The Europeanization of Asylum Policy: An assessment of the EU impact on asylum applications and recognitions rates

Dimiter Toshkov and Laura de Haan,
Institute of Public Administration, Leiden University

Version 1 August 2012,
forthcoming in *Journal of European Public Policy*

Abstract

Asylum policy in the European nation-states has been a subject of increasing influence form the European Union (EU) over the last 12 years since the call for the establishment of a Common European Asylum System. This article presents an assessment of the EU impact on the asylum policy outcomes in the 27 member states, Norway and Switzerland. The article focuses on three central hypotheses about the effects of Europeanization - a race to the bottom, convergence, and burden sharing. Using aggregate and origin-specific asylum data for the period 1999-2010 provided by the UNHCR, we show that the increasing Europeanization of asylum policy has not resulted in a race to the bottom in which asylum recognition rates and the numbers of admitted refugees have eroded. Contrary to existing literature, we find some evidence for convergence of the overall asylum recognition rates but important national differences in the recognition of applicants from the same country of origin persist. Europeanization has not led to more equal distribution of the applications and recognitions of asylum status in Europe. Overall, the EU has had only a limited impact on the changes in asylum policy outcomes.

Introduction

More than a decade has passed since the call of the leaders of the European Union (EU) member states for a Common European Asylum System in Tampere (1999). In the years following that meeting of the European Council, the objective of developing a common policy on asylum got enshrined in the Treaty on the Functioning of the European Union (article 78[1])[1]. However, practical progress towards the establishment of a truly European asylum policy has been uneven and national capitals still retain much discretion. It is the purpose of this article to investigate the impact of the common European asylum policy, to the extent that it exists, on the major outcome indicators of asylum policy – the number of applications received, the number of positive decisions made by individual member states, and the recognition rates.

Several theoretical concerns have been advanced regarding the impact of the EU on national asylum policies. The most alarming hypothesis posits that the process of Europeanization[2] will lead to a race to the bottom in which the member states compete to discourage asylum seekers flocking at *their* door by tightening admission standards and lowering recognition rates (Czaika 2009; des Places and Deffains 2004; Monheim-Helstroffer and Obidzinski 2010). A second question asks whether the institutionalization of a common EU policy has led to any convergence in the policy outcomes (Neumayer 2005; Vink and Meijerink 2003). Huge discrepancies in the concentration of applications and the recognition rates for asylum-seekers from the same country of origin in different European destination states have been a salient feature of asylum-seeking in Europe. It is important to investigate whether these differences diminish with the building of a common European asylum space. A third, and related, question refers to the problem of burden sharing. One of the motivations for the development of a common EU asylum policy has been the reduction of the inequality of the asylum 'burden' and we should inquire whether the EU has had any impact on the distribution of the asylum applications and recognized refuges across Europe (Thielemann and Dewan 2006; Thielemann *et al.* 2010).

[1] According to the Lisbon Treaty, the common asylum policy is subject to the ordinary legislative procedure Chalmers, D., Davies, G. and Monti, G. (2010) *European Union law. Second edition.*, Cambridge: Cambridge University Press.. The treaty was signed in 2007 and entered into force on 1 December 2009.

[2] We follow Hix and Goetz in defining Europeanization as "'a process of change in national institutional and policy practices that can be attributed to European integration" Hix, S. and Goetz, K. H. (2000) 'Introduction: European integration and national political systems', *West European Politics* 23(4): 1-27..

Using origin-specific data on asylum applications and decisions provided by the UNHCR for the period 2000-2010, we find no evidence for a race to the bottom in applications, decision made, and refugee status grants. Contrary to existing literature (cf. Neumayer 2005), we find a degree of convergence in recognition rates (both full status and complementary protection), but national variation persists - asylum seekers from most countries of origin face substantially different chances of recognition depending on the destination country they apply to. In line with published research (Thielemann *et al.* 2010), we confirm that the distribution of the asylum burden has not become more equal with respect to the GDP levels of the destination countries. Altogether, the data suggests a picture of rather limited and complex influence of the Common European Asylum System for the first decade of its existence.

The remainder of the article is structured in the following way. First, we briefly review the existing scholarship on the Europeanization of asylum policies. Then, we present our empirical findings with regard to the overall direction of the policy outcomes, the race to the bottom, convergence, and burden-sharing. The final section collects our conclusions and draws the broader implications of our study.

The institutionalization of a common European asylum policy

The EU competences in the area of asylum policy have emerged step by step over the past decades. The story of the development of a common European policy in the area has been told in detail elsewhere (Boswell and Geddes 2011; Guild 2006; Lavenex 2001a; b; Niemann 2008; Teitgen-Colly 2006), so for the purposes of this article we would only recall the major milestones. With the adoption of the 1990 Dublin convention, asylum seekers were required to lodge their application only in the first EU member state entered, and this state was required to deal with the application (Hatton and Williamson 2004; Vink and Meijerink 2003). At the 1999 European Council in Tampere, a Common European Asylum System was envisaged and its major aims and principles were outlined. In response, several major legal acts setting minimum standards for asylum protection were adopted in the following years. A set of rules to determine which member state is responsible for assessing an application for asylum were introduced with the Dublin II Regulation (2003). The Reception Conditions Directive (2003) imposed minimum standards, such as housing, health care and education, for the reception of asylum seekers. Furthermore, the criteria for the qualification of asylum seekers for refugee or subsidiary protection were specified with

the Qualification Directive in 2004. Importantly, the directive regulated that asylum seekers who do not qualify for refugee protection under the 1951 Refugee convention but are in need of international protection due to generalized violence or civil war, can qualify for subsidiary protection. Refugees under both definitions generally have the same rights, though subsidiary protection often has a more temporary character (Neumayer 2005). Finally, the Asylum Procedures Directive (2005) attempted to ensure that throughout the EU all member states pursue procedures with the same minimum standards, including for instance access to legal aid.

In addition to the legislative measures, the EU asylum policy targeted technical co-operation between the participating states. A community-wide information technology system for the comparison of fingerprints of asylum systems was adopted in 2000 (and started operations in January 2003). This system, commonly known as *Eurodac*, allows member states to see whether an asylum seeker has already applied for asylum in another member state.

As part of efforts to create a common asylum system, attempts were made to address the physical and financial burden-sharing among member states. The European Refugee Fund is the major institution set up to promote financial solidarity. For the period 2008-2013 this fund has 628 million euro at its disposal, distributed among member states on the basis of the number of asylum seekers and persons benefiting from international protection. Physical burden-sharing, hence efforts to redistribute asylum seekers from one host country to another, however, remain controversial and member states have only agreed upon some non-binding principles to guide states in the event of a mass influx (Thielemann and Dewan 2006).

Altogether, the legal foundation for a common asylum policy has been put in place over the last decade. Parallel with the policy development, academics were evaluating the process and were theorizing about the possible effects of the EU-wide asylum regime. The next part of the article reviews the most saline theoretical arguments put forward about the possible effects of the EU on asylum policies on the continent.

What do we know: the effects of the EU on asylum policy patterns

The Europeanization effects on national asylum policies have been theorized before. The idea that Europeanization will lead to a race to the bottom has a prominent place in this literature (Czaika 2009; des Places and Deffains 2004; Monheim-Helstroffer and Obidzinski 2010). Asylum policy in the Union can be conceptualized as a collective

action problem - although all states might prefer high standards of refugee protection, individually they will try to shirk responsibility and free-ride on the efforts of others. In addition, member states which provide more favorable treatment and easier access for potential refugees will fear to attract a disproportionate number of asylum seekers since access to one member stats allows for travel within the Union. The strategic implications of European co-operation are expected to produce a dynamic that will lead to a rapid and steep decline in the protection standards. The individual member states will unravel their domestic systems of protection, tighten up admissions requirements and ultimately depress recognition rates and the number of people they offer protection to in order to avoid becoming a favored destination by asylum seekers shopping for an easy-access entry point.

