

**Immigration Policy in Southern Europe From 1990-2010: A  
Comparative Perspective**

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Submitted in partial fulfillment of Honors Requirements for the Department of  
Political Science

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May 2015

## Chapter I: Introduction

Between 1990 and 2010, immigration policy emerged as a hotly contested policy issue in Southern Europe. While in the rest of the European Community, the foreign population grew around 2% per year between 1981 and 1991, in Southern Europe it grew at an annual rate of 10%.<sup>i</sup> As a result, Spain, Portugal, Italy, and Greece could no longer rely on the disorganized and inconsistent combination of statutes and bilateral agreements that had previously sufficed to regulate the entry and stay of migrants from outside the European Community. The growth in migration to these countries is an ongoing issue that shows no sign of abating; this past year, a record high of 3,200 migrants have died attempting to cross the Mediterranean. In the month of April alone more than 5,600 migrants have been rescued off the coast of Italy, many of whom are now languishing in makeshift detention centers awaiting deportation.<sup>ii</sup> It is therefore of the utmost importance that these countries assess the immigration policies they have produced thus far and take concrete steps to address their many deficiencies.

The changes in immigration policy in Southern Europe are attributed to three main factors: pressure from the European Union, domestic politics, and economic performance. This paper aims to explain which factors have contributed most to the development of immigration policy between 1990-2010 and assess the relationship between the dominant factors in policymaking in each country and the resulting policy outcomes. I find that in the first ten years of policy development, pressure from the EU to control the inflow of migrants to Southern Europe played a key role in producing externally restrictive policies in all four countries. As immigration flows, including undocumented immigration, continued and even grew, countries began to move towards more internally and

externally open policies. Domestic politics shifted to the forefront of the policymaking process, with economic performance mattering significantly less until the onset of the 2008 financial crisis.

The paper is organized as follows. First, I explain why I have chosen these four case studies and the method I use to compare them. Then I discuss the state of the existing academic literature regarding what causal factors have impacted change in immigration policy in these countries. Next I present my hypotheses and summarize my findings. In each case study chapter, I begin by describing that country's experience with immigration and outlining the major turning points in its immigration policy history. In the following sections, I evaluate the effects of EU pressure, domestic politics, and economic performance on the formulation of these key policy milestones. At the end of each case study chapter I present my conclusions as to which factor or combination of factors had the greatest influence on immigration policymaking between 1990 and 2010. Finally, in the conclusion I revisit the hypotheses, explain the impact of each variable on each country, and discuss the implications of these findings for the future of immigration policymaking in Southern Europe.

## **Methodology**

In order to explain which factors have contributed most to the development and change in legislative regimes towards immigration since 1990, this paper uses a structured, focused case comparison.<sup>iii</sup> I have chosen to compare Spain, Portugal, Italy, and Greece for several reasons. First, they all experienced immigration booms of similar proportions over the same 20-year period. The number of foreign residents increased

by 82% between 1991 and 2007 in Spain, 54.1% in Portugal, 73.3% in Italy, and 78% in Greece.<sup>iv</sup> They are considered the new generation of immigrant-receiving countries because until the mid-1970s they all had higher rates of emigration than immigration.<sup>v</sup>

Additionally, these countries have had similar fluctuations of labor demand over the period in question. They all experienced major recessions in the early 1970s, the early 1990s, and the mid-2000s.<sup>vi</sup> The labor markets in these four countries share several key characteristics: seasonal industries that tend to attract migrant labor such as agriculture and tourism, a large informal economy, similar periods of economic expansion and contraction, and high levels of segmentation (meaning there is little crossover between labor market sectors).<sup>vii</sup> Finally, all four of these countries started out with restrictive and ultimately ineffective immigration policies that they have struggled to improve over the 20 years in question.

For the purpose of this investigation, there are four terms I will use to describe immigration policy. These are “externally restrictive,” “externally open,” “internally restrictive,” and “internally open.” External policy refers to the securitization of the border and means of legal entry and stay while internal policy refers to the legal protections afforded to migrants once they have entered the country. External openness refers to the ease with which migrants can legally enter the country or, once in the country, can gain legal status. Internal openness refers to the rights afforded to migrants, the strength of anti-discrimination laws, and the emphasis on integration.

In order to measure these terms I use a scale created by the Migrant Integration Policy Index (MIPEX). MIPEX focuses on seven immigration policy areas: access to education, labor market mobility, anti-discrimination laws, access to nationality,

political participation, family reunification, and access to long-term or permanent residence. I further divide these policy areas to distinguish between external and internal policy. In order to calculate each country's score out of 100, MIPEX has scholars from every country in its study fill out a score from one to three in 148 categories that fall under each policy area. These scores are based on the scholars' assessments of publicly available legislation, decrees, and policies. Each score is then peer-reviewed by a second academic whose work also focuses on immigration policy in that country. Each policy area is given a score out of 100. The closer a country scores to 100 in access to nationality, family reunification, and long-term residence, the more externally open it is. The closer it scores to 100 in access to education, political participation, anti-discrimination laws, and labor market mobility, the more internally open it is.

	<b>Spain</b>	<b>Portugal</b>	<b>Italy</b>	<b>Greece</b>
<b>Internal Openness</b>	59.3	77.7	55.5	45.5
<b>External Openness</b>	67.3	80.6	67.6	54

As of 2010 Portugal is the most open, scoring 77.7 internally and 80.6 externally. Spain is the next most open, scoring 59.3 internally and 67.3 externally. Italy is more restrictive, scoring 55.5 internally and 67.6 externally. Finally, Greece is the most restrictive, scoring 45.5 internally and 54 externally.

### **Literature Review**

There currently exists a great deal of literature addressing the effectiveness of immigration policies in Southern Europe. However, there is considerably less research

analyzing which factors have consistently had the most impact in shaping immigration policy in each country. Southern Europe is sometimes analyzed as a monolithic area in which a single factor, such as domestic politics or pressure from the European Union, has been most important in shaping policy across the region.<sup>viii</sup> This investigation intends to provide a more nuanced take on policy formation within each individual country over 20 years of steadily increasing migrant flows. Additionally, I will analyze the relationship between the most important factor in policymaking in each country and the internal and external openness of the policies produced.

There are three predominant schools of thought regarding what has shaped immigration policy in Southern Europe over the past 25 years. The first of these presents external pressure from the European Union as the driving force behind policy development.<sup>ix</sup> Because Spain, Italy, Greece, and Portugal joined the E.C. before they began to experience a considerable surge of immigration, their immigration policies were developed around the requirements of the Schengen Agreement of 1985. This agreement took the first steps towards abolishing internal borders and developing harmonized visa policies among the signatory states.<sup>x</sup> As a result, countries with more established immigration regimes such as France and Germany were insistent that Southern Europe tighten up its borders. The EU advocated for more externally restrictive policy in Southern Europe due to its lack of established immigration policy regime. It also displayed a “conservative stance on regularizations” out of the fear that they would undermine the validity of legal channels of entry and incentivize undocumented immigration, which puts a considerable strain on the welfare programs in EU countries.<sup>xi</sup> Indeed, several authors argue that the considerable pressure from the

EU to focus primarily on external border controls has led to the development of ineffective immigration policy that fails to address the internal factors that facilitate illegal entry, such as cumbersome naturalization processes and thriving shadow economies.<sup>xii</sup> While this approach can explain how legal texts regarding immigration were originally shaped, EU directives cannot account for the different directions immigration policies in each Southern European country have taken since then. My findings indicate that although the EU had a powerful role in shaping immigration policy from 1990-2000, after 2000 its influence waned, which explains the divergence in policy approaches across the four Southern European countries.

While the first approach focuses on outside pressure, a second model centers around domestic politics, specifically the dominant ideology of the party in power at the time the policies are enacted and the role of party alternation.<sup>xiii</sup> In these four Southern European countries, elections have historically been dominated by either the main center-right or center-left party, and they tend to trade off power every one or two elections. According to this school of thought, immigration policy mirrors this shift, with changes made in financial and political investment in immigrant integration, ease of access to residency status, and ease of the legal admission process depending on which party controls the government.<sup>xiv</sup> Traditionally, left-leaning parties tend to be more open than right-leaning parties to the idea of increased immigration and are more likely to prioritize funding integration strategies and advocate to increase immigrants' access to social services such as health care and public education.<sup>xv</sup> The weakness of this approach, however, is that while domestic political ideology helps to explain immigration policy responses since 2000, it is not a reliable predictor of policy

development before immigration became a controversial or politically salient issue in these countries.

