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Irina Angelescu

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On Neo-medievalism, Migration and the Fuzzy Borders of Europe: A Critical View of the Schengen Convention

Irina Angelescu

Graduate Institute of International and Development Studies
Geneva

Abstract

After the Cold War, debates surrounding the nature of the European Union became stringent. Explanatory theories presented the EU as either a postmodern, unique project, or as a (federal) state in formation. The present paper will focus on a third alternative: neo-medievalism. Neo-medievalism draws its analogy from the past and refers to “a system of overlapping authority and multiple loyalties, held together by a duality of competing universalistic claims” (Friedrichs 2001, 475). The present paper will make a critical analysis of the Schengen Convention in order to validate the neo-medieval paradigm. The provisions of Schengen illustrate not only the fuzzy nature of the European borders, also the ‘pooled sovereignty’ and core-periphery pattern that characterize the European migration control policy-making, all of which are encoded in the neo-medieval paradigm. The paper argues that the changes brought about by the Treaty of Lisbon come to enhance the neo-medieval characteristics and indicate a need to rethink the nature of the European project.

The end of the Cold War marked the beginning of a new era for Europe. An offspring of the War, the European Union (EU) now found itself released from the tensions of a bipolar world and could focus more on itself. The chosen path was twofold and was pursued in parallel: on the one hand, the EU underwent a process of increased integration, of delegation of national competencies of member states to the EU institutions (a process known in the European jargon as “deepening”); on the other hand, it extended its membership to new countries (“widening”). All these transformations entailed much debate about the nature of the EU, its future evolution and the implications for the international system.

The attempted explanations of the nature of the Union were twofold: the EU was presented as a postmodern, unique project, or as a (federal) state

in formation. A minority of voices contested these views. One of these contesting views was Jan Zielonka's, for whom the EU is neither of the two proposed options. For him, post modernity is difficult, if not impossible, to define in the field of political science. In response to the state-centric argument in EU affairs, Zielonka, in his *Europe as Empire: The Nature of the Enlarged European Union*, puts forward the idea that the evolution of the EU can only be understood in the light of the past: Zielonka thus proposes the neo-medieval paradigm as explanatory for the nature and evolution of the EU. He criticizes as inaccurate the mainstream literature on European integration because of its state-centrist approach, and disagrees with a vision of an EU evolving towards a Westphalian state or federation with a central government in charge of a given territory (Zielonka 2006, 1).

The present paper has a twofold purpose. On the one hand, it makes a critical analysis of the Schengen Convention in order to validate the neo-medieval paradigm. As will be shown, the provisions of Schengen illustrate not only the fuzzy nature of the European borders, but also the 'pooled sovereignty' and core-periphery pattern that characterize policy-making regarding European migration control, all of which are encoded in the neo-medieval paradigm. On the other hand, the paper argues that the changes brought about by the Treaty of Lisbon come to enhance the neo-medieval characteristics and indicate the need to rethink the nature of the European project. Although the provisions of the Treaty of Lisbon seem to enhance the powers of the EU center and thus allude to the state-centric paradigm, parallel mechanisms made to accommodate all the possible diverging views of the member states actually validate the neo-medieval paradigm. In this case, the nature of the EU integration process needs to be reconsidered in the light of the new paradigm, which affects both the "deepening" and the "widening" of the Union.

The paper will first make a presentation of the neo-medieval paradigm. Special emphasis will be put on Jan Zielonka's contribution in developing this theory and applying it to the EU, since his is one of the most comprehensive studies on the topic to date. It will then focus on the Schengen Convention as an illustration of neo-medieval characteristics such as: 'pooled sovereignty', in contrast to Westphalian

'absolute sovereignty' and fuzzy and shifting nature of the EU borders, in contrast to the clear-cut borders of a Westphalian state. All of these elements will point towards a neo-medieval Europe, with a pluralist mode of governance which is the result of the (security) concerns and action taken by the member states outside the EU framework.

