

**A Boundary-Breaking European Utopia?
The EU's "Free Movement of Persons"
as a History of Belonging and Displacement**

Dr. Cristina Blanco Sío-López

Marie Skłodowska-Curie Senior Global Fellow

European Studies Center (ESC) - EU Jean Monnet European Centre of Excellence (JMEUCE)

University of Pittsburgh / Ca' Foscari University of Venice

[Principal Investigator](#) of the EU H-2020 research project NAVSCHEN:

Navigating Schengen. Historical Challenges and Potentialities of the EU's Free Movement of Persons, 1985-2015

Introduction

Sources and themes

This first draft focuses on the European Parliament (EP) documentation on this topic, since it offers an invaluable 'behind-the-scenes-view' approach to evolving opinions, dialogues and transfers of ideas between domestic actors, MEPs and key *rapporteurs*, not only from founding member states, but also from subsequent EC/EU candidate and acceding countries. EP archival sources on the EC/EU's free movement of persons' ranging from the mid-eighties to the late-nineties particularly include: debates, resolutions, reports, preparatory documents speeches, regulations, briefings, notes addresses, opinions, hearings, press releases, reviews and letters coming, very remarkably, from the Historical Archives of the European Parliament in Luxembourg (HAEP).

In this regard, a special attention is paid to EP debates, since they detail the otherwise invisible dynamism of the diversity of interactions which lies at the foundations of the EU legislative process. These sources also illustrate collaborative ventures, bargaining operations and the expression of insightful social commentaries. Such networked knowledge and combinatorial creativity is especially useful to illustrate the mechanics

behind the trends and choices that have a direct impact on the daily life of the EU citizenry.

In terms of ‘audience making’, EP debates are largely interconnected with transnational public spheres and constitute a paradigmatic sounding board because they reflect the widely unknown EP’s constant and groundbreaking critiques to the Schengen Agreements and to the Schengen Convention. Indeed, the EP accused these crucial processes of lacking democratic legitimacy, of sidelining the independent power of the judiciary and of neglecting the supranational dimension of human mobility rights in Europe by submitting all relevant decisions to a ‘forced’ intergovernmental procedure. As part of such seeming institutional fight against this lack of ‘quality of democracy’ within the Community, the EP proposed a series of alternatives to the presently known EU’s free movement of persons’ modalities. As a result, these human-rights centered legislative and normative proposals and ‘roads not taken’ transform the case of the EP in an essential paradigm to nuance the transnational history of human mobility rights in the EU.

This historical study is centred on diachronic changes and questions notions of positive ‘evolution’ in terms of societal impact in this realm. For instance, as we can observe in the relevant EP primary sources, the following paradigm shifts caused extreme concern given their critical multiplying effects: the furthering of the controversial Schengen Information System (SIS) as a seeming ‘compensation’ for the elimination of the Community’s internal borders; issues related to the EU’s democratic *déficit*; the consolidation of the so-called ‘Fortress Europe’ via the externalization of the Community’s internal borders; the neglecting of international asylum rights, as highlighted by the European Court of Justice (ECJ)’s accusations and the constant need for calls for the harmonisation of the EU’s member states legislation to fight racism and xenophobia and to guarantee the equal treatment of all Community and non-Community residents. Plus, these sources can offer significant insights to detect former and potential points of ‘de-coupling’ of human rights and human safety priorities via an ever-growing ‘securitisation of migration’ and its manifold social and policy-making long-term consequences.

Background and Objectives

This paper aims to analyse the origins, evolution and challenges of the Schengen Area from the differential perspective of key European Parliament (EP)’s players by examining neglected historical archival collections which illustrate critical and alternative views on

how it would be possible to build and consolidate the EU's free movement of persons (FMP) with a closer link to supranational perspectives and to a normative commitment to the priority of upholding human mobility rights within the EU. This constitutes, indeed, a key issue in the European integration process as human mobility rights and their embedment in the EU institutional and normative structure constitute one of the most polarising, yet crucial, issues in current EU policy-making.

Moreover, the diachronically examined relevant EP documents will help to further elucidate multilevel motivations, strategies and discourses laying the foundations of the free movement of persons as part of the so-called "four freedoms" (Barnard, 2013). In addition, these sources also contribute to shed light on the symbolic and normative weight of continuities and ruptures in network-led developments, as well as in bargaining and consensus building operations concerning the implementation of the Schengen *acquis*, all of which are deeply related to the notion of quality of democracy (Morlino, 2009) at the Community level.