An alternative interpretation of the idea looks at the development of EU-wide policy as a response precisely to the fear of free riding. By setting common, if minimal, standards for the handling and protection of asylum seekers and refuges, the EU might put the brakes on a spiral of increasingly tough national policies. However, the EU rules might provide (a rather low in terms of standards) focal point to which the member states converge. Since the regulations of the EU in asylum policy are based on what appears to be a lowest possible denominator, a convergence to the EU standard will practically mean a *downgrade* of the policies for many of the states. In addition, while binding EU rules can address free-riding in terms of *policies*, they do not necessarily solve the problem of free-riding in terms of policy *outcomes* because the interpretation of a policy leaves much room for discretion in assessing individual refugee applications.

The logic of the race to the bottom is compelling but so far little empirical research has been done to evaluate the hypothesis. Des Places and Deffains (2004) claim that regulatory competition has resulted in a “spiral of restriction in refugee protection” (p.351) but bring very little systematic empirical evidence to substantiate this assertion. Hatton (2009) develops an index of the toughness of asylum policies and argues convincingly that compared to the reference period 1997-2002 most countries in the EU have tightened-up their asylum *policies* in the period 2002-06. The trend is not uniform, however. While many states - notably the UK, the Netherlands, and Denmark - have changed their policies towards stricter regimes and tougher admission standards, others (Sweden and Poland) have made their policies less tough, and hardly any change is observed in Austria, Germany, and Italy. Furthermore, the trend of stricter asylum regulations is not confined to the European continent: during the same time period

Australia, Canada and the United States have also tightened up their regimes, so the development might not be related to an internally-European dynamic. Finally, while Hatton (2009) focuses on the transformations of *policies*, we are going to focus our analysis on the changes in policy *outcomes.*

The second major hypothesis that will be investigated in this article is a hallmark idea of Europeanization studies – whether the increasing involvement of the EU will lead to convergence of national policies and policy outcomes (Caminada *et al.* 2010; Dimitrova and Steunenberg 2000). The convergence idea is conditioned on a policy dynamic that leads to the individual member states adopting more similar, although not necessarily stricter, policies as a response to Europeanization. Convergence can avoid the problem of free-riding if the level-playing field is established at a different level than the lowest one. In fact, if all member states have committed to the same level of protection and ease of access, some of the incentives to unilaterally tighten a national policy diminish – while the fundamental temptation to free-ride is still there, change as a retaliatory response and adjustment is not. Therefore, it is an important question to investigate whether the institutionalization of an EU-wide asylum regime leads to convergence in policy outcomes or not. Neumayer (2005) argues strongly for a lack of convergence in his work which covers the period 1980-1999. This lack of convergence holds in terms of full status recognition rates and the more inclusive category which takes into account people allowed to remain for mostly humanitarian reasons. He also presents evidence for a minor converging trend in the *number of applications* to different EU states for the 1990s (Neumayer 2004). Vink and Meijerink (2003) find a weakly decreasing trend in the dispersion of the number of applications (p.305) for the period 1982-2001. However, they use the standard deviation as a measure of dispersion instead of the methodologically more appropriate coefficient of variation employed by Neumayer (2004) which includes the average in the calculation of dispersion. Vink and Meijerink also attempt to evaluate convergence in recognition rates, but unlike Neumayer (2005) they define recognition rates as the share of positive decisions from the total number of *applications* rather than from the total number of *decisions*. The conclusion reached is that there is evidence for a converging asylum burden.

The problems of the distribution of the asylum policy costs and 'fair' burden sharing are already implicit in the discussion of the hypothesized race to the bottom and convergence. From a member state's perspective, a preference to shift the relative burden of examining asylum seekers claims and hosting refugees to other members of

the club exists along other humanitarian and economic considerations. Suspicion that your country is doing more than its fare share in the face of lacking solidarity between the European nations can undermine the entire European policy. If member states see the EU policy as a contributing factor to persisting inequality of the asylum burden, they would demand a reform or abandon common action in this policy area. There is no single definition of what would constitute 'fair' burden sharing but scholars have adopted several different perspectives. Vink and Meijerink (2003) claim that their empirical results show a 'very implicit process of burden-sharing in the European Union' (p.313) but they do not use origin-specific asylum data which prevents them from the possibility to control for the changing *composition* of the applications that countries receive over time. Neumeyer (2004) identifies a number of variables that makes certain countries more attractive than others and reaches the conclusion that burden-sharing can be viewed either as a financial or a physical relocation issue.

The EU has institutionalized a mechanism for correcting the inequality in the burden. European legislation provides for cross-border transfers in certain cases which can also alleviate the inequality problem. In practice, however, the cross-border transfers[3] account for a small amount of the applications and do not seem to be able to influence the overall distribution of the asylum burden in a substantial way.

Burden sharing is also high on the political agenda. The European Commission devoted a big part of the Green Paper on the Future of the European Asylum on the problem of burden sharing (European Commission 2007). The European Parliament commissioned a report published in 2010 on the question of asylum burden sharing as well. But there are differences into how policy makers and scholars attempt to measure burden sharing. The discrepancies relate both to the input information, and to the method of calculation. Investigating the period 1985-2000, Thielemann (2004) defines relative asylum burden as the number of asylum applications per thousand of population of the recipient country and concludes that the EU asylum policy has done has 'done little to address the issue of unequal distribution of asylum burdens among Western European states' (p.48). He also argues that that "some smaller countries such as Switzerland, Sweden, Denmark and Austria have been much more affected by asylum claims than Europe's big countries" (p.49). Similarly, Thielemann and Dewan (2006) claim on the

[3] Cross-border transfers have been criticized from a theoretical point of view by Facchini and Willman Facchini, G., Lorz, O. and Willmann, G. (2006) 'Asylum seekers in Europe: The warm glow of a hot potato', *Journal of Population Economics* 19(2): 411-30..

basis of analyzing UNHCR data on 15 OECD countries for the period 1994-2002 that the reactive asylum burdens are disproportionately borne by smaller states.

Czaika (2005) introduced a 'refugee burden index' which includes many economic, socio-demographic, and politico-institutional variables (for example freedom, political stability and ethno-linguistic-religious fractionalization) in the calculation of the global index. In the report to the European Parliament, Thielemann et al. (2010) propose three indexes that adjust for three factors - GDP per capita, population and population density - mixed in different proportions. The indexes are normalized between 0 and 1 and in order to arrive at a final statement about the burden, the 'capacities' of countries are taken into account. The authors also propose that we look beyond the reception of asylum seekers and take into account its involvement in, for example, peace-building missions in order to properly asses a country's contribution to the European asylum burden.

As we would argue later in the article, a larger number of factors included in the adjustment of the raw numbers does not necessarily lead to a better evaluation of the burden, because the inclusion of each criteria is a decision based on (more or less explicit) normative considerations. Furthermore, by forcing the indexes to vary between 0 and 1 we lose comparability over time. We propose a different measure of asylum burden which adjusts only for levels of GDP and that allows for comparisons *between* countries but also over *time*, in addition to providing a clear benchmark of what a 'fair' share of the burden would be. Before we go into a detailed discussion of the measurement and findings about burden sharing, however, we will present the general trends of the asylum flows in the EU.

Europeanization of asylum policy

General trends

We start the empirical explorations with an outline of the major trends in asylum applications and recognition over the last decade. The four panels of Figure 1 present the total number of applications, the decisions made, the full refugee status grants and the complementary protection offered in the 27 member stats of the EU, Switzerland and Norway[4]. The data is based on the UNHCR annual statistical reports[5].

