The Rise of the Radical Right and the Impact on Immigrant Integration Policy in Europe (DRAFT – NOT FOR CITATION)

Terri E. Givens[1]

Associate Professor, Department of Government

University of Texas at Austin

I. Introduction

Since the mid-1980s, the rise of anti-immigrant radical right parties has impacted the party systems and immigration policies of many European countries. The literature tends to focus on the negative impact of the radical right on immigration control policy and the refocusing of integration policy from multiculturalism to assimilation. However, in certain high-profile cases, the rise of radical right parties actually had a positive impact on the development of antidiscrimination policy, which was at least initially targeted at immigrants, particularly third-country nationals (TCNs).

Violence against minorities and immigrants, the 9/11 attacks, the murder of Theo Van Gogh and the London bombings in the summer of 2005 have all raised the salience of the issue of immigrant integration. I argue that these factors have mainly had an impact on immigration control, but they have also focused integration efforts on improving the situation for ethnic minority and immigrant populations. Although policy has moved away from a more multicultural approach to an assimilationist approach, encouraging immigrants (and ethnic and religious minorities) to adopt the language, culture and morals (however they may be defined) of the host society, there has also been recognition of the discrimination faced by these populations.

The literature on Radical Right parties has tended to focus on their electoral successes, but they have also had an impact on policy. These parties experienced success in several countries during the 1990s and I have written on the role of institutions on that success. My 2005 book examines the role of coalition politics in the success of radical right parties, but it does not extend the analysis to the impact on policies toward immigrants. With the rise of anti-immigrant parties and increases in anti-immigrant sentiment, there was an increased emphasis on immigration control. Whether that actually led to decreases in immigration is debated, but certainly the salience of the issues increased (Givens & Luedtke), which led to more restrictive policies.

In her study of the development of more restrictive immigration and asylum policy, Giraudon (2000) has found that "policy elaboration and implementation have shifted upwards into the EU in the 1980s and 1990s" (Giraudon 2000, 252). She analyzes EU immigration policy developments on migration control policy as "venue shopping." Governments will use policy making at the EU level to impose more restrictive policies, circumventing national judicial scrutiny and other hurdles for implementing more restrictive policies at the national level. Givens and Luedtke take this argument a step further, finding empirical evidence that the factors outlined by Giraudon, including the success of radical right parties, lead to the implementation of more restrictive policies at the EU level.

Freeman argues that immigration policies will be more expansive than preferred by public opinion, due to the concentrated incentives facing pro-immigration actors, versus the diffuse incentives facing the public at large. However, Freeman's theory cannot explain the specific conditions under which anti-immigrant sentiment can override client politics, including restrictive policies towards low-wage (and/or illegal) workers (who are also in demand from

business interests). The rise of the Radical Right in Europe seems to have contributed to the break in the client politics connection, in that political actors are now highly responsive to public opinion vis-à-vis immigration.

However, the rise of the radical right is not only linked to restrictive immigration control policies, it can also be linked to measures that were designed to improve the situation for immigrants and ethnic minorities who had already settled in European countries. A clear example of this is the EU's Racial Equality Directive. This directive is also linked to electoral politics, since Left parties are more likely to support antidiscrimination measure to counter immigration control measures, as has been seen in the case of Britain. Both left and right parties want to control immigration, but in the British case the Labour party pushed for antidiscrimination policies in order to counter the negative impact of immigration control policies (Givens, tbd).

Another important factor in understanding anti-immigrant sentiment is the connection between immigration and race. The study of race politics in Europe is inextricably bound with immigration. The growth of ethnic minority groups in the last 50 years in Europe is directly related to immigration flows. These flows are dependent on colonial histories, and the nature of the work forces recruited in the post-war economic boom. These flows are also related to international relations and asylum policies. What is consistent across all of these countries, however, is the fact that they are or have become multi-ethnic societies and multiculturalism has become a catchword for attempting to integrate these groups into societies that may be resistant to their inclusion (Ireland 2004). It is important to note that new arrivals are not the only targets of discrimination. Many ethnic groups have lived in these countries for generations (Tilly 1978).

This paper will examine how immigration control is often coupled with anti-discrimination policy. This is clear in the development of immigration control and "race relations" policies in Britain, beginning in the 1960s, and how these ideas were diffused to the level of the European Union in the 1980s and 90s. There was not only venue shopping in the area of immigration control, but transnational actors also used the EU level to implement antidiscrimination policies. The development of Britain's race relations policies (which drew upon civil rights policy in the U.S.) became the basis for EU level antidiscrimination policy, but it was the success of the Radical Right, particularly in Austria, that became the catalyst for a Left-party dominated European Council to push forward antidiscrimination policy.

In June 2000, the European Council adopted the Racial Equality Directive. The RED represents a significant development as it involves issues of race and European integration, both of which can serve as lightening rods within national politics. Whereas the push for laws prohibiting sex discrimination was driven by labor market considerations (see Bell 2002: 8-9, 30), the RED was largely driven by calls for greater "social cohesion and solidarity."[2] Moreover, it addresses racial discrimination in the areas of social protection, housing, education, and associations, as well as in employment.[3] In terms of scope, it thus represents a significant advance in European integration. Premised as it is upon rights-creation and enforcement, we suggest that the RED is emblematic of a broader effort to use state guarantees of fundamental rights as a means of fostering a sense of citizenship and legitimating a new pan-European polity. Based upon survey data and the number of "hits" experienced by EU antidiscrimination websites, "antidiscrimination has become one of the most widely known areas of EU

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[2] RED 2000/43/EC of 29 June 2000, Preamble (9).

[3] RED 2000/43/EC of 29 June 2000, Article 3.

employment and social policy."[4] Thus, the RED's salience extends beyond the halls of Brussels and Strasbourg.