Furthermore, this piece also tries to elaborate on the commitment of the Parliament in standing for a quality of democratic provisions, especially concerning the demands for the integration of the Schengen process in Community law under the EP democratic control. This perspective also aids to illustrate the complex interplay of competences, agents and gaps in EU democracy and to clarify whether the free movement of persons was an instrument or a consequence. In this respect, this paper pays special attention to the symbolic and semantic weight of the term 'Schengen', with a view to analyse the transformative power of such narrative paradigm in the evolution of EU political cultures and policy choices beyond pre-established frameworks. Indeed, as Saurugger and Thatcher point out, "questions of identity have returned to the centre of political debates in Europe" (Saurugger and Thatcher, 2019) and there is an urgent need to clarify the roots and meanings of evolving concepts of political spaces in the EU policy-making arena. In

conclusion, this contribution seeks to illustrate the differential role of the EP in the generation and willing consolidation of a European model that is essentially not limiting but enabling, within a framework which presents itself as striving to combine ethical imperatives and a “positive societal impact” mindset.

Methodology

This paper is based on the historical analysis of EP archival sources from the mid-eighties to the late nineties, which particularly include: debates, resolutions, reports, preparatory documents speeches, regulations, briefings, notes addresses, opinions, hearings, press releases, reviews and letters coming from the Historical Archives of the European Parliament (HAEP) in Luxembourg (862 archival documents) and from the Historical Archives of the EU (HAEU) in Florence (750 archival documents). These documents were selected in virtue of their focus on differential ways in which the EP tried to draw alternative navigation maps for the consolidation of the EU’s FMP by highlighting the need for the Community method as opposed to intergovernmental trends.

The chosen methodology firstly integrates a history of concepts (Palonen, 2002) approach concerning the analysis of the diachronic evolution of key concepts relative to the Schengen Area in EU policy-making from the differential perspective of the EP. Secondly, this article also applies a critical discourse analysis (Fairclough, 1995) perspective with a focus on institutional discourse, which is understood as a goal oriented discourse which paves the way for the generation of an expected acceptance. In this regard, discourse is not to be considered as pure content, but as a window to the given players’ mental or social world (Cameron, 2001). From this perspective, it should be specified that the studied EP documentation on this topic also helps nuancing and calibrating initial EU policy-making propositions and evolving directions of the Schengen Agreements. Last but not least, methodologically, this piece also engages with van Ostaïjen’s approaches on “how

European legal discourse is legitimated by expert authorisation” (van Ostaïjen, 2019). From the point of view of the contents’ navigation, this paper will firstly address the initial steps towards the 1985 Schengen Agreements in relation to the FMP. Secondly, it will examine the challenges and propositions of the Schengen Agreement and Convention. Finally, it will launch an inquiry on the post-Maastricht democratic *déficit* with regard to the Schengen area as stepping stones allowing us to understand the roots of today’s cleavages and ongoing challenges.

1. Stepping Stones towards the Schengen Agreements and the Free Movement of Persons

First and foremost, it should be clarified that the precedents to the Schengen Agreements, signed on 14 June 1985, go back deep into the first integration and cooperation experiences of the post-war era (Guiraudon, 2018; Favell, 2014). Nonetheless, it is also significant to allude to previous ideas in this direction dating even from the interwar period, such as the references to the need to eliminate internal borders within the continent which Coudenhonve-Kalergi mentions in his works on 'Paneuropa', which also include proposals on a desirable free movement of students and teachers within a “borderless space”¹.

The Schengen Agreement of 14 June 1985 and the Schengen Implementing Convention of 19 June 1990 —which came into force on 26 March 1995— constitute a fructification of all these initiatives, despite the fact that the free movement of persons’ concept has undergone an important evolution in its contents and implications. More specifically, it was firstly viewed as a means to serve economic objectives at the time of the creation of the European Economic Community (EEC). Indeed, as Menz reminds us, in the nineties, “when the *Delorsian* re-regulatory policy orientation slowly dissipated in favour of a more

