Universiteit Leiden

The politics of the EU immigration policy

The influence of pro-migration interest groups arguments on the European Union's immigration policy

Political Science: Conflict and Cooperation

Master thesis

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Abstract

This research tries to scrutinize the influence of pro-migration interest group arguments towards the immigration policy of the European Union. As a case study the influence of different kinds of arguments of pro-migration interest groups used as an answer on a public consultation about the Common European Asylum System in 2007 is chosen to investigate. Via a documentary analyses the influence between human rights-based arguments and cost arguments were tried measured. This was not possible, because the pro-migration interest groups almost only made human rights-based arguments. There is though evidence found that suggest that the Commission copied mainly recommendations that were in line with the aims that the Commission stated in the Green Paper. This seems to suggest that the Green Paper is an agenda-setting power tool that diminishes the amount of influence that pro-migration interest groups can have on the European immigration policy.

Content

Preface

In this preface I would like to thank some people for making this thesis possible. In the past five months, and especially the last month I have worked hard on this thesis. I really loved doing this research because I was allowed to pick a subject which I am very interested in. It was because of the course of Daniel Thomas on human rights that I became passionate about this research field. Therefore I really want to thank him a lot. Before my masters I had worked at a national interest group that lobbied for gender equality at the national and international level. It was my job to investigate what the possibilities were for lobbying at the European Union level. I found it really fascinating to discover how these groups that were not elected by citizens, still tried to influence policies. This two experiences, caused that I decided to do my research on the influence of interest groups towards the European Union. First I wanted to investigate gender equality lobbying, but due to my father who is extremely interested in migration issues and has a strong anti-migration point of view, I decided to change to European immigration policies. I am sure he will find this research interesting to read and will write a strong opinion article about why interest groups should not have influence. For now though, I find it a comforting idea that there are interest groups that defend the human rights of all when governances neglect to do this.

This thesis would not be what it is today if some people did not help me. First of all I want to thank Adam Chalmers. He gave some helpful classes on thesis design, always had great feedback and was always ready to help me. Even in the weekends or when I was lacking behind. I also want to thank my friends Mireille and Fien. We have spent hours and hours together in the library and without the fun lunch breaks and sport nights, it would have been a lonely journey. I am very great full that my mother and father always had faith in me and encouraged me to apply for a master's degree programme. Also without their financial help it would not have been possible. My sister and brother have always been a great inspiration for me and I thank them for supporting me during this thesis. Big thanks to Emma, Iris and Nicole who were willing to read my thesis and improve my English. As last I want to thank my lovely boyfriend Gerald, who is amazing and inspiring and supported me till the end.

Introduction

In this research I will examine the influence of pro-migration interest groups arguments towards the European Union's immigration policy. The European Union's migration policies are a co-creation of different European Union institutions. The European Commission, which defends the interests of the European Union as a whole has the task to create European Union law and policies. After the creation of a policy or law proposal of the Commission, the Council of the European Union (Council) and the European Parliament need to approve or reject the policy proposal. The Council consists of representatives of member states who defend the interests of member states. The Parliament consists of elected Members of the European Parliament (MEP's) who defend the interest of European legal citizens. The Council and Parliament can negotiate with the Commission about changes in the policy proposal. If the Council and the Parliament both approve a policy or law proposal, the Commission gets the job to implement the new policies and laws. During this policymaking process, other stakeholders also try to influence the outcomes of the policies. There are pro-migration interest groups, like non-governmental organizations who try to advocate for the interests of people who seek international protection in the European Union. There are no European institutions that officially defend the interests of asylum seekers (Hoffmann, 2012, p. 22). The European Union wanted to revise the Common European Asylum System (CEAS) around 2007. Therefore the Commission first wrote a Green Paper in which it asked stakeholders like pro-migration interest groups and member states about their opinion on the CEAS. Thereafter the Commission wrote several policy proposals for the revising of the CEAS. In this thesis I will examine if the recommendations that pro-migration interest groups wrote in their answers on the Green Paper have influence on the policy proposal written by the Commission. And especially if having influence depends on the kind of argument a recommendation is substantiated with. I will examine the following research questions: *What arguments do the pro-migration interest groups use to influence the European Union's immigration control policies? And what explains the success of some arguments as opposed to others?* During the time of research there was a status quo of anti-migration tendencies in the European Union and Council that define immigration as a high social, economic and security cost. I expect that the pro-migration interest groups are the status quo challengers and usually make arguments about the social and economic benefits of a more human rights-based

immigration policy. Which results into the following hypothesis: *Recommendations that pro-migration interest groups make based on negative economic costs arguments have more influence on the immigration policy of the European Union than recommendations that pro-migration interest groups make based on human rights-based arguments.* Although the European Union wants to comply with their human rights defender image (Von Bogdandy, 2000), I argue that the Commission will be less responsive to human rights-based arguments than to arguments that underline the economic risks of the status quo policies and the economic benefits of new human rights-based policies. Because these kinds of arguments are in line with the interest of the member states and the European Union as a whole to have small costs as a consequence from migration. This is also important for the Commission because they need to negotiate with the Council on the policy proposals and thus take their interests into account during the policy drafting process. To investigate this I will use a documentary analysis of strategy papers and recommendations of pro-migration interest groups and policy proposals of the European Commission. I find that the pro-migration interest groups almost only make arguments about the social benefits of a more human rights-based immigration policy. Therefore it is not possible to test the hypothesis. There is though evidence found that suggest that the Commission copied mainly recommendations that were in line with the aims that the Commission stated in the Green Paper. This seems to suggest that the Green Paper is an agenda-setting power tool that diminishes the amount of influence that pro-migration interest groups can have on the European immigration policy.

Factors which influence lobby effectiveness

The influence of interest groups depends on many different factors besides the content of their arguments. The definition of interest groups influence is the degree in which an interest group is able to change the minds of decision-makers according to the preferences of the interest group and/or to get the preferences in end policy outcomes (Mahoney, 2008). To influence European policy, it is essential to have access to these decision-makers. There are several factors that influence whether interest groups get access to decision-makers. They can be divided into internal and external factors.

Internal factors

The first and most important internal factor to gain access is the valuable information an interest group communicates. The European Commission, that makes laws and policy proposals for the European Union, has insufficient staff and resources to make proper policy drafts. This is a venue for interest groups to influence European policies, because they supply crucial information to the decision-makers who use the information to draft policy proposals (Chalmers, 2012). The European Commission wants this information because they need to have the best up to date information that will increase their policy success and own legitimacy (Bouwen, 2004, p. 265). There are different kinds of information that are supplied by interest groups. There is expert, technical information that is scientific, objective and frequently data-driven (Ainsworth, 1993). The other is political salient information, which subscribes public support and normative, value laden claims (Mahoney, 2008).

The second internal factor that influences access to decision-makers are the tactics that are used by interest groups. There are outside and inside lobby tactics. Inside tactics are direct forms of contact between decision-makers and lobbyists of interest groups (Beyers, 2000). During this contact, whether it is via email, phone or via face-to-face meetings, the interest group lobbyists exchange information and try to become friends and allies with the decision-maker. Another form of inside tactics is open and private consultations organized by decision-makers who actively ask for the opinion and expertise of interest groups. With outside tactics lobbyists try to mobilize citizens to contact or pressure decision-makers to change their minds (Kollman, 1998, p. 3).

Examples of these are public events, demonstrations, public campaigns, via old and new media. Inside tactics occur the most. Some say that inside tactics are more effective. Since via this tactic, lobbyists can better provide the technical and complex information that the decision-makers demand. Another reason is the lower costs of inside tactics and the chance that an outside tactic has the wrong effect and can ruin the lobbyist's chance to access. For instance when it shames a decision-maker in public with whom the interest group was in an alliance with before (Eising, 2007). According to Chalmers (2013, p. 55) outside tactics are not necessarily less effective than inside tactics. Outside tactics for example increase the political salience of an issue where inside tactics normally neglect to do this. Baumgartner & Leech (1998, p. 148) state that a mix of strategies is the most effective to increase access, because this accentuates the importance of an issue and increases the political salience of an issue. Baumgartner et. al. (2009) argue that interest groups that are status quo defenders and interest groups that are status quo challengers normally use different tactics to lobby. Status quo defenders have a quiet approach. They monitor the political process, maintain their connections with decision-makers, give information about the risks of new policies and keep the lines for communication open. Status quo challengers, on the other hand are more proactive and aggressive. They have conflict expanding strategies to draw attention to the issue and new policy proposals or policy adjustments. They also have more direct contact with decision-makers to influence them instead of keeping the lines open for communication (2009, p. 164).

The third internal factor that has influence on the degree of access to decision-makers is the amount of resources an interest group has. When a group has more resources, they are able to use more different strategies more often, which are found important by Baumgartner and Lech (1998). An interest group is also able to do better research and therefore deliver more valuable information to the decision-makers. It is also easier to monitor the day-to-day developments, draft policy briefs and reports and generate political salient information (Chalmers, Table 2013, p. 14). Additionally Baumgartner et. al. (2009, p. 212) state that the fundaments of effective lobbying are: large membership of the interest group, large staff and sufficient budget to organize large events. The latter helps to increase the political salience of a subject and they all enable long term established relations with decision-makers via several contacts. They are all linked with better resources. So an interest group with more resources is better able to perform inside and outside

tactics and find the most valuable information for decision-makers. Baumgartner et. al. however also state that resources alone do not define whether a group or coalition has the most influence (2009, p. 212-214). They argue that, normally there are poor and rich interest groups in every coalition. This decreases the influence resources have, because every coalition will have the same amount resources.

The fourth internal factor that influences the degree of access to decision-makers is the size and intensity of the pro-migration lobby stream. When more interest groups exist that underline the same statement, decision-maker will hear the same statements more often. When they hear the same statement more often, the political salience of that statement increases. This subsequently decreases the possibility for decision-makers to ignore the statement. If several actors accentuate a statement multiple times, its legitimacy also increases. Also the intensity of the institutional constraints in Europe determines whether a member state wants to implement a certain immigration policy. The institutional constraints consist of two departments: the degree of activism of interest groups and the existence of national courts which defend individual rights e.g. off migrants (Givens & Luedtke, 2003, p. 12).

The fifth and last internal factor that influences the degree of access to decision-makers is the way the pro-migrant lobby in a whole and the pro-migrant interest groups individually are organized. An interest group that has representatives from different nationalities is more successful in the European Union. Also an interest group that represents many other smaller interest groups is more successful. An umbrella organization that has its headquarters in Brussels has an advantage, because it is close to the European Union decision-makers and it represents many different actors from all over the European Union. Although an umbrella organization has an advantage in influence, it is harder for them to make compromises with each other about their lobby activities e.g. their arguments, tactics and focus points, because they represent many different actors (Hoffmann, 2012, p. 34). The existing pro-migration lobby is too diffuse. European Union level lobby and transnational ethnic organizations put racial discrimination and common status of Third Country Nationals on the European Union-agenda. Grass-root migrant groups on the other hand, work on intra-national level and do not have any know-how about technical European Union policies and constitution or Brussels connections. The Brussels-based

pro-migrant lobby is also more successful than organizations not based in Brussels, because they have technical know-how that gives them access (Guiraudon, 2001).

External factors

The first external factor that influences the degree of access to decision-makers is the political salience of an issue. Mahoney (2007) states that the more salient an issue is, the less likely lobbyist will achieve their goals. She finds that this is even more the case in the European Union as in the Unites States of America. When an issue has a higher salience more diverse actors are trying to influence decision-makers with information and knowledge. This causes the decision-maker to take more different viewpoints into consideration during its policy making (2007, p. 49-50). Klüver (2011) on the other hand states that salience does not have a constant effect. She states that if an issue is salient, this has a positive effect on the lobby of interest groups who are part of the larger or largest coalition. However the salience of an issue has a negative effect on the lobby of interest groups that are part of a small or smaller coalition (2011, p. 485-502). Givens & Luedtke (2003) add to this that the existence of an issue being political salient ensures that the executives should take the public opinion seriously when they decide about policies and laws. If they do not take the public opinion in consideration enough, they have a big risk of being punished during the next elections for ignoring the public opinion. When an issue is not political salient, the public opinion will have less influence on the executives since the political costs of not listening to the public opinion will be much lower (Givens & Luedtke, p. 14). In the case of immigration, the political salience increased during the last two decades and the public opinion became more and more anti-immigration (Givens & Luedtke, p. 154).

