

The Effectiveness of French Immigration Policy Under President Nicolas Sarkozy

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This article presents an analysis of the effectiveness of French immigration policy during President Nicolas Sarkozy's single term (2007–2012). Following a recent proposal, this article will explore the level of congruence between French legislator's objectives on immigration policy and the remaining stages of the policy process. Notwithstanding President Sarkozy's ambitious agenda, a persistent gap between restrictive objectives and the subsequent liberal outcomes from policy implementation has been detected by immigration studies. The analysis will suggest that French immigration policy attained a variable level of policy effectiveness throughout President Sarkozy's term. This investigation emphasises that policy inputs can be driven by political considerations involving the mobilisation of sections of the electorate in spite of the diminished feasibility of the proposals. Furthermore, the strong effects exercised by endogenous and exogenous political factors over President Sarkozy's plans will be highlighted in this article, in particular the agency of 'domestic veto players'.

Keywords: Immigration policy, France, Partisan veto players, Policy gaps, Sarkozy

1. Introduction

France has a long history of immigration, and this social phenomenon has been at the forefront of national politics since the mid-1980s (Gastaut, 2012). The single term of President Nicolas Sarkozy (2007–2012) was marked by the intense salience of immigration in the domestic agenda. The French President became deeply associated with this issue throughout his former tenures as the French Interior Minister (2002–2004; 2005–2007) (see Marthaler, 2008; Schain, 2008).¹ During the 2007 electoral campaign, the candidate for the centre-right party—*Union pour un*

¹This new policy input had been first publicly announced in 2005 and it was closely associated with Sarkozy's two-pronged strategy for the 2007 presidential elections involving: the detachment from

Mouvement Populaire (UMP) vowed to deepen his 'selective immigration policy' and to promote 'selected immigration' (*immigration choisie*) rather than 'unwanted immigration' (*immigration subie*) (UMP, 2007). Furthermore, immigration was associated with a national identity crisis by the centre-right candidate, who pledged the creation of a ministry of immigration, integration and national identity to tackle this emergency (Ivaldi, 2008).² The UMP candidate opted for the informal co-option of the extreme-right party *Front National's* (FN) electoral agenda on immigration³ at the 2002 presidential ballot (Carvalho, 2013). This strategy was successful as Sarkozy was elected French President at the 2007 ballot and directly benefited from the electoral collapse of the FN's candidate, Jean-Marie Le Pen, in the first round of the ballot (Mayer, 2007).

Notwithstanding President Sarkozy's ambitious objectives, immigration studies have identified a persistent gap between the restrictive objectives set by national governments and the actual liberal outcomes derived from policy implementation, nurturing an ever-growing paradox in this area of public policy (Hollifield *et al.*, 2014). This trend has fuelled an intense debate among scholars over the contemporary ability of nation-states to control their external borders. Although some authors consider that the policy of border control has been deeply undermined by the expansion of free trade and the emergence of a human rights regime, others argue that immigration policies have been increasingly effective and sophisticated (Schain, 2008). Nonetheless, immigration policy should not be interpreted as the only determining factor over the intensity of immigration because this social phenomenon is shaped by other endogenous and exogenous factors in a context marked by growing global interdependence (Czaika and Haas, 2013).

A recent proposal argues that the debate concerning the ability of host states to control immigration has been driven by conceptual misunderstandings over the meaning of 'policy effectiveness' and 'policy effects'. Although policy effectiveness refers to the relationship between the desired objective and the outcome of the implementation stage, policy effects mean the influence of the legislation over the shape of social reality (Czaika and Haas, 2013, p. 491). Thereby, this article will evaluate the effectiveness of French immigration policy throughout President Sarkozy's term by employing a fourfold analytical framework of the policy

President Jacques Chirac's unpopular legacy to win the UMP presidential election; and the attraction of the FN's electorate in his favour in the two-round ballot (see Marthaler, 2008).

²The FN's (2001, p. 22) electoral manifesto included a chapter entitled—'Immigration: a lethal threat to France and the French citizens. A lethal threat to French identity'.

³The FN's electoral manifesto for the 2002 presidential elections included references such as 'the mass immigration that we do not want threatens our identity, and consequently, France's existence' (FN, 2001, p. 26), 'family reunion: the instalment of settlements' (FN, 2001, p. 18), right of asylum and residence authorisations: immigration becomes uncontrollable' (FN, 2001, p. 18).

process: public policies discourses or policy inputs, migration policies on paper or policy outputs, implementation stage and migration outcomes. This approach enables the refinement of policy gaps into three main categories: the discursive gap, the implementation gap and the efficacy gap (Czaika and Haas, 2013, p. 494).

