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member states - a challenge for the entire EU?**

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# Immigration amnesties in the southern EU member states - a challenge for the entire EU?

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## Abstract

The question of how to proceed with illegal immigrants arriving in the southern EU member states is one of the pressing policy issues for the EU. In our article we will provide a thorough analysis of immigration policy and immigration amnesties from an economist's perspective. In particular, we are interested in answering questions such as why (at all) some states legalize irregular immigrants and what effects unilateral policy measures in this field have in an economic union such as the EU. While most of the work in the area of immigration amnesties focuses on the single country case we extend this scenario to the case in which the legalizing country is part of a federation and spillover effects between different states may occur. Several interesting aspects will be considered in this context, in particular, potential changes of the policy mix between internal and external enforcement on the one hand and legalization on the other hand when a federal setting is considered instead of a single country.

**Keywords:** illegal migration, immigration policy, regularization, amnesties, enforcement, interregional transfers, European Union

**JEL-Codes:** J61, F22, R50

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## 1. Introduction

The debate about illegal immigration captures much public attention in the European Union as well as in the United States.<sup>1</sup> Due to a large disparity in income levels between the EU and African or Eastern European countries there is a substantial migratory pressure especially to the Southern European countries. In the last 25 years national governments have responded to this phenomenon by increasingly granting legal status to migrants that have illegally crossed the border or overstayed their visas. Such extraordinary amnesties or regularization programs<sup>2</sup> are often part of a broader immigration policy reform accompanied by an intensification of internal and external migration controls. While it appears – at a first glance – contradictory to keep migrants out on one hand and give them legal status on the other hand, there is some rationale for this policy mix.

In our article we will provide a thorough analysis of immigration policy with a special focus on immigration amnesties from an economist's perspective. In particular, we are interested in answering questions such as why (at all) some states legalize irregular immigrants and what effects unilateral policy measures in this field have in an economic union such as the EU. The first question has been dealt with in the literature before, for example, by Hillman and Weiss (1998), Epstein and Weiss (2001) or Chau (2001). However, neither of these studies or – to our knowledge – any other theoretical study<sup>3</sup> has yet discussed the highly relevant scenario, in which the legalizing country is part of a federation and in which spillover effects between different states may occur. Several interesting aspects have to be considered in this context, in particular, potential changes of the policy mix between internal and external enforcement on the one hand and legalization on the other hand in a federal setting as compared to a single national state.

The relevance of the topic is well illustrated by the immigration policy in Spain.<sup>4</sup> Until the 1990s Spain was a net population exporter, later it became a receiving country. According to EUROSTAT the number of foreigners living legally in Spain skyrocketed from 398.000 non-nationals in 1990 to 2.772.000 in 2004. These numbers, however, do not account for the presence of illegal migrants. Since, according to Baldwin-Edwards (2006), some of the most important routes for illegal migration to the EU lead to Spain, it is likely that the latter number has followed a similar pattern. Arango and Jachimowicz (2005) estimate the stock of migrants illegally present in Spain in 2005 to be in the order of 1.200.000.

Like some of its Southern European neighbour countries Spain has made repeated use of extraordinary regularization programs over the past 20 years, thereby granting legal status to irregular migrants residing in the country at the time of the programs' introduction. From 1985 to 2005 Spain altogether enacted six amnesties and thus legalized a total of approximately 1.2 million illegal migrants, whereas the most recent amnesty in 2005 alone accounted for the legalization of approximately 700.000 illegal aliens.

It is crucial to distinguish amnesties (as analyzed in this paper) from the possibility of migrants to apply for asylum. While the former is an extraordinary project of the government

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<sup>1</sup> This article focuses on the situation in the EU. For an overview of the most recent discussion on immigration reform in the U.S. cf. Jencks (2007).

<sup>2</sup> In the following we will use the terms “amnesty”, “regularization program” and “legalization program” interchangeably, although some authors point out a difference. For example, Papademetriou et al. (2004) find the term “legalization” more appropriate to the U.S. policy where such programs have granted permanent settlement rights. Accordingly, the term “regularization” fits the European case where granting temporary residence and work permit are more common.

<sup>3</sup> Jahn (1998) considers the decision over border enforcement in an area of free movement but does not go on to consider the case of an amnesty in such a setting.

<sup>4</sup> A more detailed description of the Regularization and Immigration Policy in Spain can be found in Arango and Jachimowicz (2005).

to grant residence and/or work permit to a large number of illegal aliens, the latter is an individual decision for each refugee. Under the Geneva Convention each refugee has the right to apply for asylum.<sup>5</sup> Formally, introducing asylum legislation has to be considered as a fundamental constitutional decision which is – after its introduction – no longer a political choice variable. Immigration amnesties, on the other hand, are „exceptional measures, undertaken only after much national soul-searching and lengthy, passionate debates among lawmakers, migrant organizations, and business interest groups” (Levinson, 2005a).

Due to common legislation in EU immigration policy and due to relatively low barriers to movement inside the EU common market or, more specifically, the territory of the member states of the Schengen acquis, the Spanish naturalization policy did not affect Spain alone. There exists the possibility for legalized immigrants (more than for illegal immigrants) to move on to fellow EU member states. The fear of those countries of a possible influx of unskilled legalized migrants is well illustrated by the reactions to the policy of Spain (and Italy, respectively). For example, Germany and the Netherlands criticized Spain during a meeting of EU ministers of the interior for acting arbitrarily and uncoordinated with its fellow member states and phrased their concern that legalized immigrants could also enter other member states.<sup>6</sup> Similar comments came from the governments of Austria and Switzerland that “accused Italy of turning a blind eye to would-be refugees heading north.”<sup>7</sup>

Spain is not the only country prone to illegal immigration that has intensively used regularization or legalization programs in the past. As can be seen from Table 1 there are also other southern EU member countries that responded to an increasing influx of illegal migrants by granting repeated amnesties. For example, Italy legalized nearly 700.000 illegal aliens in 2002, thereby enacting the second largest amnesty program worldwide to that date. In total, Italy legalized around 1.4 million illegal migrants since its first amnesty in 1986. More northern EU member states which traditionally have a large number of immigrants such as Germany, the Netherlands or Austria are very reluctant when it comes to enacting immigration amnesties.<sup>8</sup> The large regularization programs in the southern European countries are only exceeded by the legalization policy in the United States that regularized over 2.5 million clandestine workers alone in 1986 in the course of the Immigration Reform Control Act (IRCA). However, in relation to total population size European programs are larger.<sup>9</sup>

From a theoretical perspective immigration amnesties are introduced as long as their beneficial economic effects outweigh their negative effects. In our article, we will present the most relevant of these effects, ranging from labor market effects to the impact on voter behaviour.<sup>10</sup> Specifically, we will show that the marginal benefit of internal and external enforcement, i.e., for example border controls and workplace raids, respectively, is falling in the stock of illegal immigrants. At the same time, with reasonable assumptions about marginal costs of enforcement it can be shown that undiscovered illegal immigration induces

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<sup>5</sup> Hatton (2004) offers a survey of the common EU asylum policy.

<sup>6</sup> Deutsche Welle (2005).

<sup>7</sup> The Economist (6. September 2001), cited in Facchini et al. (2006).

<sup>8</sup> Recently, there has been a discussion in Germany whether to legalize a small group of former refugees, who live well-integrated, but without a residence permit, in Germany already for a very long time and who will – realistically – never be able to return to their home countries.