The European Council unanimously adopted the RED in record time as a response to the electoral success of the Austrian Freedom Party in parliamentary elections (Geddes and Giraudon). The directive required member states to adopt national legal protections against racial discrimination within two years. Adoption of this Directive represents a significant development as it involves issues of race and European integration, both of which can serve as lightning rods within national politics. However, as originally conceived by a group of non-governmental organizations (NGOs), known as the Starting Line Group (SLG), the RED not only prohibited discrimination against racial minorities, but it also prohibited discrimination on grounds of religion and provided protection to "third country nationals" (TCNs) (see Chopin 1999: 111). In addition, the SLG also proposed two additional legal instruments, one on free movement and another on the participation of TCNs in elections. Ultimately, however, in its final form, key provisions desired by the SLG were omitted from the RED. Although the RED's protection against discrimination extends to TCNs, the Directive "does not cover differences of treatment based on nationality and is without prejudice to provisions governing the entry and residence of third-country nationals and their access to employment and to occupation." The RED constitutes a significant victory for transnational NGOs in the EU policymaking process, but it also illustrates the fraught relationship between immigration and antidiscrimination policies.

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[4] *Green Paper: Equality and non-discrimination in an enlarged European Union*, Commission of the European Communities (Brussels, 28.05.2004, COM(2003)379 final), p. 8. This was determined by website hits.

Nevertheless, with regard to both race and EU integration, the European populace continues to send very mixed signals. On the one hand, an array of radical right parties, typically espousing anti-EU and anti-immigrant rhetoric, has done well in elections to both national and European parliaments, but on the other hand, the May 2003 results from the *Eurobarometer* survey indicate that a majority of Europeans opposes discrimination of all forms.[5]

I will argue that the rise of the radical right did have some impact on the agenda related to immigration policy at the national level, but that it also had the impact of focusing Left parties on immigrant integration and antidiscrimination, and also encouraged activists to focus their efforts for immigrant rights at the EU level.

II. Background and Literature Review

In his article on the impact of the extreme-right on immigration policy, Martin Schain examines the development of the *Front National* (FN) in France as an example of electoral realignment. He argues "the FN succeeded in realigning voting and issue patterns, as well as the relationship among parties in France." (Schain 2008, 278). He finds that the electoral success of the FN forced parties of the right and left to take on the issue of immigration, thus impacting the policy agenda, noting that "the dynamics of party competition resulted in redefinition of the issue of immigration in national politics, from a labour market problem, to a problem of integration and national identity, to problems of education, housing, law and order, and citizenship." (Schain 2008, 283).

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[5] *Green Paper: Equality and non-discrimination in an enlarged European Union*, Commission of the European Communities (Brussels, 28.05.2004, COM(2003)379 final), p. 8.

Although he focuses on the extreme-right in France, Schain argues that the French case has implications for comparative study. He notes that "In virtually every case where there has been an electoral breakthrough of the extreme-right, established parties have reacted by co-opting some aspects of their programme in an attempt to undermine their support." (Schain 2008, 286). However, better examples come from countries where radical right parties have actually become part of government. Two good examples of this are Austria and Denmark.

However, other authors, such as Money (1999), have pointed out that increasing restrictions on immigration pre-dated the emergence of the extreme-right (referenced in Schain 2008, 286). Certainly, in countries where there has been no electoral breakthrough for radical right parties, there has been a push for more restrictive immigration policies, for example in Germany and Britain. Money also points out that Left parties have an incentive to push for integration policies in order to develop these new constituencies of immigrants who are becoming voters (Money 1999).

Parties on the left have often been willing to restrict immigration in return for antidiscrimination policies for ethnic minorities (see Givens, TBD). This was particularly true of the British Labour party during the 1960s and 1970s. The radical right has not only had an impact immigration policy. Beginning in the 1980s the European Parliament began to react to the development of the radical right by proposing anti-racist policies.

Since the end of World War II, millions of immigrants from developing countries have settled in Western Europe. Immigration and issues related to the integration of those settlers have become some of the most salient political issues in Europe over the last two decades. During the post-war recovery, many European countries began to import labor, initially from

Southern Europe, and later from former colonies and other developing countries. With the stop of the importation of labor during the economic slow down of the 1970s, most European countries stopped the importation of labor and had policies of zero immigration. However, due to family reunification and asylum policies, large flows of immigrants and asylum seekers continued to enter Europe as settlers. These populations, many from Muslim backgrounds, have led to the development of various policies of integration, in combination with citizenship laws, creating different European approaches to immigrant integration.

Ethnic and racial conflict has accompanied the development of new minority communities in Europe. Riots have occurred on a regular basis in Britain since the 1950s. Despite the media frenzy surrounding the Paris "riots" (a.k.a. "uprising") in 2005 and again in 2007, these events were only the most recent incidents in which police violence had touched off a response in the suburbs. These realities point to shortcomings in the development and implementation of policies designed to integrate and deal with issues of discrimination against minorities.

Most European countries are looking at how they have integrated immigrants in the past, and how they might change their policies to avoid some of the problems exhibited in immigrant and minority communities today. High levels of unemployment and other manifestations of discrimination including negative attitudes in the broader communities are challenges for policy makers. Immigrants, particularly non-citizens, tend to face higher levels of unemployment than the general population, as well as exclusion from many aspects of society. Cultural and religious issues have come to the fore as Muslims and other religious groups look for ways to practice their faith in societies with strong Christian underpinnings.

What is meant by immigrant integration? This can generally be considered to be the processes that take place after an immigrant has moved to a new country. Integration is also considered to be a two-way process, requiring accommodation on the part of both the native and the immigrant populations. Ireland (2004, 15) has described it as a goal that leads to overall social cohesiveness. Authors have used terms such as assimilation, incorporation, and multiculturalism to describe the processes that lead to an immigrant becoming an integrated part of his or her adopted community. However, these are tenuous concepts, mainly used by policy makers to describe a particular policy outcome, i.e., immigrants who can speak the language, are sending their children to school, and in general are not causing problems in a society.

