungary and Slovenia. On the other hand, this does not mean that there are less post-entry controls than in Germany.

In contrast, pre-entry controls outside the UK play a different and, at the same time, stronger role than in the other two countries. They include visa policies that are different from those of Schengen (and hence work against the goal of a common EU visa system or regime), as well as bilateral agreements with 'neighbouring' countries in mainland Europe. The UK visa system is enforced by Entry Clearance Officers (ECOs) in selected countries. According to the Foreign and Commonwealth Office (FCO, 2000:8) their duty is not only to 'establish that the applicant genuinely meets the criteria for entry', but also that s/he 'intends to leave the UK at the end of the visit'. Therefore, this form of pre-entry is actually a double-sided measure not only to control entry, but also to prevent those who do enter from staying indefinitely in the country. It is therefore not only meant to distinguish acceptable from unacceptable (or unwelcome) entrants, but also to try to ensure the return of those temporarily allowed to stay. In practice, this is not an easy task. In 2000, the task of entry clearance was reorganised in the (fashionable) 'joined-up' style, by the establishment of a Joint Entry Clearance Unit (JECU) attached to the FCO, but with staff also from the Home Office. This mixture of personnel shows that there is more to visa policy than simply granting visas.

⁷ See TUC (1996) or for an early example the report of the Commission for Racial Equality (1979).

In addition, there are efforts to introduce pre-entry controls that are bilaterally negotiated. The most obvious example is a proposal to place UK immigration officers at seaports on the French side of the channel in order to allow them to conduct pre-embarkation controls. However, since there is significantly less migration branded 'illegal' in the other direction, this is a one-sided proposal, just as variations in implementation of the Dublin Convention are one-sided. A further form of preventive pre-entry control is the establishment of Airline Liaison Officers (ALO's) in selected countries who give advice to the staff of 'foreign' airlines on false and forged travel documents before they board a plane to the UK.

Another contrast is that whereas in Germany and Austria migration control is carried out by the police or armed forces, in the UK immigration officers are part of the civil service. Moreover, there is a form of passive privatisation of migration control in terms of controls by carriers bringing people to the UK. In the case of airlines, the underlying legislation which forced them to carefully screen passengers travel documents was the Carriers Liability Act (1987), the scope of which has been successively extended, effectively 'privatising immigration functions' (Nicholson 1997). Meanwhile, the Civil Penalty Law has recently been introduced to extend such provisions to drivers of all sorts of vehicles, most recently rail freight wagons coming through the Eurotunnel. While freight trains can now be fined under the Civil Penalty legislation, the Eurotunnel itself is not subject to the Carriers Liability Act⁸. This circumstance might explain why Eurostar has yet not introduced own, 'private' migration controls on top of the usual ticket controls, unlike, for example, the ferry operator P&O. An official of the Road Haulage Association (RHA), whose members are heavily affected by civil penalties for carrying 'illegal' migrants, put it quite simply by stating that 'they (i.e. the government) want us to do their job'.

To round off discussion of the general trend of passive, or forced privatisation of migration control in the UK, it should not be left unmentioned that the lack of workplace checks is in a way compensated by strict employer sanctions. However, since there are fewer checks than in Germany and Austria, the only way to make this work is simply to trust employers to report any illegal workers voluntarily. For this reason, the pressure to privatise these controls is not as heavy as in the cases of carriers, whose willing-

ness to check is encouraged by legislation.⁹ Meanwhile, in addition to various degrees of passive privatisation, an active privatisation of migration control can be found as well. Thus, contracts have been made between the UK government and the American company 'Wackenhut' to support the Immigration Service by providing security services accompanying migration controls at UK airports. In both Austria and Germany, it would be very unlikely to find an official who would even think about leaving migration control to the private sector. Yet this seems quite common and widely accepted in migration control agencies that have been visited in the UK.

4.2 Practising enforcement

The different fields of migration control, as described in section 3.2, are reflected, at least in the German case (and possibly the Austrian) in the variety of different units and sub-units in charge of specific measures. It is in Germany that this kind of organisational differentiation is most developed. There are 'traditional single federal agencies, of whom two are almost fully responsible for two of the three fields of migration control mentioned above: the Federal Border Police (BGS) is responsible for questions about border control; whilst the Federal Office for the Recognition of Political Refugees (BAFI) is in a similar monopolist position regarding asylum questions. The tasks of this central German asylum agency include the reconstruction of an asylum-seeker's travel route. The existence of 'travel route experts' is a good example for how this institution is not willing to leave any responsibility in the field of asylum to other agencies. This is true, even if other organisations, such as the Federal Border Police and the Federal Criminal Office (BKA) might be better informed on specific or new itineraries or facilitators of organised trafficking.