By exploring this theoretical framework, this investigation will highlight the exclusion of political factors within the range of independent variables enhancing the different policy gaps, which can foster flawed appraisals of the policy process. This shortcoming on immigration studies has been associated with the increasing specialisation of social sciences that disincentivises interdisciplinary approaches presenting a synthesis of policy evaluation and domestic politics (Bale, 2008). In contrast, this research on policy effectiveness focuses on the dynamic of politics through which the French immigration policy was developed and it will explore the potential influence of political factors. Therefore, this article follows the domestic politics approach that highlights endogenous political factors as the key variables to explain the contingent constraints on the policy of border controls (Hollifield *et al.*, 2014). Moreover, this investigation will highlight interparty competition and domestic partisan veto players as causal factors behind some of the policy gaps identified in the selected time frame. To attain these general objectives, this investigation employs a qualitative method labelled ‘process tracing’ (Brady and Collier, 2010).

This research method enhances the study of processes of political change through the examination of causal process observations (with a qualitative or quantitative character) supported by in-depth single case analysis. Moreover, contextual knowledge and qualitative analysis were considered indispensable to identify which of the gaps are most salient in explaining the overall policy effectiveness (Czaika and de Haas, 2013). Finally, the article’s first part develops the theoretical background that supports this investigation by examining the typology of ‘policy gaps’, as well as the domestic and exogenous constraints faced by the French executive on immigration policy. The second part presents the diachronic analysis of policy developments starting by the 2007 immigration law and the proposal of a quota system. The next sections explore the European Pact on Immigration and Asylum as well as the Return Directive, the Roma affair, the Grenoble speech and the repercussions of the Arab Spring. The conclusions emphasise the relevance of political factors to understand policy developments in France, as well as the relationship between these findings and immigration studies focusing on policy effectiveness.

2. Policy gaps

A key theoretical question driving immigration studies concerns the ability of Western states to control immigration after the persistent observation of policy gaps between ‘official immigration policies and actual policy outcomes’ (Hollifield *et al.*, 2014, p. 4). Despite being associated with the process of halting ‘undesired’

inflows, policy gaps can be similarly observed in the process of promoting an entire new flow, such as the active recruitment of highly skilled immigrants (HSI) by advanced industrial countries. The assessment of policy effectiveness implies exploring the congruence between the objectives or numerical goals set by national governments and the developments observed on the three remaining stages of the policy cycle. Nevertheless, this task is complicated by the recurrent presence of covert interests of the social actors involved in the policy-making process, which enhance a discrepancy between the publicly stated and the real objectives on migration policy (Boswell and Geddes, 2011). The measurement of policy gaps demands that a distinction be made between general and specific policy objectives, which target a particular group of immigrants (Czaika and Haas, 2013).

Therefore, the objectives and ability of policy-makers to attain those goals should be evaluated according to the different types of immigration flows (labour migration; family reunion; asylum; and irregular immigration) to account for potential variations. According to the typology of policy gaps, the 'discursive gap' frames the incongruence between policy inputs and policy on paper. The observation of these political processes was associated with the multiple objectives of political actors and interest groups, legal constraints, as well as with the broad-sweeping character of migration discourses (Czaika and de Haas, 2013). Alternatively, this investigation will emphasise the way in which discursive gaps can also reflect the political considerations of the parties in government involving the mobilisation of the electorate, regardless of the feasibility of the political inputs. The 'implementation gap' captures the level of congruence between the policy outputs and their enforcement throughout the implementation stage. These gaps are most likely to occur when a large degree of discretion is involved in the latter stage of the policy process and their occurrence depends on the state's capacity to implement border controls (Czaika and de Haas, 2013).

Lastly, the 'efficacy gap' reflects the degree to which the implemented policy outputs have the desired effects on the development of inflows. This policy gap was associated with structural factors in host and sending societies, as well as the internal dynamics of the migration networks and systems (Czaika and de Haas, 2013). Surprisingly, factors related with the 'political stream' have been overlooked by this theoretical proposal. However, past research on public policy demonstrated that the policy process can be affected by variables such as public behaviour, electoral cycles and outcomes, changes in the government's composition, cabinet divisions, interdepartmental conflict or the agency of 'partisan veto players' (Kingdon, 1995; Tsebelis, 2002). These are individual or collective actors that have to agree with the proposed legislative change and are specified by the political system (Tsebelis, 2002, p. 2). To overcome this shortcoming, this article will explore the potential influence of domestic political factors on the effectiveness of French immigration policy during President Sarkozy's term. The next two sections contextualise

the endogenous and exogenous constraints recurrently observed in the policy of border controls in France.

3. Domestic constraints

The power of judicial courts has been a common theme in the literature on French immigration policy dating back almost 20 years (Joppke, 1998; Hollifield, 2014). Attempts to halt particular types of immigration flows were first observed in the mid-1970s, when the French government imposed a three-year ban on family reunion. However, this decision was vetoed by the Council of State (*Conseil d'État*) that invoked the constitutional prerogative protecting individuals' right to conduct a normal family life. A similar episode was observed in 1993 during Charles Pasqua's second tenure as the Interior Minister (Weil, 2005). These judiciary vetoes were supported by the French Republican model, which includes principles of universal rights and absolute equality between individuals since the Revolution of 1789, later enshrined in the Constitution of the Fifth Republic in 1958 (Schain, 2008). Categorisations or discrimination of any individual on an ethnic or religious basis are, thus, forbidden under the French constitutional text, reducing the scope of policy options available to the French government (Hargreaves, 2007).