Cleary, issues of immigrant integration range from citizenship policy, to employment issues, to housing issues. However, for the purposes of this paper, I will focus on efforts by civil society and other actors to counteract the negative impact of anti-immigrant sentiment through the development of antidiscrimination policies. Antidiscrimination policy is one means of addressing immigrant integration issues and has often been seen by the left as a way to soften the impact of restrictive immigration control measures.

For example, antidiscrimination law and immigration restrictions developed in tandem in Britain, as the political elite sought to reduce the number of new immigrants and to devise ways of integrating existing immigrants and especially their children, the so-called "second generation," into British society. The Commonwealth Immigrants Act of 1968, the Immigration Appeals Act of 1969, and the Immigration Act of 1971 coincided with new race relations legislation in 1968 and 1976. Britain's antidiscrimination regime represents "the gold standard" in Europe, and in important ways, the RED appears to be modeled on its key provisions.

The UK's 1965 Race Relations Act was preceded by a series of unsuccessful Private Member's Bills beginning in 1951.   The Act was conceived by a group of Labour Party activists, many of them lawyers, during a period of intense anti-immigrant sentiment that had pressured the Labour Government to limit the influx of ethnic minority arrivals from overseas (Money 1999). According to Erik Bleich (2002: 36), "[i]ts central purpose was twofold: to appease Labour supporters who bridled at immigration restrictions, and to head off troublesome problems of racism." The final product, the Race Relations Act, employed the civil rather than criminal law and established an administrative model for enforcement.

With little political controversy (Bleich 2003: 114), France enacted its first antidiscrimination law in 1972. The law was, in large part, the product of lobbying by the Movement Against Racism, Anti-Semitism and for Peace (MRAP), a human rights interest group that was founded in 1949.   The French law provided for criminal rather than civil penalties, and it fostered enforcement through private groups as opposed to an administrative agency. Erik Bleich (2002: 115) argues that the law's lack of race-conscious elements is the product of France's Vichy-era experience with far-right extremism directed against Jews and that immigration concerns played a tangential role. The rise of Le Pen's National Front in the 1980s led to a counter-response by the Left, including the rise of such leaders as Harlem Désire and the campaign "touche pas mon pôt", by SOS-Racisme. However, it took movement at the European level before France would move forward on antidiscrimination policy.

Two important trends constitute a political response to Europe's increasing racial and cultural diversity. First, several countries have enacted laws that prohibit racial discrimination comparable to what is commonly known in America as "civil rights" legislation. Those developments have occurred alongside a second trend, the rise of right-wing, anti-immigrant

political parties (Givens 2005). France's Jean-Marie Le Pen and Austria's Jörg Haider have attained the greatest international notoriety, but across Europe reactionary political figures have enjoyed increasing degrees of success over the past several years. These two trends appear to be interrelated. For example, Erik Bleich suggests that in the mid-1960s British political elites sought to "defuse" the race issue, stoked by MP Enoch Powell among others, "by pursuing Parliamentary consensus over an antidiscrimination law" (2003: 49). Likewise, scholars suggest that the entry of Jörge Haider's Freedom Party into a governing coalition in Austria fueled the EU consensus on the RED (Guild 2000: 416; Bell 2002: 74).

Right wing politics casts immigrants as foreign objects within the body politic and blames them for a litany of social ills, including high rates of crime and unemployment. In his quest for the French presidency in 2002, Jean-Marie Le Pen of the National Front won enough votes to propel him into a runoff election against Jacques Chirac. Although he ultimately lost by a wide margin, he was for a two-week period the second most popular politician in France. In October 1996, Austria held its first direct election for Members of the European Parliament, and Haider's Freedom Party gained 27.6 percent of the vote. In 1999, Haider's Freedom Party entered into a national coalition in Austria, after garnering 26 percent of the vote. More recently, Haider's new party and the Freedom party won a combined score of 29 percent of the vote in the 2008 federal elections. These relatively recent successes serve to underscore the ongoing impact of these parties..

III. The Development of the Radical Right, Immigration Control and Antidiscrimination Policy

In this section, I begin by describing the radical right and their path of success since the 1980s. I then describe the increased focus on immigration control, mainly at the EU level. In the following section, I then describe the development of policies at the EU level and the change in the political opportunity structure for activist to use the rise of the radical right to push for antidiscrimination policy at the EU level.

Radical right parties have the following traits in common:

- They take an anti-immigrant stance by proposing stronger immigration controls, the repatriation of unemployed immigrants, and call for a national (i.e., citizens only) preference in social benefits and employment ("welfare chauvinism").
- In contrast to earlier extreme right or fascist parties, they work within a country's political and electoral system. Although they do not have the goal of tearing down the current political system, they are anti-establishment. They consider themselves "outsiders" in the party system, and therefore are not tainted by government or mainstream parties' scandals.

The specifics of these traits may change with time and the rise of new issues, but this description fits well for the radical right since the 1980s.

One of the main defining features of radical right parties is their strong nationalism. For each of the radical right parties, the preservation of national identity is paramount. The radical right parties tend to see themselves as the only true "patriots" in the country. They claim that unlike the other parties in the country, they are not ashamed of the country's (war-time) history and long for a return to a more glorious past. This view can be seen in the way that party leaders in Germany and Austria downplay the Holocaust and Nazi crimes in World War II. In France, Le Pen has also downplayed the importance of the Holocaust, calling it "a detail of history."