Finally, an economic approach to explaining immigration policy has become popular, especially in light of the 2008 financial crisis. However, even before the crisis, trade unions advocated successfully in Italy and Portugal for greater “flexibility for international labor recruitment” due to the increased demand for labor in certain sectors.<sup>xvi</sup> Indeed, while conventional wisdom suggests that labor unions would favor more externally restrictive immigration policy so as to protect native workers, this has not proven to be the case in Southern Europe. By the early to mid-1990s, labor leaders grew to feel that externally restrictive immigration policy only exacerbated illegal immigration, and it was undocumented migrants in the labor market that posed the greater threat to native workers as they are unable demand the same wages and rights as legal workers. In Italy and Spain, labor leaders felt that more open immigration policy would help “bring part of the underground economy to the surface.”<sup>xvii</sup> In Portugal, trade unions have consistently “stood up for the rights of immigrants” and helped implement regularization programs.<sup>xviii</sup> They too supported externally open policies, believing that while legal immigration could benefit the economy, illegal immigration undermined labor standards and undercut the wages of domestic workers. Meanwhile, although trade unions in Greece were ambivalent towards undocumented migrants in the early 1990s, by the 2000s the General Confederation of Greek Workers (GSEE), “the main trade union platform in Greece,” was cooperating with the Hellenic Forum of Migrants (a federation of migrant organizations) in order to draw attention to

the many bureaucratic obstacles migrants face when attempting to gain legal status and advocate for simpler application and renewal procedures.<sup>xix</sup>

According to the economic approach, the openness of immigration policy fluctuates with the demands of the labor market.<sup>xx</sup> This model also takes into account the impact of the “shadow economy,” which refers to the sector of these countries’ economies that is neither taxed nor monitored by the government in any consistent way. The shadow economies in Spain, Portugal, Greece, and Italy reportedly account for around 25 per cent of their GDPs, a substantially larger amount than any Northern European country.<sup>xxi</sup> Southern European countries’ desire to reduce the size of their informal sectors sometimes results in legislation aimed at discouraging “informal work arrangements.”<sup>xxii</sup> However, the economic approach neglects to account for the fact that, to a certain extent, the flow of immigrants naturally self-regulates based on the expansion or contraction of the labor market.<sup>xxiii</sup> When a country performs well economically, it becomes a more attractive destination for immigrants. When the GDP growth rate begins to flag and unemployment increases, immigrants often choose to return to their home countries or try their luck elsewhere in the EU. My conclusions, however, are that economic performance does not have a meaningful impact on policy development except under conditions of severe economic stress. Otherwise, although immigration flows are subject to change based on economic performance, immigration policy does not necessarily follow suit.

The majority of the literature tends to attribute immigration policy change across Southern Europe to one of the three variables discussed above. The purpose of this investigation is to determine how important these variables truly are to

policymaking in each individual country, and how the dominant variable in each country affects the openness of the policy it produces.

## **Hypotheses**

Building on the literature discussed above, I will examine the impact of pressure from the EU, domestic politics, and economic considerations on the formulation and extent of openness of immigration policy in Spain, Portugal, Italy, and Greece between 1990 and 2010. The first hypothesis is that pressure from the EU to securitize its external border produces externally closed policies. The next hypothesis is that when a center-left party has a majority in government it will produce more externally and internally open immigration policies, while when a center-right party is in power more externally and internally closed policies will be adopted. Finally, I will look at the extent to which economic performance impacts policy formulation. To determine what constitutes strong economic performance, I calculated the average GDP growth rate and unemployment rate in Southern Europe between 1980 and 2014. I hypothesize that when a country's GDP growth is above average and its unemployment rate is below average, the government will enact more externally open policies, and vice versa.

## Chapter II: Spain

Spain has seen a sharp increase in the number of foreign residents in the period between 1990 and 2010. In 1991 foreign residents accounted for less than 1% of the total population of Spain. By 2007, foreign residents had grown to comprise 10% of the total population.<sup>xxiv</sup>

Year	Number of Foreigners w/Residency Permits	Avg Annual Percent Increase
1992	393,100	--
1996	538,984	9.2%
2000	895,720	16.5%
2004	1,977,291	30.2%
2008	4,473,499	31.5%

**Source:** Ministerio de Empleo y Seguridad Social, Anuarios Estadísticos de Inmigración

To understand how policy has shifted to address this growth, it is important first to have a basic understanding of the history of immigration in Spain. For over a century, Spain was a primarily “sending” country. There was a mass emigration from Spain to other parts of Europe and the Americas starting around 1850 and continuing well into the 20<sup>th</sup> century.<sup>xxv</sup> Only after the death of its repressive Fascist dictator Francisco Franco in 1975 did Spain switch from its traditional role as a sending country. At first it was largely a “transit county for migrants headed north” but eventually it became a “receiving” country for countless immigrants arriving primarily from Northern Africa and Latin America.<sup>xxvi</sup> As of 2010 Spain receives a score of 59.25 in internal openness and 67.3 in external openness, making it the second most open country in this study. The first comprehensive national legislation that dealt with immigration, the Ley Orgánica de Extranjería (Organic Law on the Rights and Freedoms of Foreigners), was passed in 1986. These laws must be passed by an overall majority vote in the 350-

member Congress, so political parties frequently need to form coalitions or temporary partnerships in order to pass these laws. Since the first Ley Orgánica was passed, there have been numerous amendments and revisions, as well as several regularization programs and quotas implemented in an attempt to discourage illegal entry and to facilitate the naturalization or exit of immigrants already in the country.<sup>xxvii</sup> This section will first summarize the six key turning points in Spanish immigration policy between 1990 and 2010, and then determine which factor has had the most influence in the formulation of these laws.

### **Policy Milestones**

Before 1985, the Constitution of 1978 established basic provisions regarding foreigners' rights and conditions for asylum. Other than that, however, there was no comprehensive national immigration law. In 1985, the Socialist Party (PSOE) passed the first broad immigration law. In order to apply for residency, it stipulated that applicants must have been present in Spain before July 1985 and have a job offer. The visa and work permits provided by this law were renewable in theory, but since the law also introduced a severe penalty on employers who hired undocumented immigrants, many employers chose to fire their migrant labor force "rather than face the consequences of violating the law and/or be forced to formally hire them."<sup>xxviii</sup>

The key characteristics of the 1985 law were the harsh monetary sanctions it imposed on employers who hired undocumented workers and the opportunity for migrants to apply for one-year residency and work permits based on annual quotas determined by labor market needs. However, it did not envision immigration as a

permanent phenomenon and thus did not make permanent residence an option. The one-year permits were theoretically renewable, but by 1989 44% of the initially accepted applicants had lost their legal status.<sup>xxx</sup> The major shortcoming of this law was its failure to create the administrative support necessary to regulate and enforce its provisions.<sup>xxx</sup> This was a very restrictive law both internally and externally; it discouraged the hiring of migrants, did not allow for permanent residence, and did not address family reunification or the political and legal rights of undocumented migrants.

The next major amendment to the *Ley Orgánica* occurred in 1991. This reform tried to correct the deficiencies of the original law. It expanded administrative capacity by creating government offices specifically focused on immigration, and began a new round of regularizations to which more than 110,000 immigrants applied.<sup>xxxii</sup> It also introduced the possibility to gain permanent residency, contingent upon six years of uninterrupted legal stay in the country. However, it faced the same problem that plagued the 1985 law, which is that after three years nearly half of the beneficiaries of the regularization had lapsed back into irregular status due to failure to renew their permits.<sup>xxxiii</sup> Even those who did manage to renew their permits frequently experienced bouts of “illegality” due to the sluggishness of the bureaucratic apparatus tasked with handling renewals, thus disqualifying them from applying for permanent residence for another six years. Though this amendment was slightly more externally open, it maintained the same level of internal restrictiveness as the original 1985 law.

In 1996, a Royal Decree was passed to amend the law further. It broadened the potential routes to residency to include family reunification, stipulating that an applicant must either have employment in Spain since January 1996, a work or

residence permit since May 1996, or be the relative of a migrant who had lived in Spain before January 1996. It also introduced a regularization program specifically intended for migrants from the last two rounds who had lapsed back into irregular status. It attempted to correct the failings of the previous two laws by extending the duration of residency and work permits to 5 years and providing immigrants with access to legal counsel and an interpreter when dealing with authorities. Crucially, this amendment also created a four-month grace period for immigrants whose residence permits had expired to apply for a renewal.<sup>xxxiii</sup> The introduction of family reunification as a means of legal entry was a big step towards greater external openness. However, this law remained as internally restrictive as the previous two.