[4] Agreements between the EU and Switzerland about the Swiss application of the Schengen acquis and the criteria and mechanisms for establishing the state responsible for examining a request for asylum have

[Figure 1 here]

Looking first at the top panel of Figure 1, between 1997 and 2010 the total number of asylum applications to the EU has varied from a high of more than 480 000 people in 1999 to a low of 257 000 people in 2005. There is no clear trend, however. After the peak years 1999-2002 the numbers have plummeted till 2005 but more recently they have bounced back again and the number of applications in 2010 has risen to 372 000.

Focusing on the number of decisions that national authorities have taken during this period (second panel from the top), we can immediately note that the number of decisions follows the ebbs and flows of the variation in the number of applications. The peak in the number of decisions made is reached in 2001 when more than 495 000 decisions were enacted, but since 2005 the number fluctuates between 280 000 and 370 000 decisions. In fact, in 2009 the number of decisions made is slightly higher than the number of applications lodged in that particular year. The synchronous movement of applications and decisions is a bit startling given the expectation that applications take a long time to be evaluated which would result in a lag in the number of decision vis-à-vis the current number of applications. Examining the cross-correlation function of the two time series (not shown) indicates that the correlation is maximized for applications at year *t* and decisions at year *t+1* (the correlation is 0.90), meaning that the 'response' of decisions to applications is rather quick.

The third panel of Figure 1 shows the number of asylum seekers offered any type of protection in the EU states. This includes genuine refugee recognition according to the standards of the Geneva Convention but also people allowed to stay on humanitarian grounds. In 2004 only approximately 44 000 people received positive decisions in the 29 states that we study. Interestingly, the number more than doubled in 2007 when more than 93 000 people were admitted. The all-time peak is in 2001, when 108 104 applicants received some kind of protection. More importantly, there does not seem to

---

been signed in 2004 and entered into force in 2008. A similar agreement with Norway is in place since 2001.

[5] More specifically, non-origin specific asylum data for the entire period of the study and origin-specific data after 2007 is taken from the respective editions of the UNHCR Statistical Yearbook. Origin-specific asylum data for the years prior to 2006 was provided by the UNHCR' Division of Programme Support and Management upon request. All numbers that follow are based on first instance decisions only (where possible to separate them from decision on appeals).

be a trend in the data with the average for the most recent years (2006-2010) hovering around 80 000 people.

The pattern is similar with regards to the number of full 'convention status' grants offered but the absolute numbers are much lower. In the period 1997-2010 the 29 European states offered on average 38 000 refugee grants per year, but variation is substantial and ranges from more than 52 000 grants in 2000 to less than 22 000 in 2005. The number of refugee grants and any protection offered are very highly correlated and they move in tune over time which implies that in Europe as a whole the share of full convention status grants as a percentage of all types of protection offered is stable over time and fluctuates around 50%.

[Figure 2 here]

So far we explored the trends in the absolute numbers of applications, decisions and grants. It is instructive to look in more detail at the recognition rate over the period as well. Here, as in the remaining plots and tables, we define the recognition rate as the share of positive decisions (granting either full convention status or any type of protection) from all *decisions* being taken in that particular year[6].

Figure 2 plots the recognition rates (positive decisions out of all decisions being taken) in the 29 European states from 1997 till 2010. The total recognition rate (any type of protection offered) ranges between 14% and 27% and the share of refugee grants fluctuates between 5% ad 14%. Again, there is no clear trend and the share of all positive decisions in 2007-2008 is actually higher than the share in the beginning of the period under study in 1997. At the same time the convention status grants are at a lower level in 2007-2009 than in 1997-1999, although not as low as during the years 2002-2004. On the basis of the first two plots we can already note that there does not seem to

[6] The alternative would have been to calculate the recognition rate from the number of applications but this has a number of shortcomings. First, it can lead to nonsensical results if the number of positive decision is larger than the total number of applications in a year. While this seems unlikely in the case of the aggregate data discussed so far, it is a real possibility when we later zoom-in on origin-specific applications and decisions data. Second, the number of decisions being taken is less of a subject to a shock than the number of applications. The capacity for taking asylum decisions adjusts slower than the flow of applications to the external environment, so if we were to use the number of applications in the calculation of the recognition rate, we could end up blaming a country for lowering its recognition rate even if its essential standards for recognition remain the same, but the capacity to take decisions relative to the number of applications decreases. Furthermore, since the number of applications and decisions are highly correlated the exact choice has little effect. Yet, to make sure that states do not depress the number of decisions they take as a tool to restrict the inflow of refugees, we investigate the absolute number of people admitted in addition to the recognition rates throughout the article.

be a race to the bottom neither in terms of actual applications, decisions, people admitted and recognized, nor regarding the recognition rates as such. The period since 2004 has witnessed a rebound in all these numbers. However, the aggregate figures might be driven by changes in the composition of the population of asylum seekers[7]. In order to take this concern into account, the next section of the article delves further into the exploration of the race to the bottom hypothesis.

Race to the bottom

There is no single set of numbers that can persuasively confirm or dismiss a race to the bottom in terms of asylum policy outcomes in the Europe. A disclaimer we need to iterate here is that we are looking not at policies as such, but at outcomes of the policy process, and from all the possible outcomes of the policy we focus on positive decisions and recognition rates. Although these are central indicators of asylum policy they do not take into account other important aspects like the quality of the border facilities, the length and fairness of the decision process etc. Nevertheless, the theoretical arguments outlined in the previous section strongly suggest that as a result of Europeanization we should observe a spiral of ever lower recognition rates and less people admitted in the member states of the EU.

[Figure 3 here]

Figure 3 zooms-in on the six countries that together account for more than 70% of all asylum seekers in Europe: Switzerland, Germany, France, the United Kingdom, the Netherlands and Sweden. The figure shows the recognition rates in terms of both the more inclusive total protection and the narrower convention status protection. Most of the major destination countries in Europe have not decreased their recognition rates between 1997 and 2010. In Switzerland, the convention status recognition rate has slightly increased while the overall protection levels have increased more dramatically. In Germany and France the two rates almost coincide and follow a similar pattern – after a dip between 2002 and 2005 the rates of protection have climbed higher than the

[7] We also assume that the composition of asylum-seekers applying to the European states remains roughly the same with respect to the likely merits of their claims. It could be that asylum-seekers strategically adapt to the recipient countries' policies and, as a result, only asylum seekers with very strong claims are applying after the tightening of the European asylum policies. Without individual-level data on asylum-seekers, however, it is not possible to control for this potential change in the composition of applications.

reference period at the end of the 1990s. If we exclude the extraordinary year 1999, Great Britain follows a similar trend. The Netherlands and Sweden are the two countries among the major destinations, where the convention status recognition rate has dropped vis-à-vis the late 1990s. In the Dutch case, the decrease is counteracted by an increase in the complementary protection offered, while in Sweden, we can observe a dramatic decline in the complementary protection as well (but we should emphasize that the starting level at the end of the 1990s is extraordinarily high). Altogether, there is no evidence for a race to the bottom among the major asylum destination countries in Europe that leads to ever lower recognition rates[8].

[Figure 4 here]

Figure 4, which plots the absolute number of asylum seekers admitted in the major destination countries in the EU, tells a similar story (separate lines for convention status and all protection). The exception is Germany which seems to have reduced the overall number of people to offers protection to, despite the lack of decline in the recognition rates. Similarly, the UK seems to have converged to average European levels since the peak in the beginning of the 2000s. The numbers for France and Sweden are actually on the rise.

The total numbers of people admitted and the recognition rates presented above are important, but they do not tell the whole story because they do not take into account the composition of the asylum flows in terms of countries of origin. In the absence of individual level data and information on the merit of individual applications, controlling for the country of origin is an indirect way to take into account some of the differences between asylum applications. Hence, we examine whether a race to the bottom is evident for any of the major 'sending' countries.

[Figure 5 here]

[8] The exact influence of the EU on the flows of asylum applications, decisions, and recognitions and the associated uncertainty of the inference are difficult to quantify given the absence of a theoretical model that can capture sufficiently well the overall variation in these asylum policy indicators. Since no such model is currently available and in view of the time series nature of the data, estimating a regression coefficient for the effect of the EU on the yearly changes in asylum indicators would be misleading.