Consequently, France is recurrently presented as a strong case of 'embedded liberalism', where 'self-imposed constraints' place strong hindrances on the approval of restrictions on undesired flows of immigration and even more difficulties to enforce them (Schain, 2008). Nonetheless, there are additional 'veto players' in the French political system that can intervene in the policy process. While the French National Assembly (*Assemblée Nationale*) and the Senate (*Sénat*) constitute 'institutional' veto players, the majority in these chambers can abort entire pieces of legislation or parts thereof and constitute the 'partisan veto players' within the French political system (Tsebelis, 2002). In the French bicameral political system, the French executive possesses direct control of the policy agenda, but the conversion of policy inputs into outputs is dependent on agreement between these two legislative chambers. The next section explores the exogenous constraints identified on French immigration policy.

4. External constraints

There are two categorisations of immigration at the EU level that comprise direct political, social and legal repercussions on the French immigration policy: intra-EU immigration (formed by nationals of other EU member-states), and non-EU immigration (composed of immigrants originating in non-EU countries who enter and settle in member-states) (Boswell and Geddes, 2011). At the

intra-EU level, mobility rights instituting the freedom of circulation for EU citizens were enshrined in the Treaty of Rome (1957) and have been a cornerstone of the EU treaties and legislation henceforth. Therefore, the right of free movement is recognised for all citizens of the 27 EU member-states and protected by supranational law. Non-EU immigration was included in the EU's main legal and political framework after the ratification of the Amsterdam Treaty (1999) and it is deprived of right to free movement. Although policy developments at the EU level regarding non-EU immigration have direct consequences on the member-states' policies of border controls, asylum and irregular immigration, national governments enjoy sufficient discretionary powers to manage labour immigration according to domestic priorities. This autonomy reflects the lack of harmonisation of admission policies towards labour inflows (Boswell and Geddes, 2011).

Another important constraint on the French policy of border controls derives from this state's participation in the Schengen Agreement (1985) and ratification of the Schengen Convention (1990), later incorporated into the Amsterdam Treaty (1999). This international agreement encompassed the abolition of internal borders between participant states to strengthen the single-market in exchange for the harmonisation and reinforcement of external border controls (Boswell and Geddes, 2011). Under this agreement, the participant states ought to recognise automatically the entry visas granted to non-EU citizens by any of the remaining member-states. Consequently, the decisions of a single state have immediate 'knock-on' effects in other associated countries (Carrera *et al.*, 2011). After this overview of the structural background in France, the remaining sections of this article will probe the policy developments which took place during President Sarkozy's term.

5. The 2007 immigration law

Following the 2007 legislative elections, President Sarkozy appointed François Fillon as Prime Minister and established the *Ministère de l'Immigration, de l'Intégration, de l'Identité nationale et du Co-Développement* (MIIINC)⁴ in July 2007 under the control of his close collaborator, Brice Hortefeux (Gastaut, 2012). This action provoked widespread controversy due to the institutionalisation of the association between the two issues, which legitimised perceptions of immigration representing a threat to national identity, as proposed by the FN ever since its creation in the mid-1970s (Ivaldi, 2008). Nonetheless, the new minister welcomed this measure due to the administrative concentration of all issues dealing with foreign citizens in a single ministry (Hortefeux, 2007). In the mission letter to Hortefeux, the French President restated his 'selective' immigration policy and added a specific

⁴Ministry of Immigration, Integration, National Identity and Co-Development.

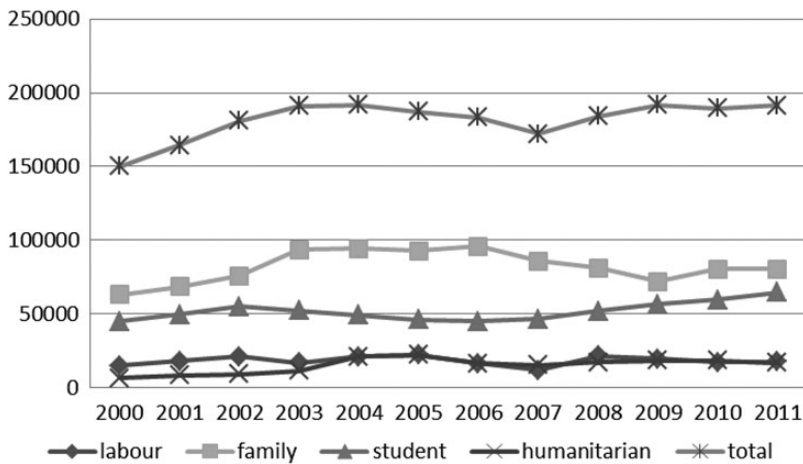


Figure 1. Authorisations of residence granted by the French state to non-EU citizens between 2003 and 2011 by type of settlement. Source: SGICICI (2008, 2012, p. 41).

target of increasing the share of labour inflows to 50 per cent of the total of long-term residence authorisations annually granted (Sarkozy, 2007). This was a very ambitious target at a time when labour inflows only represented 7 per cent of the total inflows (Figure 1). In order to attain this goal, Hortefeux presented the 2007 immigration law to the National Assembly.