The second external factor that influences the degree of access to decision-makers is the dominance of left or rights wing governments in the European Union. According to Givens & Luedtke (2003) in the 80's the amount of radical right wing political parties rose. The right wing political parties focused on immigration control and caused this topic to be on the political agendas of all political parties. Left and right political parties both favour control over immigration, but only the left wing favours expanding the rights for migrants. Radical right wing political parties shifted the focus from multiculturalism to assimilation. It therefore is not a coincidence that the European Union Racial Equality Directive, which has an anti-racist policy

was approved and implemented during the time that mainly left-wing governments were in power in the European Union (Givens & Luedtke, 2003, p. 19).

The third external factor that influences the degree of access to decision-makers is the intention of the European Commission, European Parliament and the Council of the European Union. The Council defends the interest of the member states and represents the national governments. These are mainly right-wing governments nowadays. This determines their intentions to be mainly focused on anti-immigration and therefore do not suit the arguments of pro-migration interest groups. Besides this, the General Secretariat of the Council is not responsive to any interest group statement since they want to be a neutral partner and facilitator during the negotiations between the different member states in the Council (Hoffmann, 2012, p. 32). According to Givens & Luedtke the Commission and Parliament are isolated from populism and not influenced by political salience and social costs and therefore push more for migrant rights than the Council (2003, p. 12). Although they were isolated according to Givens & Luedtke (2003) from these factors, Hoffmann (2012) does notice an increase of influence of these factors on the decisions the Commission and Parliament make nowadays. She says that the degree of responsiveness of the Commission and Parliament to the arguments of the pro-migration interest groups decreased the last years. She attributes this to the fact that the Commission nowadays takes the opinion of the Council into consideration already during the drafting process, therefore giving less room to the opinions of pro-migration interest groups in the policy proposals.
The Parliament is an open institution that is easy to access for interest groups. Especially the LIBE Committee for Civil Liberties, Justice and Home Affairs have regular good contact with pro-migration interest groups. The growing conservatism in Europe however also influenced MEP's, making it harder on the interest groups to lobby for human rights-based ideas (2012, p. 9-11).

Mix between internal and external factors

The content of interest group arguments and the fit between the content of such an argument and the interest of a political institution also influences the decision-makers. Risse & Ropp (2013) speak about persuasion as a social mechanism to influence the behaviour and choices of other actors. Persuasion methods are arguing, naming and shaming and discursive power. Keck &

Sikkink (1998) state that interest groups often use accountability politics. They hold governmental actors accountable for their behaviour being the same as their promises and recognized principles. If governmental actors do not behave in accordance with their promises and recognized principles, interest groups name and shame these actors in private or publicly and try to force them to improve their behaviour and policy implementation. Eising (2007) states that naming and shaming as an outside tactic can have a contrary effect, friending decision-makers is a more effective tactic. According to Baumgartner et. al. (2009, p. 128) arguments are normally made pro status quo or against the status quo. They state that status quo defenders have a big advantage. They normally have arguments that doubt the advantages of new policies, underline the risk and uncertainty of the results of new policies, accentuate hidden costs of new policies, call doubt about the feasibility of new policy proposals and question if the government should be the one to make new policies about a certain area. Challengers of the status quo have more positive arguments. They accentuate the possibilities of social and economic improvement due to the new policy and stress the economic and social risks of the status quo policy. Normally the challengers of the status quo use broad social values in their arguments. The status quo defenders however, usually counter these social values with other conflicting social values (2009, p. 147). The most common type of argument is the feasibility and implementation possibility of a certain policy (Baumgartner et. al., 2009). The second most common type of argument is a broad appeal to shared social values (2009). Social value arguments are more often used in highly salient issues according to Baumgartner et. al. The low-visibility issues have more technical and detailed types of arguments that can dominate the debate although social widely shared values are also used as arguments for low salient issues (2009, p. 148). Cost affects the overall argument as well. In fact Baumgartner et. al. say that the main arguments in debates are normally about costs, feasibility and shared values. So even though policy issues are actually really complex and affected by many different factors, the political debates are easy to follow since they focus on a few main questions and arguments.

Lobby towards the European Union

In this section some theories from above will be applied in the case of this thesis, which is the lobby of interest groups for asylum seeker rights towards the European Commission. Only a few factors that influence pro-migration interest group lobby success will be scrutinized in this research. The main focus will be on the amount of influence the arguments of pro-migration interest groups have during the Commission's drafting process of revised immigration policies around 2007. My research question is: *What are the arguments that the pro-migration interest groups use to influence the European Union's immigration control policies? And what explains the success of some messages as opposed to others?* To create a hypothesis about this, some phenomena will be described below to explain when and why the Commission would be responsive to pro-migration interest group arguments.

Immigration and asylum seeker rights before 1980 were mainly considered as human rights issues in the European Union (Huysmans, 2000, p. 260). In the 80's and 90's though a shift took place, where immigration and asylum seekers issues were increasingly linked to security issues and seen as a threat by the European citizens and their representatives (Guiraudon (2001), Rudge (1989)).

Until the European crisis of the 70's free movement of labour was seen as beneficial for the European Union. Migrants were invited in to take over jobs that European citizens were unwilling to do. The economic crisis of the 70's though caused growing unemployment among European inhabitants and a decline of social goods like healthcare, social services, housing and jobs. A fight for these scarce social goods arose in which the immigrants were increasingly considered as rivals of the European inhabitants (Huysmans, 2000, p. 767). In line with this the Internal Market, established in 1988, focused on free movement of capital, goods and labour within the European Union borders. The European Union thought that a strategy of decreasing free movement of capital, goods and (immigration) labour with countries outside the European Union would give the European Union time to develop and protect its gained goods (Huysmans, 2000, p. 770). Opening up the borders between European Union member states though was an opportunity for non-desirable goods to cross the borders. Examples of these are illegal and criminal activities, terrorism and international crime organizations. During the late 80's and 90's

immigration and asylum seekers were added to this list of non-desirable goods that could easily cross the border (Huysmans, 2000, p. 769). Van Houtum and Pijpers (2007) stated that a fear also rose against immigrants and asylum seekers because they could cause a change in the social identity of national communities when they failed to assimilate (p. 291). So the main European Union approach was one of a *fortress mentality* of anti-immigration (Huysmans, p. 759).

The issue of migration control was a political salient issue in several member states of the European Union around 2000 (Givens & Luedtke, 2003, p. 154). Givens & Luedtke (2003) stated that politicians should act upon the public opinion of a political salient issue because they would otherwise be punished in the form of negative election results (2003, p. 14). Because political parties and national governments could not ignore the public opinion, they became more anti-migration. This and other factors caused an anti-migration majority in the Council (Hoffmann 2012, Geddes 2011, Guiraudon 2001). The Council is considered as the status quo defender in this case. Because the Council only defends the interest of the member states, I expect that their main argument in the debate is that migration is a social, economic and security threat, with high costs. I expect that to counteract the social values of pro-migration interest groups they use security as a shared social value.

The pro-migration interest groups are in this case the status quo challengers that Baumgartner et. al. (2009) were talking about, because they challenge the status quo of anti-migration tendencies in the European Union. They try to influence the immigration policies with recommendations that are mainly normative- and especially human rights-based (Huysmans, 2000, p. 759). According to Baumgartner et. al., status quo challengers mostly use arguments to substantiate their recommendations that underline the social and economic benefits of new policies. They also make arguments about the social and economic risks of the status quo policies. I therefore expect that the pro-migration interest groups used arguments that substantiate the social and economic benefits of a more human rights-based immigration policy. The status quo challenger's arguments are normally substantiated with broad social values (Baumgartner et. al., 2009). It is also the tactic of interest groups to use accountability politics in order to hold governance responsible for the compliance with international and community ratified obligations (Keck & Sikkink, 1998). I expect that the pro-migration interest groups picked human rights-based arguments as their

broadly social values to defend their status quo challenging policies. Besides that I also expect that the pro-migration interest groups made arguments about the fact that the European Union should implement certain human rights recommendations because they ratified international and Community laws. I expect that this will be the answer on the first research question.

Sometimes the Commission organizes a public consultation during the drafting process of a policy proposal. In these consultations they ask several stakeholders' opinion. Member states and interest groups are the main stakeholders during these consultations. Because the Parliament is not a stakeholder during consultations and does not has any acknowledged influence during the drafting process, their influence and arguments will not have influence on the Commissions policy proposals. Therefore they are left out of the research.

Hoffmann (2012) observed that the Commission, which is usually isolated from the public opinion, is not sensitive to political salience and social costs and has the sincere intention to create human rights based policies. Besides that the European Union considers itself as a human rights defender (Von Bogdandy, 2000). Since the Commission is the European institution that has the task to defend the interest of the European Union as a whole, I expect that it was responsive to human rights-based arguments of pro-migration interest groups. Notwithstanding, the Commission took increasingly the opinion of the mainly anti-migration Council into account already during the drafting process of new or adjusted immigration control policies (Hoffmann, 2012). Because member states can already provide their opinion during the drafting of the policy proposal, this will increase their influence during this process. Therefore and because of Hoffmann's argument, I also expect that the Commission was responsive to the anti-migration arguments of the member states. However, Baumgartner et. al. stated that the status quo defenders have a stronger position and more influence than the status quo challengers (2009). Therefore I argue that the human rights-based arguments of the pro-migration interest groups will have less influence, since the anti-migration arguments of the member states are the status quo. It is true that the image of the European Union as a human rights defender is also the status quo. Still I argue that the feared costs as a consequence of immigration are considered a more important problem to tackle by the European Union representatives in the Commission and certainly in the Council than to save their image as a human right defender.

Building on these expectations I expect the following as an answer to the second research question. The Commission will be more responsive to arguments of the pro-migration interest groups that underline the economic risks of the status quo policies and the economic benefits of new human rights-based policies. It is possible that the member states will attack the feasibility of the economic benefit of the new policies. But these kinds of arguments are in line with the status quo to defend the interest of the member states and the European Union as a whole to have small costs as a consequence from migration. So if the Commission copies arguments like these, it would profit asylum seekers, the member states and the European Union as a whole. This is therefore a win-win situation.

Therefore the hypothesis tested in this thesis is the following:

H1: Recommendations that pro-migration interest groups make based on negative economic costs arguments have more influence on the immigration policy of the European Union than recommendations that pro-migration interest groups make based on human rights-based arguments.

Negative costs in this research means low costs, no costs or profit for the European Union as a whole.

Methods

Case study: Common European Asylum System

To answer the research questions I have chosen a case study. The case study that will be used is about the influence of pro-migration interest groups arguments on the policy proposals of the Commission to revise the Common European Asylum System (CEAS) in 2007. The CEAS aims to create the same policy and guidelines for the admittance and refusal of all sorts of immigrants in all European Union member states. On the 6th of June 2007, the European Commission released the '*Green Paper on the future of the Common European Asylum System'.* This Green Paper tried to investigate what the options were to create the second phase of the construction of the CEAS under the legal European Union framework. The Commission asked stakeholders of all kind of areas to give their opinion about the issues raised in the Green Paper. They received 89 contributions of different stakeholders like pro-migration interest groups and member states. The Commission asked in its Green Paper amongst other things, questions about the Asylum Procedure Directive, Reception Conditions Directive, Qualification Directive and the Dublin II Regulation. These Directives and Regulation are part of the Directorate-General Home Affairs, which is a subdivision of the European Commission. The four directives implement the largest part of the CEAS. The only Directive, that is also part of the CEAS but is left out of this research is the EURODAC Regulation. This Regulation arranges the policies for taking fingerprints of the asylum seekers and sending these to the EURODAC database. There were no questions about the EURODAC Regulation in the Green Paper. The remaining questions of the Green Paper were about other policies that also affect the European Union immigration policies. However these policies are not part of the CEAS and are therefore left out of the research.

The Commission took the answers of the stakeholders in consideration and created the following four policy proposals, which were sent to the Parliament and the Council: *'Proposal for a Directive of the European Parliament and of the Council on minimum standards on procedures in Member States for granting and withdrawing international protection (Recast)'* (European Commission, 2009). This proposal is about the Asylum Procedure Directive. The second proposal is the: *'Proposal for a Directive of the European Parliament and of the Council laying down*

minimum standards for the reception of asylum seekers (Recast)' (European Commission, 2008). This policy is about the Reception Conditions Directive. The third proposal is called: *'A Proposal for a Directive of the European Parliament and of the Council on minimum standards for the qualification and status of third country nationals or stateless persons as beneficiaries of international protection and the content of the protection granted. (Recast)'* (European Commission, 2009). The Directive discussed here is the Qualification Directive. The last proposal is the: *'Proposal for a Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (Recast)'* (European Commission, 2008). This proposal is about the Dublin II Regulation.