In 1999 a new initiative was introduced to replace the 1985 Ley Orgánica entirely, to take effect in February 2000. Although it was formulated with the intent to ease the process of legal immigration in the hopes that illegal entry would decrease as a result, it was focused primarily on the integration of immigrants. This is the first time such a concept was introduced into Spanish legislation. It provided social services such as access to health care and public education if the undocumented immigrant registered with his or her local *Padrón Municipal* (Municipal Register).<sup>xxxiv</sup> It was also more generous in its requirements for qualification for a residence permit. It was no longer limited to migrants who had already been working in Spain during a certain time period. It also lowered the period of legal residency required before a migrant could apply for citizenship from six years to two. It shifted the administrative center of power for immigration from the Ministry of Labor to the Ministry of the Interior, with new

responsibilities concentrating on integration.<sup>xxxv</sup> This was by far the most internally and externally open piece of legislation yet.

However, less than a year later the new government passed an amendment to make this law vastly more internally and externally restrictive. The requisite period of legal residency before migrants could apply for citizenship was raised back to five years, and the rights of undocumented migrants to strike and join unions was annulled.<sup>xxxvi</sup> It also reformed the quota system so that employers could only hire foreign workers through countries Spain had bilateral agreements with.<sup>xxxvii</sup>

In 2005, the government passed a decree modifying the existing legislation, expanding legal avenues for immigration and implementing the broadest regularization to date. 82% of the 700,000 applicants were approved. For comparison purposes, only 63% of the 350,000 applicants were approved in the previous regularization.<sup>xxxviii</sup> This reform also made employers, rather than government officials, responsible for facilitating the process of legalization. Migrant workers applied through their employer, who in turn would submit documentation to prove they were paying the appropriate taxes. This law also made the quota system more flexible and shortened the length of residency necessary before obtaining family reunification permits.<sup>xxxix</sup> It was by far the most externally open policy in Spanish immigration history.

The final legislative change to immigration law in the period this study examines occurred in 2009. It was proposed as a means of complying with the requirements for sanctions against employers that hire undocumented residents in accordance with a new EU directive.<sup>xl</sup> It also struck down several provisions of the 2000 amendment, once again granting undocumented immigrants the right to assembly, to join unions, and to

strike.<sup>xli</sup> This maintained the level of external openness of the previous policy, and increased internal openness.

The following sections address the extent to which the European Union, domestic politics, and economic performance, have affected these policy changes.

## **European Union**

The influence of the European Union has colored Spanish immigration policy since the passage of its very first immigration law. Until Spain's admission to the European Community (EC) in 1986, there had been no unified legal pathway to citizenship in Spain, only a handful of disparate regulations and bilateral agreements with countries with whom Spain previously had colonial relationships. As such, the majority of immigrants at the time tended to "enter Spain illegally, obtain informal employment, and later receive legal status through regularization programs."<sup>xlii</sup> Spain's imminent accession to the EC meant that for the first time in its history it needed not only a comprehensive immigration law, but also one that conformed to the EC's standards regarding entry and naturalization. In a memo to the European Council and Parliament in 1985, the European Commission insisted "on the need to harmonize immigration policy" among all signatories of the Schengen Agreement.<sup>xliii</sup> Spain's first national immigration law came into effect that July, several days after Spain signed the entry treaty.

Because this law was intended to address the fear that Spain would become a transit country for immigrants heading to Northern Europe, it was a very restrictive policy with exacting conditions for entry and residence.<sup>xliv</sup> This first national

immigration law, the Ley de Extranjería, produced a very narrow definition of legal status, purposely “hindered family reunification” and made it challenging for immigrants to maintain stable legal residency.<sup>xlv</sup> It provided solely for legal incorporation into the labor market under the assumption that the majority of immigrants were planning to stay in Spain only temporarily and for purely economic reasons. As a result, many immigrants who were already in the country became “illegal” under the new law. Indeed, only 52% of applications for residency and work permits were accepted in spite of the fact that many of the applicants were already living and working in Spain.<sup>xlvi</sup> Moreover, the difficulties involved with renewing the applications meant that many immigrants who had adhered to the process and become naturalized later reverted to illegal status when their residency or work permits expired. The shortcomings of this law set the tone for future amendments and programs. Spain’s initial failure to implement an immigration law that accounted for the permanent migration to Spain for non-economic reasons led to the need for several amendments and regularization programs over the next 20 years. In this sense, Spain’s desire to appear more attractive to the EC caused it to enact shortsighted policies that ultimately proved inadequate.

The next instance in which EU influence on policy is clear is 1991, when Spain had to update its visa requirements in accordance with the Schengen Convention, an extension of the Schengen Agreement which officially abolished internal border checks. At this point economic growth in Spain was strong, unemployment was at its lowest point in five years and levels of immigration, while on the rise, were still small compared to other EU countries.<sup>xlvii</sup> Economically and politically, it did not make sense

at the time to tighten immigration policy, as it risked “decreas[ing] the supply of unskilled labor” and hampering economic growth, as native Spaniards were generally unwilling to move into unskilled occupations.<sup>xlviii</sup> However, pressure to conform to the standards of the EU led to the implementation of an unnecessarily restrictive policy that only provided three-year residence permits. Additionally, the bureaucratic difficulties involved with renewing these permits resulted in 50% of the immigrants that had become naturalized reverting to an illegal status.<sup>xlix</sup>

In the early stages of immigration policy development, the EU was able to leverage Spain’s desire to join the Schengen Convention into the adoption of more externally closed policies. However, since then the EU has had little direct influence on policy change in Spain. Still, it would be remiss not to acknowledge the enormous influence it had on shaping the direction of immigration policy in the country from the outset. The left-leaning PSOE adopted relatively restrictive policies in 1991 and 1996 that contradicted its ideology largely out of the desire to appear in control of immigration inflows so as to assure the EC that it would not be a means for easy, uncontrolled entry. Most of the policy changes and all of the regularizations that have occurred since the 1986 legislation have been in response to the shortcomings of these laws.

### **Domestic Politics**

Domestic politics have played a crucial role in the formulation of Spain’s immigration policies. Since the drafting of the 1978 Constitution, two main parties have dominated Spanish national politics: the center-left PSOE (Spanish Socialist Workers’

Party) and the center-right PP (People's Party). General elections are held once every four years. Spain has a bicameral legislature, and the Prime Minister is traditionally chosen from the party that holds the majority in Parliament. However, if a single party does not win an absolute majority in Parliament, the party that won the plurality must form coalitions with other parties, which frequently results in policy compromises. The PSOE maintained an overall majority in Parliament until 1989, meaning it did not need to form any coalitions, and continued to hold power until 1996, at which point the PP gained power for the first time in the history of Spain's democracy. At that point, domestic politics emerged as a key factor in policy development.

It is important to note that immigration was not yet a key issue in elections at this juncture. It was only after a spate of anti-immigrant violence in the southeast of Spain in early 2000, an election year, that the PP "[introduced] immigration into the electoral debate to mobilize support" and clarify its stance.<sup>l</sup> The murder of a Spanish woman by a Moroccan immigrant was followed by one of the worst outbreaks of racial violence in the history of modern Spain. The PP seized upon this incident and linked it to the recent passage of the liberal Ley Orgánica 4/2000 by a left-wing coalition, calling it a sign that the new law was too open.<sup>li</sup> They promised to change the law to impose stricter border controls and limit the size of labor quotas if elected.<sup>lii</sup> Meanwhile, the PSOE actively opposed this approach, proposing to manage the flow of migrants rather than attempt to control it, to broaden legal channels of entry, and to reduce the overall number of irregular migrants.<sup>liii</sup> While prior to 2000, domestic politics had little effect on immigration policy, after this incident a clear and observable trend developed of shifts in immigration policy that reflect party turnover at elections.

For example, in 1998 the PP held a plurality of seats in the legislature but had to form a coalition with several other parties, some of them left-leaning, in order to form a majority. As a result, although they spoke out against it, they were unable to block an initiative to implement another regularization program and broaden the legal framework for entry and integration. However, in the general election in 2000 the PP won an absolute majority and by the end of the year had amended the legislation to drastically scale back its provisions and block undocumented immigrants' access to health care without a valid residence permit.<sup>liv</sup>

A similar policy change along party lines occurred in 2004 when the PSOE won the general election. While the original law remained the same, in 2005 the new government passed regulations on implementation that were “significantly more liberal in nature.”<sup>lv</sup> It also introduced the broadest and most generous regularization program to date, eased regulations on family reunification, and allowed immigrants to apply for legal status via their employers. Additionally, the PSOE created a massive fund dedicated to integration. While in the earliest years, new policy was largely introduced in response to the shortcomings of the original law, over time, immigration policy became fiercely politicized and a clear trend of enacting more open policies under the PSOE and more closed policies under the PP emerged.

## **Economy**

The impact of economic performance on the development of immigration policy can be assessed by looking at the types of labor quotas developed to bring in foreign workers and the relationship between the openness of policy passed from 1990-2010 and Spain's annual GDP growth and unemployment rates.