<sup>9</sup> One distinction between the characteristics of the legalization programs in Europe and the U.S. is noteworthy. Whereas the residence permit in the course of the IRCA was a permanent one, the residence permits in Europe are in general only temporary. For example, the 2005 amnesty in Spain granted only a one-year renewable permit to the applicants (see Table 1 for an overview of the characteristics of several legalization programs)

<sup>10</sup> Note that our article deals with economic and politico-economic aspects only. However, we are well aware that there are several other reasons (beyond economics) which may explain the need of an immigration amnesty, such as humanitarian or social reasons.

incentives for immigration amnesties, which are chosen optimally chosen and timed according to the needs of the host country alone.

Table 1: Regularization programs

Country	Year of Program	Number regularized	Primary Policy target	Benefit granted
Belgium	1974-1975	7.448	All foreigners	Permanent residence and work permit
	1995-1999	6.137	Exceptional circumstances	Permanent residence and work permit
	2000	60.000	Exceptional circumstances	Permanent residence and work permit
France	1973	40.000	Workers	Permanent residence and work permit
	1981-1982	121.100	Workers	Permanent residence and work permit
	1991	15.000	Rejected Asylum seekers	Permanent residence and work permit
	1997-1998	77.800	Family Reunification	Permanent residence and work permit
Germany	1996	7.856	Rejected Asylum seekers	Permanent residence and work permit
	1999	23.000	Rejected Asylum seekers	Permanent residence and work permit
Greece	1997-1998	369.600	Workers	6 month residence and work permit
	2001	351.000	Workers	6 month residence and work permit
Italy	1987-1988	118.700	Workers	Residence and work permit
	1990	217.700	All foreigners	2 year renewable residence and work permit
	1996	147.900	Workers	2 year renewable residence and work permit
	1998-1999	350.000	Workers	2 year renewable residence and work permit
	2002	704.000	Caretakers and dependent workers	Residence and work permit
Luxembourg	2001	2.850	Workers	Residence and work permit
Netherlands	1975	15.000	Workers	Permanent residence and work permit
	1979	1.800	Workers	Permanent residence and work permit
	1991-1994	2.000	All foreigners	Permanent residence and work permit
Portugal	1992-1993	39.200	Workers	Residence and work permit
	1996	21.800	Workers	Residence and work permit
	2001	120.200	Workers	Residence and work permit
Spain	1985-1986	43.800	All foreigners	Residence and work permit
	1991	110.100	Workers	Residence and work permit
	1996	21.300	All foreigners	One-year residence and work permit
	2000	163.900	All foreigners	One-year residence and work permit
	2001	216.400	Workers	One-year residence and work permit
	2005	ca. 690.000	Workers	One-year renewable residence and work permit
United Kingdom	1974-1978	1.809	Commonwealth and Pakistani citizens	Permanent residence and work permit
	1977	462	Commonwealth and Pakistani citizens	Permanent residence and work permit
	1998-1999	600	Domestic workers	One-year renewable residence and work permit
United States	1986	1.600.000	General Legalization	Permanent residence and work permit
	1986	1.100.000	Agricultural Workers	Permanent residence and work permit

Source: Papademetriou, et al. (2004), Levinson (2005b)

In an economic union with low internal mobility barriers the optimal immigration amnesty turns out to be different because of negative external effects which may lead – according to

the traditional theory of externalities – to a too large number of legalized aliens. The reason is that from a single member state’s perspective there is no (economic) reason to consider the amnesty’s effect on neighbour countries. When at least some legalized immigrants move on from, say, Spain to Germany they no longer exert a negative marginal effect on the Spanish economy, such that yet another illegal migrant may be legalized before the optimum is reached. Negative effects on the German economy or German politics are of no relevance for Spanish policy makers who seek to optimize their immigration policy in order to either maximize domestic welfare or to gain political support. This may explain why countries like Germany complained about the latest Spanish immigration amnesties.

This example allows us to derive further important insights. In an economic union, member states’ free-riding on public goods provision may be an important problem. The traditional instrument to internalize external effects is so-called *Pigou* taxation or subsidization, respectively, of the activity resulting in the externality. When northern EU member states want southern member states to abstain from amnesties, a well-designed subsidization of the southern states may be the most effective instrument. In our analysis we will show that subsidizing enforcement measures will achieve the desired outcome. The problem is, however, that if one country (e.g. Germany) pays subsidies other countries with similar interest may want to free-ride on these payments and not pay their share. This is what happened to the Nautilus initiative (border controls in the Mediterranean Sea), which had to be suspended in summer 2007 due to a lack of funds from the EU member states. Similar problems can be seen in the case of Malta, a country receiving many illegal immigrants, which receives hardly any support from other EU member states. Malta’s problem is that illegal immigrants are caught on the island such that there is hardly any way for them to move on to other member states (unlike in the Spanish case). Without externalities, not supporting Malta is therefore the optimal strategy for the rest of the EU member states.

A detailed discussion of these aspects will follow in the rest of this paper which is organized as follows. Section 2 analyzes the situation in the legalizing country. Since this is the “port of entry” for illegal immigrants coming from Africa to the EU we discuss costs and benefits of illegal immigration for this country. Given that immigration amnesties are a possible policy measure for dealing with illegal immigrants we introduce a simple framework to demonstrate the decision-making process leading to an amnesty. Section 3 describes the situation of the country of final destination, i.e. countries like Germany or Austria. We ask whether and when legalized migrants move on to those northern European EU member states and which economic consequences these states face. Our discussion continues in Section 4 where we present some solutions – based on Section 2’s model – for the problems arising from an amnesty in a federal setting. Alternative measures like foreign aid to African countries or a reform of the legal restrictions to enter the EU are considered as well. Finally, Section 5 summarizes and concludes.

## **2. The Legalizing Country’s Perspective**

In this section we will focus on the consequences of illegal immigration and immigration amnesties for the host country. In our case, the host country is defined as the “port of entry”, where illegal immigrants enter the EU and that will eventually decide whether to legalize them or not, i.e. one of the southern European countries situated at the Mediterranean Sea. Furthermore, we introduce a simple non-technical framework to illustrate the decision process of policy makers when deciding over regularization.

## 2.1 The costs and benefits of illegal immigration for the host country – A brief review of the literature

The early literature (for example, Sjaastad, 1962, or Berry and Soligo, 1969) considered – in principle – any form of migration, including illegal immigration, as welfare improving and thus unambiguously positive. In a competitive setting the movement of the production factor labor improves allocational efficiency through eliminating factor price differentials. However, while from the “world’s” perspective welfare increases, a single country may not consider migration as desirable.

The reasons why a country might not desire immigration, and especially that of unskilled – and possibly illegal – workers, are discussed, for example, in Borjas (1994) and Mayda (2005), who analyse both economic and non-economic motives. On the one hand there is a concern that the influx of immigrants might have a negative influence on wage levels or the unemployment rate. In addition immigrants are often perceived as net welfare recipients, thereby creating a loss for the native population.<sup>11</sup> On the other hand there may be xenophobia as well as security or cultural concerns related to immigration.