In the intense debate on the role of globalization in diminishing the sovereignty of states, it has been claimed that the right to enter one's state is the preserve of nation states to decide and the "last major rebound of unfettered national sovereignty" (Schindlmayr 2003, 110), "the last bastion to sovereignty" (Dauvergne 2004, 587). Indeed, in the contemporary world "the issue in migration is, therefore, not whether people want to move; rather, it is whether states are willing to accept them" (Schindlmayr 2003, 111). As will be shown in this paper, sovereignty in the EU in matters of migration control policies is concentrated in neither the hands of the EU member states, nor in that of the EU itself, but it is shared, 'pooled', among these actors.

The neo-medieval paradigm

Neo-medievalism can be defined as "a system of overlapping authority and multiple loyalties, held together by a duality of competing universalistic claims" (Friedrichs 2001, 475). For Neil Winn, neo-medievalism falls short of being a coherent theory in and of itself, but rather a set of challenges to existing state-centric theories of international relations (IR), including: the rise of non-state violence, state disintegration, the spread of modern technology, and the rise of sub- and supra- state forms of identities - all of which serve to call into question the political authority of states and their continuous monopoly on legitimate violence (Winn 2004, 4). In this light, Jan Zielonka's contribution comes as a step further in presenting neo-medievalism as a paradigm.

The neo-medieval paradigm has been present as a minority trend in the specialized literature on the international system for several decades. One of its first proponents was Arnold Wolfers (Wolfers 1962), but it was Hedley Bull who made the concept famous. He listed neo-medievalism as a possible scenario for the future world order, yet he

was skeptical about the possibility and the desirability that such an order should emerge (Zielonka 2006, 255):

“if modern states were to come to share their authority over their citizens, and their ability to command their loyalties, on the one hand with regional and world authorities, and on the other hand with sub-state or sub-national authorities, to such an extent that the concept of sovereignty ceased to be applicable, then a neo-medieval form of universal political order might be said to have emerged” (Bull 1977, 254-5).

Jan Zielonka’s support for the neo-medieval paradigm comes as a result of his disagreement with the state-centric paradigm as being unrealistic and inapplicable to the present and future nature of the EU. Zielonka’s other major source of dissatisfaction with the mainstream literature on EU studies is the fact that the recent Eastern enlargement is treated as a routine procedure. He sees this enlargement as fundamentally different in its consequences for the future of the EU because: the CEECs are post-communist states, and thus have a different (ideological) past than the EU-15; there was a strong asymmetry of power between the EU-15 and the CEECs; the geopolitical considerations of enlargement had never been so salient and took pre-eminence over the reasons of the past enlargements (Zielonka 2006, 45-8).

Zielonka brings into the discussion the issue of *borders* in the EU to support his neo-medieval paradigm. According to the Westphalian state-centric argument, borders should be fixed and there should be an overlap between functional and geographical boundaries. However, for Zielonka the enlargement process is a proof that the Union is more likely to have soft borders in flux rather than fixed external borders. For him, this contemporary reality is a reflection of the medieval concept of border, which was regarded as a geographical area rather than a well-defined line (Zielonka 2006, 4). As a consequence, the constant change of the EU’s external borders through enlargement makes the distinction between the EU members and non-members increasingly blurred and it is replaced by a neo-medieval cleavage between Europe’s center and its periphery (Zielonka 2006, 143).

With the Treaty of Lisbon, it is possible for the European Union not only to expand its borders, but also to have them shrunk. As Sebastian Kurpas notes, even before the Treaty of Lisbon, no EU member state would have been obliged to stay in the EU against its will (Kurpas 2007, 6). In the Treaty of Lisbon, the exit clause provision explicitly confirms that the member states can leave the EU and, should they wish so and fulfill the criteria, re-become EU members at a later stage. The exit clause, also called the voluntary withdrawal clause, provides a procedure for “orderly retreat”, whereby a member state can only leave the Union at least two years after having notified the European Council (Kurpas 2007, 7). The possible scenario of fluctuating membership envisaged by this provision would contribute to altering the fixed nature of the EU borders.