Analysis tools

To answer the first research question I will perform a documentary analysis of the strategy papers of the pro-migration interest groups, which answered the questions from the Commission's Green Paper. I will explore which recommendations are made by the pro-migration interest groups and with what kind of arguments these recommendations were substantiated. To test the hypothesis, I will look at the influence of two types of pro-migration interest groups arguments. The first is the causality between negative economic costs arguments of the pro-migration interest groups (independent variable) and the amount of influence (dependent variable) it has on European Union immigration policy. The second is the causality between human rights-based arguments (independent variable) and the amount of influence (dependent variable) it has on European Union immigration policy. Influence is in this research defined as the extent that an interest group is able to realize its own preferences. I measure influence as the degree to which groups have changed the minds of decision makers (March, 1955) and as a consequence the similarity of a group's initial aims and the end policy outcome (Mahoney, 2008).

To measure the influence I will examine how many interest groups recommendations are copied, are partly copied or are not copied into the policy proposals of the Commission. If a recommendation is copied, this is the highest degree of measurable influence in this research. If a

recommendation is partly copied, this is a lower degree of measurable influence in this research. If a recommendation is not copied, this means that there is no influence found in this research. Hereafter I will compare the amount of copied, partly copied and not copied recommendations that were substantiated with human rights-based arguments with the amount of copied, partly copied and not copied recommendations that were substantiated with negative economic cost arguments. Negative economic cost arguments refer to the economic benefits of the recommendations, for the member states. For example: it is economic beneficial to give asylum seekers quicker access to the labour market while they are waiting for a decision on their refugee status application. Human rights arguments accentuate the obligation of member states and the European Union to comply with ratified international and Community human rights laws. These arguments also refer to the improvement of conditions for asylum seekers as a consequence of implementing this recommendation. For example: asylum seekers should receive better housing provisions while they are waiting for a decision on their refugee status application, because these provisions are not humane enough. If the Commission copy a recommendation but uses a different argument, this should not be seen as pro-migration interest group influence. I will examine if this perhaps depends on the arguments of the member states. Next an examination about the arguments of the recommendations of the interest groups that aren't copied will be reviewed and compared to the copied or partly copied recommendations.

I will also control for the effect of other stakeholders' recommendations. Therefore I will analyse if there are recommendations of member states that are the same as recommendations of pro-migration interest groups. This analysis will help to make clear whether the recommendations of the interest groups that got copied, were really only made by them. If a pro-migration interest group recommendation got copied into a policy proposal but is also stated by one or more member states this means that this cannot be seen as the influence of the interest groups argument.

I will not control for the influence of specific interest groups and member states. The Commission does not mention in its policy proposals why they copied a recommendation and from which specific stakeholder this idea was. Therefore it is not possible to define if the recommendation is copied because a certain interest group made this recommendation. I will

consider all the interest group and member state recommendations as if they are originated from the pro-migration interest group or from the member state group. This off course will not give a totally nuanced analysis.

Chosen interest groups and member states

The pro-migrant interest groups that responded to online consultation of the Green Paper and will be scrutinized in this thesis are: AL Europe (Amnesty International Europe), European Council of Refugees and Exiles (ECRE), European Women's Lobby (EWL), Red Cross, Terre des Hommes (TdH) and the United Nations High Commissioner for Refugees – The UN Refugee Agency (UNHCR). These specific interest group contributions were selected because they are all considered a more influential interest group, because they are for example an European or international authority on their subject or are a Brussels-based umbrella organization. The European Council on Refugees and Exiles (ECRE) is chosen because it is a Brussels-based umbrella organization of European organizations that specifically defends the rights of individuals who seek international protection. Brussels-based umbrella organizations have more influence because they are located in Brussels and they represent many European citizens and organizations (Givens & Luedtke (2003), Hoffmann (2012)). The United Nations High Commissioner for Refugees (UNHCR) is chosen because they are the official guard of the Geneva Convention that defends the rights of individuals who seek international protection (UNHCR, 2007, p. 5). Therefore their opinion will probably have more influence. Amnesty International the Europe office is chosen because Amnesty International's aim is to defend human rights and they are an authority in the area of advocating for human rights worldwide. Terre des Hommes is chosen because they’re experts in the field of minor rights. The EU-office of the Red Cross is chosen because the Red Cross offers medical and mental care in refugee camps around the globe and therefore has a lot of knowledge about the needs of asylum. The European Women's Lobby (EWL) is chosen because it is a Brussels-based umbrella organization of European organizations that defends gender-specific rights and needs and is considered the main experts in the field of gender in Brussels. The fact that these six interest groups are all on the top of most influential interest groups could have a bias in the results as an effect.

The member states that will be scrutinized in this research are the following six: Germany, Greece, Malta, Denmark, Estonia and the United Kingdom. Germany and the UK are chosen because they are big countries that have a lot of power during European Union negotiations. Malta and Greece are chosen because they are border countries that deal daily with large amounts of asylum seekers arriving in their countries. Estonia and Denmark are randomly picked, because officially every country in the European Union should have the same amount of influence on European policy. It would have been nice to scrutinize big countries that are also border countries like Italy and Spain. Unfortunately they did not hand in a strategy paper and thus could not be part of the research.

Results

Introduction about the Green Paper

The Commission stated in its Green Paper that the aim of the CEAS was to create a single protection area for refugees in Europe, based on the Geneva Convention of 1951 and common humanitarian values of member states of the European Union (European Commission, 2007). The European Union already had immigration policies before 2007, but the Commission proposed to create more cohesion and harmonize the legislation across Europe. The Commission conducted via several ways input of stakeholders on the Green Paper. It arranged six expert meetings with stakeholders. Four of these were with government experts, one with pro-migration interest groups and one with the UNHCR and legal practitioners providing legal advice to asylum applicants in national procedures. An external study analyzing the existing evidence and results of the consultations was done on behalf of the Commission. The Commission also used responses of pro-migration interest groups and member states on the questions in the Green Paper. With the opinion of these stakeholders the Commission created several proposals in 2008 and 2009 for policy areas that together would be the CEAS, which they sent for approval to the Council and the Parliament (European Commission, 2008 & 2009). These two institutions responded to the policy proposals with a formal written response. Also the pro-migration interest groups wrote strategy papers as a reaction to the Commission's proposals, although unsolicited. After a period of negotiations between the Parliament, the Council and the Commission, the Council and Parliament adopted in 2011 and 2013 the new policies that represented the CEAS (European Commission, 2011 & 2013).

I will arrange the arguments of the pro-migrant interest groups per directive as a response to the Green Paper. First I will describe the content of the Green Paper to better understand the responses that pro-migrant interest groups and member states gave. The aim of the Green Paper was to seek possibilities for the second part of the establishment of the CEAS under EU legal framework. The CEAS was first defined during the Tampere Program and confirmed in the Hague Program. The Commission described in the Green Paper the following aims for the CEAS recast. The Commission stated that the CEAS had a goal to create a common asylum procedure

and a uniform status valid everywhere in Europe. Furthermore it wanted to create a high level of protection for people genuinely in need in all member states. To make sure that people in need have in every member state the same facilities and chances to get a protection status. Another aim was that the CEAS should assure a fair and equal treatment for people who were regarded not in need of protection. As a last aim the second part of the CEAS focused on a higher degree of solidarity between member states to share the burden that derives from migration. The Commission underlined that it is important that a uniform asylum procedure will improve the conditions under which individuals will have access to this procedure and can enhance a status of international protection. Therefore they acknowledged the need to improve the skills of European Union employers by training and the need for sufficient tools for national asylum administrations (European Commission, 2007, p. 2-3). Therefore the Green Paper can be described as steering into a certain direction. The Green Paper insists that the European Union needs to head into a more human rights-based direction. At the same time the Green Paper underlines the positive effects of this more human rights-based approach for member states in the form of less second moves and appeals resulting from this approach (2007, p. 4-12).

Asylum Procedures Directive

The Asylum Procedures Directive contained before the Green Paper minimum standards for the procedures for granting or withdrawing refugee status. It allowed member states a large degree of flexibility on the interpretation of the asylum procedures, for example the interpretation of accelerated procedures, border procedures and inadmissible applications. The Commission declared in the Green Paper that more harmonization in this Directive was necessary to guarantee that the CEAS would meet the objectives of the Tampere Program to create common procedures. The Commission emphasized that (1) effective access to the asylum procedures should be enhanced, thus creating effective access to the right to apply for international protection. The Commission proposed that this could be achieved by (2) creating legal safeguards during border procedures and during the registration and screening process (European Commission, 2007, p. 3). To reach for this goal (3) national rules, such as the quality of decision-making, the review of asylum evidence and the appeal procedure should become more harmonized. The Commission thought that it could also be useful to (4) reconsider the content of concepts like safe third

country, safe European third country and safe countries of origin. The Commission proposed that further harmonization could be created to include a (5) single procedure for the application of a refugee status and subsidiary protection status. As last the Commission asked what kind of implications further harmonization would have and to which extent this was possible and desirable according to the stakeholders (2007, p. 4).

The first part of the CEAS contained measures that paid attention to vulnerable groups, but were considered insufficient. The Commission proposed in the Green Paper to describe in detail how to identify vulnerable individuals and how to address their special needs in the whole asylum procedure. With a special focus on the (6) medical and psychological assistance and counselling for torture and trafficking victims, traumatized persons and a (7) good identification and (8) response to the special needs of minors, and especially unaccompanied minors. (9) Interview techniques should be adapted to the circumstances of the vulnerability and specific (10) guidelines should be created to identify an application based on gender- or child-specific persecution. This could be accomplished by including relevant stakeholders to the process and to (11) train EU professionals (2007, p. 6).

Responses of pro-migrant interest groups

In this part I will mark when the pro-migrant interest groups are using the same arguments as the Commission by writing down the numbers referring to the arguments written in the section above. So if there is for example a (10) in the text, this will refer to the statement of the Commission that there should be specific guidelines for gender- and child-specific persecutions. If there is a letter between brackets: (f) this means that the interest groups are making a new recommendation that was not mentioned by the Commission (in detail).

The EU-office of the Red Cross underlined that individuals should have the right to seek and enjoy asylum in line with the Geneva Convention of 1951 through fair and proper asylum procedures (2007)[1]. They stated that (1) access should be guaranteed to individuals seeking protection. Amnesty Europe wrote that the Asylum Procedure breached international human

[1] All other EU Office Red Cross recommendations also correspond with their strategy paper.

rights and refugee law (2007).[2] It should guarantee access to asylum procedures. Also UNHCR advocated for effective access to the asylum procedures (2007)[3]. ECRE stated that (a) border guards should not decide if an individual should get a certain status, but should only have the function of service-hatch. ECRE argued that access to the asylum procedure should also be available (b) for individuals in pre-removal detention centers (2007)[4].

The UNHCR stated that border procedures should be as good as procedures in the member states (2). Amnesty added that possibilities for member states to skip procedural guarantees during the determination process at the borders and transit zones should be removed. Amnesty stated that the CEAS should guarantee the right to effective remedy (2) with suspensory effect. ECRE stated that individuals should have the (c) right to appeal a decision. They also stated that individuals should have (d) access to the UNHCR and NGO's during the asylum procedure. As legal safeguards the Red Cross, UNHCR and ECRE proposed that individuals should be (e) informed about their rights in a language they know. Amnesty Europe stated that the CEAS should (f) inform individuals about their right to seek international protection. The Red Cross and ECRE also advocated for the (g) right of access to legal counsel. The UNHCR and ECRE extended this right with (h) state funded legal assistance for applicants who do not have enough financial supplies. ECRE underpinned its claims with the argument that the lack of legal safeguards would lead to an increase of individuals who did not apply for a protection status, therefore end up being illegal, which would result in exploitation risks and improper contribution to the member states in the form of taxes for example. They also wanted to create extra legal safeguards to (i) remove accelerated procedures. ECRE and UNHCR pleaded as last procedural legal safeguard for (j) more time before deadlines and always the presence of a (k) translator.