This new legislation implemented the *Carte de Competences et Talents* (Card of Competences and Skills, CCT), an entry visa for HSI that granted access to long-term settlement and family reunion according to the geographic origin of candidates, to prevent the ‘brain-drain’ effect (Carvalho, 2014).⁵ Access to this labour visa was dependent on the evaluation of a candidate’s contribution to France, which left broad discretionary powers to national authorities and limited the autonomy of French employers to hire HSI (Chalof and Lemaître, 2009). Consequently, only 1175 immigrants were granted the CCT between 2007 and 2011 (SGICICI, 2012, p. 23). A report elaborated by the UMP Senator, André Ferrand, highlighted the lack of information on the CCT across French embassies and

⁵Permanent settlement was denied to citizens from countries with which France plans to sign privileged solidarity and sustainable development partnerships, such as Afghanistan, Algeria, Angola, Benin, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Congo, Côte d’Ivoire, Cuba, Democratic Republic of Congo, Djibouti, Dominican Republic, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Haiti, Kenya, Laos, Lebanon, Liberia, Madagascar, Mali, Mauritania, Morocco, Mozambique, Namibia, Niger, Nigeria, Palestinian Territories, Rwanda, Sao Tome and Principe, Senegal, Sierra Leone, Sudan, Tanzania, Togo, Tunisia, South Africa, Suriname.

recommended the relaxation of access requirements. An initial implementation gap was thus identified by the French Senator on the policy towards HSI due to the inadequate dissemination of the policy output across the French network of diplomatic missions.

Moreover, this document suggested the suppression of the selective criteria according to the geographic origin of candidates, especially to those of Franco-phone origin to expand the number of candidates (Ferrand, 2008, p. 65). An important level of incongruence was therefore identified between President Sarkozy's inputs to expand the proportion of 'selected' inflows and the restrictive character of the new entry channel for HSI, leading to the observation of a discursive gap. This political process was extensive to the policy towards unskilled labour inflows, considering the limited range of jobs available to potential candidates. A shortage list published by the French authorities in December 2007 presented 152 occupations available to citizens of the A-8 member-states,⁶ while only 30 occupations were available to citizens from non-EU countries (Lochak and Fouteau, 2008). Consequently, the 2007 legislation contained very limited effects on the intensity of labour inflows (Figure 1). The discursive policy gaps regarding labour inflows seemed to reflect the contradictory policy intentions of the UMP government, as Hortefeux publicly stated that 'France would remain closed' to inflows and simultaneously 'encourage labour immigration' (Hortefeux, 2007).

The 2007 immigration law was distinctive for the bureaucratic hindrances placed upon family reunion because diverse integration requirements were introduced as criteria for the admission of candidates (Table 1). In addition, the legislator expanded the scope of the *Contrat d'accueil et d'insertion* (CAI, Contract of Accommodation and Integration) for families settled in the country to enhance the integration of immigrants (Schain, 2008). The association between immigration with a supposed integration crisis, in particular family inflows, and urban decline was evident in the parliamentary audience of Hortefeux (2007), as if newcomers represented a threat to the host society. However, the parliamentary debate of these measures was overshadowed by a controversial amendment proposed by a UMP deputy, Thierry Mariani, regarding the introduction of optional DNA tests on family reunion (Loyer, 2008). After widespread opposition of left-wing parties and immigrant associations, this proposal was finally dropped by the new immigration minister, Eric Besson, in 2009 due to the legal obstacles placed on its implementation (Rovan, 2009). Corrections were operated in the asylum system to water down the highly restrictive procedures set in the 2003 asylum law, while restrictive measures were introduced towards irregular immigration (Table 1).

Tackling irregular immigration through the escalation of forced removals was a top priority since Sarkozy's tenures as the Interior Minister before 2007 (Schain,

⁶The Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia.

Table 1 Modifications introduced in immigration policy by French LAW No. 2007-1631 of 20 November, 2007 concerning immigration, integration and asylum

Primary inflows	Secondary inflows	Asylum	Irregular immigration
Turns the CCT operational	Candidates for family reunion must prove knowledge of French language and Republican values; increase of financial requirements demanded on immigrant access to family reunion. Imposition of CAI for families, with one-year validity. Infringement can entail the suspension of renewal of authorisation of residence	Introduces the right of asylum seekers to appeal against denial of entry; delegates management of the asylum system to the MIIINC	Authorises regularisation of irregular immigrants in areas affected by labour market bottlenecks upon proof of regular work contract; exceptional regularisations of irregular immigrants restricted to humanitarian reasons only. Any person who provides direct or indirect assistance to irregular immigrants can be punished by up to five years imprisonment