Until 2002, the need for foreign labor was determined by a quota system. The National Employment Institute (INEM) published an annual report on employment in Spain in order to determine how many foreign laborers were required to fill various sectors of the economy. However, this system was criticized for its failure to produce accurate figures; frequently the quotas drastically underestimated how many workers were needed.<sup>lvi</sup> In response to these complaints, the quota system was reformed in 2005 to no longer accept foreign workers already living in Spain, and to allow “local governments, employers, and trade unions” to update the Directory of Labor Needs rather than leaving it entirely in the hands of the INEM.<sup>lvii</sup> This provided the unions and business associations more direct influence over how many foreign workers were legally allowed into the country. This 2005 law was the most internally and externally open law so far, and came at the peak of the construction boom, a sector that predominantly employed foreign workers.<sup>lviii</sup>

After the housing bubble burst in 2008, the Spanish economy began to deteriorate with increasing rapidity. Between 2007 and 2009 the annual GDP growth rate fell from 3.8% to -3.7% and the unemployment rate rose 10%.<sup>lix</sup> The government implemented a new “voluntary return” initiative in which foreigners working in Spain would receive approximately one year’s worth of unemployment benefits from the Spanish social security system if they returned to their country of origin for three years.<sup>lx</sup> Voluntary return programs are generally cheaper and less complicated than deportations, as the process is frequently aided by nonprofit organizations and they do not require the government to communicate with the country of origin.<sup>lxi</sup> The purpose of these policies is “simply to return immigrants” who lack a residency permit or whose

asylum has expired.<sup>lxii</sup> As unemployment rose, this voluntary return program was seen as a less expensive and controversial mechanism to address the growing presence of foreign workers than deportation.

The largest policy shift in response to the recession involved slashing the budget for integration programs, a very internally restrictive move. Among the changes that occurred in the PSOE's ambitious 2005 reform of the immigration law was the creation of a Social Integration Fund, which received a part of the national budget to allocate to the 17 autonomous communities to facilitate integration in a variety of areas, including education, housing, employment services, and health care.<sup>lxiii</sup> However, by early 2009, Spain was experiencing the bottom of a precipitous downturn. Unemployment was at 18% and the GDP growth was -3.7%.<sup>lxiv</sup> The government decided that in light of growing fiscal pressure, it needed to reduce the budget. Although at first the PSOE refused to consider reducing the integration fund, forming a partnership with two other parties to ensure that the proposed reforms didn't pass, by April 2010 the government had cut the fund from 200 million Euros to 70 million Euros.<sup>lxv</sup> Eventually the PSOE conceded out of economic necessity, and in an extremely internally restrictive move, shut down the program it had championed only four years prior.

While it can impact policymaking regarding immigration in Spain, economic performance alone doesn't necessarily produce more restrictive entry and naturalization policies; that seems to be dictated more by political ideology. It is difficult to generalize the effect of economic performance on internal openness, as this concept was not introduced into immigration legislation until 1999, and Spain's unemployment rate remained relatively low and its annual GDP growth did not dip

below the Southern European average again until 2008. However, it is clear that the economic downturn of 2008 was steep enough to provoke attempts to incentivize immigrants' return to their country of origin, lower prioritization of integration, and fewer openings for foreign laborers per the quotas. A move towards greater internal restrictiveness appears to transcend domestic political ideology if the crisis is dire enough; that the PSOE was willing to shut down its own program is evidence of that.

## **Conclusion**

Between 1990 and 2010 various forces have worked in tandem to create the immigration regime in place in Spain today. The pressure to conform to the standards of the EU produced an unnecessarily restrictive policy from the outset, and policy changes since then have largely been an attempt to manage the consequences of this. However, political ideology and domestic politics at a national level also play a considerable role in determining policy. There has been a pattern of amending legislation to make it more or less internally and externally restrictive depending on which party controls the government. The economy affects policy development within a narrower framework, and the extent of its influence is more dependent upon the first two factors. Overall, Spain has produced a comparatively open internal and external policy regime, but it has still faced significant difficulties in managing the presence of irregular immigrants.

### Chapter III: Portugal

After its political stabilization in 1976, its entry into the EEC in 1986, and its process of decolonization in Africa which resulted in bilateral labor agreements with its ex-colonies, Portugal's economy began to grow rapidly. Its GDP growth rate was at an impressive 7.5% in 1988, more than three times the Southern European average.<sup>lxvi</sup> As a result, it became an attractive destination for immigrants. While Portugal has a smaller overall foreign population than the other three countries, it has maintained a staggeringly high rate of immigration over the past 20 years.

Year	Foreign Population w/Residency Permits	Avg Annual Percent Increase
1980	50,750	--
1990	107,767	11.2%
2000	207,587	9.2%
2006	437,126	18.4%

**Source:** Instituto Nacional de Estadística and Peixoto & Sabino 2009

There have been three main phases in Portuguese immigration policy: the mid-1970s-late 1980s, marked by the arrival of refugees from ex-colonies and the establishment of migrants' associations; the early 1990s, which marked the consolidation of an immigration regime based on guidelines "imposed by the EU, the absence of an integration policy" and the growth of undocumented immigration; and the 2000s on, marked by a greater emphasis on external openness and integration.<sup>lxvii</sup> Portugal has the most open immigration policies of the four countries in this study, scoring a 77.8 for internal policy and an 80.6 for external policy.

#### Policy Milestones

The first national law dealing with immigration was passed in 1981 under the center-right Social Democratic Party (PSD). It created an official Nationality Law which

defined the criteria necessary for citizenship, and regulated the entrances, duration of stay, exits, visas, and residency permits of foreigners.<sup>lxviii</sup> It created a governmental agency called the Aliens and Borders Service (SEF) that was tasked with overseeing all these procedures. This law conceptualized immigration as a purely temporary phenomenon and did not offer permanent visas. It did not address integration or immigrants' rights, and was a relatively restrictive policy both internally and externally.

The next major reform to immigration policy in Portugal did not occur until 1993. The continued issue of irregular migration coupled with impending Schengen membership forced the government to amend the initial 1981 law. It transposed the directives from the Schengen Agreement stipulating increased securitization of the border into Portuguese law, added five new categories of visas, and reinforced the power of the SEF to approve expulsions. However, in spite of the rhetoric and the new legal framework, there were no substantial changes to the qualifications for short-stay visas, and immigrants, particularly from Portuguese-speaking African (PALOP) countries, continued to enter and settle illegally just as they had during the past decade.<sup>lxix</sup> This law was slightly more externally closed.

The next significant change to immigration law, which increased external openness, occurred in 1998. This law started the period of positive discrimination towards PALOP and Brazilian immigrants, giving them the right to permanent residence after six years of legal stay in Portugal as opposed to ten years for other immigrants.<sup>lxx</sup> It stipulated that in order for foreigners to qualify for a residence permit, they must already have a work contract.

In 2001 the law was amended to prioritize integration for the first time. This law had three main objectives: to promote legal immigration based on the needs of the labor market, to help immigrants integrate into Portuguese society, and to combat illegal entry. It created a “temporary-stay” permit, which allowed for the regularization of foreign workers whose visas had expired.<sup>lxxi</sup> The law also created the High Secretariat for Immigration and Ethnic Minorities (ACIME), which gave local governments representation in the national government in order to better tailor to the needs of specific areas. Additionally, it created provisions for family reunifications for the first time. This law represented a substantial increase in both internal and external openness.

In 2003 a new degree was passed aimed at securitizing the border by imposing harsher sanctions on those who assist illegal entrance, transportation, and stay and facilitating expulsions.<sup>lxxii</sup> This legislation continued to favor immigrants from countries where Portuguese is the official language, lowering the requirement for permanent residence to five years of legal stay. It also attempted to improve the accuracy of labor quotas by tasking local authorities with reporting sectors with labor shortages. This law acknowledged that aspiring to completely halt immigration via what was known as a “zero immigration policy” was unrealistic. However, it did still implement more externally restrictive measures, such as abolishing the temporary-stay permits and restricting the parameters for family reunification.

In 2005 a new immigration law was enacted to come into effect in 2007. This law expanded the parameters of the quota system and provided refugees and any immigrant with a residence permit the right to family reunification. Although the

previous government had announced it would not launch any new regularization programs, this law introduced mechanisms for immigrants to regularize their status without holding a residence visa. While not nominally a regularization program, it was created for the same purpose. This law also included the most comprehensive integration plan in Portugal to date. It featured 122 social integration measures ranging from financial support for housing, supplemental income for elderly people, and improved access to health care.<sup>lxxiii</sup> This law is the most open to date, both internally and externally.