We focus on the ten countries that account for the overwhelming majority of asylum applications for the last ten years – Afghanistan, Eritrea, Iran, Iraq, Nigeria, Pakistan, Russia, Serbia, Somalia and Turkey. We also restrict the time span of the analysis for the period 2000-2010. Figure 5 presents the recognition rate (for any form of protection) for applicants from two countries – Eritrea and Iraq. The individual data points that are summarized in the boxplot for each year are destination countries' recognition rates. The boxplot gives an idea about the mean tendency but also about the spread of the distribution of destination countries' rates of recognition. In order to take into account the unequal number of applications and decisions made by the 29 destination countries, the numbers are weighted by the share of decisions concerning applicants from the country of origin from all decisions made for nationals of this country of origin in the year. Both panels of Figure 5 show evidence for varying recognition rates, both between countries and over time, but there is no trend to the bottom with regards to these two important groups of asylum seekers. In the case of Eritrea, there is actually a strong positive trend, with (weighted) average recognition rates reaching 65% for the 29 European destination countries. In the case of Iraqi asylum seekers, the picture resembles the aggregate analysis – a dip in the mid 2000s is followed by a gradual increase to an average of about 40% recognition rate throughout the continent. The case for applicants from Afghanistan (not shown) follows a similar trajectory. While we do not show the plots for all countries of origin, the analysis of the remaining cases confirms that, practically for all of the major countries of origin, there is no race to the bottom is in place. For most origin states, the recognition rate has increased over the last ten years. The average recognition rate for asylum seekers from Russia gets lower over the last couple of years (2008 and 2009) but it is still higher than the values in the early 2000s and the figures for Serbia and Pakistan stay roughly the same.

The inferences differ little if we consider the recognition rate for full protection under the terms of the Geneva convention. For example, in the case of Turkey, the rate from 2000 until 2006 follows a gradual but steady decline – consistent with the race to the bottom thesis – but since 2006 the rate has bounced back. Similarly, if we look at the absolute number of people admitted from the ten major destination countries, there is nothing to suggest a systematic decline over the last decade.

To conclude this section, we can state that we find no evidence that the asylum policy outcomes in the 29 states of the common European asylum space have been

caught in a downward spiral. Until the mid 2000s there is a decreasing trend in recognition rates and admissions, but all indicators that we have looked at bounce back to their levels from the late 1990s in the last few years of the first decade of the XXIst century. The findings are consistent not only across the different indicators, but also when we look at aggregate and origin-specific asylum data.

Convergence

Apart from the trends in the (weighted) averages, Figure 5 is worth another look as it contains information about the spread of the destination country's rates. A narrower spread of the boxes indicates decreasing variation, hence increasing convergence. In the two particular examples in Figure 5 there is no strong evidence for decreasing variation over time, but in this part of the article we will look in more detail into the issue.

[Figure 6 here]

A standard measure of convergence is the coefficient of variation. The coefficient of variation is simply the standard deviation divided by the mean. It adjusts for the fact that the standard deviation could be dependent on the level of the mean. We measure the means and the standard deviation for all observations for a particular year and a particular country of origin. The two panels of Figure 6 present the oscillations of the coefficient of variation of the recognition rates for conventional status grants only (top panel) and all types of protection (bottom panel). The lines are drawn separately for ten major asylum countries of origin. Each of the coefficients is computed from 29 data points (recognition rates of a country of origin X in country of destination Y in year Z). The overall impression from the figure is that most of the lines have a downward slope, meaning that the dispersions are decreasing over the last ten years – hence, we have some evidence for convergence. Looking at the actual numbers, we can confirm that the dispersion is lower in 2008-2010 than in 2000-2002 for all countries of origin with the exception of Serbia. The biggest decreases in dispersion among the destination countries are observed for applicants from Eritrea (-1.18) and Pakistan (-0.87), followed by Russia (-0.77), and Somalia (-0.55). Nevertheless, Nigeria and Pakistan are still the two countries for which the recognition rates differ most across Europe.

Convergence is also evident when we look into recognition rates for all protection offered (convention status plus any additional forms) plotted in the lower

panel of Figure 6. The European countries have become more alike in terms of the percentage of people they offer protection to when the applicants are from the same country of origin. The dispersion has decreased for all origin countries with the exception of Serbia. In the cases of Afghanistan and Iraq the coefficient of variation has almost halved when we compare 2000-2002 with 2008-2010. For applicants of Eritrea, the coefficient has plummeted to a mere 0.14 in 2008 (down from 1.17 in 2000).

So far we examined convergence with regard to specific countries of origin for asylum seekers. When we switch to the total recognition rates (the share of positive decisions from all decision made in a year by a destination country irrespective of the country of origin of the applicants, we still find evidence for weak convergence. Looking at convention status grants only, the coefficient of variation has almost halved from 1.31 in 1999 to 0.71 in 2010. For all types of protection, the coefficient of variation has decreased from an average of 0.84 during 1997-1999 to an average of 0.67 during 2008-2010.

Discovering convergence in recognition rates is surprising in the face of existing studies which found only limited support for the thesis when evaluating it back in 2004-5 (Neumayer 2005; Vink and Meijerink 2003). The additional years of Europeanization might have strengthened the convergence effect and the longer time horizon allows the growing similarities in recognition rates to shine through.

The evidence for convergence, however, needs to be qualified[9]. National differences in the recognition rates of asylum seekers coming from the same country have not disappeared altogether. The 27 EU states, Switzerland and Norway have moved closer, but there are still appalling examples of vastly different recognition rates across the continent. For example, when we look at the recognition rates (convention status only) in 2009, applicants from Afghanistan face 30% positive decisions in Austria but only 3% in the Netherlands. Serbs have less than 2% chance in most countries, but a 10% chance in Belgium. The recognition rate for Eritreans ranges from a whopping 78% in Germany to less than 5% in the Netherlands and Malta. For Iraqis the rate is 79% in France but 8% in Great Britain; for Russians it is above 20% in Denmark, Austria and

[9] We have also analyzed an alternative measure of variation which takes into account the different numbers of decisions being taken by different destination countries. In effect, the alternative measure controls for the fact hat the recognition rate of, say, Germany, is more important than the one of Estonia as Germany processes many more applications. Using the weighted mean and the weighted variance to compute a weighted coefficient of variation and analyze convergence, we find a less pronounced converging trend compared to the results based on the unweighted coefficient of variation.

Belgium but less than 5% in Poland, Sweden and Norway; for Turks – 38% in Switzerland, but zero in Finland, Hungary and Sweden.

The persistent differences do not invalidate the finding of a convergence tendency but remind us of the discrepancies that still exist. Although the overall dispersion is smaller for the more inclusive recognition rate which takes into account all forms of protection, there are startling examples to be found in this data as well. In 2009, 82% of Iraqi applicants got some sort of protection in France but only 25% in Sweden. Refugee seekers from Iran were offered protection in 79% of all decisions taken in Italy but only in 26% in the case in Norway. The list can be extended further, but the point is clear – national variation still exists, although there is evidence for a convergence trend over the last ten years. The national differences in recognition rates could be due to differences in the composition in the asylum population of, say, Iraqis who apply to Italy and to Norway. While we cannot exclude such an interpretation, it is difficult to imagine reasons why the groups of applicants form the same country of origin at the borders of different EU states should be vastly different in the likely merits of their applications. The hypothesis that the European countries of destination apply rather different standards of evaluation of the asylum claims which results in very different recognition rates loom large in the background. Still, it is encouraging that the EU states are slowly getting closer together in terms of this indicator of asylum policy output, and that convergence is not happening at the lowest recognition level, as demonstrated in the section on the possible race to the bottom.