But it is not only this specific indifference of one agency towards others, which leads to the conclusion that the German case is characterised by tensions between the different organisations in charge of migration control. There is even a significant gap of communication between the latter two agencies, against which the asylum office tries to defend its responsibilities. While the Federal Border Police tries hard to cling to its monopoly concerning border control, the Federal Criminal Office is about to claim appropriate responsibilities when it comes to trafficking filed under, and perceived as organised crime and

⁸ *The Guardian*, Jan 24th 2001

⁹ For (rare) comparisons of different EU versions of both employer sanctions and carriers liability see Miller (1987) and Cruz (1994). An overview of employer sanctions in Germany is provided by Vogel (2000).

therefore as a genuine threat to the inner security of the state. Regarding such cases, the criminal officers make a point of having 'better' resources of both staff and knowledge to tackle this 'problem', rather than leaving it to border control. But instead of making efforts to improve co-operation or increase information exchange, the relationship between these two agencies is better characterised as a struggle for responsibilities on the basis of their respective high self-esteem, leading to a kind of 'co-operation dilemma', as described by Vogel (2000: 416).

The Federal Labour Office (BfA) provides an illustrative example of organisational indifference rather than tensions. Its section for 'illegal foreigner employment' conducts regular workplace checks without needing any specific suspicions, which is a significant difference compared to the other two cases examined. In Austria, the corresponding control section at the 'central labour inspectorate' is not allowed to carry out checks without at least a tip-off from the public; and in the UK, the Immigration and Nationality Directorate (IND) does not really carry them out at all. In contrast to this, the detection of illegally working migrants by systematic workplace checks is a common and widely accepted issue in Germany. Nevertheless, the agency in charge does not seem to be particularly interested in exchanging information or experience with any other agencies nor do the labour controllers seem to care what other agencies do, although they quite often deal with exactly the same people.

In Austria, the entire issue of migration control is centralised around a massive ministerial bureaucracy in Vienna. Workplace checks are conducted by a sub-unit of the Ministry for Labour and the Economy (BMWA) whilst both asylum and anti-trafficking units have been established within the Ministry for the Interior (BMI) since the country joined the EU and Schengen. While the Federal Asylum Office (BAA) works solely on asylum cases, but less comprehensively than the German one (e.g. leaving the reconstruction of itineraries to security agencies), a 'Centre for Combating Smuggling Crime' (ZBS) is in charge of co-ordinating the various efforts related to this task. These are conducted by at least two of the three different agencies involved in border control duties.

These three agencies are Customs, the border police (established only in the mid-1990s) and soldiers of the Federal Army, who have assisted in controlling the Eastern borders since 1990. Initially established as only a temporary measure at the end of the Cold War, the involvement of the army was boosted and further justified when the

border was turned into an external frontier of the EU at the beginning of 1995.

Almost the only thing the UK version of border control has in common with the Austrian one is the fact that there are exactly three agencies participating. These are HM Customs and Excise, a civilian Immigration Service, and the police, who have only limited, reactive powers in cases of breaches of immigration rules that are criminal in nature. As with the Federal Criminal Office in Germany, in cases of 'organised' immigration crime, national intelligence agencies such as the National Crime Squad or NCIS (2000: 25) may also be involved.

While the Austrian solution to the rather new situation at the frontiers of Schengen involves a division of labour seen by most officials as working well, the various participants in the UK tend to estimate their more traditional triple system of border control less enthusiastically. Although most of them seem, or pretend to be quite satisfied with the way it works and how work is reasonably divided between different agencies with different responsibilities for different duties, they are thrown by recent debates about possibly doing better with a single border agency. Proposals pointing in this direction come from the policy level and have now been explicitly endorsed by a recently published report of the House of Commons Committee on Home Affairs (2001) on the efficiency of UK border controls.

Since the country's migration policy is, unlike in Austria and even more so in Germany, regarded as nearly identical with its migration control, (3.1), those involved are presumably worried about their jobs, which is quite understandable considering the low efficiency of enforcement (see Table 3). But if a single border police on the German model is thought of as a better one, it has to be taken into consideration that in Germany, this single organisation is currently confronted with claims and measures from other agencies to share out some responsibilities. So, from the reverse angle, the specific British answer to the almost classic question of Freeman (1994) could theoretically serve as a model for Germany as well. However, there are some crucial structural reasons (mentioned above) why this will not work.

Table 3: Enforcement action in the UK 1997-2000¹⁰

	Cases Initiated	Persons Leaving
1997	20.000	6.610
(of whom:)		
Illegal Entry	14.400	4.540
Removed		5.250
Asylum-seekers	13.720	3.060
1998	21.100	7.300
(of whom:)		
Illegal Entry	16.520	5.580
Removed		6.100
Asylum-seekers	13.940	3.440
1999	22.890	6.380
(of whom:)		
Illegal Entry	21.170	5.220
Removed		?
Asylum-seekers	16.240 ¹¹	2.750
2000 (1st half)	17.290	3.830
(of whom:)		
Illegal Entry	15.870	3.200
Removed		?
Asylum-seekers	13.720	1.510

Source: Jackson/ McGregor (2000: 25)

5. Breaking the defence

While the previous chapter focused on questions of how migration control is organised (differently) in the different countries, this one is aimed at doing the same for migration itself, but in a less strictly comparative sense. Rather, it describes the process, and possible reasons for the kinds of migration which try to overcome the controls, with a particular focus on the case of the UK.