Furthermore, within the Union itself the “internal borders” of division and change are constantly changing. In Zielonka’s words, “the map of unity and diversity in the enlarged EU is extremely complex, and does not simply correspond to the old East-West divide. The division lines themselves are constantly changing, with the enlargement process constituting an important factor forcing adaptation and serving to push individual states into a single regulatory framework, if not necessarily in a common political direction” (Zielonka 2006, 66). The creation of EU mechanisms of cooperation such as the “enhanced cooperation”¹ and the official recognition and increased role of European regions in the decision-making process points towards a political entity with a weak center, overlapping authority and multiple loyalties, all of them features of neo-medieval empires.

Sovereignty, territoriality and the Schengen Convention

Sovereignty is the core concept for the Westphalian paradigm. For this paradigm, the holder of the absolute sovereignty is the state, and this

¹ “Enhanced cooperation” refers to a mechanism whereby at least eight member states have to band together to form their own policies. Other countries could join later if they wished, but the decisions made cannot be contrary to any of the treaties already enshrined in law. The mechanism is also foreseen in the recent Treaty of Lisbon, in the attempt to make it an attractive alternative to initiatives outside the treaties in the future. Interestingly enough, as noted by Sebastian Kurpas, the mechanism has never been used so far (Kurpas 2007, 6).

sovereignty is exercised over a certain territory and over the people (both citizens and non-citizens) who wish to enter or are present on its territory. As John Torpey observes, there are a variety of reasons and they reflect the ambiguous nature of modern states, at once sheltering and dominating (Torpey 2000, 7).

Therefore, territoriality is crucial in understanding sovereignty, and it is also “the principle that defines the set of people over whom the holder of sovereignty rules” (Philpott 2001, 17). Just like sovereignty, territoriality lies at the heart of the contemporary international system and it is an element that the EU possesses as well. However, as Daniel Philpott points out, the EU’s territoriality is *derived* from that of its member states (Philpott 2001, 17). The EU does not possess a territoriality of its own; its territoriality is that of its component parts (i.e. member states). And, as illustrated by the Schengen Convention, neither territoriality nor sovereignty over this territory (as reflected in the immigration policies) is reflected in the EU according to the Westphalian paradigm.

Should the EU turn into a Westphalian (federal) state, this would translate into the creation of fixed and hard borders and in an increased transfer of power and concentration of sovereignty over the territory confined by these borders in the EU’s “hands”. Also, there should be complete freedom of movement for its citizens within its borders. However, as will be shown, this is not the case. The reality rather shows an EU with soft borders in flux, as well as ‘pooled sovereignty’ and ‘plurilateral’ governance in administering these borders and the movement of people within them, which are characteristic of the neo-medieval paradigm. This situation partly exists because immigration has become an integral part of the European security complex after the end of the Cold War, with migration more and more seen as a security threat (Waever 2007).

As mentioned before, neo-medievalism finds its inspiration in the European political setting before the birth of the nation-state, with empires as its components. Pierre Hasner emphasizes that one of the defining elements of empires is the absence of hard borders. He offers some historical examples in support of his argument: “The Russian

empire expanded through the recurring necessity of defending its ever-extending borders against external threats or peripheral disorder. From the Roman *limes* to the Austro-Hungarian *confines* or *Grenze* or *Krajinas*, all empires have known these peripheral zones where settler-soldiers served as ever-embattled ‘buffers’ for the imperial centre” (Zielonka 2001, 39). Also, it should be kept in mind that the nature of borders is closely linked to identity issues and, in our case, the nature of this border, as well as how, to whom and under which circumstances the crossing of this border is allowed is a sign of the identity of the EU as a political project (DeBardeleben 2005, 4). To use Jan Zielonka’s criterion: ‘Tell me what your borders are and I will tell you who you are!’ (Zielonka 2001, 7).