Burden sharing

Even if convergence in recognition rates was perfect (and it is not), we would still want to know whether the EU member states face different asylum burdens due to the varying shares of *applications* they get. So the question which countries are doing more than their fair share in EU asylum policy is still relevant despite the evidence for convergence in recognition rates. In fact, the importance of this issue for the development of a common asylum policy is rivaled only by its controversy. It is unlikely that there will be one set of numbers that will persuade everyone that a state is doing much more than its peers given its economic, social and political characteristics. The problem of which characteristics to take into account when adjusting the raw numbers of applications, decisions, and refugee protection grants will not be solved with a ‘scientifically-

objective' silver bullet. Different adjusting criteria bring different countries to the fore of the rankings, so the choice of measures always remains political and subjective.

In this article, we opt for one relatively simple adjustment criteria of the raw numbers – absolute levels of GDP. Others have argued that an evaluation of burden-sharing needs to take into account much broader range of economic and policy indicators, including population, GDP per capita, territory, and even involvement in military actions and development spending (Czaika 2005; Thielemann *et al*. 2010). In our view, levels of GDP provide a transparent and reasonable way to control for the relative wealth and size of a country. The use of GDP captures the intuition that countries that have greater wealth have more opportunities to accommodate immigrants in the economy and in society. *Levels* of GDP are also strongly correlated with population size so one does not need to add population separately into the adjustment index. Levels of GDP capture both wealth and size. At the same time, relative wealth (GDP per capita) is less-suited as an adjustment measure because rich but small nations (like Luxembourg) have fewer opportunities to process asylum applications and accommodate refugees. In our opinion, the population density of a country should not be adjusted for in calculating the asylum burden as the fact that a state (like Sweden) has vast tracts of uninhabitable land should not be used to its disadvantage when deciding what proportion of the EU refugees it could host (cf. Thielemann *et al.* 2010). Using additional indicators that focus on foreign policy and military involvement is only likely to compound criticisms of a burden-sharing measure. For example, should a country that is involved in military operations in Afghanistan be expected to receive more asylum seekers because of its direct involvement in disturbances of the civil population, or to receive less asylum seekers because it is already paying a high price for its military involvement? The answers to such questions are inevitably normative and political. Hence, by relying only on GDP levels to adjust the raw numbers of applications and admissions, we employ a minimalist strategy which is not immune to criticism but makes fewer assumptions about the 'fairness' of burden sharing.

The precise method of calculating the 'burden coefficient' that we use works as follows. The number of applications (decisions, refugee grants, any type of protection offered) in a country in a year is divided by the total number of applications (decisions, etc.) in that year. The resulting number is divided by the GDP level of the country and multiplied by the total GDP (of the 27 member states, Switzerland and Norway). For example, if a state has 3% of the total GDP, it is expected to get 3% of the asylum

applications coming to the 29 states in a year. Finally, we take the log of the resulting number in order to make deviations from the 'fair share' in both directions comparable. Hence, the resulting index has a value of zero when a country has received the same share of asylum seekers from all those coming to Europe in that year as the share of its GDP to the total European GDP. Values of the so-defined burden coefficient greater than zero imply that a country is doing more than its share, while negative values imply that a country is doing less given its levels of GDP.

Burden-sharing is relevant for two distinct set of asylum policy indicators – applications and admissions. The number of applications puts the admission facilities and the administrative capacities of states to process applications under stress. On the other hand, it is the number of people recognized as refugees and allowed to remain in the country that create the more long-term costs for the host societies[10]. We are going to investigate burden-sharing for each of these two policy indicator separately.

[Figure 7 about here]

Figure 7 shows the burden coefficient, averaged for the period 2008-2010, for asylum applications (Panel A) and all protection offered (Panel B) for each of the 29 European destination countries during the period 2000-2010. The reference lines at zero indicate the level of a 'fair' share of asylum applications and positive decisions. The dotted lines are at the point where a country is doing twice as much (as little) than the implied burden share. So the values outside the dotted lines indicated big deviations from the 'fair' share. We can see from Figure 7 that some countries have received a much higher share of the asylum applications given their GDP levels: namely, Cyprus, Malta, Sweden, Greece, Norway and Belgium. Austria and Switzerland also have logged a higher number of applications than their implied numbers. From the big member states the UK and France have received just about the 'right' number of applications given their (absolute) wealth (we can add the Netherlands, Poland, Finland, Hungary and Bulgaria to this group). Germany is receiving less than its implied share, although it is still reasonably close to the reference line. Some of the new member states are receiving fewer applications even when adjusting for their low GDP levels. The three Baltic states

[10] The April 2011 confrontation between Italy and France showed that reality is more complicated than that. Some countries might have rather relaxed admission rules in the full knowledge that once admitted, asylum seekers would move to settle in another member state due perceived higher economic opportunities or existing social ties.

Estonia, Latvia and Lithuania, together with Romania are well below the reference line for the entire period. But also the Czech Republic, Slovenia and Slovakia have reached quite low levels after some bursts in the relative number of applications they have received in the mid 2000s. It is Portugal, Spain and, to a lesser extent Italy, however, that are the most startling examples of the unequal distribution of asylum applications in the EU for the period 2000-2010. Portugal, Spain, and Italy have registered fewer asylum applications in view of their GDP levels for each of the years between 2000 and 2010. Altogether, there is no evidence that burden-sharing has increased and that the number of asylum applications has become more proportional to wealth over the last decade.

From asylum applications, we now move to the distribution of the *recognition* burden. The second panel of Figure 7 shows for each of the 29 destination countries the burden coefficient for the number of people offered any type of protection (convention status grants plus those allowed to stay for humanitarian reasons) averaged for the period 2008 to 2010. Malta, Cyprus, Sweden, Switzerland, Austria and Norway are each offering protection to more than twice as many people as implied by their 'fair' share. The Netherlands, Belgium and Finland are also on the positive side of the threshold. France and the UK are again very close to the reference line, together with the new member states Poland and Bulgaria. Germany and Italy are admitting fewer people than their implied shares, although they are still relative close to their GDP-implied levels. There are two groups of countries, however, which consistently admit a much lower number of asylum seekers than their relative wealth implies. The first group comprises of most of the Central and Eastern European member states (for the exceptions see above) – the Czech Republic, Estonia, Latvia, Lithuania, Romania, Slovakia and Slovenia. The second group brings together countries from the Mediterranean – Greece, Portugal, and Spain. Again, it should be reminded that the burden coefficient already takes into account the fact that most of these countries are relatively poor – even when adjusting for their GDP, these states offer protection to a lower-than-expected number of asylum seekers vis-à-vis the average European level.

If we consider the shares of the convention status grants offered by different EU countries (not shown), some important differences appear. Many countries that appear to carry more than their implied share when all types of protection are analyzed, appear to be under-delivering when the full refugee status is in focus – Bulgaria, Denmark after 2004, Finland, Italy, Luxembourg, the Netherlands, and Norway till 2004. At the same

time, none of the countries that under-delivers when all protection is analyzed, grants a higher share of refugee grants than implied by its wealth – the 'offenders' remain the same. Again, there is no evidence, in neither the convention status grants nor in the more inclusive protection rates, of a decrease in the inequality of the burden carried by the 29 European states. The last ten years of Europeanization seem to have had little effect on the inequality of the number of people admitted, when adjusting for the GDP of the destination countries.

Conclusions

The first decade of the existence of the common European asylum policy has not produced a straightforward effect on the national policy outcomes. On the one hand, it is quite clear that there has been no race to the bottom with regards to asylum applications and decisions, and the number of people recognized as refugees or allowed to stay for humanitarian reasons. The downward trend in all these indicators lasting till the mid 2000-s has been reversed, and current levels are comparable to those from the late 1990s. This conclusion holds in the aggregate but also for the most of the major countries of origin for asylum seekers.