The UNHCR agreed with the Commission that the national asylum procedures should become more harmonized (3) to become fair and efficient and not breach international human rights laws. The UNHCR stated that the concept of (m) safe third country should be abandoned. Amnesty Europe added to this the (n) elimination of the European safe third country concept. ECRE added to this that it should be abolished since it iss not in line with the European Convention on Human

[2] All other Amnesty Europe recommendations also correspond with their strategy paper.

[3] All other UNHCR recommendations also correspond with their strategy paper.

[4] All other ECRE recommendations also correspond with their strategy paper.

Rights and the Geneva Convention. And the UNHCR added that applicants should be (o) better able to contest that a third country is safe, to be able to defend their case. ECRE stated that the concept of safe country of origin is not in line with international refugee law, the principle of non-discrimination, and the principle of non-refoulement.

Amnesty Europe and ECRE believed it would be much more cost and resource-effective and would contribute to more equality when all protection needs were to be determined in (5) one single procedure by the same authorities. Amnesty Europe and ECRE stated that individuals should have a (p) personal interview and a thorough assessment, to assure the principle of impartiality and independence in line with the protection standards of the United Nations Committee Against Torture, the European Convention on Human Rights and UNHCR guidelines. ECRE stated that individuals should be (q) informed in private about the results of the assessment.

Terre des Hommes stated that every (r) minor should have the right to access and assistance in the form of a guardianship during the whole asylum procedure (2007)[5]. They substantiated this with referring to the International Convention of the Rights of the Child of 1990. Moreover they underlined the importance of child-specific persecution guidelines (10) since other concepts were important to evaluate a child's application. For example a child that is a native of a safe country could still be unsafe in that country due to not safe actors; like child recruiting soldiers.

The European Women's Lobby (EWL) stated that gender-specific persecution guidelines (10) were necessary, since different concepts are sometimes important to evaluate a women's application (2007)[6]. They based the need for gender-specific persecution guidelines on non-discrimination norms, international human rights law like CEDAW, Beijing, UN 1325 declaration, UN Protocol to stop human trafficking, EU Protocol to stop human trafficking, EU human rights law and the need for a fair assessment. The concept of a safe country was, according to EWL, misleading since violence against women exists in every country around the globe. They also asked for (s) gender-disaggregated data, since asylum is not gender neutral.

[5] All other Terre des Hommes recommendations also correspond with their strategy paper.

[6] All other EWL recommendations also correspond with their strategy paper.

Responses of member states

Germany, the United Kingdom (UK), Malta, Estonia and Greece agreed that the asylum procedure should become more harmonized (i) (3) ((2007), (2007), (2007), (2007), (2007))[7]. The UK stated that this would benefit member states as well. The UK, Greece, Estonia and Denmark outlined that it would be a good aspiration to increase the standard of protection of the asylum system (ii) (2007)[8]. Only Denmark noticed that it should be in compliance with the Geneva Convention (iii). Estonia stated that the asylum procedure should also treat rejected asylum seekers fair and efficient (iv).

Only Greece of the six member states agreed with the Commission and several interest groups that the access to the asylum system should be increased (v) and gave implementation examples such as giving information to asylum seekers about the process and their rights (vi) and providing legal aid to the asylum seekers during the procedures (vii). Malta described the importance of having good interpreters of other member states during the determination process of member states with less process strength (viii). Estonia believed, just as UNHCR that the concept of safe third country should be deleted, since this was not fair and efficient (ix). Estonia also stated that the list of safe countries of origin should be abandoned and that common approaches to the identification of countries of origin should be taken up (x). Germany came up with the idea to create a list of criteria that could be used to define the safety of a country of origin (xi). And Greece proposed to share information about countries of origin among the member states to make the determination process easier and more accurate.

Greece believed that border staff should receive more training because they were under a lot of pressure with the high numbers of asylum seekers there (xii). Greece, the UK and Estonia stated that border guards should have a guidance to identify vulnerable people and provide their needs (xiii). Besides that Greece and Malta stated that all the EU staff should be trained more, since this would increase the efficiency of the system (xiv).

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[7] All other recommendations from Germany, the UK, Malta, Estonia and Greece also correspond with their strategy paper.

[8] All other recommendations from Denmark also correspond with their strategy paper.

As last Germany and Denmark agreed with the idea to impose a single procedure to determine the status of refugees and subsidiary protection status (xv). Estonia on the other hand believed that before such a decision could be approved, the first phase and its efficiency of the CEAS should be scrutinized (xvi).

Copied recommendations in the Asylum Procedure Proposal

The Commission pronounced multiple goals in the Asylum Procedure proposal. They wanted to create higher and coherent standards on the examination procedure for granting and withdrawing international protection. As a consequence they wanted to increase the access to the asylum procedure and include procedural safeguards in line with international and Community obligations of the member states. Examples of these obligations are the principle of non-refoulement, the principle of the best interest of the child, the principle of equality of arms, the right to defense, the right to effective judicial protection and the enhancement of gender equality. And compliance with the European Court of Justice, the European Convention on Human Rights, the European Charter of Fundamental Rights, the Geneva Convention and the United Nations Convention on the Rights of the Child. They also wanted to adjust this examination procedure because asylum seekers would as a consequence receive quicker their protection rights. They also defended the adjustments to the asylum procedure with some interesting arguments in favor of the interest of the member state. Examples of these are adding procedural safeguards which would improve the justifiability of a negative decision, reduce the risk of an annulment at an appeal body, enable the EU personnel to identify cases of abuse, reduce reception costs and support the act of transferring failed asylum seekers to their home country.

Eight recommendations were copied into the policy proposal of the Commission. Five of these: (b), (c), (e), (g) and (h) can be seen as similar to the demand of Greece to increase the access to the asylum procedure and provide asylum seekers information and legal aid. The recommendation of ECRE (b) to give asylum seekers in detention centers access to the asylum procedures is in line with the aim of creating more access, including a legal safeguard in line with

international law. The recommendation of ECRE that (d) asylum seekers should have access to UNHCR and NGO's is also copied with the argument that it also increases effective access to the procedure. The recommendations about the right to appeal a decision with suspensory effect and the right to free legal counsel is granted, because they are in line with international laws like ECHR, the right to defense, the right to effective judicial protection, the principle of equality of arms and the ECJ. The Commission duplicated the demand about informing the asylum seekers in a language they could understand. This will give the asylum seekers more knowledge about the procedure and according to the Commission this will lead to less cases of abuse that is in the interest of the member states. To increase the efficiency and accuracy of the system the Commission duplicated the idea of an obligatory personal interview and thorough assessment. This is in line with the argument of Amnesty Europe and ECRE that individuals should have a (p) personal interview and a thorough assessment, to assure the principle of impartiality and independence in line with the protection standards of the United Nations Committee Against Torture, the European Convention on Human Rights and UNHCR guidelines (2007, p. 10-17). This is also in line with the demand of ECRE in the Qualification part (j), which will be discussed later on, that member states should not be able to deny a refugee status if the member state has not examined it. The Commission approves this since it is in line with the ECHR and the UN Convention on Torture and it will also prevent abuse and increase the efficiency and thus reduce costs. Also the recommendations from the Qualification part made by EWL and UNHCR to implement (b) gender- and (c) child specific guidelines during the determination of an application are duplicated in this policy proposal since they are in line with the aims of the Green Paper. Lastly proposed the recommendation of ECRE and Amnesty Europe to (n) delete the concept of European safe third country is copied since it is not in line with the ECHR and Geneva Convention and the Commission says that it will decrease second moves and repeated appeals which will save costs for the member states. All these copied recommendations were thus in line with the aims that were pronounced by the Commission in the Green Paper. The idea to always have a translator during the asylum procedure is not implemented in this proposal, but is implemented in the Qualification Directive and the Reception Conditions Directive. This will off course lead to a more accurate examination, which is the aim of the Commission.

Two recommendations were partly implemented. The first is UNHCR’s recommendation to

delete the concept of 'safe third country' since this concept is not in line with international law and the principle of non-discrimination and non-refoulement. Estonia also stated that the concept of safe third country should be abandoned since it is not efficient and fair (ix). The UNHCR as well said that it would make the asylum procedures more fair and efficient. The Commission did propose that the member states delete their own lists of safe third countries. As an alternative the Commission created strict criteria, which determine whether a country is a safe country. This idea is in line with the idea of Germany to create a list to make the determination of countries easier (xi). This will enhance the harmonization of the procedures. This will therefore increase the fairness, efficiency, reduce costs and it will be in agreement with the principle of non-refoulement. The idea to remove accelerated procedures is not copied fully. This idea is not underlined with a reference to a Community or international law. The Commission proposed to make a small list of criteria, which will determine when an accelerated procedure is applicable. They state that it for example cannot be applicable during the asylum procedure of an application of a vulnerable person. This shorter list of accepted accelerated procedures will give the authority sufficient time to make a thorough assessment. Therefore their decisions will be more accurate and cases of abuse will be detected earlier, which will decrease costs and increase the efficiency of the system.

Five recommendations of the pro-migrant interest groups were not copied by the Commission into the policy proposal. Only one of these ideas was based on an international law. Terre des Hommes plead for the right to assistance for minors during the asylum procedure in the form of a guardianship. They underlined this with the United Nations Convention on the Rights of the Child. It is interesting to see that this idea is not copied into the Commission's proposal since the Commission said it wanted to have an asylum procedure that is in line with the Convention on the Rights of the Child.

The idea to let border guards only be a service-hatch instead of personnel for determination was not copied by the Commission. This idea is not in line with any international law. The Commission did though propose to train border guards to assure that their examinations are accurate. This opposing idea to instead train border guards is originated from Greece (xii, xiii, xiv). With training border guards, the Commission will reach its aim of creating coherent

standards on examination procedures. They also did not copy the idea of ECRE and UNHCR to create more time before a deadline in the procedure. This would be a procedural safeguard according to ECRE and UNHCR. It is not in line with any international law though. The opposite happened actually. The Commission set shorter time limits for procedures since it wants to increase the efficiency and reduce costs since it is in the interest of the member states and a purpose of the Green Paper. The idea to inform asylum seekers about the decision of their application in private pronounced by ECRE is not copied as well. They did not base this idea with a reference to an international law or any other reason. A possible reason for not implementing this idea is that it will cost a lot of time and money for the member states, is not a written or unwritten human right, will not increase the standard of protection of the system or will make the procedures any more efficient. Although a good explanation could prevent an asylum seeker to hand in again an application or to make a second move and thus decrease costs for member states. The last recommendation which has not been copied is the idea of the EWL to have gender-disaggregated data. They do not underline this with any ratified Community or international law.

Only Greece and Malta supported the idea of the Commission's Green Paper to train staff properly since this will influence the efficiency of the system. Germany and Denmark were the only countries to support the idea of a uniform determination procedure. Denmark believed this would improve the equitability and efficiency of the system. The proposal of Estonia to first evaluate the asylum procedure of the first phase of the CEAS is not taken into consideration by the Commission.

Reception Conditions Directive

This Directive decides what kind of material conditions apply for the individuals who wait at the reception for the answer on their application and what kind of conditions are applied during the examination of the applications. The Commission stated in the Green Paper that the European Union should further harmonize the reception conditions to decrease the incentive of applicants to make a second move to another member state. Applicants often made second moves to increase their chances to get a refugee status or to have better reception conditions. These

conditions were different per country when the Commission wrote the Green Paper in 2007. A reception condition that differed per member state for example was (1) how quick applicants were allowed to work during the waiting process. Also the time applicants had to wait for (2) other material conditions and (3) access to healthcare differed per member state. The Commission noticed serious problems with (4) detention centers and the approaches of (5) detention measures. The Commission wanted to harmonize these material conditions to create a fair system and a higher standard of protection (European Commission, 2007, p. 4-5).