5.1 'Tunnelling' through the system

From the official perspective of the migration controllers in the UK, there are, altogether, five different categories of 'illegal' migrants to be distinguished. First, there are two types of 'illegal entrants': those who are 'clandestine' in the sense that they have tried to avoid immigration controls altogether by concealing themselves in a vehicle; and those who are 'deceptive' in using false or forged travel or identity documents, or, in the case of asylum-seekers, by declaring a false travel route.

Concerning the far less frequent post-entry controls, there are three different categories of 'illegals', each with differing implications for en-

forcement. First, there are 'overstayers' whose residence permit has expired; secondly, there are 'workers-in-breach' (those working outside the terms of their entry permit); and thirdly, 'criminal foreigners' who have committed offences unrelated to immigration.

From the perspective of the migrants themselves, there are also different kinds of obstacles in the shape of borders to overcome in different 'irregular' ways. The success of attempts to enter the country illegally depends, on the one hand, on the (often financial) means that are available and, on the other hand, on the character and layout of the port of entry.

To literally 'tunnel' through the system of migration control, there are three basic ways to reach the UK. The least risky is to buy a Eurostar ticket with the last stop on the continent as the final destination, but then to stay on the train, perhaps locked in the toilets, until it arrives in the UK. Much more risky is to try to enter the country not in, but outside a train either by hiding under Eurostar or by slipping under or onto a rail freight wagon. Finally, simply walking or running through the tunnel is probably the most risky way with only a very small chance of survive the border-crossing.

In contrast, either slipping or getting loaded onto the freight section of a lorry during or before embarkation at a seaport is still the most widespread way for migrants to enter the UK by illegal means. Besides individual stowaways, a group journey can be organised or facilitated by smugglers or traffickers¹². This can lead to 'death at the border' (Eschbach 1999; Koser, 2000), as the facilitators do not always care too much about making sure that their customers reach their destination alive. Meanwhile, those who do arrive often remain in the hands of their 'escape agents' in shape of a kind of 'migrant Mafia' (Tass 1998) even long after the crossing of the (final) border, since they still owe them the money for the crossing. In this sense, the other 'cost of survival' (Morrison 1998) is to become vulnerable in the long-term.

In most cases of smuggling or trafficking of migrants, as for example described in Martin and Miller (2000) or ICMPD (1999), lorry drivers are surely involved with the 'business' (Salt and Stein 1997), but this is naturally hard to prove when they, not less naturally, deny it. However, there are cases in which it is not even sure whether the

¹⁰ Others than "Illegal Entries" are "deportations" of "criminal foreigners" (5.1); others than "removed" cases are those who departed *voluntarily*.

¹¹ Since figures for the first quarter of 1999 are not available, this is only approximately $\frac{3}{4}$ of the total amount.

¹² "The leaders of the European Union have created people-trafficking gangs as surely as prohibition created bootleggers" (Cohen 2001).

journey can be regarded as smuggling or trafficking. If it is neither, it is likely that the driver has transported migrants unwittingly. But the fact that the drivers are fined in any case, regardless of their knowledge about their forbidden human cargo, has forced the RHA, as the organisation that represents their interests, into fighting the Civil Penalty legislation mentioned above from its beginning in 1998.

Apart from this aspect of the RHA's struggle against the Civil Penalty Law, there is another effect, which sheds a light on the measure's counter-productivity, and is moreover a good example for how illegality can be created by political decisions. Lorry drivers who have detected 'clandestine' migrants in their vehicle, who they did not know about until after crossing the border, are very likely to let them go, instead of bringing them back to the seaport or handing them over to the police, because they want to avoid being penalised. This behaviour of the lorry drivers is quite understandable, but makes it possible for 'undocumented' migrants to abscond and find a job in the 'twilight world' of the UK's informal economy (Anderson 1998).

5.2 Instant access?

As already mentioned, Germany and the UK are currently competing with each other in terms of which is the most popular final destination for migrants. In the UK, the high number of asylum-seekers (see table 1) is seen as an indicator for the attraction of the country - even though these figures are still lower than Germany. Yet, at the same time, the UK is only now imposing measures on asylum-seekers on the basis of the 1999 Immigration and Asylum Act,¹³ that are similar to those that came into effect in Germany several years before. Ironically, these measures, such as speeding up the procedures to get rid of the backlog of cases, detaining applicants on arrival, dispersing them around the country and giving them vouchers instead of cash, were far less controversial in Germany than in public debates in the UK during 2000.