2008).⁷ This approach persisted during President Sarkozy's term and the rate of forced removals of irregular immigrants climbed from 29,796 in 2008 to 32,912 in 2011 (SGCICI, 2012, p. 74).⁸ Notwithstanding this growth, the UMP government announced the goal of 35,000 forced removals for 2012 to demonstrate the executive's emphasis to crack down on this unwanted immigration flow (Chanine, 2011). Recent data indicate that 39,822 immigrants were forcibly removed from the country in 2012 suggesting an important level of policy effectiveness (Johannès, 2014). In 2009, the criminalisation of individuals who provide 'assistance' to irregular immigrants included in the 2007 immigration law (Table 1) became a politicised issue after the national screening of a movie on this topic named 'Welcome'. Immigrant associations launched a campaign against the legal provision named '*délit de solidarité*' (crime of solidarity) and demanded its restriction to individuals who profited from irregular immigration (Chastand, 2009). This legal provision remained untouched and became a symbol of President Sarkozy's commitment to curb irregular immigration.⁹

⁷The rate of forced removals expanded dramatically from 10,067 in 2002 to 23,831 in 2006 (SGCICI, 2012, p. 74).

⁸Reflecting the overemphasis on tackling irregular immigration through a security related approach, the national judicial authorities issued 112,010 obligations to leave the French territory in 2007 against 62,233 in 2002 (Bancel, 2011, p. 5).

⁹This legal provision was suppressed by the centre-left Interior Minister Manuel Valls in January 2013 (Nouvel Observateur, 2013).

Overall, the 2007 immigration law possessed a restrictive character, in particular towards family reunion. Notwithstanding the presence of strong judicial constraints, this legislation contained an important degree of policy effects towards the designated ‘unwanted’ inflow. Consequently, the intensity of family reunion declined significantly after 2007, reinforcing the trend observed since the enactment of the 2006 immigration law (Figure 1).¹⁰ Nonetheless, the overall effectiveness of the 2007 immigration law was undermined by the objectives set by President Sarkozy on labour inflows and the outcomes of the implementation stage by 2011 (Figure 1). This trend was associated mostly with a discursive gap and, to a lesser extent, with an implementation gap. The ambiguous character of the policy inputs of the Immigration Minister suggested the presence of covert interests related to the intense interparty competition between the UMP President and the FN on restraining the intensity of ‘unwanted’ inflows rather than to expand the intensity of immigration (Gastaut, 2012). Attending to Sarkozy’s electoral success in 2007, the ‘selective’ immigration policy can still be perceived as a case of ‘words that succeed and policies that fail’ (Edelman, 1973). Thus, policy inputs with low levels of effectiveness in practice can, nevertheless, be successful in the electoral arena suggesting that the 2007 policy paradigm may have been driven by covert political objectives.

6. The quota system to manage immigration flows

Shortly after the enactment of the 2007 immigration law, President Sarkozy proposed an annual quota system to manage immigration (Schain, 2008). In the context of an overall reform of the Constitutional text (this process ended in July 2008), the Immigration Minister appointed the *Commission sur le cadre constitutionnel de la nouvelle politique d’immigration* (CCCNPI)¹¹ under the leadership of the UMP Senator, Pierre Mazeaud. Hortefeux nominated this advisory body to study amendments to the Constitutional text to allow the implementation of immigration quotas according to ‘areas of origin of immigration flows’ (CCCNPI, 2008, pp. 3–4). This same objective was restated by the President himself in a speech to the South African Parliament in February 2008. President Sarkozy added that the annual caps ‘would include sub-categories of motives for immigration—labour or family reunion’, suggesting it would be a policy tool to curb the intensity of the latter ‘unwanted’ inflow (Sarkozy, 2008).

¹⁰According to the 2006 immigration law, non-EU citizens ‘would only be allowed into the country if they could prove that they had sufficient financial means to support family members and their eligibility for welfare benefits would be greatly reduced.’ (Marthaler, 2008, p. 391).

¹¹Commission for the Constitutional Reform to Implement a New Immigration Policy.

The establishment of a hierarchy of inflows based either on geographical criteria or purpose of immigration was pondered by the legislator regardless of the absolute equality imposed by the national Republican paradigm (Ivaldi, 2008). However, the CCCNPI rejected the implementation of 'binding immigration quotas' because these would be inefficient in dealing with irregular immigration whilst the French Constitution prevented the application of caps on family reunion (CCCNPI, 2008, p. 5). Therefore, the Commission led by a UMP Senator vetoed President Sarkozy's political input and upheld the French Republican paradigm, fostering a discursive policy gap which was associated with the agency of 'partisan veto players' in the French political system. Furthermore, an internal cleavage within the French centre-right party started to emerge over Sarkozy's plans to drop respect of French Republicanism for the imposition of strict immigration control. Considering the past veto of a similar proposal in 2005 by President Chirac (Schain, 2008), the reinstatement of a quota system contained diminished chances of success but represented a direct engagement with the FN's agenda in order to dispute the ownership, at the electoral level, of opposition to immigration. After this predictable setback, President Sarkozy's agenda on immigration control shifted to the international level.