Radical Right Parties

I focus on the following radical right parties to provide an example of the rise of the radical right and the type of success they have had across Europe: the Nationaldemokratische Partei Deutschlands (National Democratic Party-NPD) and the Republikaner (Republicans-REP) in Germany, the Freiheitlichen (Freedom Party-FPÖ) in Austria, and the Front National (National Front-FN) in France. The Republikaner party was founded in 1983, the NPD in 1964, and the FPÖ was originally formed in 1956. The FPÖ became more clearly identified with the radical right when Jörg Haider became the party leader in 1986. The FN was formed in 1972 with Jean-Marie Le Pen as party leader.

The Freedom Party in Austria

The Austrian Freedom Party was formed in 1956 and struggled for many years as a third party in a strong two-party system. From the party's inception in 1956 until 1983 it received between 5 and 7% of the vote in parliamentary elections. The party was made up mainly of German nationalists and those who pursued a liberal ideology, favoring lower taxes and less state intervention in the economy. The liberal side of the party dominated during the 1970s and up to 1986.

The FPÖ became a part of government in a coalition with the Socialists (SPÖ) in 1983 after the SPÖ lost their absolute majority in parliament. Inter-party rivalries, as well as a split between nationalists and liberals within the FPÖ, led to a collapse of the coalition in 1986. Nationalist Jörg Haider took control of the party after the power struggle in 1986. Haider has been outspoken in his anti-immigrant stance and German nationalism. However, the party's main strength was its ability to promote reform and attack the mainstream parties, particularly

after a series of scandals involving politicians from the SPÖ and ÖVP. In 1993 the liberal wing of the FPÖ broke away to form a new party, the Liberales Forum (Liberal Forum).

Austria has two main parties that have been part of government since the end of World War II. The ÖVP (Austrian People's Party) is the conservative, mostly Catholic party in Austria, and the SPÖ (Socialists) represent the moderate left. In 1947 the SPÖ and ÖVP formed a "Great Coalition" that lasted until 1966. The ÖVP formed a single-party government in 1966 that lasted until 1970, when the SPÖ was able to form a majority government. The SPÖ maintained a single party government until 1983, when they formed a government with the FPÖ. This coalition fell apart in 1986, and the SPÖ and ÖVP once again formed a great coalition led by the SPÖ. This coalition would leave voters few options when discontent over economic policies began to develop.

Until the rise of Haider in 1986, the FPÖ had tried to improve its electoral fortunes through cooperation with the SPÖ. Norbert Steger, of the "neo-liberal" wing of the party, became party leader in 1980. Steger had helped to strengthen the liberal wing of the party, and the party was accepted into the Liberal World Union in 1979. Steger was successful in bringing the Freedom party out of its electoral ghetto through the coalition with the SPÖ in 1983; however, the nationalist wing of the party was still an important force.

The FPÖ is well established at the local and national level. Some of the party's most impressive gains have been at the local level, such as in the Vienna council elections of March 2001, in which they won 20 percent of the vote. The party's base is in Carinthia and it was unexpected that the party would have success in a region that was once an SPÖ stronghold. However, the FPÖ has become the strongest party in Carinthia.

In the October 1999 legislative election, the Freedom Party was expected to perform well, but the final outcome was not foreseen. The FPÖ received a slightly higher percentage of the vote than the ÖVP, taking over as the second place party in Austria. The SPÖ received the highest percentage of the vote and attempted to continue the grand coalition, but negotiations broke down after two months. The ÖVP formed a coalition with the Freedom Party, to the displeasure of the rest of the European Union, as evidenced by shocked commentary from journalists and diplomats . The ÖVP's Wolfgang Schuessel took the position of Chancellor, and Susanne Riess-Passer, Haider's top lieutenant, took the position of Vice-Chancellor in the newly formed government.

Haider eventually resigned as party chairman in order to blunt some of the criticism, but this did not stop the diplomatic sanctions that were imposed on Austria by the 14 other EU countries. The sanctions were eventually dropped after a group of Brussels "wise men" reported that Austria was not in violation of any EU accords.

After they entered government, support for the FPÖ declined significantly in opinion polls. Their first experience in government seems to have dampened some of the party's populist appeal and party infighting eventually led Haider to create a new party, the Alliance for the Future of Austria. After another period of grand coalition between the Social Democrats and Conservative People's party, the new Alliance and the Freedom party received a combined 29 percent of the vote in the 2008 federal election.

The French National Front

The French Front National (FN) formally became a party in 1972 and first contested elections at the national level in 1973. The FN performed very poorly in national elections

during the 1970s and received only 0.35% of the vote in the 1981 legislative elections. The FN broke through in 1983 by gaining 17% of the vote in a local election in the town of Dreux, thus getting the attention of the media across the country. The mainstream right joined a coalition with the FN on the second ballot in this local election, and the unified ticket won 55.3% of the vote, giving legitimacy and media exposure to the FN. In the 1984 European Parliament elections the FN won 11% of the vote and ten members of the European Parliament — the same percentage of the vote as the French Communist party. In 1988 Le Pen received 14.4% of the vote in the presidential election and had an equally impressive showing in the 1995 presidential election. The FN received 9.6% of the vote in the first round of the 1988 legislative elections and 12.5% of the vote in the first round of the 1993 legislative elections.

The FN saw its best result in a legislative election in 1997. The snap election called by Chirac was a dismal defeat for the mainstream right parties. Chirac had hoped to consolidate his control of the legislature, but instead was faced with a rejuvenated Socialist party, and his very unpopular prime minister, Alain Juppe, was unable to lead the right parties to victory (Ysmal, 1998). In the first round of voting, the FN received 14.9% of the vote. Although 76 FN candidates were able to compete in the second round of voting, only one candidate was able to win a seat.

In terms of representation, the FN was more successful at the regional level, due to the proportional representation electoral system used for these elections. This highlights the impact of political institutions on the success of radical right parties. In the 1998 regional elections, the FN won 15.3% of the vote and gained many seats in the regional councils. This led to a crisis for the mainstream right parties, which had to rely on FN votes in several regions to be able to elect rightist regional presidents.