## **European Union**

As with Spain, Portugal lacked a broad, systematic national immigration policy until it signed a pre-accession agreement to the EC in 1980. Until then, the existing legal framework was scattered and only addressed “the expulsion of foreigners and the right to asylum.”<sup>lxxiv</sup> In 1981, the government passed the first consolidated “legislative measure to regulate the entry, stay, departure, and expulsion of foreigners” from Portugal.<sup>lxxv</sup> The policy framework established in this period was largely influenced by the European integration process because as migrant flows were still relatively small, immigration was not a highly prioritized or politicized issue at the time.<sup>lxxvi</sup>

However, Portugal has pushed back against EU directives and Portuguese authorities have even “been trying to influence their EU partners to adopt a more open immigration policy” in order to facilitate documented immigration.<sup>lxxvii</sup> Since the mid-1990s, Portugal has attempted to balance restrictive conditions imposed by the Schengen Agreement with “the application of institutional conditions favorable to” integration.<sup>lxxviii</sup> For example, in 1993 Portugal passed a more externally restrictive law

in order to comply with the conditions of the Schengen Agreement. However, the government was worried about the effect these tighter requirements for entry and stay might have on “the strong ties that attach[ed] it to other Portuguese-speaking countries.”<sup>lxxix</sup> As such, when transposing the EU directive the Portuguese government wrote a loophole into the law allowing for a “special [immigration] regime” specifically for countries with whom Portugal had bilateral agreements.<sup>lxxx</sup> This “special regime” was further clarified in the 1998 law to allow PALOP and Brazilian immigrants access to permanent residence and citizenship after only six years of legal stay in the country, as opposed to ten for other third-country nationals.<sup>lxxxi</sup> In this manner, Portugal has not allowed its policymaking to be shaped in the shadow of EU expectations the way that Spain and Greece have.

### **Domestic Politics**

Two main political parties have dominated Portuguese national politics since the stabilization of the democratic regime. These are the center-left Socialist Party and the center-right Social Democratic Party (PSD). Portugal is a semi-presidential system, meaning it has a directly elected President who nominates a Prime Minister from the party that has won the majority (or plurality, in the case of a coalition government) in Parliament. As such, it is not uncommon for the President and the Prime Minister to be of different political parties. This is relevant to policymaking because although the President is largely a symbolic figure (by choice and precedent rather than law, however), the office does hold the power to dissolve the Parliament, forcing the formation of a new government ostensibly with a different party holding the majority.

Because immigration to Portugal did not become substantial until the early 1990s, earlier policy was dictated largely by EU standards and not very politicized. This changed in 1993, when the PSD passed a highly restrictive law that aimed to eliminate permanent stay visas, exclusively providing short-term work visas.<sup>lxxxii</sup> However, when the Socialist Party came into power in 1995, they extended the duration of work visas and created the High Commissioner for Immigration and Ethnic Minorities, which consolidated several powerful immigrants' associations into one body intended to aid in "defining, implementing and assessing relevant public policies" that have to do with integration.<sup>lxxxiii</sup> This marked a substantial shift from an immigration policy focused exclusively on controlling migrant flows to a policy that dealt with integration, thereby acknowledging the inevitability of permanent immigrants.<sup>lxxxiv</sup>

The trend of policy shifting from more open to more closed depending on the party in power continued through the 2000s. In 2001 the Socialist government decided that the original legal framework regarding entry, stay, and exit, which included provisions such as 20 years of legal residence to qualify for a permanent visa and no avenue for family reunification, was still "too restrictive and inadequate to deal with immigration flows and labor shortages."<sup>lxxxv</sup> They passed extremely flexible legislation that introduced the concept of a stay permit, which required only a "work contract or job offer, [...] a valid passport" and no criminal history.<sup>lxxxvi</sup> The PSD, as part of a right-wing coalition, won the majority in Parliament in 2002 and immediately passed a new law abolishing the stay permits. Finally, in 2005, the Socialist party won an absolute majority in Parliament and enacted yet another immigration law which came into effect in 2007. This law expanded the parameters of the quota system, expanded the right to

family reunification to refugees and immigrants holding residence permits, and, controversially, “some mechanisms allowing for the legalization of formerly irregular” immigrants.<sup>lxxxvii</sup> It had been a prerequisite for immigrants to acquire a residence visa before being able to regularize their status, and the government had previously announced it would not launch any new regularization programs, but this was introduced as a “soft” regularization in order to reduce the presence of irregular immigrants without resorting to deportation.

It is also of note that in spite of the clear ideological divide regarding how to best handle the migratory influx, “there are no political parties or ultra-nationalist movements with xenophobic” features yet.<sup>lxxxviii</sup> The internal and external openness of the policies developed in Portugal has varied based on what party is in power, especially during the 2000s, but other factors have led it to maintain its general openness over the years in spite of party alteration.

## **Economy**

One of the most striking aspects of Portuguese immigration policy is its relative consistency even in the face of economic downturns. There was little change between the immigration law of 1981 and the next law in 1993 in spite of the fact that in 1993 Portugal had just hit the bottom of its worst recession in a decade.<sup>lxxxix</sup> In fact, “immigration cycles have closely followed economic cycles,” meaning that the flow of immigrants tends to increase when the economy improves and decrease when it shrinks, so the main challenge for the Portuguese government in this regard has been to provide easily accessible legal channels for immigrants when labor demand is high.<sup>xc</sup> In the early 2000s, for example, labor demand was “so strong that [employers were]

encouraging foreigners to come to Portugal and stay illegally in the country.”<sup>xci</sup> The stay permits introduced by the Socialists in 2001 were a response to this demand, and were the first time a permit was introduced that was based solely on employment rather than legal residency. In this period, the demand for labor was so high that the government introduced a new regularization program specifically based on employment in acknowledgement of the vast quantity of employed but illegal immigrants. On the whole, economic performance has played the largest role in illustrating the shortcomings of earlier immigration policy, as neither the quotas nor the initial regularization program provided immigrants with accessible enough entry to the labor market.

## **Conclusion**

Portugal has by far maintained the most consistently open immigration policies of the four case study countries. While it, too, formulated its initial policy based nearly entirely on the guidelines set out by the EU and has seen shifts in the openness of its policy depending on which party is in power, the authority granted to local governments to influence immigration policy in the national government has been key in maintaining its internal and external openness. Additionally, the strategy of allowing civic groups and immigrants’ associations to be institutionalized at the national and local level has resulted in a greater sensitivity to immigrants’ rights in spite of frequent political turnover that resulted in a range of different policy approaches.

## Chapter IV: Italy

Like the other countries in this study, Italy did not truly become a country of immigration until the end of the 1980s. Before that point, there was no all-encompassing immigration policy, only minor administrative acts intended as security measures that made it very difficult to enter Italy legally.<sup>xcii</sup> Rather, immigrants tended to enter the country without a visa and either find work in the informal sector or take advantage of loopholes in the existing legislation to obtain a work permit. It is difficult to make an accurate assessment of the size of the foreign population in Italy before the 1990s, as the records of stay permits were updated only sporadically and census forms were only available in Italian until 1991 and thus frequently went unreturned.<sup>xciii</sup> However, the available data shows a steady increase in the number of migrants to Italy since 1993.

Year	Foreign Population w/Residency Permits	Avg Annual Percent Increase
1993	589,900	--
1995	677,800	7.5%
1997	986,000	22.7%
1999	1,090,800	5.3%
2001	1,379,700	13.2%
2003	1,503,300	4.5%
2005	2,245,500	24.6%
2007	2,415,000	3.7%

**Source:** National Institute for Statistics (ISTAT) and Bonifaze *et al* (2009).

Since the implementation of the first comprehensive immigration law in 1986, Italian immigration policy has typically been more preoccupied with regulating entry and expulsion than expanding legal avenues to residency. Although the government has acknowledged the high demand for foreign labor, it continues to implement insufficiently broad entry policies and focuses primarily on external controls like

policing the border rather than internal factors which encourage irregular immigration, such as the enormous shadow economy and the cumbersome visa renewal processes, which frequently cause legal immigrants to slip back into illegal status.<sup>xciv</sup>

### **Policy Milestones**

There have been five major immigration policies implemented in the 25 years since Italy emerged as a key receiving country. The first, enacted in 1986 along with the first regularization program, created labor quotas for prospective immigrants, allowed employed immigrants access to social services and welfare provisions, and developed an entry program.<sup>xcv</sup> However, the regularization program proved ineffective, as information regarding how to participate in the program was poorly disseminated.<sup>xcvi</sup> Additionally, the entry program was never fully implemented, nor did the Act “reform both external controls and security procedures.”<sup>xcvii</sup>

The next comprehensive immigration reform occurred in 1990 with the Martelli Law. This law attempted to address the shortcomings of the initial immigration legislation, create a fund to finance integration initiatives, and to expand the quota system. This new quota system, the *numero programmato*, was intended to be the main planning tool for managing migration to Italy. However, it, too, was ultimately ineffective. Hiring irregular migrants remained a far cheaper alternative and bureaucratic shortcomings hindered its success; the release of the quotas was sometimes delayed until just “a few days before the end of the year they were supposed to regulate,” and their assessment of the needs of the Italian labor market was frequently inaccurate.<sup>xcviii</sup> Thus, while this law was key in expanding internal openness, it remained nearly as externally restrictive as the original 1986 law.