This striking difference may be founded in the fact that asylum-seekers are treated more as 'clients' of the state in the UK. Relatively 'instant' access to public services, including education and health via National Health Service (NHS), plus the comparatively easier access to a less controlled labour market, possibly, as Castles and Davidson (2000: 73) suppose, 'permitted or even encouraged' by the government, might serve as explanations for

the rapid growth in the numbers of asylum applications. Other 'pull factors' believed to be important by public opinion, politicians and officials at the working level of migration control, include the fact that English is the most widespread foreign or second language in the world, and that the number of accepted asylum applications is significantly higher than in most other European states. This leads some commentators to describe Britain as a 'soft touch', at least compared to other countries, when it comes to questions of immigration.

Such a description contributes even more to the migrant's idea of the UK as a 'promised land' - or at least the most attractive EU country. Given that the UK system of migration control is concentrated on border control at the various ports of entry, in spite of not even having any Schengen borders, the UK can also be paradoxically described as a 'borderland'. This suggests the expression 'promised borderland', used in the title of this paper.

6. Within Europe: A different option?

This final section seeks to situate the three country profiles of migration control within the broader policy framework of the EU. To fulfil this purpose, it focuses on the question of how the different national notions and practices of migration control can be related to this supranational level of political decision-making. Considering the UK's (supposed) 'exceptionalism' when compared to other member states, this is done with special regard to the UK's system of migration control.

6.1 Frontiers of freedom of movement

What is called the Schengen process is the effort of European states to achieve the goal of (successfully) abolishing internal border controls in order to guarantee freedom of movement between these states. This aim has been politically decided at the supranational level of the EU as a political necessity resulting from other decisions. In so far it is based on the realisation of free movement of goods and services, plus free choice of workplace within the EU territory for EU citizens, and also involves the construction of a form of EU citizenship. This package of supranational goals was negotiated intergovernmentally in Schengen in 1985, coming into effect only about a decade later based on the Schengen Implementing Convention of 1990.¹⁴

¹³ For background information with regard to this latest change of legislation see Fiddick (1999).

¹⁴ For its legal implications see e.g. Meijers (1992); for latest EU developments Thouez (2000) or the Commission (2000) itself.

Initially, the abolition of border controls was a bilateral Franco-German project, which soon afterwards incorporated the Benelux countries (which already had abolished border controls between them in 1948 and can therefore be described as a kind of nucleus for later European developments). Ironically, it was on the same Franco-German border that controls were reintroduced (for a short time) in 1998 for 'security' reasons. However, notwithstanding this exception, all EU countries have now come to participate in Schengen, as well as Iceland and Norway, although excluding Denmark and the UK. The rapid extension of the geographical scope of Schengen shows that the concept was designed as an EU-wide project right from the start.

The idea of Schengen also includes and legally provides so-called 'flanking measures', among others in the shape of strengthened external border controls, to compensate for a lack of 'security' supposedly resulting from the abolition of internal border controls. Thus paradoxically, the same scheme of argumentation is used by both the federation of Schengen states and the UK, which is deemed to be 'exceptional' and for this reason has 'opted out' of Schengen. In both cases, the concept of 'inner security' serves to justify the strengthening of external border controls. This is explicitly linked with the inner freedom(s) of movement in both Schengen and the UK, even if they are different in their character. Thus, inside Schengen, the expression refers solely to physical borders and is, with exceptions, limited to EU citizens in the labour market. However, in the UK its meaning is more comprehensive, because it includes comparatively free, 'undocumented' movements within a comparatively deregulated national labour market.

Both political concepts, freedom of movement and inner security, contribute in their combination to a political strategy of (structural) justification in terms of either maintaining, in the case of the UK, or strengthening (external) border controls. At both the national and supranational level, these two goals are not only combined, but politically constructed as an almost 'natural' connection in the sense that the freedom of movement is seen as structurally implying a 'security threat' (Lavenex 2000). Supranationally, this is mirrored in the overall political goal of the EU to establish itself as a common and uniform 'area of freedom, security and justice' under the Amsterdam Treaty. Paradoxically, the UK is a part of this area, but does not fully participate in the Schengen agreement that might genuinely contribute to achieving this goal.

The fact that with this latest development of the EU, the originally state bounded concept of inner security is extended to a wider political territory beyond one single state, raises the question of border control as a 'primary symbol of sovereignty' (Vedsted-Hansen 1999: 3). These changes mean that sovereignty no longer applies exclusively to the state, but additionally to the European Union.

Furthermore, the fact that the UK, as one 'exceptional' part of the EU in that it does not belong to Schengen, has significantly less post-entry controls, means that there is an additional pull-factor to get there besides those mentioned in section 5.2. This is because once in the UK, everyone, not only EU citizens, can enjoy more freedom of movement than inside Schengen. Whilst in Germany asylum-seekers are obliged to stay in the residential area they have been sent to during their procedure and therefore are not able to move freely within the whole country, this opportunity of free movement still exists within the UK. Concerning the labour market, the regulations for asylum-seekers are similar in both countries in that working is prohibited, but work permits can be applied for or may be issued after a certain period of time or in exceptional cases.