Subsequent to these successes, Bruno Mégret, a former RPR politician and considered to be Le Pen's heir apparent, began to push for more control of the party. Mégret was interested in forming coalitions with the mainstream right parties, but Le Pen opposed this strategy. The situation came to a head before the 1999 European election; Le Pen refused to put Mégret at the top of the list, and Mégret finally broke away and formed his own party (Ysmal, 1999). In the European Parliament election, Le Pen's FN was able to get 5.7 percent of the vote and maintain its presence in the European Parliament, while Mégret's National Movement party received 3.3 percent of the vote, which was below the national representation threshold.

After the 1999 European election, Mégret's party limped along, while Le Pen's FN worked to consolidate their position in anticipation of the 2002 national elections. The 2002 election was the first election after the presidential term was reduced from 7 years to 5 years. It was also expected to be Jean-Marie Le Pen's last stand as the leader of his party. Le Pen stunned France and the rest of Europe by taking second place in the first round of the presidential election and qualifying for a run-off with President Jacques Chirac. After two weeks of anti-Le Pen protests, Chirac trounced Le Pen with 82% of the vote.

The FN hoped to gain some momentum from the presidential election, but their result in the first round of the legislative election was a disappointing 11%. The FN was able to field 37 candidates in the second round, but did not win any seats. The mainstream right again refused to work with the FN, and this time their strategy worked. The RPR and UDF won an overwhelming majority of seats in the Assembly and controlled the executive and legislature.

The German Radical Right

In Germany, the NPD was formed in 1964 by several rightist regional parties, including members of the DRP that had contested national parliamentary elections in 1953, 1957, and 1961. The NPD received only 2% of the vote in the 1965 parliamentary election but received enough votes to enter state parliaments in several Länder elections from 1966 to 1969.

The NPD achieved its highest national vote totals in the Bundestag election of 1969. The party nearly entered parliament with 4.3% of the vote in 1969 but fell short of the 5% of the national vote required to win a seat. When the economy began to improve in the early 1970s and the government stopped the importation of labor, the party's support shrank and the NPD virtually disappeared from the national electoral scene. During the 1970s the NPD made headway in the legislatures at the Länder level but was on the wane again by the beginning of the 1980s. The NPD still exists, but has received less than 1% of the vote in recent years.

The German Republikaner party was formed in 1983 by Franz Schönhuber and two other disgruntled members of the Bavarian Christian Social Union. After several years of infighting among the three founding members, Schönhuber, a journalist and former member of the Waffen SS, became party chairman in 1985. The name Republikaner was chosen in direct reference to the Republican party in the U.S. – the party wished to be seen as conservative like Ronald Reagan (Veen, et. al., 1993). The party received only 3% of the vote in the Bavarian Land elections in 1986, but this made it eligible for federal electoral funding that allowed the party to organize throughout the country (Betz 1994, 18). In 1989 the Republikaner gained six seats in the Berlin Land parliament and six seats in the European parliament with 7.1% of the vote.

Despite the successes at the local level and in the European parliament elections, the Republikaner struggled at the national level. The party's best performances in national

parliamentary elections were in the 1990 and 1994 Bundestag elections, where it received 2.1

and 1.9% of the vote, respectively. Although it has received more than 5% of the vote in

Bavaria, the Republikaner party has never achieved the 5% of the national vote necessary to gain

seats in the national parliament.

The Republikaner has been distracted with internal quarrels, similar to those experienced

by the NPD. The party's internal struggles damaged its position in the eyes of the voting public,

and the party barely missed making the 5% threshold in the Bavarian parliamentary election of

1990. The party rebounded in 1992 with 10.9% of the vote in the Baden-Württemberg

parliamentary election.

The late 1990s saw a major decline in the Republikaner's support at the state and national

level. In 1996 the party only received 9.1% of the vote in the Baden-Württemberg state election,

and in 2001 they dropped to 4.4%, losing their representation in the state parliament. The party

was only able to get 1.7% of the vote in the 1998 Bundestag election. More recently, the party

has virtually disappeared from the party scene, and the NPD has seen new success in the former

East Germany.

Immigration Control

Perhaps one of the more clear-cut areas of increasingly restrictive policies has been

harmonization at the EU level. Table 1 lays out policies on immigration, asylum and other areas

of immigration policy. In a 2005 article, Givens and Luedtke examine the development of EU

immigration policy and the impact of issue salience, finding that the high salience of

immigration control led to more restrictive policies, while the low level of salience of integration

policies led to less restrictive policies like the Racial Equality Directive.

The halting and contested harmonization of European Union immigration policy is not a monolithic process. There is unexplained variation in four areas of this harmonization: throughout time, across countries, across policy areas, and between "subjects" (EU nationals versus TCNs, who are legally resident in an EU country but do not hold citizenship). This variation takes two forms. First, the success of harmonization proposals is variable, since much of the proposed EU legislation has not been enacted. Some harmonization restricts immigrant rights, by enacting a standardized policy with fairly low "standards" for the protection of immigrant rights, by not providing judicial remedy, and by obligating some member states to "lower" their standards. For instance, Germany used EU harmonization in 1993 to tighten its expansive political asylum rules, which had previously been protected by domestic judges (Joppke 1999). Other harmonization is expansive towards immigrant rights, by obligating member states to "raise" their standards. For instance, the 2000 Racial Equality Directive (RED), while not protecting all immigrants (since it is based on race and not nationality), provides judicial remedy for ethnic minority immigrants, and obligates all member states (including those who previously had no racial discrimination legislation) to implement the RED into national law (Niessen 2001). Not all harmonization proposals have been successful, and not all successful harmonization proposals have been expansive towards immigrant rights.