The next major immigration policy change after the Martelli Law was the Dini Decree of 1996, the most externally restrictive policy yet. One of the main weaknesses of the Martelli Law was its failure to clarify proper deportation procedures, relying on ineffectual written warrants. The Dini Decree was designed to facilitate quicker deportations by increasing police powers to deport without a trial. According to this decree, the only legal avenue for immigrants to challenge their deportation would be to return to Italy and fight it in court.<sup>xcix</sup> Additionally, it required immigrants to pay a fine equivalent to four months' wages in order to regularize their status.

When this decree failed to reduce illegal immigration, new legislation was introduced in 1998. The Turco-Napolitano law was the most internally and externally open policy thus far. It represented the first attempt to address the rights of legal immigrants. It also decentralized control of social services to the local level and allowed undocumented immigrants access to health care and public education. It was the first immigration law to permit immigrants access to permanent residency, contingent upon demonstrating proof five years of legal residency, self-sufficiency, and housing.<sup>c</sup>

In 2002, the Italian Parliament passed a new law called the Bossi-Fini law, which included the most far-reaching regularization measure in its policy history. Approximately 92% of the 705,000 applications were accepted.<sup>ci</sup> However, this law also reduced the length of residence permits and required employers to guarantee the housing of their foreign workers. This law was created with the intent to not only prevent illegal entry, but to limit legal entries as well. However, though it was a very externally restrictive law, many of its provisions were poorly enforced. Since then, there have been a few more attempts at policy reform, but nothing has succeeded.

## **European Union**

Ever since Italy became a major receiving country for migrant flows, the European Union has put a great deal of pressure on it to better regulate its borders. Italy signed the Schengen Agreement in November of 1990. The Martelli Law, also passed in 1990, was an attempt to comply with the requirements for membership in the Schengen Area and “to reassure ‘old’ immigration countries like Germany or the Netherlands” that it was capable of controlling the entry of migrants to the Schengen space.<sup>cii</sup> This law introduced labor quotas which were used not to assess the demands of the labor market but “to close Italian borders to unskilled labor as ‘Fortress Europe’ was being created” in order to crack down on immigration in general, legal or illegal.<sup>ciii</sup>

However, even the Martelli Law was seen as insufficient, and Italy “did not gain full membership [to the Schengen] until April 1998 because until that time, other Schengen members” blocked its entry due to worries about the permeability of Italy’s borders as well as the efficacy of its immigration policy up to that point.<sup>civ</sup> After passing the Turco-Napolitano law in March of 1998, which included provisions to further tighten up the border and repatriate irregular migrants, Italy gained full membership. The most controversial part of this law was the section that authorized the opening of temporary detention centers for migrants without residence permits; this was seen as contrary to “the principles of the Italian constitution” and a potential violation of human rights.<sup>cv</sup> This is a clear example of the EU using membership as leverage to pressure Italy into enacting more externally restrictive policies in spite of their domestic unpopularity.

In this sense, the EU encouraged Italy's development of externally closed policies even though they did not necessarily reflect the needs of the country "at that stage of the migratory transition."<sup>cvi</sup> However, while it continues to pressure Italy to manage its borders more effectively, the EU has not had a direct effect on policy development since the Turco-Napolitano law of 1998.

### **Domestic Politics**

Italy has a multi-party political landscape that engenders the formation of coalitions. Since 1995, two main coalitions, one center-right and one center-left, have dominated the political scene. The issue of how to address immigration to Italy was quickly politicized; in very little time, it became a key component of both the center-right and center-left's ideological platforms. This is because as Italy was becoming an attractive destination for migrants, it was also in the midst of "a deep political crisis that favored the birth of" populist far-right xenophobic political parties such as the Lega Nord.<sup>cvii</sup> These parties quickly became consistent coalition partners of the center-right. The center-left had its own radical leftist fringe parties within the coalition to contend with. The result has been a surprising consistency in the external openness of the policy produced since the mid-1990s. While the center-right is associated with restrictive ideology and the intent to limit both legal and illegal inflows, over time it has developed "a kind of recalcitrant acceptance of the growing need of further inflows of workers."<sup>cviii</sup> Meanwhile, the center-left has presented ambitious platforms meant to overhaul entry procedures, control measures, and citizenship law in order to improve the ease of the legal entry process, though they tend to be scaled back considerably before they are passed. Although the center-left was able to find a middle ground to pass the Turco-

Napolitano law, the only other time that the it held a majority in Parliament, it was unable to produce legislation that both the moderate and radical factions within the coalition could agree on, destroying the possibility for substantial reform.<sup>cix</sup> Thus, although both parties conform to the ideological expectations regarding their stance on immigration policy, due to the need to cater to public opinion, acknowledge the demands of the labor market, and compromise within large coalitions, they have not produced drastically different policies.

There are, however, occasions when the partisan divide within coalitions acts as a catalyst for policy change. In 1995, Prime Minister Lamberto Dini passed an emergency decree that allowed for the use of expulsion of without due process of any non-EU citizen, even legal migrants if they had committed a crime. The Dini Decree is referred to as an “emergency” decree because it was passed only after the Lega Nord threatened to vote down the national budget if the government didn’t take immediate drastic action to restrict immigration.<sup>cx</sup> When the center-left won the majority in Parliament in 1996, after two years of “long and highly secretive deliberation,” it passed the Turco-Napolitano Law.<sup>cxii</sup> This law “expanded the channels through which a prospective migrant” could legally enter the country and signed bilateral agreements with many of the most important sending countries.<sup>cxii</sup> It also expanded integration measures. Yet again, however, opposition in Parliament from the center-right coalition led to the initial proposal, which codified equal rights for legal immigrants, being drastically scaled back. Additionally, the government faced challenges in implementation due to “a lack of political will [...] and the renewed strength of right-wing political parties.”<sup>cxiii</sup> When the center-right coalition returned to power in 2001

after a particularly contentious election where immigration had featured heavily as a topic of debate, it soon took new legislative action to reform the Turco-Napolitano Law.<sup>cxiv</sup>

With the center-right's return to power in 2001 came new immigration reform. However, although it was drafted with the intention to limit legal entries, "after a period of open refusal, the center-right coalition" accepted the need to allow bilateral readmission agreements with sending and transit countries and ultimately produced a law that was not substantially different from the one that preceded it.<sup>cxv</sup>

Domestic politics in Italy is characterized by partisan divide, gridlock within parties, and general bureaucratic swamp. Coalitions are constantly forced to compromise. Ultimately, although the center-left and center-right have clear ideological divides in how they view the correct way to approach immigration policy, the actual content of Italian immigration law has remained relatively steady since 1990.<sup>cxvi</sup> This is due in part to the public support of strict policies as a result of the fierce early politicization of the issue, but is also emblematic of Italian politics in general, in which substantial and lasting change is not easy to come by. The development of immigration policy in Italy has essentially boiled down to a tug-of-war between the demands of the labor market, political ideology, and the need to compromise within coalitions.

## **Economy**

As Italy's economy began to expand after World War II, ultimately becoming one of the largest economies in Europe, it "was forced to depend on foreign labor" to address booming demand.<sup>cxvii</sup> The first three immigration policies were enacted in times of relative prosperity. Italy's annual GDP growth hovered just above the Southern

European average of 1.67%, and unemployment remained solidly below the average of 11.2%.<sup>cxviii</sup> In spite of this, all three policies were very externally restrictive.

Although the economy represents a powerful force for more openness in Italian immigration policy, it has not ultimately produced many tangible results. The yearly quotas have consistently been set “far below the real necessities of the labor market.”<sup>cxix</sup> Additionally, while Italian immigration policies have included programs for “managed” entries and regularizations, they lack measures to prevent the hiring of irregular migrants and do nothing to address internal factors such the enormous, flourishing shadow economy that incentivize illegal immigration. The few laws that have been passed to address this have backfired. For example, a thorough investigation launched by the Labor Inspectorate under the Bossi-Fini law to find and deport undocumented foreign workers angered small businessmen enough that 50 companies banded together to form “the unintentionally amusingly named ‘Pro Illegal Labour Committee’” to register their discontent.<sup>cxx</sup> While the present economic crisis has led the Italian government to implement policies to protect workers with permanent contracts (an area where immigrants are generally underrepresented), recent immigration policy decisions in Italy were driven more by “factors relatively disconnected to the crisis” such as public opinion and the polarization of the issue in the political sphere.<sup>cxxi</sup>

Economic performance in Italy has helped maintain continuity in immigration policy development by providing a counterweight to domestic politics. Since the immigration debate first reached the national stage, there has been “a powerful alignment between the advocacy coalition and employers’ organization” for an increase in regularization programs and a broadening of quotas.<sup>cxxii</sup> However, if economic forces

were truly the main influence behind immigration policy development, there would be a more thorough crackdown on the shadow economy and more consistently externally open policies enacted between 1990 and 2010.