On the other hand, there are indications for convergence among the European countries in the major indicators of asylum policy. Today, the differences between the 29 European states that we study are smaller than they were ten years ago when we look into their asylum recognition rates.

However, beyond the convergence trends important national differences persist. These differences can be found in the chance an applicant from a certain country of origin has of being recognized as a refugee, or offered any type of protection, in different European countries of destination. Furthermore, the remaining differences in recognition rates result in a rather unequal burden sharing for asylum applications and admitted refugees across the continent. There are no indications that the inequality of the burden (adjusted for GDP levels) is getting any smaller as a result of Europeanization. Two clusters of countries appear to underperform relative to their peers and correcting for their wealth – most (but not all) from the Central and Eastern European countries, and some (but not all) of the Mediterranean states (Portugal, Spain, Greece). While some of the Mediterranean nations receive more than their share of applications (Cyrpus, Malta, Greece), Portugal and Spain register much fewer asylum applications relative to

their GDP levels, which is even more surprising given their geographical position at the borders of the continent.

In short, there is evidence for limited convergence but not at the lowest level, and the convergence is not sufficient to erase the unequal burden of asylum applications and admitted refuges carried by the different European states. What this suggests is that, first, the internal geographical distribution of the flow of asylum-seekers has not been significantly affected by the common European policy and, second, that national authorities have retained enough control over asylum policy as to produce quite different outcomes in the different EU member states. Structural and geographical factors might account for the persisting inequality in applications. The mechanisms behind the persisting inequalities in *recognition rates* are more difficult to fathom. For one set of countries of origin (Somalia, Eritrea, Iraq), convergence of recognition rates to a relatively *high* level is present but for another set of countries (Pakistan, Nigeria, Serbia, Turkey) the differences are almost as large as they were ten years ago. Additional research is necessary to uncover the reasons behind these differences.

It also remains for future research to place the influence of the EU in a comprehensive theoretical model of the dynamics of asylum applications and recognition rates. Such a model should incorporate the feedback effects between applications, policies and recognition rates, as well as the cross-border influences of the national policies of the European states.

The persistent inequality of the asylum burden is bad news for the sustainability of the common asylum policy. At the same time, even estimating the burden is likely to remain a hotly contested issue since much depends on how wide of a net one casts in order to find adjustment indicators for the raw numbers. Significant differences in the treatment (recognition rates) of the same group of asylum seekers in different EU states can also undermine the trust the different national administrations have in each other and might lead to unraveling of the foundational principles of the common policy. The 2011 row between Italy and France over North African asylum seekers showed the potential of these misgivings to spill over into the broader European integration process as well.

References

Boswell, C. and Geddes, A. (2011) *Migration and mobility in the euroepan Union*, Basingstoke: Palgrave Macmillan.

Caminada, K., Goudswaard, K. and Van Vliet, O. (2010) 'Patterns of welfare state indicators in the EU: Is there convergence?', *JCMS: Journal of Common Market Studies* 48(3): 529-56.

Chalmers, D., Davies, G. and Monti, G. (2010) *European Union law. Second edition.*, Cambridge: Cambridge University Press.

Czaika, M. (2005) 'A refugee burden index', *Migration Letters* 2(2): 101-25.

Czaika, M. (2009) 'Asylum cooperation among asymmetric countries', *European Union Politics* 10(1): 89-113.

des Places, S. B. and Deffains, B. (2004) 'Cooperation in the shadow of regulatory competition: The case of asylum legislation in Europe', *International Review of Law and Economics* 23(4): 345-64.

Dimitrova, A. and Steunenberg, B. (2000) 'The search for convergence of national policies in the european Union: An impossible quest?', *European Union Politics* 1(2): 201-26.

European Commission. (2007) *Green paper on the future common european asylum system*: COM(2007)301 final of 6.6.2007.

Facchini, G., Lorz, O. and Willmann, G. (2006) 'Asylum seekers in Europe: The warm glow of a hot potato', *Journal of Population Economics* 19(2): 411-30.

Guild, E. (2006) *The Europeanisation of europe's asylum policy*, Oxford: Oxford University Press.

Hatton, T. J. (2009) 'The rise and fall of asylum: What happened and why?', *Economic Journal* 119(535): 183-213.

Hatton, T. J. and Williamson, J. G. (2004) '*Refugees, asylum seekers and policy in Europe*', *NBER Working Paper* (10680): 1-42.

Hix, S. and Goetz, K. H. (2000) 'Introduction: European integration and national political systems', *West European Politics* 23(4): 1-27.

Lavenex, S. (2001a) *The Europeanisation of refugee policies: Between human rights and internal security*, Burlington: Ashgate.

Lavenex, S. (2001b) 'The Europeanization of refugee policies: Normative challenges and institutional legacies', *Journal of Common Market Studies* 39(5): 851-74.

Monheim-Helstroffer, J. and Obidzinski, M. (2010) 'Optimal discretion in asylum lawmaking', *International Review of Law and Economics* 30(1): 86-97.

Neumayer, E. (2004) 'Asylum destination choice - what makes some west european countries more attractive than others?', *European Union Politics* 5(2): 155-80.

Neumayer, E. (2005) 'Asylum recognition rates in western Europe - their determinants, variation, and lack of convergence', *Journal of Conflict Resolution* 49(1): 43-66.

Niemann, A. (2008) 'Dynamics and countervailing pressures of visa, asylum and immigration policy treaty revision: Explaining change and stagnation from the amsterdam IGC to the IGC of 2003-4', *Journal of Common Market Studies* 46(3): 559-91.

Teitgen-Colly, C. (2006) 'The european Union and asylum: An illusion of protection', *Common Market Law Review* 43: 1503-66.

Thielemann, E. R. (2004) 'Why asylum policy harmonization undermines refugee burden-sharing', *European journal of migration and law* 6(1): 47-65.

Thielemann, E. R. and Dewan, T. (2006) 'The myth of free-riding: Refugee protection and implicit burden-sharing', *West European Politics* 29(2): 351-69

Thielemann, E. R., Williams, R. and Boswell, C. (2010) *What system of burden-sharing between member states for the reception of asylum seekers?*: European Parliament. Directorate General for Internal Policies.

Vink, M. and Meijerink, F. (2003) 'Asylum applications and recognition rates in EU member states 1982-2001: A quantitative analysis', *Journal of Refugee Studies* 16(3): 297-315.

List of figures

Figure 1. Asylum policy in the EU, Switzerland and Norway, 1997-2010. Applications, Decisions, All protection grants and convention status grants.

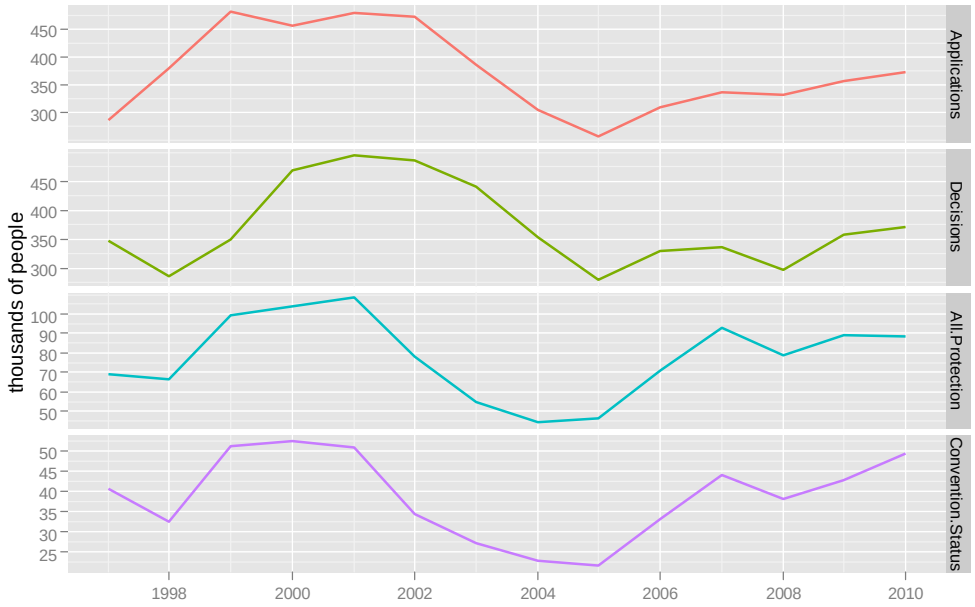


Figure 2. Asylum recognition rates in the EU, Switzerland and Norway, 1997-2010. Shares of positive decisions granting all protection and convention status from all decisions being taken.