According to Epstein and Weiss (2001) the social costs of illegal immigration are presumably higher than those of legal migration. This might occur because illegal migrants have a higher probability of getting involved in crime as victims as well as as felons. In addition a large presence of illegal migrants may be presumed as a sign of impotence of the acting government. Furthermore a large stock of not tax-paying migrants might also lower the tax morale in parts of the legal population. Last but not least the presence of illegal aliens and their situation might be considered as inhumane. However, although it appears – at a first glance – that illegal migration is supply-side driven and generally rejected by domestic population, this is only one part of the story. There exists a demand for illegal immigrants as well.

Therefore, the literature on the economic effects of illegal migration can be divided in works that are concerned with the supply side of illegal immigration as well as those focussing on the demand side. Most works are concerned with the former, where the host country does not desire immigration in general but has nevertheless to deal with an existing migratory pressure. An early work in this context is Ethier (1986), who demonstrates the benefits of restricting migration in the framework of a minimum wage setting à la Harris and Todaro (1970). He mainly sees three reasons for limiting the inflow of foreign workers. The first is the maximization of national income by affecting the foreign country’s wage level, the second objective is to influence the income distribution and the third are measures to prevent negative effects for the social stability. Furthermore the authors demonstrate that the host country can cut down the cost of its restrictive immigration policy by using a combination of both internal and external enforcement, instead of relying on one policy tool alone.

Djajic (1997) analyzes the effects of illegal immigration on resource allocation, wages and commodity prices in the short run as well as in the long run. He finds negative wage effects for competing workers in the short run. In the long run, however, the factor labor might in general benefit from illegal migrants due to increasing economic rents. Especially in industries like agriculture, the building and service industry and health care irregular workers may induce economic benefits (cf. Krissman, 2001). The employers of illegal aliens gain from their presence because wages for irregular migrants are usually lower than for legal migrants and working conditions are below the national standard.<sup>12</sup> The benefits of irregular workers

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<sup>11</sup> Razin and Sadka (1995) offer a formal analysis of the negative effects of unskilled immigration on the welfare system when wages are rigid. Brücker et al. (2001) give a detailed presentation of the welfare dependency of immigrants in Europe.

<sup>12</sup> Cf. Cobb-Clark and Kossoudji (2000).

accrue not only to the employers but also to the population as a whole by bringing down the costs of goods and services.

In this context Karlson and Katz (2003) offer an interesting explanation why governments on the one hand limit the influx of migrants through border enforcement and on the other hand repeatedly grant legal status by applying amnesty programs. If the government wishes to attract only high-skilled illegal migrants, it may choose a policy mix of enforcing the border and offering the possibility of becoming legalized with a certain probability which attracts only high-skilled illegal migrants. This self-selecting process is achieved through higher expected wage income of skilled compared to unskilled migrants after legalization.

As pointed out by Borjas (2006), immigration policy has to be seen as just another redistribution program. In the case of unskilled illegal migration unskilled native workers are hit by the influx, on the other side employers of unskilled workers are likely to benefit most from the increased supply of workers. Immigration policy will thus be a result of a political decision process that is characterized by the competing interests of those groups. The works by Benhabib (1996), Hillman and Weiss (1998) and Garcia (2006) analyze the determination of the immigration policy in the political process. They apply the median voter model, in which the politician aims to win the election by capturing the median voter. A slightly different approach has been offered by Epstein and Nitzan (2006), who argue that immigration policy is strongly affected by interest groups and lobbying. In general, one can conclude from the public-choice literature that the prevalence of immigration restrictions suggests that (worse-off) adversaries to a liberal immigration and enforcement policy outweigh (better-off) advocates of this policy.

## **2.2. Policy tools in dealing with illegal migrants – Enforcement vs. amnesty provision**

As previously mentioned there are basically three policy instruments which may be used to curtail the influx of migrants and to deal with a given stock of illegal aliens present in the country. These are

- external enforcement (through tightening the border),
- internal enforcement (e.g., through workplace raids and employer sanctions), and
- legalization of illegal aliens.<sup>13,14</sup>

Enforcement activities appear in several forms. The most visible are undertakings to secure the border, which is also at the heart of the EU policy against unwanted immigration.<sup>15</sup> This is usually done by erecting obstacles to hinder illegal immigrants from crossing the border. The most obvious barriers can be found in the Spanish exclaves in Ceuta and Melilla. But in contrast to the over 3000 km length of the Mexican-U.S. border, the Southern European countries are separated from Northern Africa by the Mediterranean Sea. Due to this maritime border, physical barriers cannot be erected to steer the influx of migrants. Instead the Spanish authorities must focus their efforts on detection and apprehension. In the past some main routes of entrance to the EU have evolved as Figure 1 demonstrates.<sup>16</sup>

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<sup>13</sup> For instance the IRCA reform encompassed a tightening of external border control, intensification of workplace controls as well as granting permanent residence to illegal migrants, cf., e.g., Orrenius and Zavodny (2001).

<sup>14</sup> Another possibility is the deportation of illegal aliens, but due to humanitarian concerns this is generally not considered a feasible option.

<sup>15</sup> Cf. Verbruggen (2005).

<sup>16</sup> For further information on border enforcement at the Spanish-African border see Carling (2007).



Another characteristic of a maritime border like the Mediterranean Sea is that according to the Geneva Convention on asylum policy each refugee has the right to apply for asylum after entering the country. Since the Mediterranean Sea does not constitute sovereign territory of the Southern European states detecting migrants on the open sea enables those countries to send the migrants back to Africa without giving them the possibility to apply for asylum.<sup>17</sup>

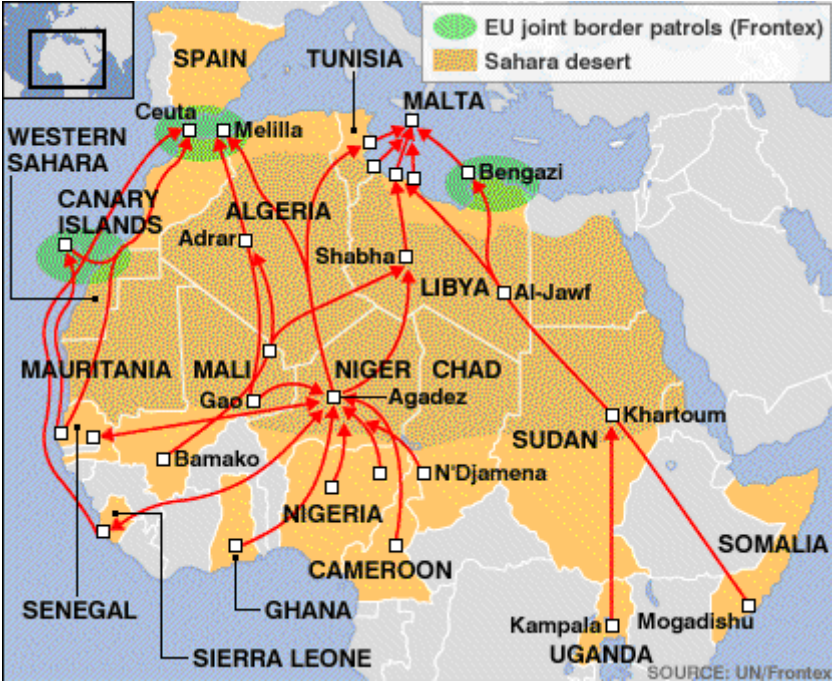


Figure 1: Key migrant routes from Africa to Europe (BBC, 2007).