6.2 A fortress within?

The UK's co-operation with other member-states of the EU is limited to the more reactive level of migration control, not least because this is terminologically seen as almost identical with migration policy, as explained in section 3.1. In contrast, Germany as an active founding member of both the European Community and Schengen has always tried, at a policy level to distinguish practical migration control from the ability to influence a broader supranational immigration policy. In this sense, the Federal Republic sees itself as defending EU policy as if it were its own, whereas the UK defends itself against EU developments.

Moreover, the FRG can be regarded as a kind of model for other member-states in terms of immigration policy, ironically in spite of, at least officially, not having one. This is not so much a contradiction if one considers that in matters of migration control measures have been copied by other states. A good example of this involves the measures recently introduced in the UK concerning asylum-seekers. Detention, payment of social welfare in the form of vouchers instead of cash, and dispersal around country, plus the debates on 'bogus' versus 'genuine' refugees are all reminiscent of measures and debates which took place in Germany several years ago, as mentioned in section 3.2. What strengthens the evidence that

Germany is increasingly a model on the organisational level, reflected in debates about a possible single border agency in the UK.

The same applies to the corresponding organizations in Austria, which in its quite new role as a EU member-state seeks to play an active part in the development of both common policies and measures of migration control. The resulting commitment to become a key member of the EU can sometimes seem over-ambitious, as in the example of the Austrian Council Presidency's (1998) proposal regarding the Geneva Convention. Although Austria's suggestions to replace it by national asylum offers from individual states were not too far away from current debates in most member-states, this initiative was unanimously condemned as going too far. So the new member-state's relation to the EU can perfectly be summed up as 'offensive' in the expression's complete (double-) meaning. Austria obviously understands its new situation as the eastern frontier state of 'fortress' Europe as both an organisational challenge and a political opportunity to redefine its position within Europe.

Due to the UK's focus on control of its own island borders, it does not fully participate in a Schengen system designed to protect the EU's wider external frontier. However, it is concerned by the abolition of regular and systematic border controls inside the EU, which is the structural background for this strengthening of external borders. Although the UK does not participate in Schengen, it has decided to opt into certain technical aspects of Schengen, such as the SIS. It is therefore considering setting up a national SIRENE office at the NCIS, as already successfully existing in both Austria and Germany. And it seems to be doing this voluntarily because it feels strongly affected by Schengen, in the sense that migrants can now more easily reach UK borders once they have somehow managed to get into European Union territory. So, UK officials tend more and more to give advice on how to control EU borders, and participate in formal and informal consultation fora in Brussels such as CIREA and CIREFI to keep themselves well informed about what is happening in the EU. They also play an increasingly vital role in several council working groups, such as the HLWG.

In sum, the UK does not participate in any concrete, operational measures linked to the control of the EU's external frontiers, nor does it contribute to efforts to achieve a common EU visa system or even enhanced visa co-operation. Rather, the policy areas in which it is interested in are focused more on combating 'illegal' immigration (although as outlined in section 2.2, the

measures taken actually contribute to the 'illegality' of immigration). Since its own migration control is focused on maintaining systematic on-entry controls, the UK can be characterised as an exceptional 'fortress' within the broader 'fortress' Europe. Yet, it is increasingly contributing to the building of the latter as well.

7. Conclusion

What can be concluded from the findings of the fieldwork in the UK is based on the observation of a widely spread assessment regarding the country's standing within the EU. First, its 'exceptional' geographical and political position leads to action primarily focused on a 'solution' to the 'problem' of illegal immigration. Second, it seems likely that the different national profiles of migration control are very likely to be maintained in the long run, even with European pressure for harmonisation, as long as they are deemed to be efficient. Toleration of this difference by other member-states not only legitimises the practices of control in the UK, but might also serve as a justification for those countries themselves to keep their border controls alive.

In each of the three country cases compared with each other in this paper, different forms of migration control are predominant for the specific structural reasons outlined above. They are situated both at the level of political decision-making, and at the working level of migration control by relevant state organisations. At the same time, those different forms of migration control can be seen to help create 'illegal' migration exactly by trying to combat it. Nevertheless, the task of control is essential not only for the self-understanding, but also the self-preservation of a state. Control is organised in different ways and focused on different fields, and, taken together, this leads to different profiles of migration control in the different countries.

The nature of this difference can be summarised as follows: The German system of migration control is generally characterised by a strong differentiation between fields of control and agencies responsible for each field. It is focused on controls at, and behind the border, and has a strong bilateral aspect regarding eastern EU frontiers. In Austria, controls at the point of entry seem to be characterised by a well working division of labour, but between different national agencies only. Thus, the organisational differentiation is significantly weaker, also due to the slightly more centralised character of the state.

Finally, the main characteristics of the UK's system of migration control are, despite of all the

'joining-up' at the policy level, a rather high degree of differentiation between the agencies at the level of organisation, but a significantly weak differentiation between the fields of migration control. This is not least because the entire system focuses on border controls at the various ports of entry, supported by different forms of preventive pre-entry controls. In this sense, the UK system of migration control begins outside the country's territory. Even so, and given these differences, it remains that there are different national versions of essentially the same basic scheme of migration control sketched at the beginning of this paper.