7. EU migration pact and Return Directive

Benefiting from the Presidency of the EU Council in July 2008, President Sarkozy sought to transpose his domestic agenda to the international level. This strategy succeeded after the promulgation of the EU Pact on Immigration and Asylum signed in October 2008. The document was deprived of legally binding effects but urged member-states to refrain from granting mass amnesties to irregular immigrants and to intensify the removal of these individuals from their territories. However, the French proposal failed to obtain unanimous support because strong opposition from the Spanish centre-left government led to the exclusion of references to bans on mass regularisations or to a compulsory 'contract of integration' (Dehousse and Menon, 2009). Another significant policy development during the French EU presidency involved the enactment of Directive 2008/115/EC on common standards and procedures to remove irregular immigrants known as the 'return directive' (Baldaccini, 2010).

This document authorised the extension of the detention period of irregular immigrants to up to 18 months (an initial period of six months, which can be extended by 12 months in exceptional cases); the detainment of immigrant families and dependents; and introduced a five-year entry ban for immigrants subjected to a removal order (Boswell and Geddes, 2011). The 'return directive' reflected the over-emphasis on tackling irregular immigration through the escalation of forced removals that was observed in France since Sarkozy's tenures as Interior Minister

(Weil, 2009). This action can also be interpreted as ‘venue shopping’ because it prevented potential vetoes on the enactment of repressive measures towards irregular immigration at the domestic level (Guiraudon, 2000).¹² The latter policy developments materialised President Sarkozy’s electoral pledges at the 2007 elections, which helped to mobilise the far right electorate (Thomas, 2009), but the political capital accumulated at the EU level faded in 2010, as is seen in the following section.

8. The Roma affair

Immigration rose to the top of the French political agenda, following clashes in Saint Agnain (Loire-et-Cher department) between police officers and members of the Roma community (of national and foreign origin) on 12 July 2010. In the aftermath of this event, President Sarkozy organised an emergency meeting with the Interior and Immigration ministers to discuss the ‘removal of illegal camps’ of Roma and Traveller communities and the deportation of immigrants living in them, especially those of Bulgarian and Romanian origin (*Le Monde*, 2010a). A *circulaire* (governmental decree) was issued by the Interior Minister stating that: ‘the President of the Republic set precise objectives on 28th July for the closure of illegal camps: 300 illegal camps or settlements will be closed within three months, among which Roma camps are a priority.’ Two weeks later, Hortefeux added that ‘in total, around 700 Roma will be accompanied to their countries of origin’ (*Le Monde*, 2010b). These policy inputs and outputs fuelled the politicisation of intra-EU immigration and represented the stigmatisation of an ethnic community as a threat to national sovereignty, disregarding the French Republican paradigm and the EU conventions (Maccanico, 2010).

The response from EU institutions was swift and hostile, as well as the protests by the Romanian government. A resolution demanding the immediate suspension of deportations was approved by the European Parliament while the newly appointed EU Justice Commissioner, Viviane Reding, compared the developments in France to events observed during the Second World War (Gastaut, 2012). The French government initially rejected the political sanctions from Brussels, leading to a heated exchange between the President of the EU commission, Durão Barroso, and President Sarkozy at a meeting of the European Council (Dehousse, 2011, p. 161). Furthermore, strong divisions within the cabinet surfaced after the Foreign Minister, Bernard Kouchner, pondered his resignation, whilst Fillon admitted his ‘divergences’

¹²In 2011, the Presidential adviser on immigration Maximme Tandonnet complained in his blog about the decision of the Council of State to block the forced removal of irregular immigrants according to the return directive until the enactment of these provisions in the national immigration law (Tandonnet, 2011).

with the French President (Euractiv, 2010).¹³ In face of intense domestic and international pressure, the French government was forced to amend the *circulaire* and halt the enforcement of forced removals of EU citizens. Consequently, an implementation gap was identified in this policy process that was associated with the aforementioned endogenous and exogenous political factors.

Three weeks after the clashes, President Sarkozy made a tough speech on law and order at Grenoble, including the specific proposal ‘to strip French nationality from anyone of foreign origin who attacked a police officer or anyone employed by the [French] state’ (Sarkozy, 2010). Therefore, the French citizens of foreign origin were associated with issues of national security by the French President, whose proposal would establish the judicial distinction of French citizens into two categories (Bancel, 2011). This policy input was incorporated in the legislative proposal¹⁴ to amend the 2007 immigration law presented by Besson in March 2010. However, President Sarkozy’s political input attracted widespread opposition from French left-wing parties because of the instrumental use of French nationality for political purposes and the challenge posed to the French Republican paradigm. Moreover, Sarkozy’s proposals on French nationality alienated sections of the UMP parliamentary group and coincided with another drop in his political approval ratings (Belot, 2011).