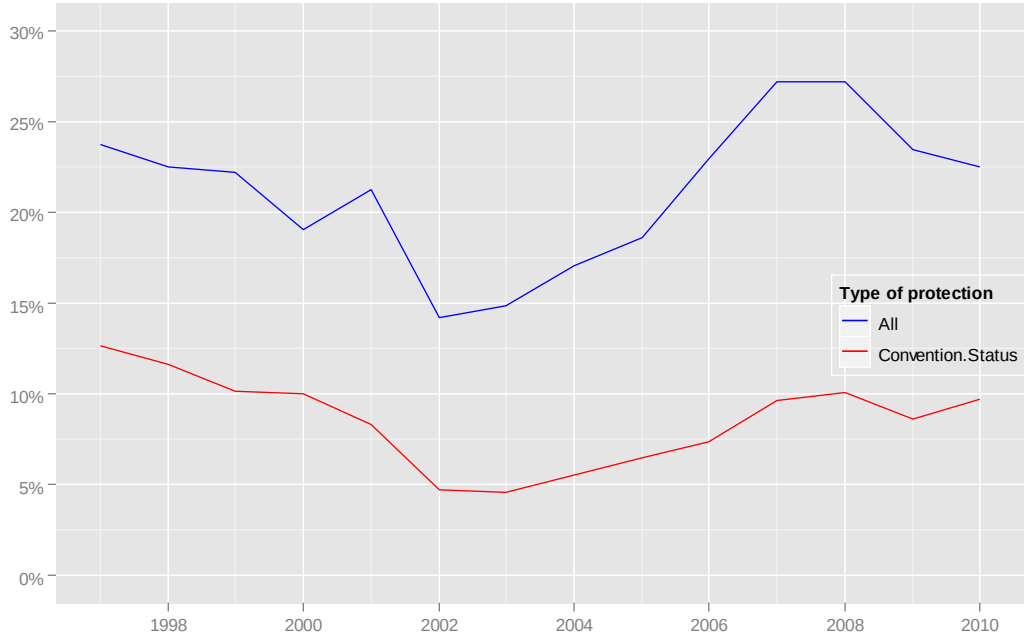


Figure 3. Asylum recognition rates in Europe by country, 1997-2009. Major destinations only. convention status and all protection.

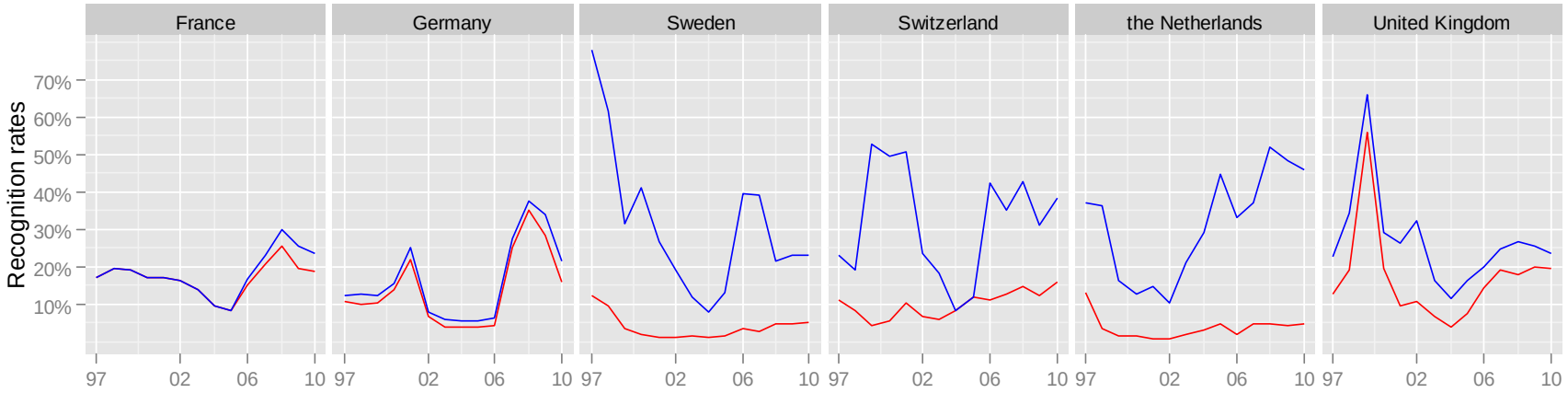


Figure 4. Total number of asylum seekers admitted in Europe, 1997-2009. Major destinations only. convention status and all protection.

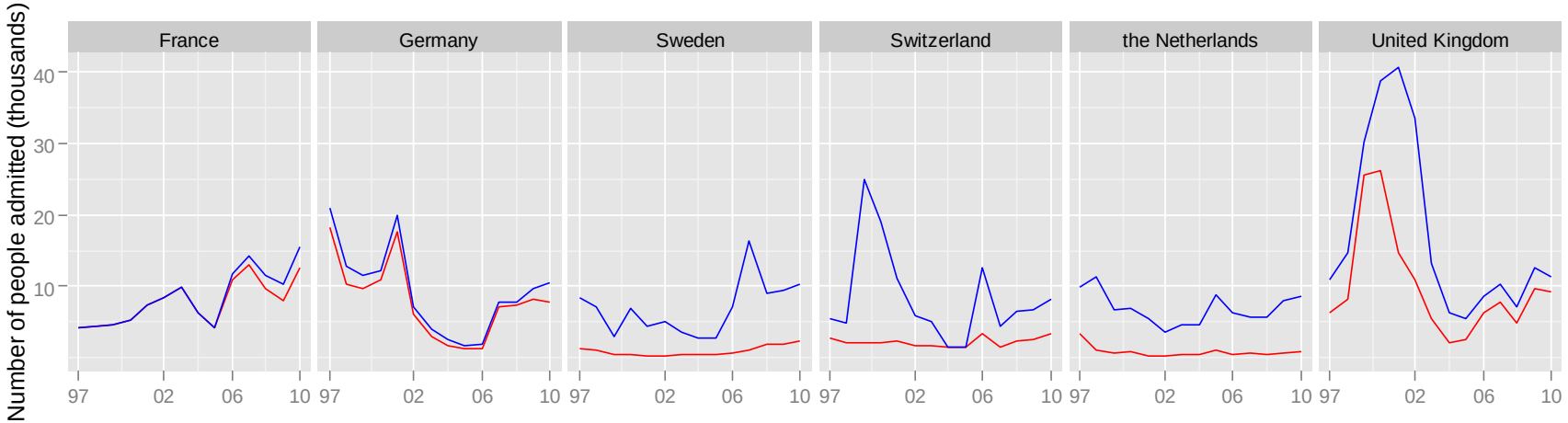
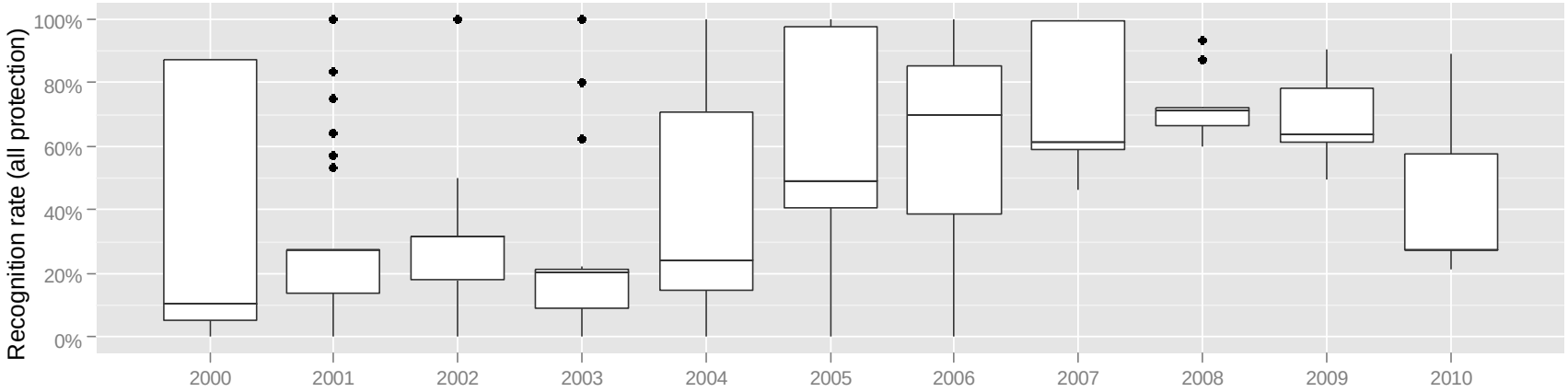