As will be seen from the case of Schengen, the enlargement process, on the one hand, and the nature of the “Schengenland”/“Schengen Area”, on the other hand make it impossible to recognize in the EU the hard and fixed external borderlines characteristic of Westphalian states. A crucial element here is that the external borders of the EU as a result of enlargement are not the same as “Schengenland” – and it is hardly likely they will ever become the same (unless the non-EU member states now part of Schengen will become members of the EU). The case of Schengen is a typical illustration of several neo-medieval characteristics: borders in flux, shared and spread authority, no monopoly over law-making an emerging preference of member states to take actions outside the official EU framework.

According to Charles Meier, “modern territoriality, and the modern nation-state, are not just a consequence of ideological development [...] they depend equally [...] upon the material possibilities for controlling large regions of the earth” (Zielonka 2001, 21). It remains unclear whether the EU lacks the (material) resources or the willingness to gain control over a very large territory. The fact is that the contemporary EU does not have fixed and hard borders that unite the territories of all its member states. There is only one region within it, the so-called “Schengenland”, which comes closest to this definition. “Schengenland” is made up of the EU member states that ratified the Schengen Convention (and satisfied the conditions to join it), but, as we will see,

the border it draws does not encompass the whole of the EU territory, as given by the sum of territories of its member states.

The Schengen Convention, signed in 1990, has a double aim: on the one hand, eliminate the internal barriers among its (EU) member states, and on the other hand, increase the security at the external borders. Some of the measures taken to achieve this are the creation of a common visa for all the Schengen member states, as well as a Schengen Information System (SIS) that allows the exchange of information among its members. The abolition of internal borders among member states was driven by the need to assure increased economic growth; the hardening of external borders was intended to ensure EU security (needed even more in a situation where the internal borders among member states were abolished). So one may conclude that “while internal borders among EU member states are gradually being abolished, external EU borders are being tightened up” (Zielonka 2001, 1).

There is another ultimate goal, as noted by William Wallace: to strengthen “cooperation in internal security, and a clearer demarcation between the internally secure area and the uncontrolled area outside. The whole logic of internal security is to identify a clear population within a territory whose welfare is to be protected by keeping undesired aliens out, and by maintaining systematic controls in those who cross the external border. The rapidly developing structure of Schengen, of Europol, of cooperation among national intelligence services, customs and immigration services, testifies to the strength of this division between free movement inside and greater protection against outsiders” (Zielonka 2001, 85).

The Schengen regime also happens to be a representative example for the complicated (“fuzzy”) and “non-Westphalian” (“soft”) nature of borders in the EU. Before considering these characteristics, attention will be paid to the history of the Schengen, which is a typical example of an action undertaken by the EU member states outside the EU framework. This is also a neo-medieval trait, with a weak center (the EU) unable to control the initiative of its component parts (some of the member states).

The History of Schengen

Schengen was not born as an EU initiative and it only gradually came under partial control of the EU. For Sandra Lavenex, the way that the Schengen Convention came to be and the way it functions, is to be seen as a “sort of ‘laboratory’ functioning in a limited number of member states, which would serve as an example for EU-wide co-operation”, as well as a “prototype of differentiated integration” (Lavenex 1999: 36). In other words, it is an example of variable geometry, a characteristic of the neo-medieval paradigm.

The birth of Schengen was marked by the initiative taken by the French and German governments under pressure from their lorry drivers (who protested against the long queues at EU’s internal borders). As a consequence, the two countries signed the Sarrebruck Agreement in 1984. They were later joined by the Benelux countries (i.e. Belgium, the Netherlands and Luxembourg). Thus, in 1985 these five countries signed the Accord concerning the Gradual Abolition of the Checks at the Common Borders (also known as the Schengen Accord). This accord contained principal measures to be taken for the total abolition of internal borders among the signatory states. It is worth noting that, until 1989, the EC/EU Commission was not even allowed to assist the meetings of the Schengen Agreement members (Lavenex 1999, 38).