How do harmonization proposals vary on these two dimensions, success and restrictiveness? Throughout time, harmonization has gathered pace, and has advanced in some policy areas after years of blockage. Across countries, there is variation in the support of EU member states for harmonization proposals, with some member states supporting expansive harmonization proposals, some supporting only restrictive harmonization proposals, and some blocking harmonization proposals altogether. Across policy areas, we found variation in the

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success and restrictiveness of harmonization proposals, with some policy areas, like the societal integration of immigrants, seeing more harmonization success than other policy areas, like controlling the inflow of new immigrants. And finally, between "subjects": EU nationals, in the last few decades, are increasingly able to exercise full freedom of movement rights, as long as they are participating in the labor market, meaning that member states are now unable to prevent each other's citizens from living in their territory, holding jobs, and even voting in local elections. However, TCNs, despite having legal residence, cannot exercise this freedom of movement, despite calls by the European Commission, European Parliament, and many of the member states to grant this freedom (Geddes 2003, Papademetriou 1996).

The harmonization of immigration policy that has occurred has tended to be restrictive in nature, designed only to enhance national sovereignty and control over immigration by allowing state actors to circumvent national-level institutional constraints. Germany's use of EU harmonization in 1993 to tighten its expansive political asylum rules (which had previously been protected by domestic judges and the constitution) is a perfect example of this paradoxical development, whereby EU harmonization enhances de facto national sovereignty as opposed to eroding it (Joppke 1999). A country like the UK, on the other hand, with no strong, independent judiciary to protect immigrant rights, has no need of the EU's "venue" to legitimize its immigration crackdown, and thus has tended to block even the most restrictive harmonization proposals that have been on the table, preferring to maximize pure sovereignty instead of strategic policy cooperation (Freeman 1994, Hix and Niessen 1996). Overall, when the EU has taken action on immigration policy, more restrictive measures seem to be the rule.

IV. The Impact of the Radical Right on the Development of Antidiscrimination Policy

Pushed mainstream right to take on immigration issue – but also pushed left to respond. Anti-immigrant stance of RR was clearly focused on racial and ethnic minorities.

Prior to 1999, the European Union (EU) did not explicitly possess authority to act with regard to an increasingly important issue in the region, racial discrimination. In that year, Article 13 entered into effect. It empowers the European Council to take action to combat discrimination based on a number of ascriptive grounds, including race. Thirteen months later, a record speed for the EU, the Council unanimously adopted the Racial Equality Directive (RED), which sets a supranational standard for national laws that protect against racial and ethnic discrimination.   Member States were required to transpose the Directive's terms into national law within a period of three years. The willingness of EU lawmakers to act and the speed with which they moved may be explained, in part, by contemporaneous events.

Across Europe in the late 1990s, issues involving racism garnered significant public attention. In 1999, for example, the Stephen Lawrence Inquiry released its damning report on racism within the British police force, and Jörg Haider's extreme right-wing Freedom Party won a position in Austria's governing coalition. Moreover, during this period, twelve of the fifteen Member State governments were dominated by left or center-left political parties. These factors combined to create a unique political opportunity for action against racism at the European level (Gehring, 2007).

The RED represents a significant development as it involves issues of race, immigration, and European integration, all of which can serve as lightening rods within national politics. Whereas the push for laws prohibiting sex discrimination was driven by labor market

considerations (see Bell 2002: 8 9, 30), the adoption of the RED in 2000 was largely driven by an elite reaction to Joerg Haider's rise to power in Austria as has been shown by Giraudon and Geddes (2004). As such, it represents a rejection of radical right demagoguery and a new commitment to fostering greater "social cohesion and solidarity" in the face of demographic shifts attributable to immigration. The RED essentially promotes the adoption of a model of legal protection that recognizes and penalizes racial discrimination in the areas of social protection, housing, education, and associations, as well as in employment. In terms of its reach into the non-state sphere, it thus represents a significant advance in European integration. Further, reaching beyond employment, it recognizes the socio-cultural dimension of racial and ethnic discrimination. Premised as it is upon rights creation and enforcement, the RED can be seen as emblematic of a broader effort to use state guarantees of fundamental rights as a means of fostering a sense of EU citizenship and legitimating a new pan European polity. Based upon survey data and the number of "hits" experienced by EU antidiscrimination websites, "antidiscrimination has become one of the most widely known areas of EU employment and social policy." Thus, the RED's salience extends beyond the halls of Brussels and Strasbourg.

In order to understand the politics that shaped negotiations over the Directive, it first helps to know the developments that preceded its adoption, and made it feasible, as well as the precise terms of the Directive in its final form. The RED was the product of a nearly twenty year effort led by the European Parliament to legislate against racial discrimination at the EU level.

The European Parliament played a key role in putting and keeping the issue of racism on the European agenda.[6] The issue was first raised by a 1985 Committee of Inquiry, which

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[6] See *The European institutions in the fight against racism: selected texts* (____).

produced the so-called "Evrigenis report" that documented the growing problem of xenophobia among Member States. The following year, after a series of dramatic electoral gains by extreme right-wing parties, most notably in France, the European Commission, the Council of Ministers, and the European Parliament signed the *Joint Declaration against racism and xenophobia*.[7] Over the ensuing years, however, the Council of Ministers refused to enact new antidiscrimination legislation covering racial discrimination, despite repeated requests by the European Parliament. Although there was consensus that racism and xenophobia presented serious problems requiring redress, within the Council of Ministers there was disagreement as to the appropriate form of that redress and the legal competence of European institutions to deliver it.