In spite of the efforts to enforce the external border of the EU the influx of illegal immigrants cannot be prevented entirely. Indeed, estimations of illegal presence in the EU range from 5 to 8 million individuals.<sup>18</sup> To fight the presence of illegal aliens the member states invest in internal enforcement. According to Broeders (2007) and Broeders and Engbersen (2007) especially the northern member states have intensified their efforts on surveillance in recent years. Measures in the fight against illegal aliens comprise workplace raids, exclusion from societal institutions and deportations in individual cases. Currently several member states are developing electronical databases to identify illegal aliens.

The benefits of the regularization of illegal migrants are mostly remedies for the negative aspects of illegal migration. For example, Cobb-Clark and Kossoudji (2000, 2002) point out that the 1986 U.S. IRCA programme accomplished objectives like an improvement in wages and labor market opportunities, so that migrants could more easily find higher paying jobs matching their personal skill level. In the same direction points the work by Coniglio et al.

<sup>17</sup> This procedure was criticized by “Amnesty International” and “Pro Asyl” in September 2007 as not being in compliance with basic human rights, cf. [http://www.proasyl.de/fileadmin/proasyl/fm\\_redakteure/Europa/Frontex/Gutachten\\_Geltung\\_MRe\\_auf\\_See\\_Sept.\\_2007.pdf](http://www.proasyl.de/fileadmin/proasyl/fm_redakteure/Europa/Frontex/Gutachten_Geltung_MRe_auf_See_Sept._2007.pdf).

<sup>18</sup> Note that estimations of the number of illegal immigrants are controversial because most government data systems do not report them, besides there exist immense difficulties in getting correct estimations. Jandl (2004) gives an overview of several techniques of how to measure the total stock and inflow of illegal immigrants to a region.

(2006) who consider an amnesty programme as a tool that enables migrants to fully apply their skill level on the host countries labour market.

According to Levinson (2005b) a regularization might – from the host country’s government perspective –

- increase tax and social security revenues,
- help to reduce the size of the underground economy,
- “wipe the slate clean” for future immigration enforcement,<sup>19</sup>
- acquire information about illegal aliens,
- improve the credibility of the government,
- lessen political pressure from foreign forces, for example when joining multinational agreements like the EU.

However, note that not all of these positive aspects are equally likely to occur. As Papademetriou et al. (2004) explain, regularization does not guarantee lifting the illegal aliens into the formal sector. Some regularized migrants may choose to or be bound to remain in the informal economy, when for instance their skill level does not match the needs of the formal labor market.

On the downside of a regularization program are concerns like political and social tensions from rewarding lawbreakers and encouraging further illegal immigration. Furthermore, a possible increase in the use of public services like health care and education is feared as well as a decrease in the wages of competing workers.

### **2.3 A simple model of enforcement and migration amnesties**

In order to get a better insight into the underlying mechanisms of and interactions between enforcement policy and immigration amnesties, we introduce a simple graphical framework on which we will later (in Section 4.1) base our argument regarding the effects of immigration amnesties in the EU. The following assumptions help to keep the model as simple as possible:

- The benevolent government cares only about the welfare of its native residents. It does not care about illegal or legal migrants.
- In the beginning there is a certain presence of illegal and legal migrants in the country.
- The government decides over two policy instruments: border enforcement and regularization of illegal aliens.
- Immigrants are always net beneficiaries of the host country’s fiscal activities, i.e. even if they contribute (as legalized migrants) to the state budget this does not outweigh the negative effect of reduced per-capita consumption of (impure<sup>20</sup>) public goods following an increasing number of users due to (legal and illegal) immigration.<sup>21</sup> The negative effect is stronger for immigrants remaining illegal than for those becoming regularized.

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<sup>19</sup> For more on the theory of “wiping the slate clean”, cf. Chau (2001).

<sup>20</sup> The public good is impure in the sense that the property of non-rivalness in consumption does not hold fully, i.e., with many users congestion costs arise which eventually lead to lower per-capita consumption.

<sup>21</sup> Cf. Krieger et al. (2007) for a more thorough analysis of the effects of immigration on public goods provision and its consequences for immigration amnesties.

- It is not possible for the government to completely stop the influx of illegal migrants. Border enforcement will decrease the influx but some persons will always manage to trickle through.

Consider now marginal costs and benefits of border enforcement. We assume – for better graphical presentation and without loss of generality – that marginal costs of enforcement are constant, i.e., independent of the existing stock of illegal immigrants. Strengthening border controls by one “unit” (for example, by an additional border guard) will always impose the same cost.<sup>22</sup> The marginal benefits from border enforcement on the other hand are falling with the stock of illegal immigrants. Enforcement limits the number of non-contributing users of the (impure) public good financed from the state budget, such that per-capita consumption is higher compared to a situation without enforcement. However, when already many illegal immigrants are net beneficiaries consuming the public good and when per-capita consumption is already rather low additional enforcement will only have a small positive effect. Hence, for a large stock of illegal immigrants living in the country the marginal benefit of external enforcement is rather low.

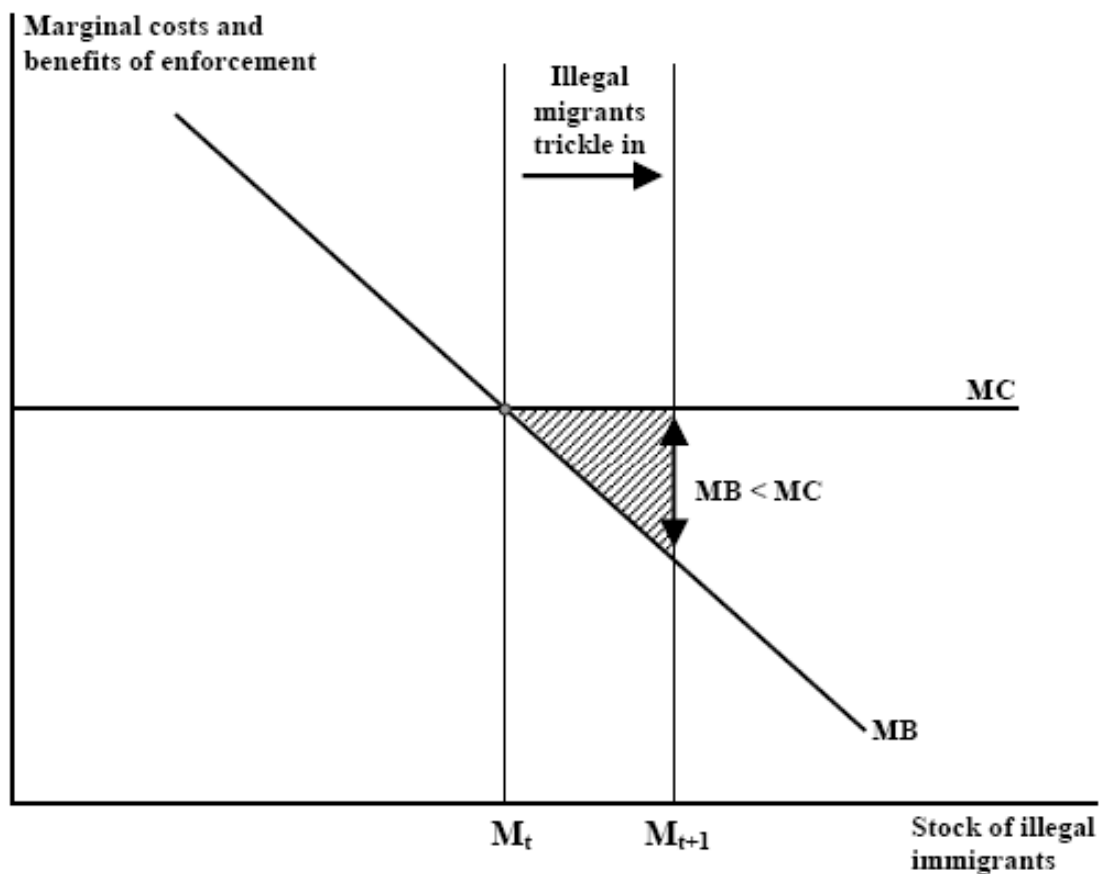


Figure 2: Marginal Costs and Benefits of Enforcement and Incentives for Migration Amnesties