## **Conclusion**

In the first decade of Italian immigration policy development the European Union was able to exert a considerable amount of influence by threatening to withhold its entry to the Schengen Area. As a result, Italy's first three immigration policies were much more externally restrictive than Spain's and Portugal's during the same time period in spite of the similarity in their economic performances. However, once that was no longer a credible threat the EU's power waned, and policy was shaped almost entirely by domestic political forces. Because these three initial policies restricted channels of legal entry and failed to sufficiently account for the demands of the labor market, they ultimately encouraged illegal immigration. Additionally, ideological divide over immigration policy in Italy appears to have the most effect on the internal openness of policies and the emphasis placed on integration. Although the government has recognized the economic necessity of migrants, coalition infighting and compromises have created a trend of consistently externally restrictive policies that rely on regularizations and deportations to deal with the large population of undocumented migrants.

## Chapter V: Greece

As with Italy, Greece was predominantly a country of emigration until the late 1970s, meaning it sent more migrants than it received. It was the latest country of the four examined in this study to develop a comprehensive national immigration policy. After the fall of the Berlin Wall and the collapse of Communism in neighboring countries, “thousands of Albanian men and women” crossed into Greece, spurring the creation of the first immigration law, passed in 1991.<sup>cxxiii</sup> Data on foreign residents is spotty as the census has proved a rough and ineffective measuring tool due to high levels of irregular immigration coupled with a lack of incentive to register with local authorities as there is in Spain and Portugal.<sup>cxxiv</sup>

Year	Foreign Population w/Residency Permits	Avg Annual Percent Increase
1986	92,440	--
1990	173,436	21.9 %
2001	761,813	30.8%
2007	1,092,000	7.2%

**Source:** Fakiolas & King 1996 and Triandafyllidou 2008.

It’s important to note that due to a lack of consistent data the time intervals are uneven; the largest percent increase in immigration flow occurs over a 12 year period, whereas the smallest occurs in 6 years.

The 1991 immigration law was created primarily with the aim of “facilitating expulsion of irregular migrants apprehended near the country’s border.”<sup>cxxv</sup> Between 1990 and 2010 Greece’s immigration policy was characterized by the struggle to reconcile restricting legal access and policing the borders with the economic demand for migrant workers. As of 2010, Greece has the least open immigration policy of the four countries, scoring 45.5 in internal policy and 54 in external policy.

## Policy Milestones

Greece was the last country of the four to enact a comprehensive national immigration law. The first law attempting to control the flow of migrants to Greece was passed in 1991, and was extremely externally and internally restrictive. It emphasized the stance that Greece was not a country of permanent settlement for migrants and refugees.<sup>cxxvi</sup> It provided one-year residence permits only to those specifically “invited by a Greek employer to work in Greece,” and stipulated that foreigners must legally reside in Greece for 15 years before applying for permanent residence. After the first five years, the residence permit only had to be renewed every two years, but the renewal applications had to be approved by the Ministries of Public Order, Labor, and Health.<sup>cxxvii</sup> It also expressly prohibited undocumented migrants from taking advantage of welfare entitlements. In spite of these severe measures, by 1996, approximately 90% of the foreign workers in Greece were there illegally and without work permits.<sup>cxxviii</sup>

In 1998, recognizing that the flow of illegal migrants had not been reduced, the government amended the 1991 law to create the Border Guard Force and make irregular entry and stay a criminal offense. It was more internally and externally restrictive than the law before it. This new law also created a temporary three-month permit called the white card, available for undocumented migrants who had been in Greece since November 1997, employed since January 1998, and could prove that they had paid 40 days of social security contributions. This regularization program was intended to measure the population of undocumented migrants in Greece. However, although 371,641 people applied for the white card, only 40% were granted it.<sup>cxxix</sup> Upon receiving a white card, migrants were then expected to use those three months to apply

for the green card, which was a work and residence permit that lasted from one to three years.<sup>cxxx</sup>

However, the process of applying for and maintaining legal status was so inefficient that the government implemented another regularization in 2001. When that too failed to have a substantial impact, the government passed a new act to replace the 1998 law. This law, Act 2910/2001, was the first truly comprehensive immigration law. It had two goals: to manage migration by tightening up border control, and to reduce the population of undocumented migrants in the country via another regularization program.<sup>cxxxi</sup>

Act 2910/2001 also created a separate category for refugees, made xenophobic and racist acts punishable by law, and allowed for family reunification after two years of residence for the first time. Additionally, it granted undocumented immigrants access to public education and reduced the number of years necessary before a migrant could apply for permanent residence from 15 to 10. Finally, it changed the oversight of the allocation of residence permits from the Ministry of Public Order to the Ministry of Interior, which represented an important shift in priorities from restricted entry and deportation to integration and a focus on immigrants' rights. This was the first step Greece took towards internal openness in its immigration policy.

In 2005 Parliament passed a more internally and externally open law intended to simplify the procedure for granting and renewing residence permits.<sup>cxxxii</sup> It also implemented a small-scale regularization program targeting immigrants who previously held temporary legal status but were unable to renew their permits. The only prerequisite for acceptance was that the applicants report their employment

status and the municipality where they work to the government.<sup>cxxxiii</sup> It also created an ambitious integration program called the Comprehensive Program of Action. Among other services, this program was meant to provide lessons in Greek language, culture, and history, and help migrants with labor market integration. However, the program never actually received funding and was never given an official start date.<sup>cxxxiv</sup>

The most recent amendment to immigration law in Greece occurred in 2010 and largely addressed the issue of citizenship for second generation migrants. This affected either children born in Greece to foreign parents or born abroad to Greek parents, and allows them to naturalize via a parental declaration or upon completing their sixth year at a Greek school.<sup>cxxxv</sup> It also lowered the number of years of legal residency necessary to qualify for permanent residence from ten to seven years, and introduced political rights for foreigners who have lived in Greece for more than five years. This law marks yet another tiny step towards increased internal and external openness in Greek immigration policy. However, Greece's original 1990 immigration law was by far the most restrictive of the four; as such, even after adopting these measures to increase openness, it remains a far cry from the levels of Spain or Portugal.

## **European Union**

Since its entry into the Schengen Area, Greece has been under considerable pressure from the European Union to prevent irregular entry because "its borders are all the external borders of the EU" except, as of 2007, its border with Bulgaria.<sup>cxxxvi</sup> As with the other three countries, the requirements stipulated by the Schengen played a large part in shaping Greece's original legal texts regarding migration, especially

because Greece lacked a history of immigration management.<sup>cxxxvii</sup> In the early stage of immigration policy formulation, Greece attempted to conform to the EU's desire to create a "Fortress Europe" and eliminate irregular immigration. However, Greece has always struggled to coordinate its laws with EU directives, an issue complicated by the fact that "the competent authorities, particularly the police," have frequently proved reluctant to enforce or adapt to EU norms.<sup>cxxxviii</sup>

In certain areas, EU pressure has yielded results. For example, Greece has been forced to "guarantee required rights for third-country nationals and to undergo permanent and increasingly pressing scrutiny of its administrative practices."<sup>cxxxix</sup> Additionally, after 2000 when entry into the EU became more difficult, Greece "became the main gateway of irregular migration to the EU" and pressure to tighten up its borders grew accordingly.<sup>cxl</sup> On the whole, however, Greece's administrative shortcomings have resulted in systematic "delays [in] the transposition of EU legislation," often going beyond the agreed-upon deadlines without facing repercussions.<sup>cxli</sup>

Greece has also exploited loopholes in EU legislation. For example, Greece's 2008 transposition of the EU directive that describes the qualification of a refugee includes the provision that an applicant who has committed a serious criminal offense" may be excluded.<sup>cxlii</sup> The Presidential Decree that codifies the directive, however, defines "serious offense" so broadly that it can include something as benign as a minor traffic offense. The only area where the EU has had semi-consistent success in imposing its will is in regularization programs. The 2008 European Pact on Immigration and Asylum strongly advised against regularization procedures and, although the socialist

government in 2009-10 met with strong pressures to implement a new regularization program for illegal immigrants, it did not yield because to do so would contradict this EU directive.<sup>cxliii</sup>

The EU has attempted to play a role in influencing integration measures by promoting and sponsoring labor-market integration programs like language courses. To further its agenda, the EU provided “training and financial support for the improvement of asylum procedures and reception conditions.”<sup>cxliv</sup> However, in general, Greece has been unenthusiastic about aligning with the EU tendency of slow and gradual development of increased restrictions coupled with greater individual rights for migrants once they’re in EU territory. Although in the early 1990s Greece was influenced by the EU to tighten up its borders, this influence has diminished, as evidenced by Greece’s extremely gradual shift towards greater external openness after 2000.