As a new decade dawned, the European Parliament redoubled its efforts and was joined by a coalition of nongovernmental organizations (NGOs). Undeterred by the Council's recalcitrance, in 1990, the European Parliament convened a second Committee of Inquiry, which produced the "Ford report" that revisited issues of rising racism, the electoral successes of extreme right-wing parties, and the need for European legislation against racial discrimination.[8] Thereafter, as had been recommended in the report, an annual Parliamentary debate on racism was instituted, and the Parliament continued to press for legislative action. In 1991, a new ally emerged. The Starting Line Group (SLG) was formed by the British Commission for Racial

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[7] Joint Declaration by the European Parliament, the Council and the Commission against racism and xenophobia, 11 June 1986 (OJ C 158, 25.6.1986).
[8] European Parliament, "Report of the Committee of Inquiry on Racism and Xenophobia" (Luxembourg: European Parliament, 1991).

Equality (CRE), the Dutch National Bureau against Racism, and the Churches Commission for Migrants in Europe (CCME).[9]

The SLG promptly organized a group of legal experts from across Member States to draft a directive targeting racial discrimination, and by 1993, its draft was endorsed by more than 200 NGOs and submitted to the European Parliament, which explicitly approved it in two separate resolutions.[10] The original SLG proposal relied upon Article 308 (formerly Article 235) as its legal basis. That Article empowers the EC to take actions not explicitly authorized in the EC Treaty if such action is proven "necessary to attain, in the course of the operation of the common market, one of the objectives of the Community." When it became clear in 1993 that there was insufficient political will to use Article 308, the SLG shifted its strategy and sought an amendment to the EC Treaty that would provide clear authority for a directive on racial discrimination. From the beginning, the SLG's "founding organizations were convinced of the need to combat racism by means of binding legal measures including enforceable sanctions, that is by legislative means," as well as "of the necessity of action at the European level."[11] They

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[9] The SLG's activities are discussed in Isabelle Chopin, "The Starting Line: A harmonized approach to the fight against racism and to promote equal treatment," *European Journal of Migration and Law* 1: 1999.

Founded in 1964, the CCME is an organization of churches and ecumenical councils from Austria, Belgium, Czech Republic, Finland, France, Germany, Greece, Italy, the Netherlands, Norway, Romania Switzerland, Spain, Sweden, the United Kingdom and Ireland. There are contacts with the Ecumenical Patriarchate (Brussels/Istanbul) and with church partners in Denmark, and Russia. The General Assembly of CCME, October 1999 in Järvenpää/Finland, decided in conjunction with the Conference of European Churches and the World Council of Churches to expand its mandate to cover the whole area of migration and integration, refugees and asylum, and racism and xenophobia. The General Assembly welcomed four new members from the above listed countries. CCME holds official observer status with the Council of Europe in Strasbourg http://www.coe.int/T/E/Social_Cohesion/Migration/and observes the Committee on Migration of the Council of Ministers.

[10] 1993 resolution, OJ 1993 C 342/19, 20.12.93; 1994 resolution, para. 0, OJ 1994 C 323/154, 20.11.94.

[11] Isabelle Chopin, *Campaigning against racism and xenophobia: from a legislative perspective at European level* (ENAR, November 1999), p. 2.

further believed that racism and xenophobia threatened to undermine "the process of social integration taking place in the Member States of the European Union."[12] The SLG sought a Directive as the best means of achieving the harmonization of national laws. Other Directives already protect against sex discrimination.[13] In discussion with actors involved in the SLG it appears that they were putting all of their eggs in the EU basket rather than pushing for new laws at the national level.

To those developments, the Council of Ministers responded with a series of symbolic gestures rather than substantive legislative proposals.   In 1994, however, more consequential action was taken by the Council with the establishment of the Consultative Commission on Racism and Xenophobia, or "Kahn Commission" as it came to be known after its chair, Jean Kahn, President of the European Jewish Congress. In its final report, the Kahn Commission issued a number of recommendations, three of which are of particular importance here. First, it recommended that the European Community's (EC) treaty be amended to authorize the EC to fight racial discrimination.   This would resolve uncertainties concerning the EC's legal competence. Second, borrowing largely from the EC's sex equality legislation, the Commission recommended a particular model. Specifically, it proposed the use of directives, similar to the Equal Pay and Equal Treatment Directives, in order to institutionalize in EC law the principle that "all individuals regardless of their colour, race, nationality, ethnic or national origins or religion should have the right of equal access to employment, equal pay and fair treatment from

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[12] Isabelle Chopin, *Campaigning against racism and xenophobia: from a legislative perspective at European level* (ENAR, November 1999), p. 2.

[13] Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions. Council Directive 97/80/EC on the burden of proof in cases of discrimination based on sex.

an employer." Third, the Kahn Commission concluded that "effective record keeping and monitoring are central to the effective implementation of equal opportunities policies and action plans." This, however, proved quite controversial. France and other countries objected, arguing that such record keeping would reinforce difference. Moreover, in the absence of national data, such records would be difficult to interpret.

Both the Parliament and Commission subsequently endorsed the first of the two recommendations, and at the 1996 intergovernmental conference, Member States took the important step of amending the EC Treaty. As a result, the Treaty of Amsterdam provides for a new Article 6a (subsequently known as Article 13). Article 13 provides:

> Without prejudice to the other provisions of this Treaty and within the limits of the powers conferred by it upon the Community, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

Although it did not fulfill all of the activists' wishes, it does represent "a turning point" in EU antidiscrimination policy (Bell 1997: 49). The SLG had hoped that the new Article would possess direct effect as does Article 119, which requires equal pay between women and men, for that would have enabled individuals to invoke the Article in national legal proceedings and ultimately to appeal to the European Court of Justice. Instead, Article 13 "simply provides a discretionary power to the Council to adopt measures as they see fit." Additionally, the SLG, as well as many commentators, had also wanted the Directive to include nationality as a prohibited ground of discrimination. The SLG revised its original draft to include religion as a prohibited category of discrimination (Bell 1997: 24-25).