Responses of pro-migrant interest groups

Amnesty Europe, EWL and ECRE stated that reception conditions should be improved according to international human rights law. The reception conditions should ensure physical safety and privacy according to EWL. Amnesty Europe, ECRE, Red Cross and UNHCR promoted standards that ensured an adequate standard of living (3) in the reception conditions. This included (a) good food, (b) cloths, (c) housing, (d) social assistance, (e) (4) psychological and mental healthcare (Red Cross), improvement of living conditions. EWL added to this the importance of a (f) good kitchen so they could cook healthy. They also added that there should be (g) space to exercise one's religion. UNHCR wanted (h) money for the individuals instead of vouchers that they received to buy stuff (ECRE). UNHCR, Red Cross and ECRE also promoted (i) freedom of movement in the asylum country and/or in the European Union. UNHCR pleaded for more (j) reception assistance for asylum seekers. UNHCR and ECRE demanded the (k) same reception conditions for border procedures and detention centers as in land receptions. And UNHCR demanded the (l) same reception conditions for individuals who appeal a decision. Amnesty Europe believed that individuals should (m) be able to appeal against the reception conditions to plea for better conditions. Also (n) monitoring and evaluation of the reception conditions should have a controlling role according to ECRE.

According to UNHCR and ECRE (o) vulnerable groups should receive even better provisions and help. Terre des Hommes stated that the international rights of the child were often not properly complied. Besides that they advocated for a (p) guardianship for unaccompanied and separated children who could help them with the complicated asylum procedures on housing, care and

social welfare during the reception period. (q) Unaccompanied girls should have good protection during the reception since there is a risk that pedophiles or organizations would cape them, according to EWL. The EWL also added that there should be (r) free healthcare for special women's needs.

The Red Cross promoted the empowerment of individuals waiting for a decision via (s) language training and the requirement of (t) normal house after a while instead of a room in a detention centre. The self-reliance should also be increased via (u) education, (v) acknowledgement of qualifications and skills and the (w) involvement of the trade union. Also the demand of UNHCR and ECRE who believed that individuals should receive (x) access to the labor market after six months (2) waiting for a decision can be seen in the light of empowering individuals. UNHCR, Amnesty Europe and ECRE argued that this was good for the individuals and also for the member states. Because it would prevent exclusion of asylum seekers, promote self-sufficiency and thus decrease dependency on the state. It would also facilitate integration, decrease illegal work, improve the likelihood that individuals would return and improve re-integration when they would return to their country of origin.

UNHCR, ECRE, Red Cross Europe and Amnesty Europe were (y) against random detention. ECRE stated that detention of asylum seekers should be abandoned. They argued that it is a fundamental right not to be detained (UNHCR), and to seek for asylum (Red Cross Europe). That EU law had a clear presumption against detention, (z) and that only in the most exceptional circumstances should detention be possible according to international human rights, children and refugee law (Amnesty Europe, Terre des Hommes, Red Cross Europe and EWL) and that individuals should have the right to freedom and safety. Besides that detention creates medical and psychological damage that will cost the state money (ECRE and EWL). The risk that individuals will (a1) hide could not be used as a reason to detain asylum seekers according to UNHCR and EWL. Detention of asylum seekers could increase the link between criminality and asylum seekers, which is not correct according to the UNHCR. Amnesty Europe proposed that a (b1) test should be created to determine the necessity of detention of an asylum seeker. (c1) Detention of vulnerable people like unaccompanied and separated minors should become forbidden in European legislation. Accept when parents of a minor were a national threat and it is

in the (d1) best interest of the minor to stay with its parents (Amnesty Europe and Terre des Hommes).

ECRE argued that the European Union should create (5) safeguards for detention. They should have a (e1) definition of detention, a (f1) list with exceptional circumstances in which somebody could be detained and (g1) provide information about why someone has been detained. (h1) Decisions to detain someone should only be made by courts in case of a national security threat, an individual should be given the (i1) possibility to appeal this decision, (j1) judicial review of detention should be provided, as well as (k1) free legal advice to asylum seekers, (l1) free visits of NGO's (Red Cross) and the space to (m1) independent monitoring of the conditions in detention. (n1) Adequate reception conditions in detention should be provided, member states should promise to (o1) detain individuals less easy and there should be a national (p1) ombudsman to monitor the detention legislation.

Responses of member states

The UK, Germany and Greece wanted more harmonization of the reception conditions to stop asylum shopping and decrease pull factors (i). Greece as well wanted a higher standard of treatment during the reception conditions (ii). Germany agreed with the UK and Greece but believed that states should have the flexibility to decide for themselves if they implement these rules (iii). Denmark believed that it is the responsibility of a member state to get the standard of treatment in line with Community rules (iv). Malta and Estonia stated that it is not feasible to harmonize the reception conditions and improve the standard of treatment since not all member states have enough resources (v).

About the aim of the Commission to decide how quick applicants are allowed to work during the waiting process are different opinions. Germany, Denmark and Greece said that member states should not be obligated to provide after six months access to the labor market for applicants (vi). According to Germany and Greece labor markets across member states differ too much. Denmark stated that member should be allowed to provide access after six months if they wish. Estonia was the only one who agreed with the proposal of the Green Paper (vii). Malta agreed as well, but

wanted to provide the access after one year (viii).

Greece, Estonia and Denmark were the most pro a higher standard of material conditions during the reception. Greece wanted to minimize the difference in material conditions (ix). It also, together with Estonia wanted always illness and mental disorder treatment during the reception period (x). And good food and cloths were also required according to Greece (xi). Besides that Greece wanted sufficient healthcare provisions for vulnerable people (xii). And Greece stated that housing should be improved and be a top priority in the policy (xiii). Denmark required education for minors during the reception period (xiv). Estonia agreed to make new rules that were more humane about detention (xv). Malta though said that member states should decide themselves the length and conditions they applied with detention, according to there national laws (xvi). Germany though stated that the detention rules should not be changed at all since they are already in compliance with the European Charter on Human Rights (xvii). When research finds out that this is not the case though, Germany stated that this should be adjusted though. Germany also thought that extra conditions for vulnerable people were not necessary since they are already sufficient (xix).

Copied recommendations in the Reception Conditions Proposal

The aim of the Commission pronounced in the policy proposal is to increase the standard of treatment in the reception, to let it be in line with international law. The other aim is to harmonize the reception conditions to reduce second moves and costs for member states. This last idea is in line with the statement of the UK, Greece and Germany that harmonization will lead to a stop of asylum shopping and reduce second costs which is in their interest (i).

There are 25 recommendations of the pro-migrant interest groups that were not copied by the Commission in the proposal. Five of these recommendations were based on the argument that these recommendations were in line with international human rights laws. The aim of the Commission was to improve the standard of treatment in the Reception Conditions so that these standards would be in line with international human rights laws. Consequentially it is interesting that they did not copy these recommendations since they would have helped them to reach their

goal. These recommendations were about good food, cloths, social assistance, a good kitchen and space to exercise one's religion. Even more interesting is the fact that Greece also demanded good food and cloths as an important material condition. Maybe the Commission did not consider these the most crucial rights to improve.

The 20 other recommendations that were not copied, were not in line with any international human rights law. This can be a reason that these 20 recommendations were not copied into the proposal. In addition these 20 recommendations would also raise costs for the member states, which is not in the interest of the member states. Four of them were recommendations to empower asylum seekers during their reception period via language training etc (Red Cross Europe). A possible reason that this is not implemented can be the statement of Germany that this is not needed during the reception time.

The eleven other recommendations, approximately 30% of the total number of recommendations, of the pro-migrant interest groups though are copied into the policy proposal. Nine of them were recommendations in line with international and Community human rights laws which are ratified by the European Union but were not fully implemented like the European Convention on Human Rights, the European Charter of Fundamental Rights, the United Nations Convention on the Rights of the Child, the United Nations Convention against Torture and other Cruel Inhuman or Degrading Treatment or Punishment and international and Community recognized principles like the principle of non-discrimination, the principle of the best interest of the child, the principle of necessity and proportionality. These nine recommendations also contribute to a higher standard of treatment that was one of the goals of the Commission. Like the recommendation of Terre des Hommes to not detain unaccompanied minors since this is not in line with the UN Convention on the Rights of the Child. Or the recommendation of UNHCR, Red Cross Europe and ECRE that asylum seekers should have the freedom of movement since this is in line with the European Convention on Human Rights. The copied recommendation of the interest groups to detain asylum seekers only in exceptional circumstances can also have a positive effect for the member states, since detention often causes mental and physical damage, which is costly for the member states since they are the ones who should provide mental disorder and physical illness treatments. Although the Commission did not give this reason for pronouncing this policy idea. From the six

member states only three made a comment about detention and they were are really broad comments. Only Estonia chose the side of the interest groups that the length and rules for detention should be adjusted in a more humane manner (xv). Germany and Malta though stated that it should not be changed since it was already in line with the ECHR or the responsibility of the member states (xvi, xvii). Maybe this divide and vague answers gave the Commission the ability to pursue with their Green Paper aim to propose policy ideas that increase the standard of treatment in the reception condition and thus also in detention. The recommendation to provide access to the labor market after six months waiting in the asylum procedure, is good for the asylum seeker and in the interest of the member state since it will decrease illegal work, improves the likelihood that individuals will return, decreases dependency on (the finances of) the state and facilitates integration which also costs the member states a lot of money. It is interesting to see that the interest groups have 'won' this argument from the member states since three member states did not want this proposal to pass.

The recommendation of ECRE to monitor and evaluate the reception conditions is also copied by the Commission. This recommendation had no argument about international law, but it probably will increase the harmonization of the CEAS which was the second aim of the Commission. The Commission proposes that national mechanisms should monitor and evaluate the reception conditions, the reports of these national monitoring mechanisms will give the Commission the information about the implementation of the CEAS and as its role as the guardian of EU legislation, it can hold national governments accountable for their implementation level.

The recommendation of UNHCR and ECRE that vulnerable asylum seekers should provide better provisions and help is sort of taken into consideration by the Commission. The recommendation of Red Cross Europe in the Qualification part which will be discussed later on, that there should be ('a' of Qualification part) good mechanisms and safeguards for vulnerable people to give them the correct help is copied by the Commission in this part of the CEAS policy. The Commission stated that national instruments should be created to identify the special needs of vulnerable people and give them access to treatment. This is not in line with the statement of Germany that there are no extra rules needed for vulnerable persons since they are already sufficient. The Commission only refers to housing, healthcare and education for minors as special needs of

vulnerable people. Maybe an explanation for this narrow focus is that Greece made arguments about the need for better healthcare for vulnerable persons (xii) and the fact that especially the housing facilities should become a priority (xiii). Besides Denmark plead for education for minors during the reception time (xiv). The Commission seems to have taken this recommendation partly into account when they proposed that when searching for a house where the asylum seeker can stay during the reception time, gender, age and the special needs of an individual should be taken into account. The Commission argues that they want to implement these rules about vulnerable people to increase the access to appropriate treatment that is one of their aims. This special treatment can also affect the quality of the decision-making process in relation to the asylum application, especially regarding to traumatized persons according to the Commission. If traumatized persons are treated carefully, their information about their application will be more accurate, which will lead to a better decision about their application. A correct decision about an application will decrease the chance that applications will be handed in again or that asylum seekers will move to another member state to apply for a protection status there, which will decrease costs for the member states.

Maybe a conclusion can be that the main reason why a recommendation of a pro-migrant interest group in this policy area is copied is that it aims for the same goals set out in the Green Paper by the Commission. That still does not explain why some recommendations that also aim for the same goals did not get a part in the Commission's proposal.

Qualification Directive

The Qualification Directive determines the standards that define which status and protection provisions an applicant should get. The Commission stated in the Green Paper that these standards differed widely among member states. To implement European wide uniformity of protection, which was called for in the Hague Program, the Commission asked questions about the need to harmonize the Qualification Directive. It gave several possibilities for this. The Commission stated that the (1) qualification criteria could be further harmonized and defined more clearly concepts to minimize different interpretations. Another possibility was harmonizing the status granted and (2) creating one beneficiary of protection status instead of a refugee status

and a subsidiary protection status with different rights and length of rights attached. This would mean that applicants with different statuses would (3) receive the same rights, causing a decrease of the incentive of applicants to appeal when they received a subsidiary protection to aim for refugee status and the beneficiary rights. Rights granted to (4) individuals who were not applicable for a protection status but who were not allowed to be removed, due to international refugee or human rights instruments could also be further harmonized. The Commission also proposed a mechanism for (5) mutual recognition of national asylum decisions and the possibility to (6) transfer the responsibility of protection to another member state when an beneficiary of protection wants to move (European Commission, 2007, p. 6-7).