<sup>22</sup> Despite the previous assumption that the net effect of illegal immigration deriving from public good consumption is negative, it appears to be more realistic to assume increasing marginal costs of enforcement because with an increasing stock of illegal immigrants at least some tax contributions can be expected (e.g. from VAT).

Figure 2 shows the constant marginal cost (MC) and the falling marginal benefit (MB) curves. Let us assume that in period  $t$  marginal cost equals marginal benefit. Between period  $t$  and  $t+1$  some illegal immigrants trickle into the country despite border controls. The stock of illegal immigrants rises from  $M_t$  to  $M_{t+1}$ . This dilutes per-capita consumption of the public good further (MB falls) and leads to a welfare loss indicated by the shaded area. From the host country's perspective two solutions can be imagined. First, at a lower marginal cost of enforcement the number of illegal migrants slipping through the borders could be reduced. However, this solution is not feasible as the host country cannot reduce marginal costs.<sup>23</sup> This leaves only to reduce the number of illegal aliens living in the host country. This can be done by introducing an immigration amnesty which reduces the stock of irregular immigrants to the previous level ( $M_t$ ) where MB equals MC again and where the welfare loss disappears.<sup>24,25</sup> It is clearly the optimal strategy for a benevolent, welfare-maximizing government to follow this strategy.

It should be noted, however, that this very simplified framework ignores several other influences on the decision whether to legalize or not. In particular, we have abstracted from important aspects such as distributional issues or the political process. Nevertheless, the model helps to understand the rationale for immigration amnesties. With a too large stock of illegal aliens living in the country, regularization will allow to reduce a resulting welfare loss. In Section 4.1, we will extend this framework and show that within an economic union such as the EU there exists an incentive for the host country to legalize more immigrants than under this section's scenario.

### 3. Adapting to the Situation in the EU – A Federal Perspective

Having dealt with the perspective of the legalizing country in the previous section, we will now consider the situation of the fellow member countries in the European Union. For this purpose we will start with a brief description of the current EU immigration policy. After that we will discuss incentives for migrants to move on within the European Union, i.e. from one member country to another. The section closes with an examination of the consequences of onward migration for the countries of final destination. We discuss the labor market impact as well as the effects on the welfare systems in order to see whether the anxieties of these countries towards immigration are justified.

#### 3.1 The EU immigration policy

A common European immigration policy develops only cautiously, due to the fear of the member states to lose sovereignty over this important policy issue. According to Baldwin-Edwards (2006) the focus of the recent achievements of the common immigration policy lies on security aspects like border enforcement and expulsion of illegal migrants while other issues like legalization of illegal migrants or immigration to meet labor market needs have been absent until very recently when the debate about the so-called Blue Card started (see Section 4.3 for details).

The most obvious achievement of the common immigration policy is the Schengen acquis which removed barriers to mobility for workers and households inside the Schengen territory. In consequence EU citizens have the freedom to live and work where they choose within this

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<sup>23</sup> For example, it is not realistic to assume that the cost of border guards can easily be reduced.

<sup>24</sup> An alternative interpretation would be to argue that an amnesty is equivalent to increasing the marginal benefit of illegal immigration. This argument follows because a legalized immigrant reduces the net cost of public goods due to her tax payments.

<sup>25</sup> A total of  $(M_{t+1} - M_t)$  immigrants will be legalized.

region. In contrast to this, barriers against immigration for non-EU nationals have been established in most member states and at EU level after the first oil price crises in 1973. These barriers have been reinforced with the introduction of the Schengen acquis.

Since every migrant who arrives on the territory of the European Union has the right to apply for asylum, it is worth taking a closer look at the EU legislation on asylum policy. The rules of admitting asylum seekers and refugees as well as the national practices of proceeding with non-accepted asylum seekers and refugees are not yet harmonized in the EU. Usually, only very few applications for political asylum and refugee status are accepted. However, many humanitarian migrants are nevertheless tolerated in EU countries, even though their application for asylum status has been rejected.<sup>26</sup> Many EU countries have tightened the legal and administrative rules for admitting asylum seekers to limit entries and shorten the duration of stays.<sup>27</sup> According to Boeri et al. (2002) a “race to the bottom” among member states is unavoidable if migrants face different national rules. Caviedes (2004) supports this concern by stating that “tolerating different regimes invites competitive policy-making that can impose externalities upon fellow member states”. Such externalities are not limited to the case of asylum policy. Therefore, the EU also established common rules on how to deal with the issue of illegal immigration. In 2002, the EU Council enacted a comprehensive scheme to combat illegal immigration and trafficking of human beings on the summit of Seville. This scheme encompasses measures on fields like visa policy, border management or return and readmission policy.<sup>28</sup>

Alscher (2005) concludes that the EU immigration policy is getting more and more a common topic of the EU-harmonization process. But the focus only lies on restrictive measures like coordination of external border control and a common asylum policy. Fields like the legalization of illegal immigrants remain national affairs and therefore suffer from a lack of coordination. This opens the door for more negative externalities effects, as encountered by Caviedes (2004), which may then lead to sub-optimal outcomes from a European welfare perspective.

### **3.2 The situation of migrants – Can we expect onward migration?**

The existing literature on immigration amnesties deals with the situation of a single migrant-receiving country that is not part of a federation. When considering the – more realistic – situation of low barriers to EU-internal migration a central question arises: Do illegal migrants arriving, for example, from Africa to Spain have an incentive to move on to other member countries?

Let us realistically assume that there is always a certain number of illegal aliens not intending to stay in the country of first arrival in Europe, but planning to move on to other, more northern EU member states such as Germany, Austria or the Netherlands. Reasons for this behaviour are manifold. For instance, the existence of network effects may induce migrants to live in regions where there are relatives, friends or people from the same cultural background.<sup>29</sup> If these networks exist in countries that are not easy to enter, migrants may choose a different “port of entry” and eventually move on to the final destination country.<sup>30</sup>

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<sup>26</sup> In most migration amnesties, at least some rejected but not (yet) repulsed asylum seekers are regularized as well.

<sup>27</sup> See Hatton (2004)

<sup>28</sup> For a more detailed overview see Yoshida and Woodland (2005)

<sup>29</sup> Cf. Epstein and Gang (2004), Bauer et al. (2005) or Faria and Levy (2003) for related studies.