### **Domestic Politics**

Politics in Greece has been dominated by two major parties since 1981: the center-left PASOK and the center-right New Democracy (ND). These parties “have alternated in government from 1993 until 2012” but the immigration policies they enacted have all been fairly internally and externally restrictive compared to those in Italy, Spain, and Portugal.<sup>cxlv</sup> The development and relative success of far-right populist fringe parties such as Golden Dawn and National Orthodox Rally has also pushed the mainstream parties farther to the right. The New Democrats enacted the very first comprehensive immigration legislation in 1991, but the 1998 law that criminalized irregular entry was passed under a PASOK-controlled government. Over all,

“bureaucratic traditions and interests” hold a more substantive role in determining immigration policy than political ideology.<sup>cxlvi</sup> Party alternation tends to result in new immigration policy, but due less to ideological difference than a desire to appease the public.

This is evident in PASOK and ND’s similar stances on immigration. They have both advocated for stricter controls on undocumented entry and generally depict immigration as a security threat.<sup>cxlvii</sup> PASOK tends to be more open regarding access to citizenship and integration, but in practice, the policies it implements are not ideologically distinct from those enacted by the ND. In fact, ND and PASOK have frequently “openly competed with each other on the basis of ‘being tough’ on migrants.”<sup>cxlviii</sup> This is largely the result of vociferous anti-immigrant sentiment in public opinion.<sup>cxlix</sup> However, as illegal immigration has continued unabated, both parties have recognized the need to pass slightly more open policies as a way of encouraging legal entry.

## **Economy**

In Greece, the Economic and Social Counsel (OKE) represents employers’ and workers’ associations in government. It contributes to the “immigration policy-making process before draft legislation” is brought to Parliament.<sup>cl</sup> OKE tends to make policy proposals that favor integration measures and the liberalization of naturalization conditions. However, even when these conditions are taken into consideration when drafting policy, OKE’s participation is frequently ineffectual because either the draft gets amended to the extent that it barely resembles the original during the Parliament debates, or because “implementation is particularly cumbersome” and ineffective.<sup>cli</sup>

While economic demands serve as a powerful pull factor for migrants, access to work and residence permits and citizenship is sufficiently difficult that the majority of arrivals enter the country illegally and are absorbed into the shadow market. Because the shadow market forms a sizeable portion of Greece's economy, the government has been reluctant to pass legislation attempting to restrict it. Additionally, Greece's GDP grew fairly steadily throughout the 1990s and its unemployment rate remained below the Southern European average of 11.2% until 1998.<sup>ciii</sup> However, it was during this time that Greece implemented its most externally and internally restrictive policies. Meanwhile, in the far more economically unsteady 2000s, Greece has slowly begun to implement slightly more open policies.

## **Conclusion**

The strongest force that has shaped the development of immigration policy in Greece is domestic politics, or more specifically, a lack of sufficient political will. While membership in the European Union has meant that certain immigration policy elements were mandatory, Greece was free to devise policy within those frameworks, and even sometimes ignored them. Although during the 1990s EU pressure to police the border more effectively resulted in more externally restrictive policy, even after that pressure diminished Greece continued to enact very restrictive immigration policy compared to the rest of Southern Europe. The Greek government recognized the persistent demand for labor but failed to implement meaningful long-term policy to address that demand in a way that disincentivized irregular entry. Compared to the other three countries, it has continued to enact fairly restrictive internal and external immigration policy in

spite of the fact that doing so has failed to reduce irregular immigration and during certain periods, proved contrary to its economic interests.

## Chapter VI: Conclusion

In all four countries, the sudden growth in immigration flows and pressure from the EU provided the incentives for the development of comprehensive immigration policies. Furthermore, in initially advocating for zero net immigration, the EU played a key role in creating a restrictive external framework within which all four countries developed their policies.

Pressure from the EU to prevent illegal immigration led to a lack of emphasis on internal openness and the development of externally restrictive immigration policies in all four countries in the early stages of their policy development. These these policies were perceived as being in the best interest of the EU as a whole, especially Northern Europe, which feared undocumented migrants would take advantage of Southern Europe's porous borders and the free movement afforded by the Schengen Area to settle in their countries. However, they were not necessarily in the economic or political interests of Spain, Portugal, Italy, and Greece at the time of their passage. Although the EU's role was vastly diminished beginning around 2000 due to its loss of leverage and gradual, still-ongoing departure from the "Fortress Europe" immigration regime, policymaking in all four countries (especially Portugal and Spain) continues to be defined by attempts to compensate for the consequences of the highly externally restrictive policies that they initially developed under EU guidance. Additionally, when these early laws failed to stem the flow of illegal immigration into Southern Europe, Spain and Portugal in particular began to turn to different solutions in the form of more open external policies.

Domestic politics and party alteration have a consistent impact on policy development after 2000, particularly in Spain. However, the type of policy this factor produced varies from country to country. While in Spain and to a lesser extent Portugal, the internal and external openness fluctuate dependably with the ideology of the governing party, in Italy and Greece there is less of a distinction between the type of immigration policy produced. Both the center-left and the center-right have enacted sweeping regularization programs while simultaneously tightening up control of the border. Because immigration became a politicized issue so early, with parties like the Lega Nord and Golden Dawn adopting anti-immigration platforms in the early 1990s, it is politically unfeasible to advocate for more externally open policies. The clearest ideological divergence between immigration policies produced by center-right and center-left parties in Italy and Greece between 1990 and 2010 has been in internal openness.

Ultimately there was not a convincingly strong relationship between economic performance and immigration policy outcomes until the 2008 financial crisis. Only in Portugal, where labor and trade unions are institutionalized in the national government and as of 2001 given a privileged position in determining labor quotas, have the needs of the labor market been reflected in specific policy changes. In Italy and Greece, economic performance was consistently of secondary importance, while in Spain it was not instrumental in deciding policy until the severe economic downturn in 2008.

As the EU continues to take steps to harmonize immigration policy among its member states, it will need to take into account these divergences on the national level. It will need to decide how to reconcile Portugal's openness with Greece's restrictiveness

in order to find a middle ground that all countries can agree upon, which will undoubtedly be a lengthy and difficult process. Meanwhile, there are a few key areas within immigration policy that the four Southern European countries would do well to improve upon.

First, they should take steps to address their sizable shadow economies. In all four countries the size of the shadow economy in relation to the size of the GDP per capita is above the European average, but it is especially massive in Italy and Greece, where it is approaching 25%. The shadow economy functions as a pull factor for immigrants, as it plays a crucial role in absorbing undocumented immigrants into the labor market. Some of the immigration policies Southern European countries have developed between 1990 and 2010 have included the imposition of strict fines on employers who hire undocumented immigrants. However, enforcement is lax, and these regulations alone are insufficient to motivate employers to change their behavior. Southern European countries should work not only to penalize offenders, but also to eliminate loopholes and simplify their tax laws, as well as to incentivize participation in the official economy by increasing the social benefits attached to legitimate job contracts.

Another common issue plaguing immigration policy across all four countries is inefficiency. The complexity of the bureaucratic procedures necessary to obtain legal residence or employment coupled with the slow processing pace of applications not only makes undocumented immigration seem like a more attractive option, but also has frequently led to once-legal immigrants reverting to illegal status because their stay visas expire before their applications for renewals have been processed. This could be

addressed by introducing longer grace periods for immigrants who have applied for renewals and streamlining the application process by cutting down on red tape.

It is clear based on these past few months alone that the policies these countries have enacted so far are insufficient to prevent the flow of illegal immigrants into Southern Europe and may even be encouraging illegal entry due to cumbersome and lengthy procedures for legal residency and employment. In Spain, the dominance of domestic politics as an influence on immigration policy change has created a constantly fluctuating immigration policy regime. In Greece and Italy, meanwhile, bureaucratic gridlock has stymied substantial legislative change. All three countries would do well to follow Portugal's lead and give migrant associations, trade unions, and local governments more input in policy development.

With thousands of migrants dying each year attempting to enter Southern Europe, it is imperative that these countries prioritize immigration policy reform. While it's doubtful that enacting more externally open policies is the magic solution to Southern Europe's immigration policy woes, it is clear that the laws enacted between 1990 and 2010 are severely lacking. It's time to try something new.

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