References

- Anderson, Philip (1998) *In a Twilight World: Undocumented Migrants in the United Kingdom*. London: Jesuit Refugee Service.
- Angenendt, Steffen (1999) *Asylum and Migration Policies in the European Union*. Bonn: Europa Verlag.
- Austrian Presidency (1998) 'Strategy Paper on Immigration and Asylum Policy'. Brussels: Council of the European Union. (<http://195.88.0.198/texte/europe/eu-a-o.htm>).
- Bank, Roland (1998) 'The Emergent EU Policy on Asylum and Refugees', Seminar Paper MIG/7. Florence: EUI.
- Black, Richard (2001) 'Breaking The Convention: The study of "illegal" migration'. Paper presented to 7th IRAP conference on Refugees and Displaced Persons, Johannesburg, January 2001.
- Blair, Tony and Giuliano Amato (2001) 'Closing Europe's Back Door'. *The Observer* 04/02/01, p. 31.
- Blaschke, Jochen (1998) 'Irregular Employment of Migrants in Germany'. Paper No. V. Geneva: UN Working Group on International Migration.
- Bloch, Alice and Carl Levy (1999) *Refugees, Citizenship and Social Policy in Europe*. New York: St. Martins Press.
- Boecker, Anita (1998) *Regulation of Migration. International Experiences*. Amsterdam: Het Spinhuis.
- Bort, Eberhard (2000) 'Illegal Migration and Cross-Border Crime: Challenges at the Eastern Frontier of the European Union'. Working Paper RSC No. 2000/9. Florence.
- Brochmann, Grete and Thomas Hammar (1999) *Mechanisms of Immigration Control. A Comparative Analysis of European Regulation Policies* Oxford: Berg.
- Bunyan, Toby and Frances Webber (1995) 'Intergovernmental Co-operation on Immigration and Asylum'. Briefing Paper No. 19. Brussels: CCME.
- Burgers, J. and G. Engbersen (1996) 'Globalisation, Migration and Undocumented Immigrants'. *New Community* 22(4), pp. 619-635.
- Byrne, Rosemary and Andrew Shacknove (1996) 'The Safe Country Notion in European Asylum Law'. *Harvard Human Rights Journal* 9, pp. 185-228.
- Carroll, Rory (2001) 'Willing Sex Slaves'. *The Guardian* 01/03/01, p. 21.
- Castles, Stephen and Mark Miller (1993) *The Age of Migration. International Population Movements in the Modern World*. London: Macmillan.
- Castles, Stephen and A. Davidson (2000) *Citizenship and Migration: Globalization and the Politics of Belonging*. Basingstoke: Macmillan.
- Cinar, Dilek, August Gächter and Harald Waldrauch (2000) 'Irregular Migration: Dynamics, In-put, Policy Options'. *Eurosocial Reports*, Nr. 67. Vienna: European Centre for Social Welfare Policy and Research.
- Cohen, Nick (2001) 'Lies for Lives'. *The Observer* 11/02/01, p.31.
- Coleman, David A. (1996) 'UK Immigration Policy: "Firm but Fair", and Failing?', *Policy Studies* 17 (3), pp. 195-214.
- Collinson, Sarah (1994) *Europe and International Migration*. London: Pinter.
- Commission for Racial Equality (1979) *Workplace Controls – Does Britain really need them?* London: CRE.
- Commission of the European Communities (2000) 'On a Community Immigration Policy'. COM (2000) 757 final. Brussels: CEC.
- Committee on Home Affairs (2001) 'Border Controls. First Report'. London: House of Commons (<http://www.publications.parliament.uk/pa/cm200001/cmselect/cmhaff/163/16303.htm>).