<sup>30</sup> This effect might be weakened due to the insight of Chiuri et al. (2007) that illegal migrants coming to Europe are mainly frontrunners, i.e. the first to migrate from their family.

In addition, the “safe third country” concept in EU asylum policy, introduced after the Dublin Convention, fosters onward migration. This concept states that countries are allowed to refuse asylum in case that the refugee has passed through a country deemed safe, where she could have sought asylum. The consequence mainly for African migrants is that they first have to apply for asylum in countries like Spain or Italy before they can move on to fellow EU member states.<sup>31</sup>

To get a clearer picture of the incentives concerning onward migration, data from surveys on illegal migrants arriving in Europe is necessary. Unfortunately, the data situation regarding illegal migrants coming to Europe is very dense.<sup>32</sup> One work that offers some insights on the preferences of illegal migrants coming to Europe is the field survey by Chiuri et al. (2007). They surveyed 920 apprehended illegal immigrants coming to Italy and found that about 23 percent of them had the intention to move on to a different EU member state.

Another critical point about illegal immigrants and their legalization in a federal setting is the question when illegal migrants dare to move on. As long as they are clandestine it is very likely that they avoid any activities which might arouse attention. A straightforward conclusion from this behaviour is that illegal aliens hardly intend to move to another EU country due to the fear of being detected at the (EU-internal) border. Therefore an amnesty has an important consequence: no longer being illegal, the mobility of (formerly illegal) migrants rises, making it more likely that they move to another member country.

As far as we know, this effect has also not yet been dealt with in the literature. However, European policy makers seem to be aware of this potential problem, and first action is taken. In November 2003, EU directive 2003/109 was introduced which states that, inter alia, legalized migrants are only allowed to move on to another member country after a 5-year stay in the country of legalization. This underlines the anxiety of EU member states of becoming the final destination of former illegal aliens.

### **3.3 The situation of the target country**

In this part we will briefly deal with the situation of the country of final destination. If at least some migrants move on once they are legalized, the country of final destination will be affected by an influx of presumably unskilled migrants which has to be interpreted as an external effect. External effects are defined as economic activities of an economic agent which have an impact on the well-being or welfare of another economic agent who is not compensated for this effect through the market process. Regarding immigration amnesties, the legalizing country does not take into account the influence of its policy on the welfare of its fellow member states. Consequently, the number of legalized migrants respectively the frequency of amnesty programs will be too high from a federal perspective.

A corollary of this hypothesis is the question whether the economic effects of onward migration in fact justify the anxieties of the country of final destination. As previously mentioned in Section 2.1, the free mobility of labor improves allocational efficiency from an economic union’s joint perspective. Nevertheless may the consequences for the target country be negative. The reason for this may depend on the flexibility of the labor market or the design of the welfare state. With flexible wages, for example, an influx of unskilled labor may

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<sup>31</sup> For example, except for small maritime borders Germany is surrounded by „safe third countries“. Entering Germany without passing such a state is only possible via the large international airports in Frankfurt and Munich where it is easy to enforce border controls. This explains why the number of applications for asylum has dropped sharply after the introduction of the “safe third country” mode.

<sup>32</sup> The data situation on illegal immigration in the U.S. is in many cases more comprehensive because the IRCA was a hotly debated and widely analyzed project. Cf. e.g. the studies by Cobb-Clark and Kossoudji (2000, 2002).

lead to deterioration of competing workers' wages; in the presence of wage rigidities the unemployment rate may rise. In addition, since immigrants tend to be net recipients of the welfare state (cf. Chand and Paldam, 2004, or Sinn, 2002) there may be further negative affects.

The empirical evidence on labor market effects of migration are mixed so that the anxiety of member states towards an influx of legalized migrants may not be justified. As Zimmermann (1995) surveys most of the empirical work has failed to find a noticeable positive correlation between migration and unemployment. Figure 3 displays the connection between unemployment and the share of foreign population for selected countries and even finds a negative correlation between these variables.

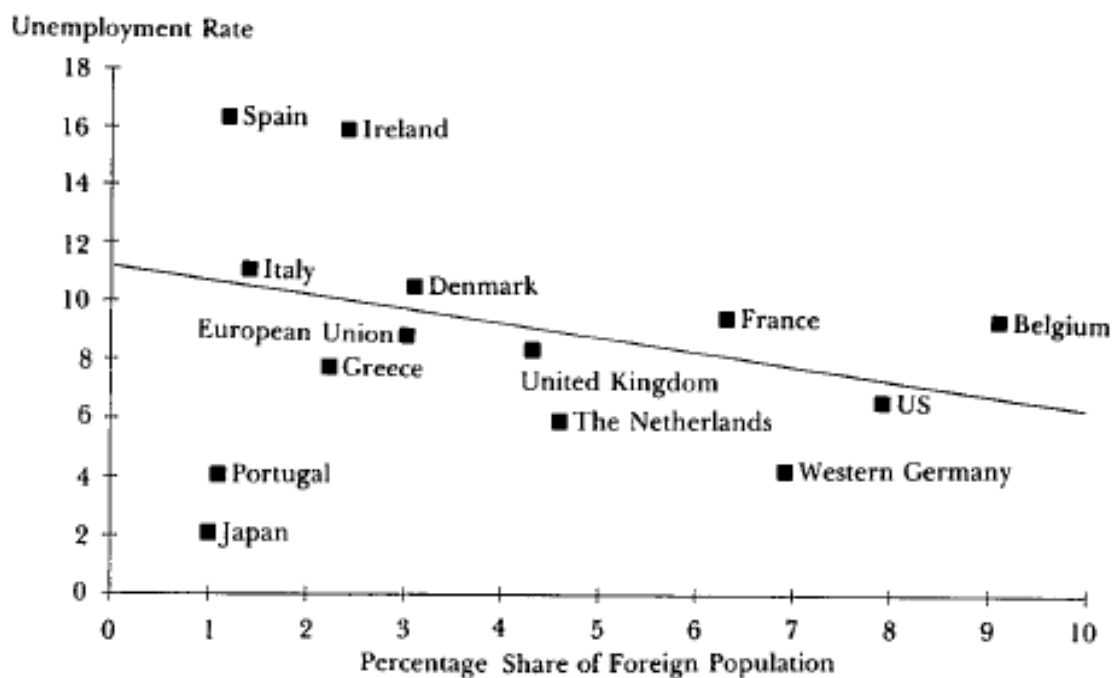


Figure 3: Relation between Unemployment Rate and Immigration for 1991 (Source: Zimmermann, 1995)

Friedberg and Hunt (1995) confirm that most empirical analyses find no significant influence of immigration on either unemployment or wages. Averaging over other empirical studies, they conclude that a 10 percent increase in the share of immigrants reduces natives' wages by at most one percent. More recent studies come to different conclusions. For example, Borjas (2003) offers an empirical approach that analyzes the wage effects on the national labor market, taking into account differences in work experience across workers. He concludes that a 10 percent increase in labor supply reduces competing wages substantially by 3 to 4 percent.

In addition to possibly negative labor market effects there is a widespread fear that immigrants impose a negative burden on the host country's welfare system. Brücker et al. (2001) offer a survey on the impact of immigration on the European welfare system. They conclude that migrant households have indeed a higher probability of depending on social assistance and welfare programs compared to native households. However, the effects are rather differentiated. Socio-economic characteristics of migrant families like lower education and lower age of the household head as well as a higher number of children make immigrants in general less likely to depend on old-age and health benefits, but more likely to rely on unemployment assistance and welfare benefits.