Months after failing to enforce the large-scale forced removals of EU citizens of Roma origin, President Sarkozy abolished the MIIINC, and the French immigration policy was placed under the supervision of the Interior Minister (same as before 2007), a post held by Hortefeux, at the time, until his replacement by Claude Guéant in February 2011 (*Le Monde*, 2010c). Public polls indicated that 66.8 per cent of the respondents supported the U-turn from a cornerstone of the 2007 electoral campaign, suggesting that the MIINIC’s efficacy failed to be consensual across the French electorate (*OBEA/INFRAFORCES*, 2010). This policy input proved to be more effective at the electoral level in 2007 than in practice throughout President Sarkozy’s term, like the ‘selective’ immigration policy paradigm. An additional setback to President Sarkozy’s agenda was observed after the legal provisions related to the withdrawal of French nationality were vetoed by the Senate (182 votes in favour of the suppression of these measures and 156 votes against) in March 2011.

Notwithstanding the approval of these measures by the Council of State and the National Assembly, the UMP executive failed to obtain the support of the upper

¹³In May 2013, François Fillon detached himself from the former President’s legacy by stating that: ‘Nicolas Sarkozy thinks that we should tackle the FN because it challenges the right. I think that the FN should be tackled because this party is outside the Republican pact’ (*Le Monde*, 2013).

¹⁴The legal provision included in the proposal of the new immigration law would enable the French state to remove French nationality from citizens who were naturalised in the previous 10 years and had been judicially sentenced to imprisonment for a period of five years or more.

house of parliament due to the lack of a full majority in the Senate. The request for the suppression of President Sarkozy's political inputs was voted favourably by all left-wing parties plus the centrist group—*l'Union du Centre* (*Le Monde*, 2011c). Consequently, President Sarkozy was forced to drop his proposals on the revocation of French nationality. The final text of the 2011 immigration law included the new EU 'Blue Card' scheme for HSI and expanded the repressive components of the legislation, especially towards irregular immigration, following the integration of the 'Return directive' (Lochak, 2011).¹⁵ Demonstrating the politicization of intra-EU immigration, the UMP government introduced three amendments to facilitate the forced removal of EU citizens in case of widespread abuse of right to freedom of circulation (Besson, 2010).

9. Policy shift and the Arab spring

Shortly after the promulgation of the 2011 immigration law, the French Interior Minister Guéant announced a new policy shift: 'today there are about 200,000 additional foreigners (per year) who are allowed to settle in France . . . My objective is to reduce that number by 20,000, this is to change from 200,000 to 180,000' (*Le Monde*, 2011a). The new policy paradigm was justified by President Sarkozy on grounds of 'common sense' because of the high level of unemployment among French nationals and foreign citizens in the context of the sovereign debt crisis (*Le Monde*, 2011b). Consequently, the former policy paradigm of 'selective' immigration was dropped by the French executive in another U-turn on pledges of the 2007 electoral campaign. Attending to the low level of effectiveness of the 2007 legislation, new and feasible political objectives with an overt restrictive character were announced before the 2012 presidential elections. An indication of this policy shift was the reduction in the number of jobs (from 30 to 15) included in the shortage list available for non-EU immigrants issued in 2011 (*Le Monde*, 2011b).

Furthermore, a *circulaire* issued by the Interior Minister in late May 2011 deprived foreign students of a temporary residence authorisation after the end of their studies in France, which was named as the '*Guéant Circulaire*'. The French executive sought to curb the intensity of the second most dominant inflow into

¹⁵On labour inflows, the legislation: established the Blue-Card for HSI; authorised forced removal of EU citizens who abuse the right of freedom of circulation, in case they constitute a burden on the welfare system, or if arrested for threatening public order. On irregular immigration, the legislation: expanded sanctions on employers of irregular immigrants; increased sanctions on marriages of convenience, punished with imprisonment up to seven years; established a ban of three to five years on irregular immigrants with a removal order; reformed procedures on forced removal of irregular immigrants; extended the detention limit of irregular immigrants from 32 to 45 days; enabled the creation of transit areas anywhere in the country.

France by preventing students from settling in the country (Figure 1). Against President Sarkozy's initial emphasis on 'selected' immigration, this policy output represented the waste of human capital and could increase the contingent of irregular immigrants in France. Once again, the governmental agenda met widespread public criticism at the domestic level, including the UMP Minister for Higher Education, Valérie Pécresse and the former UMP Prime Minister, Jean Pierre Raffarin.¹⁶ In the face of cabinet divisions and intra-party skirmishes, Guéant was forced to amend the *circulaire* and authorised the grant of temporary residence authorisations for candidates who possessed at least a Master's qualification (Floc'h, 2012).¹⁷ After the observation of another setback on French immigration policy due to the intervention of endogenous political factors, the policy efficacy of the new policy paradigm would be severely undermined by unexpected exogenous factors.