After the unification of Germany in 1990, the five countries signed the text of the Convention Applying the Schengen Accord (also known as the Schengen Convention). In the Treaty of Maastricht, the treaty that institutionalized the pillar structure of the EU, the Schengen convention was included in the third pillar (of Justice and Home Affairs, JHA); an intergovernmental one. It should be here mentioned that, even as formally part of the EU structure, there was a lack of coherence and coordination among the three pillars (CEPS Policy Brief No 7 2001, 1), a situation which ensured more discretion in action of the member states. With the Treaty of Amsterdam, the Schengen Convention passed into the first pillar of the EU, the Community pillar.

It should be emphasized here that, by becoming integrated in the first pillar and thus subjected to the “community” method, Schengen

becomes an example of 'pooled sovereignty' inasmuch as authority over it and decision-making are shared between the EU institutions, on the one hand, and the EU member states (who are part of the Schengenland), on the other hand. Sandra Lavenex calls this situation "multi-level *acquis*", in which the European and the national levels interact in terms of formal competences and material substance: the measures adopted at the EU level are only single instruments which pursue *ad hoc* goals, while the general administrative and judicial authority as well as the basic humanitarian norms guiding the exercise of asylum and immigration policy remain in the domain of the member states or international law (Lavenex 2000, 9).

Even within the first pillar, the EU member states have not given up their sovereignty completely. Evidence has been brought forward to show that the existence of common EU rules regarding the admission of third-country nationals in Schengenland did not preclude individual EU member states to actually use their own rules on the ground (Cholewinski 2005, 245). According to the procedures related to Visas, Asylum, Immigration and other Policies related to the Free Movement of Persons in the first pillar, the sole right of initiative is granted to the EU Commission (which represents the interests of the EU), whereas the final decision making belongs to the EU Council (which represents the interests of the EU member states), which continues to work under the unanimity rule. It should be noted here that even this sole right of legislative initiative of the European Commission was fully implemented only in 2004, due to opposition from the EU member states. Furthermore, according to a Member of the European Parliament (MEP), there is a tension in the JHA pillar in the field of immigration because member states initiatives have sometimes overlapped with, or prevented discussion of, Commission proposals (Moraes 2003, 122).

It is relevant here to distinguish between unanimity voting and (qualified) majority voting. The unanimity rule is an expression of intergovernmentalism and of states' sovereignty: each state possesses a veto power that can allow it to promote its national interests. The (qualified) majority vote is generally associated with a lessening of member states' control over decision-making and greater chances of

promoting the EU's interests. In the distinction between the Westphalian state-centric paradigm and the neo-medieval one, majority voting is to be associated with the neo-medieval paradigm, inasmuch as it permits an overlap of authority of both the EU and the member states in the decision-making.

The passage from unanimity to majority voting in matters related to migration control policies (and, more broadly, in matters related to Justice and Home Affairs) has been a slow one. According to Claude Moraes, the EU member states, and especially Germany, have been reluctant to extend qualified majority voting to immigration matters. The explanation Moraes gives to Germany's attitude is that, although an "integrationist country", it still wants to preserve control over the direction the immigration agenda is taking through the veto it possesses in the case of unanimity voting. (Moraes 2003, 121).

With the Treaty of Lisbon, the pillar structure of the EU is abolished and matters related to the Schengen regime are subject to co-decision (between the European Parliament and the Council of Ministers) and double qualified majority voting. There is, therefore, an increased say of the EU in matters related to migration control policies and an overlap of its authority and that of the member states. Another characteristic that points in the neo-medieval direction is that the Treaty of Lisbon permits to the United Kingdom and Ireland to opt-out from matters related to the control of their external borders, asylum, migration, and judiciary cooperation in civic affairs. To complicate the picture even more, the Treaty also gives to these two states the possibility to "opt-in" to specific policies in the matters enumerated above, if the two decide that these policies do not contravene to the fundamental principles of their own judicial systems.