Summarizing the studies about the impact of immigration on the economy, we find ambiguous evidence. Whereas the discussion about the correct measurement of the wage impact of immigration is still not settled, there is no clear evidence that the impact is indeed negative. The evidence on the welfare effects of immigration is also mixed. While immigrants seem to rely more heavily on unemployment assistance than natives, they have a rather low tendency to depend on old-age and pension benefits. In fact, in most countries even unskilled immigration is seen as a measure for solving the demographic challenge (cf. Krieger, 2005). All in all the anxiety of EU member states regarding onward migration and the influx of unskilled migrants is only partly justified and maybe more a result of political forces interested in influencing immigration policy.

#### **4. The effects of onwards migration in a federation and possible solutions to resulting problems**

After presenting the situation in the legalizing country and in the country of final destination separately, this section brings together both branches. Specifically, we deal with the interaction between both countries' policies and focus on the possibilities of the country of final destination (or the federation as a whole, respectively) to influence policy in the legalizing country. For this purpose we will draw on the theory of fiscal federalism that offers insights into the incentives of regional governments that are part of a federation and into the effects of fiscal transfers on different agents.

##### **4.1. Interregional transfer payments**

Interregional transfer payments are an important component of EU policy. They are granted through the so-called cohesion fund, which supports infrastructure projects like highways, railway stations or airports. In the financial year 2007 about 36% of the EU budget will be used for such subsidies.<sup>33</sup>

In the context of immigration policy, interregional payments are less obvious. Nevertheless they have already been dealt with in the literature. For instance, Myers and Papageorgiou (2000) as well as Hatzipanayotou and Michael (2005) analyze the case where direct payments from the host country to the country of origin restrain the influx of migrants that would otherwise have a negative impact on the domestic welfare system. In the same direction points the work by Fenge and Meier (2006) who demonstrate that interregional matching grants are a superior instrument, compared to wage subsidies, in limiting unwanted immigration. Another option which has not been analyzed in the literature so far is to grant interregional subsidies for border enforcement or in order to delay (or entirely stop) immigration amnesties.

This policy option is indeed practised in the EU, as demonstrated by the existence of the FRONTEX agency.<sup>34</sup> This community body was introduced in 2005. Its main objective is to coordinate the efforts on border security between member states. In 2007, the FRONTEX joint operation *Nautilus* was started in order to support the enforcement of Southern European maritime borders of the EU. For this purpose also member states not bordering the Mediterranean Sea contributed financial and technical support for the surveillance of the maritime border. This contribution can be interpreted as interregional transfers from member states like Germany or Sweden to countries like Spain or Italy

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<sup>33</sup> Cf. European Commission (2007).

<sup>34</sup> A detailed overview of the FRONTEX agency can be found in Jorry (2007) and Carrera (2007).



To demonstrate how interregional transfers can be explained from an economic point of view we draw back on the concept of external effects introduced in Section 3.3. The literature on fiscal federalism has derived policy measures to alleviate the problems arising from external effects caused by policy setters not taking into account the consequences of their actions on another agents' welfare. In our context, the most obvious remedy is a Pigouvian subsidy which influences the behaviour of the externality-causing agent. In the case of the immigration policy in the EU, this would be an interregional transfer payment from northern or central European states to the southern European member states. The contribution to FRONTEX may be interpreted as this kind of subsidy.

Returning to our model from Section 2.3, we can now show how onward migration and interregional transfers in an economic union affect the extent of the migration amnesty. Figure 4 replicates the previous Figure 2 and includes the relevant new effects. Recall how we interpreted the MB curve: A benefit from enforcement arises because per-capita consumption is reduced less compared to a situation without any enforcement. Given that onward migration occurs, the marginal benefit from enforcement is zero for any migrant moving on to northern European states as none of them consumes the domestic public good. Onward migration may therefore be interpreted as a downward shift of the MB curve. Clearly, this means that at period  $t+1$  the marginal benefit falls even further below the marginal cost such that the extend of the immigration amnesty has to be larger ( $M_{t+1} - M'$  instead of  $M_{t+1} - M_t$ ) because of a greater welfare loss (ACE instead of BCD).