The Commission stated that it could be a possibility to enhance the integration of individuals who gained subsidiary protection. For example by (1) creating integration programs that take into account the special needs of individuals who need international protection such as housing, healthcare and social services. The potential benefit of beneficiaries of protection to the labor market should be recognized and supported. For example by the (2) recognition of the qualifications and skills of beneficiaries of protection also when they do not have their official diplomas due to circumstances. Also the (3) value of inter-cultural skills at the workplace should be acknowledged and encouraged. For applicants who received a beneficiary of protection status a (4) speedy integration process should be available to enhance their integration in the society (European Commission, 2007, p. 8).

Responses of pro-migrant interest groups

The (1) qualification criteria should be further harmonized up to the standards of international human rights and refugee laws according to Amnesty Europe, Red Cross Europe and European Women's Lobby. Red Cross Europe believed that (a) good mechanisms and safeguards should be established to recognize vulnerable people and give them the correct help and status. European Women's Lobby proposed that there should be (b) gender-specific guidelines to determine whether claims are about gender-specific persecution. ECRE stated that applications of (c) minors should be scrutinized with the UNHCR guideline to determine the child age. During a determination of an application of a minor, the (d) best interest principle should be leading

according to ECRE. Amnesty Europe believed that there should be a (e) definition of a family member, to prevent different interpretations. Also a (f) definition should be formed for 'actors of protection', since sometimes non-state actors are giving protection but are not fully able to do so. According to ECRE non-state actors are not able to provide protection since only states can be hold accountable for their behavior since only states signed international refugee laws. Amnesty Europe added that being a (g) member of a certain social group could also be an important criterion to determine an application. The (h) definition of subsidiary protection should be defined according to international laws. (i) Exclusion clauses and cessation clauses should also be in line with international laws. According to ECRE stated are (j) not allowed to deny a refugee status when it is not jet scrutinized, this is in line with the Geneva Convention.

Terre des Hommes advocates that (k) the same rights should be granted to minors who receive a refugee status a children who receive a subsidiary protection status (linked to 3). The Red Cross Europe, Amnesty Europe, ECRE and UNHCR argued that individuals who receive the refugee status and individuals who receive a subsidiary protection status should (3) receive the same rights, such as social care, healthcare, education, the right to family reunification, access to integration and labor. They defended this with referring to the rights and benefits attached to international protection granted in the Geneva Convention, the European Convention on Human Rights and the principle of non-discrimination. Red Cross Europe, Amnesty Europe and UNHCR wanted that (l) individuals who are not applicable for a protection status but who cannot be removed due to circumstances, receive also fundamental rights referring to the Geneva Convention (linked to 4).

UNHCR, ECRE and Amnesty Europe agreed with the Commission that there should be (5) mutual recognition of national asylum decisions. Because the CEAS should be built on trust according to them and ECRE argued that that will be justice. To implement the (6) transfer of the responsibility of protection, it should necessary to have (m) criteria when a transfer is lawful. They underlined that with a transfer the (n) second country is responsible to provide asylum.

The Red Cross wanted to improve integration to create (o) better circumstances for family reunification after persons received a protection status. The Red Cross Europe also wanted to (p)

improve healthcare conditions for beneficiaries of protection. Overall the Red Cross Europe argued that beneficiaries of protection should receive the (q) same rights as national civilians. In the case of a necessary return when someone did not receive a protection status, the (r) return should be in safety and dignity according to Red Cross Europe.

Responses member states

The UK believed that there should become more harmony in the qualification directive to increase the standard of protection and stop reason for asylum shopping (i). Also Germany wanted to harmonize the qualification directive (ii). Denmark and Malta also agreed but state that more discussion about this subject should occur (iii) and that some member states do not have enough resources to establish this (iv).

Denmark agreed with the Commission to grant the same rights to refugees and subsidiary protection people (v). Estonia and Germany also agreed but thought that there should be some difference in the length of the residence permit and other rights between the two statuses (vi). Only Malta and Germany disagreed with the idea because they believe that the rights provided were already sufficient and they believe that not all member states had the capacity to provide the same rights to both groups, therefore they doubted the feasibility of the proposal (vii).

Denmark and Greece believed that a sustainable link between the labor market and the beneficiaries of protection is profitable for the member state and the beneficiaries of protection (viii). Greece wanted to push for integration to acknowledge easier the qualifications of beneficiaries of protection (ix) and provide access to language training (x). Greece also pleads for more attention for vulnerable people during their integration (xi). Denmark though did not want to provide access to special integration programs, since this will increase the expectations when people are waiting in the reception (xii). Estonia and Malta stated that the existing integration tools were already sufficient and should not be changed (xiii).

Malta and Estonia stated that there should be mechanisms to identify vulnerable people so they could receive help for their special needs (xiv). Estonia as well wanted fundamental rights for

people who could not receive a protection status but could not be removed either due to circumstances (xv). Germany and Malta though did not want this, since agreements should be changed than and it is not the area of the CEAS (xvi). Malta and Germany wanted that member states acknowledge each other's determination decisions (xvii) and that the responsibility to protect also moves to another member state when a beneficiary of protection is transferred (xix). Estonia, Germany and Denmark disagreed with this (xx), Estonia pleaded for more research about this and Denmark more discussion. The UK wanted that member states with weak asylum systems get capacity building (xxi). And also exchange information about best practices to discover fraud (xxii). Malta accentuated that member states should be helped to help vulnerable people via training, funding and resettlement programs (xxiii).

Copied recommendations in the Qualification Proposal

The aims of the Commission in the Green Paper were the following three. The first aim is to harmonize the procedure more by making the determination processes easier by means of clarifying definitions for example. The quality of the determination procedure would as a consequence be enhanced which will cause the EU staff to make more quick robust determinations. This will be positive for the member states and for the asylum seekers according to the Commission. Since it will decrease second moves, repeated applications, prevent abuse, make the decisions better defendable in case of an appeal against a negative decision, increase the support for removing asylum seekers out of the country and therefore reduce the costs for the states. This is in line with the idea of the UK that improvement of harmonization will stop asylum shopping (i). It will also speed up the procedure and will give asylum seekers who were granted with a beneficiary of protection status earlier access to their rights. The second aim is to harmonize the procedure by streamlining the procedures of granting refugee status and granting subsidiary protection status. Combining these two statuses in one procedure, will increase the efficiency of the asylum procedure and reduce administrative costs. This aim will increase the rights for people who were granted a subsidiary protection tremendously, but this is not a reason that the Commission pronounces as a reason for this proposal. The third aim is to increase the standard of protection in the CEAS with making the qualification directive in coherence with signed jurisprudence, specifically with the European Court of Justice, European Convention on

Human Rights and the Geneva Convention jurisprudence. The Commission cites that the ratified refugee and human rights obligations of the member states are “the subject of a constantly evolving authoritative interpretation by competent national and international bodies”. With this sentence the Commission presents this goal not as an internalized value but as something that is forced upon the European Union. Maybe they present it this way to persuade the Council that they cannot reject this idea due to external factors.

The Commission adopted seven recommendations of the pro-migrant interest groups. The first is the statement of Amnesty Europe that (f) actors of protection should not be defined as actors of protection if they are not fully capable of providing protection to asylum seekers. The Commission digests this into the statement that actors of protection should be able and willing to provide effective and durable protection. If they cannot, they should not be defined as actors of protection. They underline this with the argument that this will enhance the quality of determination and thus reduce faults in the decisions and reduce costs for member states. They also underline this with the statement that this in line with the Geneva Convention and will enhance the standard of protection for asylum seekers. They also copied the recommendation of the EWL to (g) specify gender as a particular social group. They substantiate this with the fact that this will create a clear and useful guidance, which will enhance the quality of the process and therefore increase the efficiency and reduce costs. They also substantiate this with the fact that it will erase protection gaps and therefore increase the standard of protection of the system. Another argument that is copied is the recommendation of Amnesty Europe to make the exclusion and causation clauses in line with international law. The Commission did not copy the rule of the Geneva Convention about this clauses precise in the Qualification legislation proposal but they introduced the idea to not re-examine a protection status if there was enough prove in the first examination about the need for protection. They substantiate this from a humanitarian principle that is correlated with the Geneva Convention and thus in line with their aims. The Commission continues with stating that they want to create one procedure to grant individuals a beneficiary of protection status. Red Cross, UNHCR, ECRE and Amnesty Europe all supported this idea of the Commission and based it on the argument that refugees and persons who receive subsidiary protection both had the same needs and should receive the same protection standard in line with the Geneva Convention, the European Convention on Human Rights and the principle of

non-discrimination. The Commission here probably accepted as well the idea of Amnesty Europe to define the definition of subsidiary protection in line with international law. They denied the statement of Germany and Malta here that the different statuses should not receive the same rights (vii). And were supported by Estonia here (vi). The Commission substantiated this idea with a reference to the full respect of the principle of non-discrimination, the ECHR and the United Nations Convention on the Rights of the Child. This last is since they reproduced the idea of Terre des Hommes to (k) provide the same protection standards towards children who received a refugee status and a subsidiary protection status. Besides this, the Commission substantiated this idea with the argument that it would simplify and streamline procedures that would reduce administrative costs and is in line with the interest of member states. The idea to (d) let the principle of the best interest of the child be leading during the determination process can be interpreted as copied. Since the Commission stated that it wants to promote the best interest of the child principle in the Asylum Procedure proposal. They substantiate this with a higher standard of protection in the system and in line with international law.

Seven recommendations were copied into other policy areas of the CEAS. Namely the recommendation of Red Cross Europe to (a) and Malta and Estonia (xiv) create good mechanisms and safeguards for vulnerable people is copied into the Reception Conditions and the Dublin II Regulation, discussed later on, proposal. Since this will enhance the quality of the process and therefore reduce the cost and will increase the standard of protection. As well the demand of EWL and UNHCR to create (b) gender- and (c) child specific guidelines to determine an application are duplicated into the Asylum Procedure proposal. The Commission acknowledges the added value of these guidelines to the quality and accurateness of the procedure, which will have the positive advantages stated with the first aim namely reduced costs for member states and quicker access to rights for asylum seekers. Than the recommendation of ECRE that (j) states should not be able to deny a refugee status if they have not done some determination first, is copied into the Asylum Procedure as well when the Commission stated that a thorough assessment and individual interview are obligatory for member states. They explain this by stating that this will also increase the quality of the decision making while reducing the amount of reasons for second moves, repeated appeals and thus reduce costs. A demand for (o) better family reunification after the granting of the protection status of Red Cross Europe is partly

granted in the Dublin II Regulation proposal further on. They bring up the idea to trace family members of minors as soon as possible after minors were granted the status of protection. They sign this with the United Nations Convention on the Rights of the Child and the principle of the best interest of the child. The last idea of the interest groups that is duplicated in another policy area is the copy of the idea of Red Cross Europe to (r) return asylum seekers who received a negative decision in dignity and safety of the land of Europe into the Dublin II Regulation proposal. The Commission though does not explains why it wrote down these proposals.

Two demands are duplicated in an alternative way. The proposal of ECRE to (f1) let non-state actors not be defined as an actor of protection since they cannot be held accountable for their behavior via international and Community laws since they did not signed those, is not implied. ECRE did not refer to any of the three aims of the Commission in the Green Paper and then again the Commission did redefine the definition of actors of protection in such a way that non-state actors who provide protection should only be defined that way if they are willing and capable of providing effective and durable protection. So if they are not providing protection effectively and durably, it does not matter that they cannot be hold accountable for their behavior, since they will therefore not be defined as an actor of protection by the member states. And that will be in the interest of the asylum seeker as well during the determination of their application. The last recommendation that is partly duplicated by the Commission is of Amnesty Europe about the idea to create one definition of a family member to prevent different interpretations. The Commission does not give a definition of a family member but does extend it with the notion that when a minor is dependent on someone, whether this real family, far family or actually a good acquaintance, this will be seen as family. Since it is in the best interest of the child to be with someone on which he/she is dependent. This will enhance the standard of protection in line with the Geneva Convention. It will also simplify the determination process and therefore have less second moves and reduced costs as a result.