It is worth noting that the EU had pushed for similar results (as the ones given by the Schengen Convention) for quite some time, but to no avail. For example, the goal of the common market made the European Commission feel encouraged to make recommendations for some collective provisions for common immigration and asylum policies. However, its enthusiasm was met with a prompt attitude of rejection

from the governments of Denmark, France, Germany, the Netherlands and the United Kingdom. They all brought an action before the European Court of Justice so as to prevent the Commission from setting this prior communication and consultation procedure in the field of immigration and asylum. The conclusion of the Court of Justice was that, even though it was not “entirely outside” the scope of the Community’s social policy, the Commission’s Decision was void (Guild 1996, 3).

A similar illustration of the reluctance of the member states to cede their sovereignty in the “hands” of the EU can be seen in the rejection of the “tree structure” proposal of the 1992 Dutch presidency. The “tree structure” proposal was meant to replace the pillar structure of the TEU with a structure in which policy-making in various areas would stem from the Community’s institutional framework (Guild 1996, 43). It was voted down because of the strong opposition of Denmark, France and the United Kingdom, another sign of the member states’ reluctance to cede most of their sovereignty to the EU institutions. It is clear from this example that countries such as the UK, who has also decided neither to join Schengenland, nor the Eurozone, fear that these arrangements lead to an increased loss of national sovereignty and too much concentration of power in the hands of the EU.

Membership in Schengenland

Another illustration of the neo-medieval paradigm is adherence to the Schengen Convention. A total of thirty countries – including most European Union states and three non-EU members Iceland, Norway, and Switzerland – have signed the agreement and twenty-four have implemented it so far. A difference is here to be made between the countries who have signed the Schengen Convention and those who have signed and implemented the requirements needed to become part of the Schengen Area. The latter category includes twenty-four countries that are currently part of Schengenland². After the recent Schengen enlargement, which took place in December 2007; there are only four

² Belgium, France, Germany, Luxembourg, the Netherlands, Portugal, Spain, Italy, Austria, Greece, Denmark, Finland, Iceland, Norway, Sweden, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia.

signatory parties to the Schengen Convention who are to become part of the Schengen Zone as soon as they implement the security measures required by the Convention: Cyprus, Bulgaria, Romania, and Switzerland. The complex set of these arrangements, as will be seen, is an example not of a 'fortress Europe', but of a 'maze Europe' (Zielonka 2006, 4).

The United Kingdom and Ireland are the only "old" EU (i.e. part of the EU15) member states who are not members of the Schengen Convention. These countries were permitted to "opt-out" from Schengen membership, whereas the same choice was not given to the "new" member states. The United Kingdom simply refused to lift controls at their common borders with the other Schengen countries. This made it very difficult for Ireland to join Schengen because of the common travel area with the United Kingdom, so it decided to stay out too. These countries do cooperate with the other EU member states in the matters covered by the Schengen convention, but they negotiated extensive exception clauses which in practice allow them to choose whether they wish to participate or not, measure by measure (Lavenex 1999, 46-7). They take part in the police co-operation measures, but not in the common border control and visa provisions, which contributes to the increased complexity of the 'maze Europe'.

For similar reasons, Denmark almost voted to forego membership in the Schengen group because it perceived this to be in conflict with its participation in the Nordic passport union, which allows free travel of the Nordic country nationals (Denmark, Finland, Iceland, Norway and Sweden). The solution eventually found was to offer both Denmark and the two non-EU member states Iceland and Norway membership in Schengenland (Guild 1996, 27).

The *de facto* situation of Schengenland portrays an even more complicated picture: Schengenland includes all the non-European areas of Portugal and Spain; Greenland and the Faroe Islands of Denmark.

Greenland is part of the Overseas Countries and Territories that, for historic reasons, have a special relationship with the EU³.