Figure 5. Boxplots of the asylum recognition rate (all types of protection) for 29 destination countries (data points weighted by number of applicants).

Applicants from *Eritrea*



Applicants from *Iraq*

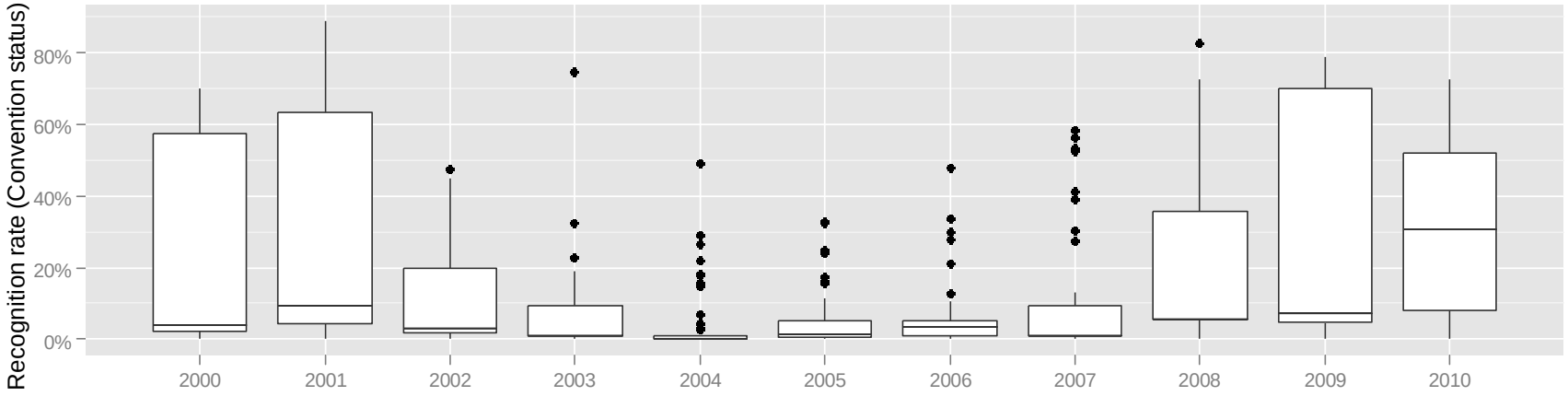
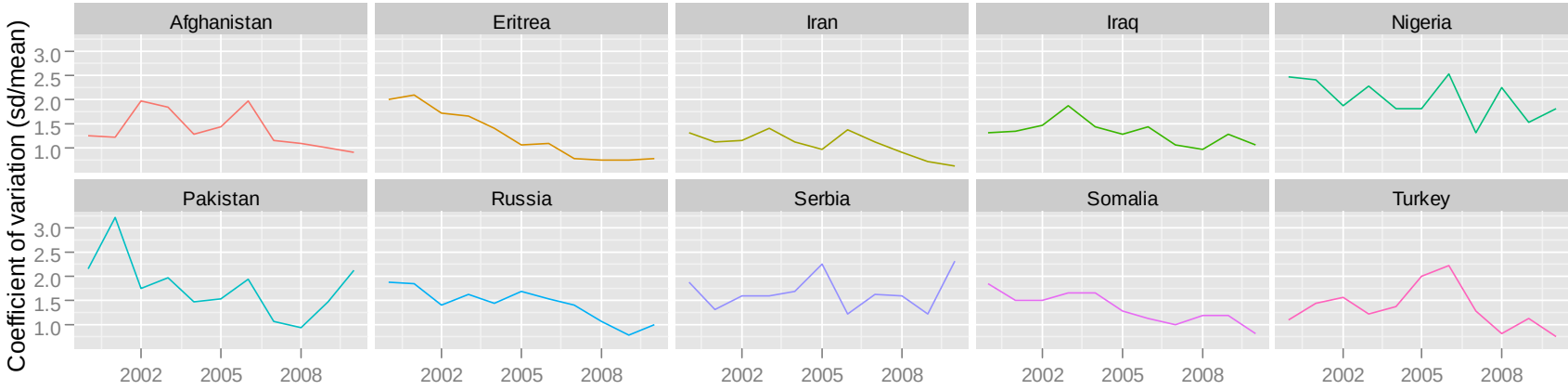


Figure 6. Variation in the European recipient countries' asylum recognition rates for different countries of origin over time.

convention status



All protection

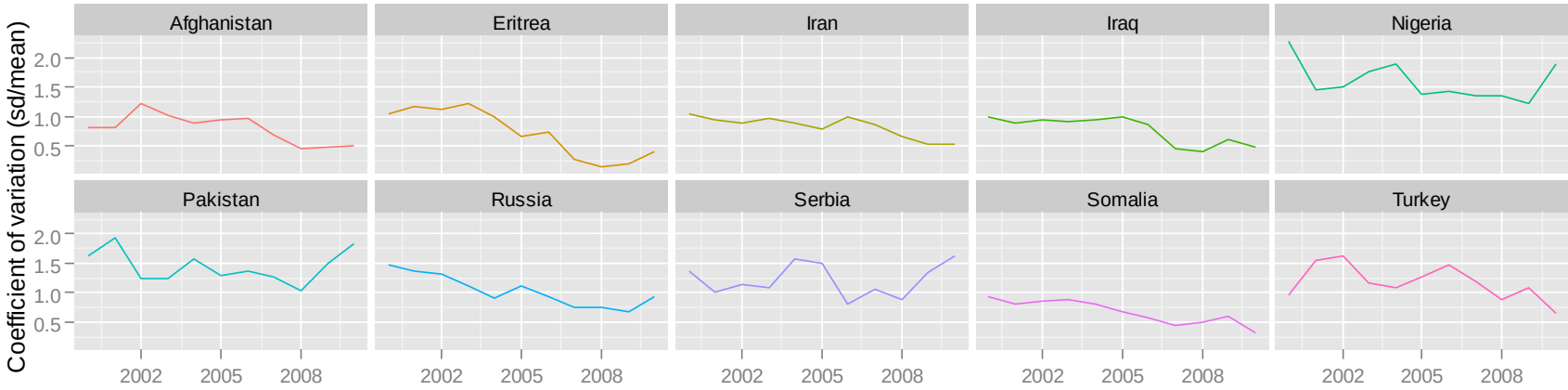


Figure 7. Average burden sharing coefficient 2008-2010 (logged).