The Commission did not grant four demands. The demand to (l) give persons who did not receive a protection status but are due to circumstances not able to be removed, grant also fundamental rights is not duplicated. But this idea is explained by ECRE with a reference to the Geneva Convention, so it is surprising that the Commission did not copy this demand of ECRE since it

was their third aim to comply fully with the Geneva Convention. Maybe this can be linked to the statements of Germany and Malta that this issue is a concern outside the CEAS and complicated since this would change the definition of protection that will imply new discussions about this (xvi). Although member state Estonia did agree to provide rights for this group of people (xv). The idea of ECRE, UNHCR and Amnesty Europe to (m) create criteria for a lawful transfer are not duplicated also. It is not clear why this is the case. They did not refer to any of the three aims of the Commission stated in the Green Paper. And maybe member states did not want to commit to such criteria, which would cause them not to be able to object a supposed transfer with the including protection costs. A (p) higher standard of healthcare conditions for beneficiaries of protection that was supposed by Red Cross Europe is not granted. Red Cross Europe did not explain this recommendation with any of the three aims set by the Commission in the Green Paper. Perhaps therefore and the increasing costs for member states if they would imply this, is a reason that this idea is not duplicated. A1lso the demand that (q) beneficiaries of protection should receive the same rights as nationals is not granted. Red Cross Europe did not refer to any of the three aims of the Commission as well and perhaps the major increasing costs for the member states if they would implement this was a reason for the Commission to not copy this idea.

So with fourteen recommendations copied, two copied in an alternative way and four not this is a positive result for the interest groups. It seems again that the recommendations that are copied are so since they match with one or more of the aims set by the Commission in the Green Paper. Although there are a few exceptions.

Dublin II Regulation

The Dublin II Regulation assigns asylum seekers who arrive at the European Union too member states, to create a fair separation of asylum seekers in the European Union. Before the Green Paper this procedure was fairly random. A system that creates fair responsibility for the granting of protection is still necessary according to the Commission to avoid second moves of applicants. A reflection was needed according to the Commission, to distribute the responsibilities more evenly among the member states. The (1) capacities of member states to process asylum applications could be scrutinized. An extra burden-sharing mechanism could be to (2) resettle

beneficiaries of protection via intra-EU resettlement after they have received this status in a member state. Or for example (3) allowing beneficiaries of protection to move, under certain conditions to other member states (European Commission, 2007, p. 11).

Responses of pro-migrant interest groups

Red Cross Europe thought that the Dublin II Regulation is a lottery, because asylum seekers were randomly send to a country without considering their own choice. Since the asylum procedures were different in member states, this caused the Dublin II Regulation to have an unfair effect. UNHCR agreed with this and stated that the Dublin II Regulation was not good from a humanitarian and protection viewpoint. Amnesty Europe agreed with the idea of the Commission to (1) scrutinize the capacities of member states to process asylum applications. UNHCR proposed the (a) creation of Asylum Expert Teams that help member states with the determination of applications. Amnesty Europe also believed that the Dublin II Regulation should be adjusted into a system that (b) takes into account the difference in member states as regards their level of protection, reception conditions and procedural safeguards for asylum seekers. Only when the Dublin II Regulation takes these factors into account, it could distribute asylum seekers more fairly over the member states. Amnesty Europe and ECRE wanted that member states with (c) high numbers of asylum seekers receive appropriate financial and technical assistance, to provide better protection. Amnesty Europe stated that intra-EU resettlement could be a solution to share the responsibility, but only (d) with consent of the individual. Red Cross Europe and ECRE argued that beneficiaries of protection should be allowed to (e) move freely. Besides that Red Cross Europe pleaded that it is important to speak about the (f) principle of solidarity and fair sharing of responsibility instead of sharing of a burden, since this has a negative tone. UNHCR wanted that the responsibility would be shared. They also proposed that member states with too many asylum seekers in terms of percentage should (g) transfer asylum seekers too member states who are capable to manage more asylum seekers. The UNHCR proposed to create a (h) 'pool' of places where reallocation can occur. ECRE stated that they demanded (i) a more uniform application procedure for humanitarian clauses to achieve better family reunification standards. ECRE wanted (j) more uniform standards application for humanitarian clauses to achieve better family reunification. ECRE also wanted that (k) an appeal on a decision about a transfer would

automatically lead to a suspensory effect. ECRE wanted to (l) avoid disproportionate use of detention. ECRE also stated that (m) the principle of effective access to be respected. And ECRE promoted (n) an extended definition of a family member. ECRE states that (o) family reunification should be possible at any moment during the asylum procedure.

Responses of member states

Denmark and UK accentuated that harmonization of the Dublin II Regulation is a good thing, since it will reduce second moves and asylum shopping (i). Malta and Greece, being the countries at the borders of Europe, accentuated that the Dublin II Regulation should better distribute the uneven pressure on member states (ii). The UK stated that the responsibility for protection should be provided by the first safe country in which an asylum seeker arrives (iii). Estonia did not agree with the idea to apply intra-EU resettlement (iv). Malta on the other hand created the idea to combine the need for labor in some countries with the uneven pressure of asylum seekers in other states; so that member states that need people for labor voluntary take some asylum seekers from other countries (v). Germany stated that there should be a more uniform application procedure for causation and exclusive clauses (vi). Greece wanted to increase the access to the asylum procedure by providing legal aid during the process (vii). Malta as only country stated that vulnerable people should not be detained (viii). Germany, Malta, the UK, Denmark and Greece all stated that the European Refugee Fund should be divided across member states according to the weight they are carrying. Countries with a lot of asylum seekers, should therefore receive more financial support (ix). The UK and Denmark both pleaded for an Asylum Expert Team that helps member states to determine (x). Germany, Malta and the UK responded to the idea of the Commission to transfer asylum seekers to other member states if there are too many and a member state is not able to handle the amount. Germany stated that an in-depth discussion in all EU bodies is needed, before decisions about this can be made (xi). The UK wanted financial support and assistance to these countries but no transfers (xii). They said that physical transfers would undermine the Dublin principles and therefore provide pull factors for those not in need of protection which would increase pressure on the European Union. Malta also wanted assistance during the determination process in such a situation (xiii). Germany as well stated that Dublin I was already a fair and sufficient policy, so therefore there was no need to change this policy area.

Copied recommendations in the Dublin II Proposal

The aims of the Commission for this part of the CEAS policy recast were to increase the degree of harmonization of the procedure and therefore enhance the efficiency. Besides they wanted to create a higher standard of protection via improving existing procedural safeguards and adding new procedural safeguards to diminish loopholes in the Dublin regulation. The last goal was to better address the unevenness as regards the uneven pressure on member states for their reception conditions. This last goal is in compliance with the demand of Malta and Greece (ii).

Eight recommendations are copied into the policy proposal. The statement of ECRE to (j) define a more uniform application procedure for humanitarian clauses was based on the argument that this would achieve a better family reunification and thus a higher standard of protection that was one of the aims of the Commission. The Commission though explained this proposal with a reference to an increasing efficiency of the system that automatically will reduce costs. The demand of ECRE to (k) have a suspensory effect when someone appeals against a decision about transfer should be honored according to the Commission. This will increase the standard of protection in the Dublin II Regulation that is a goal set in the Green Paper. The demand of ECRE to (l) avoid disproportionate use of detention is also the wish of the Commission when they argue that detention should not be random or based on the argument that someone is an asylum seeker and only occur in limited conditions. This will only implement the aim to increase the standard of protection of the system via procedural safeguards. To respect the principle of effective access to asylum procedure is also mentioned in this part of the CEAS. ECRE (m) wanted it to be respected. Effective access to the asylum procedure is earlier mentioned as a positive contribution to the standard of protection that is an aim of the Commission. The wish of ECRE to (n) extend the definition of a family member, is partly executed in the definition that family members who are dependent on each other, whether they are nuclear family or not, should be reunited in the best interest of the minor. This is an implementation of the principle of the best interest of the child en therefore will increase the standard of protection. The message of Amnesty Europe to (b) take into account the divergence of the standards of protection in the different member states is in accordance with the intention of the Commission in the Green Paper to scrutinize the capacities

of the member states and is transformed into the proposal to create the possibility to block transfers when standard of protection in the reception conditions or total asylum procedure in a member state are too low. Freedom of movement had already been proposed as an option in the Green Paper by the Commission. Red Cross Europe and ECRE supported this idea (e) and the Commission continued her idea into the policy proposal. To divide the Refugee Fund gradually over the member states according to the burden member states carry according to the amount of asylum seekers they host in their country is copied into the policy proposal. This was a demand of ECRE and Amnesty Europe to enhance the protection standard of the procedure. The Commission agrees with Amnesty Europe and ECRE that (c) the European Refugee Fund should be fairly divided between member states on the basis of the amount of asylum seekers they manage. The interest groups provide this with an argument that it will increase the standard of protection that is also an aim of the Commission for the Dublin II Regulation. As well Germany, the UK, Denmark, Greece and Malta agreed with a fair division of the European Fund (ix).

Twelve recommendations of the pro-migrant interest groups that were made as a reaction to questions about other policy areas of the CEAS, were granted into the policy proposal of the Dublin II Regulation. The idea of Amnesty Europe and ECRE in the Asylum Procedure to (p) obligate a personal interview was copied into the asylum procedure and the Dublin regulation. They substantiated this in line with the United Nations Convention on Torture, the ECHR and the UNHCR guidelines that will accumulate the standard of protection of the procedure what was a goal of the Commission according to the Green Paper. The Commission added to this that it will also prevent abuse and develop the efficiency and quality of the application procedure which is an intention described in the Green Paper also. The right to appeal against a transfer decision is in line with the wish of ECRE in the Asylum Procedure (c) since this is in line with the European Court of Justice, the ECHR and the principle of equality of arms. And also has something in common with the idea of ECRE that (i1) asylum seekers should have the right to appeal a decision on detention in the Reception Conditions Directive. The Commission as well substantiates this argument with a reference to the strengthening effect on the right of asylum seekers to defend themselves and the procedural safeguards which will boosts up the standard of protection and is thus in line with an aim of the Green Paper. The idea to provide free legal assistance and representation to asylum seekers while they appeal a decision on transfer is copied

from ECRE in the Reception Conditions (k1) and ECRE and Red Cross Europe in the Asylum Procedure (g) which they underlined with the European Court of Justice and the right to effective judicial protection, the right to defense, the principle of equality of arms, the increasing efficiency and quality of the system, decreasing repeated appeals and the risk of asylum seekers going illegal while not contributing to the member state in the form of taxes for example. The Commission substantiates this with a reference to increase the effective right to remedy, which will strengthen asylum seekers to defend their rights and accumulate legal safeguards, which will add to the improvement of the standard of protection. This idea is also in line with the demand of Greece to provide legal aid to asylum seekers during the asylum process (vii). The Commission copied the idea to create a judicial monitoring and evaluation mechanism for detention in accordance with the demand of ECRE j1 and m1) in the Reception Condition part for this. The Commission and ECRE both do not explain why they plea for this idea. To detain someone should only be decided by a judicial body according to ECRE (h1) in the Reception Condition part to increase the procedural safeguards of the system and increase the standard of protection, which is in line with one of the goals of the Green Paper. The Commission copied this idea as well to enhance the procedural safeguards. The idea of the Commission to detain minors only if it is in their best interest, is again an idea in line with a recommendation of the interest groups since Terre des Hommes states also in a reaction on the Reception Conditions part that (d1) children should only be detained if it is in their best interest. The Commission proposes to never detain unaccompanied minors, what is corresponding with the statement of Terre des Hommes in the Reception Conditions part to (c1) never detain unaccompanied minors since this is inconsistent with the United Nations Convention on the Rights of the Child. The Commission also refers towards this Convention, which will increase as well their enhancing standard of protection aim of the Green Paper. It is also partly in line with the demand of Malta to never detain vulnerable people (viii). Voluntary transfers should be promoted according to the Commission. Although when forced transfers should occur, this should be in a humane manner. This is in line with the recommendation of Red Cross Europe in the section about the Qualification Directive, which stated (r) that return should be in dignity. This will increase the standard of protection goal of the Green Paper. The statement of Red Cross Europe in the Qualification part that (r) return should always be in safety is translated into the proposal of the Commission to always make safety and security an important aim during the procedure. This will accumulate the standard of protection.

Family members of minors should be traced as soon as possible when the Dublin procedure has started. This can be seen in line with the demand of Red Cross Europe in the Qualification Directive section that (o) there should be better family reunification standards after individuals are granted the protection status. This will enhance the standard of protection and will implement the principle of the best interest of the child according to the Commission. The recommendation of Red Cross Europe in the Reception Condition to (a) create good mechanisms and safeguards for vulnerable people is copied into the Dublin II Regulation proposal. Since this will enhance the quality of the process and therefore reduce the costs and will increase the standard of protection which are all aims of the Commission in the Green Paper.