Schengen, however, does not include all former colonies or territories. For example, the Isle of Man is an internally self governing dependent territory of the UK which is not part of the EU, or of Schengen. Its special agreements with the EU mainly refer to the free movement of goods, not of people.

Similarly, the “micro” states of Europe (San Marino, Monaco, Liechtenstein, the Vatican City, Andorra) are not formally part of Schengenland, but enjoy the same benefits due to their proximity to Schengenland and the inexistence of borders with Schengen members. Another interesting and revealing example is that of the Italian town of Livigno. Situated at the frontier with Switzerland, it has a privileged status as inscribed in an Italian law dating back to 1940 and a Presidential decree from 1973. A “tax haven”, although part of Italian territory and Schengen, Livigno maintains customs checks and random passport control.

Further examples point to the validity of the neo-medieval paradigm for EU’s borders: in a Declaration attached to the Accession Treaty, Spain negotiated the continuation of the specific arrangements for visa exemptions for local border traffic between Ceuta and Melilla and the two Moroccan provinces that border them - Tetuan and Nador. As a consequence, only Moroccan nationals who are not resident in the latter provinces and who wish to enter the territory of the towns of Ceuta and Melilla shall exclusively remain subject to the visa requirement. The

³ The other Overseas Countries and Territories are: New Caledonia and Dependencies, French Polynesia, French Southern and Antarctic Territories, Wallis and Futuna Islands, Mayotte, Saint Pierre and Miquelon, Aruba, the Netherlands Antilles (Bonaire, Curaçao, Saba, Sint Eustatius, Sint Maarten), Anguilla, Cayman Islands, Falkland Islands, South Georgia and the South Sandwich Islands, Montserrat, Pitcairn, Saint Helena and Dependencies, British Antarctic Territory, British Indian Ocean Territory, Turks and Caicos Islands, British Virgin Islands, Bermuda. They are constitutionally bound to four of the EU member states (i.e. Denmark, France, the UK and the Netherlands), yet not part of the EU, nor of Schengenland. However, due to their special relation with the four EU member states, they actually enjoy all the rights and duties of Schengen membership.

validity of these visas shall be limited to these two towns and may permit multiple entries and exits.

Greece signed the Accession treaty to become a Schengen member in 1992, but Schengen only became fully operational in Greece in 1999. For a period of seven years Greece needed to find a solution to serve its non-Schengen neighbors, preferably without seriously obstructing the cross-border traffic. One of the solutions found was the issuing of visas with limited territorial validity, that is, to emit visas valid only for Greek territory, and not to the territory of other Schengen member states. Such visas are allowed under the Schengen agreement but under certain conditions. Nevertheless, they were used by the Greek authorities as a temporary solution that extended over several years (Apap and Tchorbadjiyska 2004, 6).

These complex sets of arrangements in the Schengen regime speak, again, in favor of the neo-medieval paradigm. First, there are “old” member states, namely the UK and Ireland, who were allowed to opt-out of Schengen membership, whereas this membership was imposed upon the “new” member states that acceded in the 2004 and 2007 enlargements. Second, the examples of Spain and Greece reflect an accepted deviation from the Schengen rules. These facts points towards an EU with a weak center and certain strong component parts, which can impose their will upon the whole. Third, both the *de jure* and the *de facto* membership of Schengen extends outside that of EU membership. In the first case, Schengenland expanded to states such as Norway, Iceland and, in the near future, Switzerland. In the second case, due to geographical proximity and special arrangements of EU member states that are former colonial powers, former colonies and small states enjoy the privileges and fulfill the obligations of Schengen membership. The picture portrayed by these arrangements is that of a Europe with overlapping authorities and multiple loyalties that make it extend beyond its geographical borders.

Conclusion

The present paper used of the Schengen Convention and the Treaty of Lisbon as important supporting evidence for the neo-medieval

paradigm. As shown, the image of the EU's borders as determined by the Schengen Convention hardly matches the image envisaged by the Westphalian paradigm. The pattern of policy making in the EU with regards to migration control matters portray a pluralist mode of governance, in which sovereignty is 'pooled' among the EU and its member states.