- Cornelius, Wayne A., Philip L. Martin and James F. Hollifield (1994) *Controlling Immigration. A Global Perspective*. Stanford: University Press.
- Cruz, Antonio (1994) 'Carriers liability in the Member States of the European Union'. *Briefing Paper* No. 17. Brussels: CCME.
- Danish Refugee Council (2001) 'The Dublin Convention. Study on its implementation in the 15 member states of the European Union'. Copenhagen: DRC.
- Engbersen, G. and J. van der Leun (1998) 'Illegality and Criminality: The differential opportunity structure of undocumented immigrants'. In *The New Migration in Europe: Social Construction and Social Realities*. Ed. Khalid Koser and Helma Lutz. Basingstoke: Macmillan.
- Eschbach, K. (1999) 'Death at the Border'. *International Migration Review* 33 (2), pp. 430-454.
- European Commission (1997) 'The Member States of the EU and Immigration in 1994: Less Tolerance and Tighter Controls'. Luxembourg: CEC
- Europol (1999) 'Annual Report for 1998'. The Hague: Europol
- Foreign and Commonwealth Office (2000) 'Welcome to Britain. The work of British visa sections overseas'. London: FCO.
- Fiddick, Jane (1999) 'Immigration and Asylum'. Library Research Paper No. 99/16. London: House of Commons.
- Freeman, Gary P. (1994) 'Can Liberal States Control Unwanted Migration?'. *Annals of the American Academy of Political and Social Sciences*, pp.17-30.
- Ghosh, Bimal *et al.* (1998) *Huddled Masses and Uncertain Shores. Insights into Irregular Migration* The Hague: Nijhoff.
- Glover, Stephen *et al.* (2001) 'Migration: an Economic and Social Analysis', Occasional Paper No. 67. London: RDS.
- Guild, Elspeth (1999) 'The Impetus to Harmonise: Asylum Policy in the European Union'. In *Refugee Rights and Realities: Evolving international concepts and regimes*. Ed. Frances Nicholson, Frances and Patrick Twomey. Cambridge: University Press.
- Guiraudon, Virginie and Gallya Lahav (2000) 'A Reappraisal of the State Sovereignty Debate. the Case of Migration Control'. *Comparative Political Studies* 33(2), pp. 163-195.
- Hailbronner, Kay (2000) *Immigration and Asylum Law and Policy of the European Union*. The Hague: Kluwer.
- Hjarno, Jan (1996) 'Illegals on the European labour markets'. Paper No. 1. Esbjerg: Danish Centre for Migration and Ethnic Studies.
- Home Office (1995) 'Prevention of Illegal Working'. Consultation Document. London: Home Office.
- Home Office (1998) 'Fairer, Faster and Firmer: A Modern Approach to Immigration and Asylum'. Cm 4018. London: Home Office
- Home Office/Immigration and Nationality Directorate (1999) 'UK Immigration Service Business Plan 2000-2001'. London: Home Office/IND.
- Home Office/Immigration and Nationality Directorate (2000) 'IND Annual Report 1999'. London: Home Office/IND.
- International Centre for Migration Policy Development (1999) 'Study on the relationship between organised crime and trafficking in aliens'. Vienna: ICMPD.
- International Migration Review* (1984) 'Irregular Migration: An International Perspective'. Special Issue, vol. 18.
- International Migration Review* (1992) 'The New Europe and International Migration'. Special Issue, vol. 26
- International Organisation for Migration (2000) 'Migrant Trafficking and Human Smuggling in Europe. A review of the evidence'. Geneva: IOM.
- Interpol (1998) 'Trends in Illegal Migration', *Organised Crime Bulletin*, 16
- Jackson, Keith and Rod McGregor (2000) 'Control of Immigration: Statistics United Kingdom, First Half 2000'. London: Home Office. (www.homeoffice.gov.uk/rds/pdfs/hosb2200.pdf)
- Jahn, Andreas and Thomas Straubhaar (1998) 'A Survey on the Economics of Illegal Migration'. Discussion Paper. Hamburg (http://migration.ucdavis.edu/mm21/SanDiego2-11/Straubhaar_ILlegalImmig.html)