In 1996 the council of the European Union adopted a joint action enjoining member states to ensure judicial cooperation in pursuing expressive racist crimes, as well as in pursuing

parties that participate in racist organizations. (96/443/JHA). With the input of more than 600 NGOs, the European Network Against Racism (ENAR) was founded in October 1998, and its official secretariat was installed in September 1999. Permanent national networks have been formed in each EU Member State. The ENAR is financially supported by the European Community under the Community Action Programme to Combat Discrimination.

In February 2000, the European Commission was pushing for the European Council to negotiate on both the Racial Equality Directive and the Equal Employment Directive. The Portuguese presidency felt that it was important to split the directives in order to make the negotiations easier. With the Haider situation in the background, it was felt that Council members could not say no, particularly Austria. France was initially opposed to the RED because it took an Anglo-Saxon approach to race, singling out minority groups and emphasizing the use of civil law. However, the French were supportive of the Equal Employment directive since it was more general and fit with France's ideas of égalité or equality.

According to commission staff that was directly involved, the negotiations on the directive went much too fast for any member state to keep up. Only member states with large staffs and experience in the field of antidiscrimination law could keep up. France and the UK were the most adept, with the Germans having difficulty coordinating their negotiators. Commission staff was of the opinion that most member states were signing up to something that they didn't completely understand. In terms of the details of the directive, the European Commission was never isolated on a particular issue, there was always a member state that went further than the Commission's proposal. However, there was clear divergence across member states in terms of their willingness to agree to particular measures.

France had the most philosophical difficulties with the directive and the biggest shift to make in terms of the shift from criminal to civil law. Credit is due to the negotiators in Brussels who played a pivotal role in getting Paris to make the shift. In particular, French and Belgian negotiators were committed to getting the directive through in response to the formation of the FPOe-OeVP government in Austria. The "Race Equality Directive" (Directive 2000/43/EC) was adopted on 29 June 2000 by the Council of the European Union, "implementing the principle of equal treatment between persons irrespective of racial or ethnic origin."

IV. Conclusion

This paper has focused on one aspect of immigrant integration, antidiscrimination policy, and the impact of the rise of radical right parties on immigration control and the passage of the EU's racial equality directive. This is only one part of the picture, and implementation of the directive is still a work in progress. What I have tried to show in this paper, is that the rise of anti-immigrant sentiment led not only to increase in restrictive immigration policies, but also created an opportunity for policies that were supportive of immigrants and ethnic minorities.

In many ways, the EU's move into these policy areas created a new venue, outside of national politics, in which actors could pursue policies that otherwise would have faced major hurdles at the national level

TABLE 1: Proposed EU Immigration Policies and Their Outcomes

Policy Area	EU Proposal	Adopted by Council?	If Adopted, Restrictive or Expansive?
Asylum	Common asylum procedure (COM(2000)755)	Yes	Restrictive
	Minimum standards for conditions for the reception of asylum-seekers (COM(2001)181)	Yes	Restrictive
	Determining the member state responsible for examining an asylum application (COM(2001)447)	Yes	Restrictive
	Granting refugee status (COM(2002)326)	No	
	Status of third country nationals and stateless persons as refugees (COM(2001)510)	No	
	Granting temporary protection in case of mass influx (COM(2000)303)	Yes	Restrictive
	Council Regulation No 2725/2000, the establishment of "Eurodac" for the comparison of fingerprints	Yes	Restrictive
	European Refugee Fund (COM(1999)686)	Yes	Neither
Legal migration	Family Reunification (COM(2002)225)	No	
	Status of third country nationals who are long term residents (COM(2001)127)	No	
	Coordination of Social Security Benefits (COM(2002)59)	No	
	Conditions of entry and residence of TCNs for paid employment (COM(2001)386)	No	
	Residence permit for victims of illegal immigration who cooperate with authorities (COM(2002)71)	No	
	Council Regulation (EC) No 2424/2001, development of Schengen Information System II (fingerprint database)	Yes	Restrictive
	Admission for scientific research (COM(2004)178)	Yes	Expansive
	Admission for study/training (COM(2002)548)	Yes	Expansive
Visas and border control	Council Regulation amending Regulation 1683/95 uniform format for visas (2002/C 51 E/03) (COM(2001)577)	Yes	Neither
	Listing third countries whose nationals must possess visas (COM(2002)679)	Yes	Restrictive
	Common Consular Instruction for examining visa applications (2000/C 164)	Yes	Neither
	Common Border Guard Manual (2001/C 73)	Yes	Restrictive

	Travel by nationals exempt from the visa requirement (2000/C 164)	No	
Illegal Immigration	Transit Assistance for Removal by Air (2003/C 4)	No	
	Mutual recognition of expulsion orders (2000/C 243)	Yes	Restrictive
	Compensating financial imbalances resulting from mutual recognition (COM(2003)49)	No	
	Residence permit for victims of illegal immigration who cooperate with authorities (COM(2002)71)	No	
	Penalties for Carriers of Illegal Immigrants (2000/C 269)	Yes	Restrictive
	Obligation of Carriers to Communicate Passenger Data (2003/C 82)	No	
	Combating Human Trafficking (COM(2000)854)	Yes	Restrictive
	Strengthening of Penal Framework (2000/C 253)	Yes	Restrictive
Anti-discrimination	Treaty of Amsterdam – EU can fight any discrimination, including on the basis of nationality (Article 12, TEC)	Yes	Expansive
	EU can fight discrimination based on sex, race, religion , disability, age or sexual orientation (Art. 13, TEC).	Yes	Expansive
	Charter of Fundamental Rights of the European Union (2000 / C 364 / 01)	Yes	Expansive
	Racial Equality Directive (COM(1999)566)	Yes	Expansive
	Community Action Program to combat discrimination (COM(1999)649)	Yes	Expansive
	Common Agenda for Integration (COM(2005)389)	No	