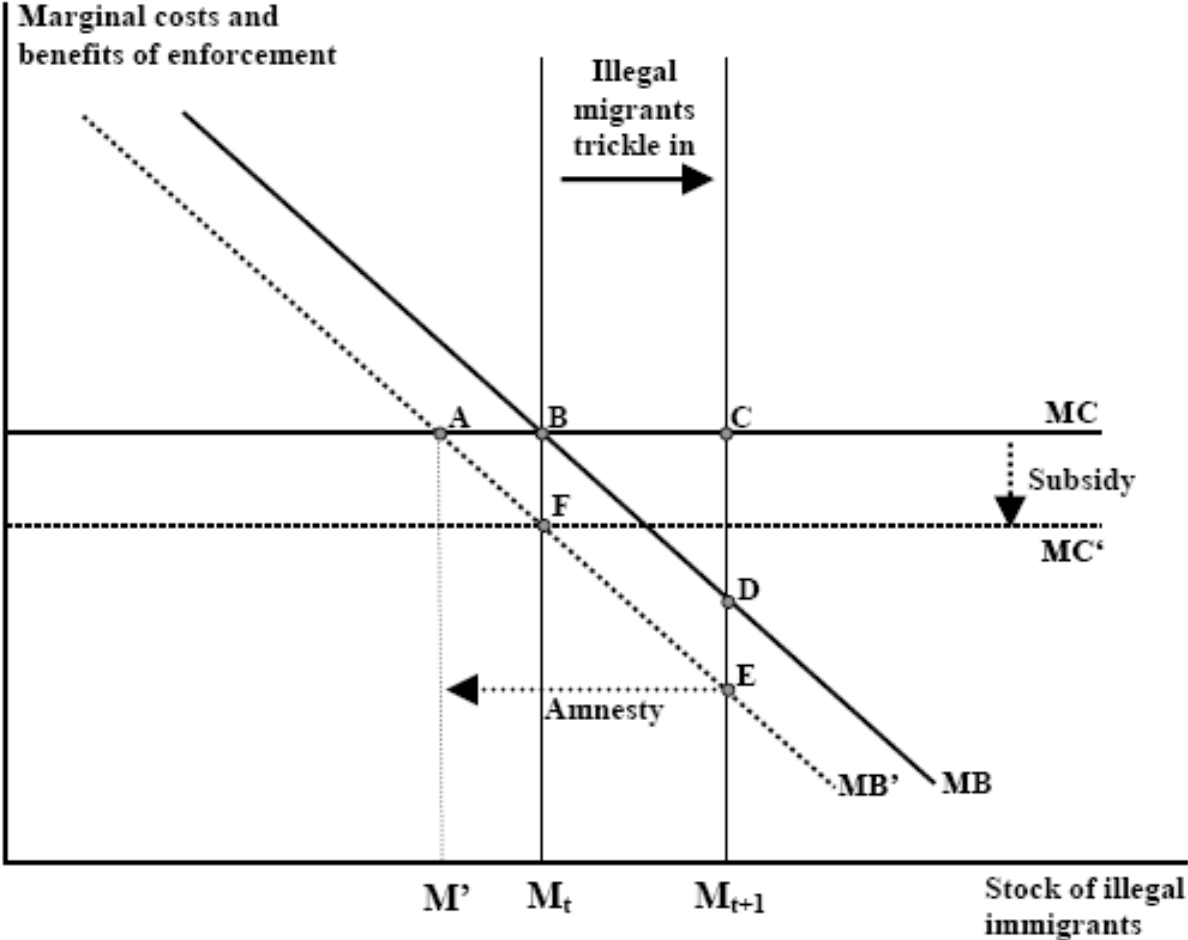


Figure 4: Enforcement and amnesties in a federation

On the other hand, onward migration ( $M_t - M'$ ) is not in the interest of the final destination countries in northern Europe. Hence, these countries may consider subsidizing external enforcement measures by southern European member states. From the host country's perspective a subsidy means that the marginal cost of enforcement is reduced. The optimal subsidy equals the shift of the MB curve, i.e. either BF or DE, as this will induce a level of enforcement which just reduces the number of those slipping through the border by the number of onward migrants. As a consequence the number of legalized immigrants will go back to  $M_{t+1} - M_t$ . Marginal costs and benefits of enforcement are equalized again in F and the stock of irregular aliens living in the host country is again  $M_t$ .

When dealing with interregional transfer payments an additional problem may arise in a federation. This problem occurred actually in the summer of 2007 when the aforementioned Nautilus project was suspended. Enforcing the EU external borders has the characteristics of a public good for EU member countries. Due to free internal movement, every country benefits from border enforcement through decreased migratory pressure. A well-known problem in the theory of public goods is the free-rider phenomenon. It occurs when none of the countries can be excluded from the benefits of tighter borders although it may withdraw its own financing share. This leads to a prisoner's dilemma situation in which no one has an incentive to finance the public good and supply will break down at last. The suspension of the Nautilus program in July 2007 was a good example for this phenomenon in which the joint support for border enforcement was abandoned due to a lack of financing.<sup>35</sup>

Note that interregional transfer payments resembling Pigouvian subsidies are only introduced when interregional spillovers are in fact a relevant problem. This can be seen from the case of Malta where recently many illegal immigrants arrived by boat due to its proximity to North Africa. While the number of immigrants relative to population is huge, little support from other EU member states is given to Malta. In particular, other member states are rejecting any reception of migrants from Malta. This strategy is hardly surprising as Malta faces a specific problem which does not exist for Spain or Italy. Being an island, Malta's illegal immigrants are caught there and unable to move on to other member states. Without externalities, not supporting Malta is therefore the optimal strategy for the rest of the EU member states. This explains why Malta can expect little support from the rest of the EU.

#### **4.2 Foreign aid as migration deterrent mechanism**

Interregional transfer payments within the EU may possibly be replaced by giving subsidies to the transit countries, which is often labelled as foreign aid. In this case the receiving countries are those from where the illegal migrants start their journey to Europe, for example Morocco or Libya. This policy may alleviate migration pressure as well. Theoretical works dealing with this possibility are Myers and Papageorgiou (2000) and Dula et al. (2006) who analyze how the money should optimally be allocated between spending on border enforcement and granting foreign aid. Concrete examples for this procedure are given in Carling (2007) where the agreements between Spain and several African states are analyzed. For instance, Morocco allows Spain to return Moroccans who have entered Spain without authorization. Further examples are the European-African summits in Rabat and Tripoli in June and November 2006, where the EU promised to give an amount of 18 billion Euros over a period of seven years to some African states. The money ought to be used for a reduction of the migratory pressure from Africa to Europe.<sup>36</sup>

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<sup>35</sup> Cf. Deutsche Welle (2007)

<sup>36</sup> Cf. Kohnert (2006)

Compared to an inner-EU transfer mechanism this procedure has some disadvantages from a fiscal federalism perspective. At the same time the procedure is attractive to policy makers as it appears to offer more practical solutions; for instance, the migratory pressure at the EU border is reduced when border enforcement takes place already in Morocco (the enforcement measures as well as the enforcement intensity and costs are nevertheless basically the same). The disadvantages come from the fact that there is less control over the proper use of funds when money is transferred to non-EU governments. Specifically, hardly any “second-round punishment” in case of misbehaviour is possible. Secondly, the theory of fiscal federalism shows that conditional or “matching” grants (such as the common co-financing of subsidies in the EU) are welfare-superior to unconditional grants (such as subsidies labelled as foreign aid). The reason is that conditional grants are not only cheaper but also improve the policy of the subsidy recipient in a welfare-improving way. Since co-financing may be possible with a EU member state such as Spain, it will not work with rather poor states such as Libya or Algeria.

#### **4.3 Increasing the possibilities for legal immigration**

Another alternative in coping with the problem of illegal migration is to increase the possibilities of legal entry to the EU. As EU Commissioner Frattini stated in September 2007 the EU has to deal with the challenge of an aging society in which the population will shrink by 20 million until the year 2025.<sup>37</sup> To satisfy the demand for workers he proposed the introduction of a so-called Blue Card which would resemble the US Green Card. The Blue Card would enable individuals from third countries to receive a work permit for two years at first, but which may eventually be extended. However, the mobility between EU member countries should be limited. In broadening the “front door” for legal migrants to the EU, the migratory pressure of illegal migrants would presumably decline. However, the previously discussed problems of inner-EU spillovers of immigrants will remain to exist. When immigrants aim at moving to a member state with rather restrictive Blue Card policy, they may consider to move first to a member state with a liberal policy and then move on. Only at the price of restricting the freedom of movement of all EU citizens this may be avoided.

### **5. Conclusion**

Immigration amnesties are a controversial policy tool in the EU. While the influx of illegal immigrants becomes increasingly a concern for the southern member states, these countries respond, besides investing efforts in external and internal enforcement, by granting legal status to illegal aliens. This policy measure is – due to the lack of coordination in the EU – mainly a non-cooperative decision of a single country, ignoring effects on fellow EU member states.

Our examination has explored an economic approach to understand the granting of amnesties to illegal migrants in a federal setting like the EU. While the existing literature on immigration amnesties focuses on the case of a single independent legalizing country we have expanded this analysis to the case where the legalizing country is part of a federation with little restrictions on labor and household mobility. In this setting some new aspects have to be considered. For instance, the immigration policy of the legalizing country does not only affect the welfare of its own residents but also the welfare in the fellow member states. Those countries are affected by the increased mobility of legalized migrants and therefore by a higher migratory pressure of unskilled individuals.

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<sup>37</sup> Cf. Frattini (2007)

We demonstrated in a simple framework which connects marginal benefits and marginal costs of border enforcement that the legalizing country grants an excessive amnesty to illegal aliens from the federal perspective. This behaviour is caused through the expected onward migration of legalized migrants, which decreases the marginal benefit of border enforcement.

There are several possibilities for the fellow member countries, respectively the body of the EU, to alleviate this problem. An obvious measure, derived from the theory of fiscal federalism, is granting interregional transfers for a public good such as the enforcement of external borders. In the case of southern European borders such a measure can indeed be observed by the activities of the FRONTEX agency to support the southern maritime border. By decreasing the marginal cost of border enforcement for the Mediterranean countries an incentive for them arises to grant a smaller amnesty to its illegal aliens and thereby increasing the efficiency from the federal perspective and thus aggregate welfare of all member states.

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