In the early 2010s, the political uprisings in North African countries provoked significant immigration flows on to southern European shores, especially into Italy and Malta. By the summer of 2011, around 25,000 immigrants of mainly Tunisian and Libyan origin entered Italy. Within this context, Italy signed an agreement with Tunisia exchanging cooperation on border controls and automatic deportation of new arrivals for the concession of temporary residence authorisations to the Tunisian citizens already in Italy. This decision possessed automatic knock-on effects in the remaining member-states because Italy is a full member of the Schengen Agreement (Carrera *et al.*, 2011). Thereby, the Italian government sought to promote the mobility of the Tunisian immigrants, and many of them moved to France supported by the migratory networks between the two countries, reflecting past colonial ties. Following the French Interior Minister's new policy input, the UMP government reintroduced entry controls at the railway border with Italy on 8th April to demonstrate its commitment to restrain 'unwanted inflows' and demanded urgent reform of the Schengen Convention.

Nonetheless, France's unilateral closure of the border overstrained the right of members of the Schengen Agreement to suspend the freedom of circulation of individuals with a regular status under exceptional circumstances (Carrera *et al.*, 2011). The Italian government protested vehemently, and this international incident was watered down after a bilateral summit in April 2011. At this event, the French government exchanged the recognition of residence authorisations issued by Italy for this country's support for the proposed reform of the Schengen Convention.

¹⁶In her autobiography, Pécresse characterised the 'Guéant circulaire' as a 'deep political mistake' and recognised meeting the Interior Minister on different occasions to demand the amendment of the governmental decree before its publication (Jaigu, 2013).

¹⁷This governmental decree was suppressed by the Socialist Interior Minister in May 2012 (Le Monde, 2012).

The French Interior Minister claimed that the Tunisian immigrants who failed to fulfil the requirements included in the Schengen Convention would be deported to Italy (*Libération*, 2011). Therefore, the French government was forced to recognise its international compromises leading to a gap between the policy output and its actual implementation. This trend confirms that implementation gaps can also be the outcome of the country's compromises at the international level, like it was the case of the Roma affair in 2010. Lastly, the effects of the Arab spring on immigration into France highlight that unexpected exogenous events can undermine the efficacy of restrictive policy paradigms.

10. Conclusions

This investigation suggested that President Sarkozy's agenda on immigration policy was successful at the EU level with the signature of the European Pact on immigration and the Return Directive, as well as regarding the increasing rate of forced removals of irregular immigrants observed throughout the term. Challenging the theses that interpret states' ability to control immigration as diminished, the French 2007 immigration law seemed to have important effects on curbing the intensity of family reunion in the short term. Notwithstanding past judicial protection, the French immigration policy accomplished a significant level of effectiveness against this 'unwanted' inflow. This trend suggests that policy-makers can learn from past events and devise new strategies to circumvent the legal hindrances placed upon their objectives to restrain inflows rather than be deprived of autonomy due to past policy decisions or vetoes. Still, the overall effectiveness of the 2007 legislation was undermined by the low intensity of labour inflows, far below the threshold set by the French President. The low degree of policy effectiveness of the 'selective' policy paradigm was associated with a discursive gap in the policy towards labour inflows.

Additional policy gaps were highlighted by this investigation, as discursive gaps were identified in the Sarkozy's proposal of a quota system in 2007 and in the 2011 immigration law. This research suggested that discursive gaps can be caused by the presence of covert political interests related to intense interparty competition on immigration, having led the legislator to overlook the feasibility of political inputs intended to mobilise the electorate. Implementation gaps were identified in the *Roma Circulaire*, the *Guéant Circulaire* on non-EU students and in the policy towards HSI. Lastly, the overall efficacy of the restrictive policy paradigm in 2011 was potentially challenged by the Arab Spring. By the end of the term, two U-turns on the electoral pledges presented in 2007 were observed with the suppression of the MIINC in 2010 and the policy shift in 2011. These events suggest that policy inputs which proved effective at the polls may not accomplish the desired objectives throughout the implementation stages.

Consequently, researchers focusing on the effectiveness of immigration policy should recognise that political inputs can be driven by symbolic politics involving the mobilisation of particular sections of the electorate, as was the case with President Sarkozy's strategy towards the FN's electorate, in spite of the diminished feasibility of the proposed policies. Unlike in the past, this research associated most of the identified discursive and implementation gaps with the agency of endogenous political actors. 'Partisan veto players' within the French Senate played a prominent role in explaining President Sarkozy's difficulties to turn his direct policy inputs into written legislation, whilst the cabinet divisions enhanced the observation of the implementation gaps. Consequently, these factors should be included within the range of explanatory factors behind policy gaps to prevent the risk of providing an inaccurate analysis of the policy process. Furthermore, the embedded liberal thesis should acknowledge the importance of the checks and balances posed by the different political systems on the executive branch, other than judicial powers. The agency of 'institutional' or 'partisan' veto players should be considered as another source of 'self-inflicted constraint' on the range of options to manage inflows in liberal democracies.

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