The idea that member states should be able to transfer asylum seekers to other member states when they have too many asylum seekers to process of UNHCR (g) is perhaps translated into a policy proposal. The Commission did state that transfers could be blocked if the receiving member states did not have a high enough standard of protection. So one could argument that a member state with too many asylum seekers will not be able to provide a high enough standard of protection due to the amount of asylum seekers and therefore should be able to transfer asylum seekers to other member states. This will increase the standard of protection of the system and also add to the quality of the procedure.

Five recommendations though are not copied into the policy proposal. The idea to (a) create an Asylum Expert Team to enhance the determination procedure of ECRE and UNHCR are not copied. This idea would increase the efficiency in line with Green Paper goals. The demand of Amnesty Europe to (d) only transfer asylum seekers via intra-EU resettlement with the consent of the individual is not copied also. This would accumulate the standard of protection that is an aim of the Commission but did not make it into the proposal. The idea of UNHCR for the creation of a ‘pool of places’ to reallocate asylum seekers during transfer decisions (h), is not proposed by the Commission. They did not substantiate this idea with any argument. Family reunification should be able, according to ECRE (o) to take place at any moment during the asylum procedure. This idea did not make it into the proposal and was not based on any argument. ECRE as last wanted that separated minors should not be transferred, only if it was in their best interest. They substantiated this with the principle of the best interest of the child and the enhancement of the

standard of protection. This idea is not duplicated though by the Commission which is interesting since it is in line with their own goals stated in the Green Paper.

Conclusions

The first research question was: *What are the arguments that the pro-migration interest groups use to influence the immigration policy of the European Union?* I expected that pro-migration interest groups would mainly make arguments that substantiated the social and economic benefits of human rights recommendations. I also expected that they would pick human rights-based arguments as their broadly social shared value. The last expectation was that they would make arguments about the fact that the European Union should comply with international and Community laws and therefore implement human rights recommendations. In the Result section above, enough evidence is found for almost all these expectations. 48 of the 52 recommendations of the interest groups that got completely duplicated into the policy proposal were substantiated with a normative argument like the enhancement of the standard of protection or the compliance with an international or Community law. These account for 92,31 % of the copied recommendations. One copied recommendation was based on a normative argument by the interest groups but the Commission only referred to a cost argument to defend this policy proposal and left the normative argument out of the proposal. The three other recommendations were copied although they were not substantiated with any argument at all. From the seven partly duplicated recommendations of the interest groups, all of them were normative-based arguments. The only expectation that did not match with the results was that pro-migration interest groups would make arguments that accentuate the economic benefits of human rights recommendations. To be precisely, only two recommendations of the interest groups were based on a normative- and cost-based argument.

The second research question was: *And what explains the success of some messages as opposed to others?* I expected that the answer to this question would be that: *'Recommendations that pro-migration interest groups make based on negative economic costs arguments have more influence on the immigration policy of the European Union than recommendations that pro-migration interest groups make based on normative-based arguments.'* First though the question whether pro-migration interest group arguments even were copied into the immigration policy was scrutinized. From the 98 recommendations that were made by the pro-migrant interest groups 59 were copied into some extent into the policy proposals of the Commission. This is

60,20 % of the total of recommendations. 52 of these were completely copied, having a high degree of influence as to seven that were partly duplicated, having a lower degree of influence. The other 39 recommendations, approximately 39,80 % were not copied. From the 60 recommendations made by the six member states, 30 of them were copied. Which accounts for 50 %. Eleven of them were similar to recommendations of the interest groups. Only nine of them were copied completely into the policy proposal. So ten of the 59 researched copied recommendations of the interest groups were also demands of one, two or three member states. Which is 16,95 %, which means that 83,05 % of the copied recommendations of the interest groups were demands which originated only from the interest groups. Which means that 49 of the 88 recommendations solely made by interest groups, 55,68 %, had some extent of influence on the immigration policy proposals of the Commission. From these results the conclusions could be drawn that pro-migration interest groups seem to influence to a certain extent the content of the policy proposals. The member states recommendations seem to have approximately the same percentage of influence, from a quantitative point of view.

Pro-migration interest group arguments did get copied into the policy proposals. Therefore it should be able to scrutinize why some arguments got duplicated into the policy proposal and others did not. Unfortunately the hypothesis cannot be tested with the current data. Since there are no recommendations of interest groups found that are solely based on a cost-argument, an analysis between the influence of the two different arguments cannot be made. Perhaps this can be resolved if the member states make cost arguments and therefore the influence of member states cost arguments can be compared with the influence of normative arguments of the interest groups. Seventeen from the 60 recommendations of the member states were cost arguments. This is 28,33 %, which is truly a higher percentage than the zero cost arguments made by the interest groups. It is still not a high enough percentage though, to draw a proper generalizing conclusion about the influence of these two groups off arguments.

With the existing data some other things can be tested. There could be a possibility that the Commission copied the 59 arguments of the interest groups because they are normative-based. If we look at the 39 recommendations of the interest groups that did not get copied though, we have to conclude that 34 of them are also based on normative-based arguments. They also copied cost

arguments of the member states. This means that a recommendation that is based on a normative argument does not always result in a copy in the policy proposal. But are there other possible explanations that can explain why certain arguments got copied as opposed to others?

Compromise between recommendations

With the existing data it is possible though to draw some other conclusions about the influence of interest groups and member states recommendations and their arguments. In this research there are found for example sixteen issues on which the opinions of the member states and interest group differed. The Commission has put all fifteen issues in the policy proposal. Eight of them substantiated with the interest groups recommendation and seven of them with the member states recommendation. Here an equal influence seems to be present. There is a possibility that the reason for not duplicating the other 31 interest group recommendations and the 23 member state recommendations can be found in contradictive recommendations of member states and interest groups that have not been explored in this research.

It is also interesting to see that from the 48 completely copied normative-based interest groups recommendations, the Commission added to fifteen of these an argument about costs. Member states made cost arguments about thirteen of these fifteen recommendations. It is highly likely that because of these member state cost arguments, the Commission added the cost arguments. The Commission added to three of the seven partly duplicated interest group recommendations also a cost argument and transformed one human rights-based argument in a solely cost-based argument. Here as well the added cost arguments are copied member states arguments. The Commission seems to compose a symphony here of different arguments of the stakeholders.

Green Paper as agenda setting tool

Some other interesting conclusions could also be drawn. Looking at the results there seems to be evidence to defend that interest groups' recommendations that are based on an aim pronounced by the Commission in the Green Paper have a bigger chance of being copied into the policy proposal of the Commission. From the 59 copied recommendations, 52 of them were copied

completely and seven were adjusted a bit into the policy proposal. Of the 52 recommendations, 33 of them were substantiated with the argument that this would result into one of the aims pronounced by the Commission in the Green Paper. This is 63,46 % of the total copied recommendations. Sixteen other copied recommendations, were substantiated with the argument that this would result into two or more of the aims pronounced by the Commission in the Green Paper. This is another 30,77 %. So in total 94,23 % of the interest group arguments that got duplicated were in line with the aims of the Commission described in the Green Paper. Only three copied recommendations were not substantiated with any of the aims stated by the Commission in the Green Paper. This is the last 5,77 % of the copied recommendations.

From the seven partly duplicated recommendations one of them was in line with one aim of the Green Paper. Which is 14,28 % of the partly duplicated recommendations. Five of them were partly copied since they were substantiayted with more than one aim of the Green Paper. They account for 85,71 % of these arguments. So 85,71 % of the partly copied arguments were, in line with one or more of the aims of the Green Paper. The recommendation of ECRE to let border guards only be hatches was transformed into a proposal that was more in line with the Green Paper targets. By training border guards and still let them determine whether asylum seekers could pass the border would improve the standard of protection which was in line with the demand of ECRE and the Green Paper and would as well reduce reception and administrative costs in the member states which was in line with the Green Paper. This again can be counted for 14,28 % of the seven partly duplicated recommendations. Therefore all partly duplicated recommendations were in line with aims of the Green Paper.

If it is true that mainly arguments which are in line with the aims of the Green Paper got copied into the policy proposal, than the 39 recommendations which have not been copied should be supported with arguments that are not in line with the aims of the Green Paper. From the 39 not duplicated recommendations, 29 were not in line with the aims of the Green Paper which counts for 74,36 % of the arguments. Besides this, at least 26 of these 29 recommendations would also increase costs for the member states, which is not in line with the interest of the member states and the repeatedly formulated goal of the Commission stated in the Green Paper to reduce costs. The ten other recommendations though, 25,64 % were in line with one of the aims of the Green

Paper which is in contradiction with the rational that only recommendations which are in line with the goal of the Green Paper will be duplicated. Notwithstanding that the recommendation to implement Asylum Expert Teams of Amnesty Europe cannot be found in the four policy proposals, these teams are nowadays created in the form of Asylum Support Teams. So actually this recommendation is implemented in a policy proposal of the Commission in another area or directive of the CEAS. Maybe this is also the case with the other nine recommendations since we have seen that 24 recommendations that were firstly answers to questions about a certain directive were later on copied into other directives than the first directives. Other explanations for this deviating result, besides the explanation that the argument is not correct, can now only be based on speculations. Five of these recommendations are about improving the reception conditions of asylum seekers in order to provide good food, cloths, social assistance, kitchen provisions and an area to exercise their religion. Although this will increase the standards of treatment and is in line with the Geneva Convention according to Red Cross Europe, UNHCR, Amnesty Europe and ECRE, the Commission might think that these are not the most important and crucial provisions that should be improved.

Seeing this result, the question rises whether the interest groups really had some influence or whether their arguments were only represent in the proposals since they had coincidentally the same aims and values as the Commission. It seems like the Green Paper is an agenda-setting power and that approximately half of the recommendations of the interest groups fitted very well in this agenda and were copied for that reason. Therefore the conclusion can be drawn that the influence of pro-migrant interest groups, via the duplication of their recommendations, is not drastically changing the content of the policy proposals since the Commission probably had the content of the proposals already in mind writing the Green Paper.

Discussion

In almost every research some comments can be made about the research methods and results. There are several to mention about this research as well. First to discover whether the similarity of the recommendations of the interest groups and the recommendations of the Commission in the policy proposals are only a coincidence or that there is really a correlation or causal story between the two, more research is needed. One way to answer that question is to interview Commission members about their motives to copy some arguments as opposed to others. This would give a clear answer to the second research question. The second is that because interest groups also very often lobby during or before the creation of a Green Paper further research is needed to clarify the influence of interest groups during this period in the process. It is possible that via formal and informal meetings with the Commission before the release of the Green Paper, the interest groups already influenced the Commission on the content of the Green Paper and therefore co-created the partly human rights-based agenda of the Green Paper. This could explain the strong human rights-based aims of the Commission and the similarities between the recommendations of the interest groups and of the Commission's proposal.

The third limitation is that there were only six interest groups scrutinized. Therefore the conclusions of this research will not give a complete picture of the influence of pro-migration arguments on the European Union immigration policy. The fourth limitation is the fact that only six member states were scrutinized in this thesis. Therefore also not a complete overview on the influence of member states arguments and the way they affect the influence of interest group arguments could be drawn. The fifth limitation is that many other factors that affect the influence of interest groups, as we have seen in the literature review, were not examined. It is possible that totally other variables are the reason that certain recommendations got copied as opposed to others. The sixth limitation is therefore that only the influence is measured via the copied or not copied recommendations from the strategy papers. As we have seen interest groups also try to lobby via informal and formal meetings. The Commission even set up a meeting with the interest groups and UNHCR about the improvement of the CEAS. It is possible that the content of the discussions in these meetings, influenced why the Commission copied certain recommendations as opposed to others. The seventh limitation is the focus on only two sorts of arguments instead

of all arguments. Although it should be mentioned that there almost were no other sorts of arguments. The eight limitation is that the research was only about the four Directives of the CEAS. It did not research other consultations or other immigration policies of the European Union like the Global Approach to Migration and Mobility for example. The ninth limitation is the fact that there is no distinction made between the influence of different pro-migration interest groups. This can maybe cause a bias in the analysis. The influence of different groups can be measured by asking decision-makers of the Commission about this. The tenth limitation is the fact that the six interest groups are all on the top of most influential interest groups. This will have a bias in the results as an effect.

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