The nature of the borders is not hard and fixed as in the case of a Westphalian state, but soft and in flux, with continuous changes produced by the enlargement of the EU on the one hand, and that of Schengen, on the other hand. The Schengen regime seems to be having a life of its own, enlarging to non-EU member states faster than the EU itself, and lagging behind EU's enlargement towards new member states. Also, as explicitly emphasized by the Treaty of Lisbon, the EU (and its borders) are not only enlarging, but could also shrink, if some member states should decide to leave the Union.

The complex set of both formal and informal arrangements of Schengen portray an area of overlapping authority and multiple loyalty, towards both the member states' and the EU's requirements. Here sovereignty is not the prerogative of either the EU member states exclusively or of the EU, but it is rather 'pooled' among these actors.

Also, when looking at the EU policies of migration control, the new EU arrangements (such as the European Neighborhood Policy) seem to be a further indicator of neo-medievalism. As noted by Theodora Kostakopoulou, when seen from this light, the EU does not look like a "fortress Europe", but rather like a Europe of "concentric circles of migration", with the first circle of the EU member states, surrounded by a second circle consisting of prospective members and associated states, and then by a third circle of former USSR countries and North African states (Kostakopoulou 2000, 512).

The history of Schengen is a good illustration of the neo-medieval paradigm: it was the result of an initiative taken by some of the EU member states outside the EU framework, and its subsequent membership and enlargements make it easy to characterize European

borders as fuzzy and in flux. Schengen was only gradually “communitarized”, and even then, the policies regulating the entrance and freedom of movement of people came as an example of ‘pooled’ sovereignty. Nowadays, with the Treaty of Amsterdam and the more recent Treaty of Lisbon, the co-decision and double majority voting, as well as the possibility of opt-out and opt-in for the UK and Ireland are good examples of neo-medieval flexible arrangements.

There is solid evidence that EU is turning into a neo-medieval empire and the question now is what the consequences of this acknowledgement are for the European project. According to Zielonka, the failure to acknowledge this reality will lead to the application of “fit-all statist solutions [...] inadequate in this much wider and more diversified Union” (Zielonka 2006, 171). It is therefore important to take into consideration this alternative view of the European integration process in order to have a more accurate understanding of it.

A crucial point for his analysis is that the acknowledgement of the EU as a neo-medieval empire is not necessarily a good or a bad thing in itself. It would be wrong to derive from this finding that a neo-medieval Europe would only create anarchy and chaos. One should instead promote this diversity as one of the greatest European assets: “pluralism” (Zielonka 2006, 18). One of the most pre-eminent features of a neo-medieval empire is flexibility and, in the long term, adaptation and survival. The EU has already shown great willingness and capacity to compromise in order to accommodate all the member states’ requirements. In so doing, it managed to reach the consensus of its member states and, in reaching consensus, it ensured its survival. In an age of globalization, adaptability and flexibility are highly important features and the EU could make good use of its capacity to compromise and to adapt to new challenges.

There are also disadvantages in the nature of a European neo-medieval empire. The complex sets of arrangements resulting from the accommodation of all the member states’ requirements may result in confusion and lack of transparency. It may become more and more difficult for both its component parts, neighboring countries and the

outside world in general to keep track with all these arrangements and adapt their behavior accordingly. A weak European center will be unlikely to entail the support and enthusiasm of the average European citizen, who will continue to be caught between its local, national and European loyalties.

Zielonka's solution to the anarchy and chaos associated with the idea of medievalism is to turn the EU into a "meta-governor" that could govern and distribute decision-making competences among the multitude of territorially and functionally defined self-governing actors (Zielonka 2006, 190). In this view, Europe will become a sort of modern, benign, Leviathan: more competitive in the international scene, capable to turn its weaknesses into its strength. The precise role the EU will decide for itself is still to be determined.

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