- Joly, Daniele (1996) *Haven or Hell? Asylum Policies and Refugees in Europe*. Basingstoke: Macmillan.
- Joppke, Christian (1998) *Challenge to the Nation-State. Immigration in Western Europe and the United States..* Oxford: University Press.
- Journal of Ethnic and Migration Studies* (1998) 'Migration and the informal economy in Europe'. Special Issue, vol. 24(2)
- Journal of Population Economics* (1999) 'Illegal Migration'. Special Issue, vol. 12(1)
- Journal of Refugee Studies* (2000) 'Changing Asylum Policies in Europe'. Special Issue, vol. 13(1)
- Koser, Khalid (2000) 'Asylum Policies, Trafficking and Vulnerability'. *International Migration* 38(3), pp. 91-111.
- Koslowski, Rey (1998) 'European Migration Regimes: Emerging, Enlarging and Deteriorating'. Conference Paper MIG/23. Florence: EUI.
- Lavenex, Sandra (2000) 'Security Threat or Human Right? Conflicting Frames in the Eastern Enlargement of the EU Asylum and Immigration Policies'. Working Paper RSC No. 7. Florence: EUI.
- Lederer, Harald W. (1997) 'Illegal Migration in Germany'. Unpublished Paper. Bamberg.
- Luhmann, Niklas (1993) 'Observing Re-entries'. *Graduate Faculty Philosophy Journal* 16, pp. 485-498.
- Luhmann, Niklas (1998) *Observations on Modernity*. Cambridge: Cambridge University Press.
- Martin, P. and M. Miller (2000) 'Smuggling and Trafficking: A Conference Report'. *International Migration Review* 34(3), pp. 969-975
- Meijers, H. et al. (1992) *Schengen. Internationalisation of central chapters of the law on aliens, refugees, privacy, security and the police*. Boekerij: Stichting.
- Migration News*, published monthly (<http://migration.ucdavis.edu/mn>).
- Miller, Mark J. (1987) 'Employer sanctions in Western Europe'. Occasional Paper No. 7. New York: CMS.
- Morris, Lydia (1998) 'Governing at a Distance: the Elaboration of Controls in British Immigration'. *International Migration Review* 32(4), pp. 949-973
- Morrison, John (1998) 'The Cost of Survival: The Trafficking of Refugees to the UK'. London: Refugee Council.
- Morrison, John (2000) 'The Trafficking and Smuggling of Refugees: the End Game in European Asylum Policy?'. Geneva: UNHCR (<http://www.unhcr.ch/evaluate/reports/traffick.pdf>)
- National Audit Office (1995) 'Entry into the United Kingdom'. London: NAO.
- National Criminal Intelligence Service (2000) 'Annual Report 1999-2000'. London: NCIS.
- Nicholson, F. (1997) 'Implementation of the Immigration (Carriers Liability) Act 1987: Privatising Immigration Functions at the Expense of International Obligations'. *International and Comparative Law Quarterly* 46, pp. 586-634.
- Organisation for Security and Co-operation in Europe (1999) 'Proposed Action Plan 2000 for Activities to combat Trafficking in Human Beings'. Warsaw: OECD.
- Rasmussen, Hans Korno (1997) *No Entry. Immigration Policy in Europe*. Copenhagen: DRC.
- Roberts, Dave (1999) 'Overview of UK Immigration Controls'. In *Future External Borders of the EU*. Vienna: ICMPD.
- Roche, Barbara (2000) 'UK Migration in a Global Economy'. London: Home Office. (www.homeoffice.gov.uk/ipprspch.htm)
- Rotte, Ralph (2000) 'Immigration Control in United Germany: Towards a Broader Scope of National Policies'. *International Migration Review* 34(2), pp. 357-389.
- Salt, John and Jennifer Hogarth (2000) 'Migrant Trafficking in Europe. A Literature Review and Bibliography'. Geneva: IOM.
- Salt, John and J. Stein (1997) 'Migration as a Business: The Case of Trafficking'. *International Migration* 35(4), pp. 467-494.
- Selm-Thorburn, Joanne van (1998) 'Asylum in the Amsterdam Treaty: a harmonious future?'. *Journal of Ethnic and Migration Studies* 4, pp. 627-638.

Spencer Brown, George (1969) *Laws of Form*. London

Steinberg, Tom (2000) 'Reforming British Migration Policy'. Working Paper 2. London: IEA.

Tass, Thomas (1998) 'The Migrant Mafia'. *Cross Border Control: The Magazine for the Transnational Security Community* 8, (www.crossbordercontrol.co.uk/media%20/Migrant_Mafia.html).

Thouez, Colleen (2000) 'Towards a common European migration and asylum policy?'. Working Paper No. 27. Geneva: UNHCR.

Trade Union Council (1996) 'Unfair and Unworkable – The Case against Workplace Race Checks'. London: TUC.

Vedsted-Hansen, Jens (1999) 'Europe's Response to the arrival of asylum seekers: Refugee Protection and Immigration Control'. Working Paper No. 6, Geneva: UNHCR.

Vogel, Dita (2000) 'Migration Control in Germany and the United States'. *International Migration Review* 34(2), pp. 390-422.

Wakamatsu, Kunihiro (1997) 'The Position of the British Government towards Harmonisation of European Immigration Policy'. Policy Paper No. 23, Warwick: CRER.

Waker, David (2001) 'Welcome to Britain'. *The Guardian* 29/01/01, p. 15.

Assistant, IND, European Directorate, Croydon (22 February). EU Immigration; Liaisons.

Senior Caseworker, IND, Dublin/ Third Country Unit, Croydon (23 February 2001). Dublin Convention.

Deputy Director, FCO, JECU, London (26 February 2001). Visa Policy; Entry Clearance.

Head, RHA, International Affairs, Weybridge (27 February 2001). Civil Penalty.

Inspector, Immigration Service, Training and Development Unit, Gatwick (18 March 2001). Airport Migration Control.

Deputy Director, IND, ISED, Operations (22 March 2001). Enforcement.

Assistant, IND, AAPD, European Asylum Policy Unit (22 March 2001). UK and European Asylum Policy.

Assistant, IND, Policy Department (22 March 2001). UK Migration Policy.

Appendix: List of interviews in the UK

Note: To maintain the anonymity of some respondents and to preserve their privacy, no names are listed.

Chief Superintendent, Kent County Constabulary, Maidstone (15 February 2001). Illegal Immigration.

Chief Inspector, Immigration Service, Dover (19 February 2001). Seaport Migration Control.

Immigration Officer, Immigration Service, Forgery Section, Dover (19 February 2001). Forged Documents.

Assistant, IND, European Directorate, Croydon (22 February 2001). Eurostar; Carriers Liability.

Assistant, IND, European Directorate, Croydon (22 February 2001). Visa Policy.