¹ International Pan-European Union *fonds* at the Historical Archives of the European Union (HAEU) in Florence: <http://archives.eui.eu/en/fonds/181668?item=PAN/EU> [20th September 2019][on-line]

market-oriented approach” (Menz, 2019), this turn equally resulted in non-negligible shifts in overall European identity prospects and challenges. However, this notion progressively evolved —through the formulation of the so-called *People's Europe* and the later *Citizens' Europe* (Rosas and Antola, 1995 and Welsh, 1993)— towards more socio-cultural and identity-building implications. This seemed to culminate with the Maastricht Treaty (TEU) European citizenship notion, which implies that every EU citizen —that is, the holder of the nationality of a EU member state— has the right to move and reside freely within the territory of the Member States.²

2. Challenges and Propositions of the Schengen Agreement and Convention

In the months following the signature of the Schengen Agreements, the EP experienced a deepening of the discussions on the crucial dimensions of the free movement of persons, such as the abolition of the restriction of travel for local residents at the Community's internal frontiers. It is important to note, in this respect, that EP multilevel players were differentially presented as supporters of the priority of defending these residents on the grounds of their particular situations being deemed incompatible with the stated objectives of the Single Market (Davis and Gift, 2014). As we will see throughout the analysis of a rich variety of EP sources in a diachronic perspective, for many key players at the European institutions, the defence of the aims of the internal market seems to be more important than the defence of democratic rights and freedoms *per se*. Very much on the contrary, EP actors would constitute a differential voice in this long-term debate by continuously searching for a balance between the internal market priorities and the preeminence of free movement of persons as an end in itself within the historical process of European integration. Accordingly, they vehemently struggled to incorporate the deeply

² See http://www.europarl.europa.eu/aboutparliament/en/displayFtu.html?ftuId=FTU_2.1.3.html [20th September 2019][on-line]

ingrained foundational ideals of a *Citizens' Europe* as part of an enriched *acquis* (Blanco Sío-López, 2008 and Pinder, 2007)

In 1986, and in the midst of key turning points in the history of European integration, such as the signature of the Single European Act modifying the Treaty of Rome and the accession of Spain and Portugal to the Community (Royo and Manuel, 2003), EP actors devoted their attention to the crucial question of the cost of a non-united Europe in relation to Schengen Area debates. Against this backdrop, the EP urged the Commission to make public the actual total cost—including the *social* costs—of a non-united Europe and to provide the European Parliament with the information necessary to undertake political action to stimulate the Council to arouse public opinion in the Community on this matter.³ Very remarkably, all these discussions highlight the salience of “the construction of identity through a process-oriented approach that explicitly includes contestation and the existence of rival political identities” (Saurugger and Thatcher, 2019).

This committed social dimension was also linked to other key elements of the free movement of persons’ debate, which included—as MEP Perry (EPP-GB) indicates—the problems arising in connection with insecurity, xenophobia, old age and urban deprivation, which “cannot be ignored in the process of developing an area without internal frontiers”⁴. One of the most comprehensive voices in this respect comes from MEP Vayssade (S-FR), who then states that “we want to build Europe for the benefit of the women and men who live here”⁵, hence, meaning for all citizens and residents, within an original sense of inclusive European integration community building. This echoes van Ostaïjen’s studies on how “while the European Commission stimulated a further ‘harmonization’ of citizen

³ Resolution of the European Parliament of 14 July 12 June 1986 on the cost of a non-united Europe, OJ C 176/125, 14 July 1986, p. 125.

⁴Ibid.

⁵Ibid.

‘mobility’, some member-states questioned the ‘burdens’ of ‘EU migration’ (van Ostaijen, 2019).

The intersection between freedom movement of persons and a *People's Europe* became then gradually more focused on the nature and potentialities of social and identity-building elements. From this perspective, the official narrative also included the argument that "the completion of the Single Market presupposes comparable progress in the field of citizens' rights and a *People's Europe*"⁶.

Regarding the interplay between the free movement of persons and the crucial issue of immigration—which exponentially increased its presence in the EP documentation of this period— progressive MEPs then insisted in the need to constructively integrate third country immigrants in the Community, an approach holding a “positive societal impact” we could consider as largely forgotten in our present. Plus, they also reaffirmed the need to promote their integration into society by combating all forms of discrimination, racism or xenophobia in accordance with the *Solemn Declaration by the three Institutions* of June 1986. In addition, they stress "the value of the contribution made by immigrants to the building of a multi-national and multicultural European society".⁷ The inner tensions reflected by these initiatives also reflect to what extent “the development of common asylum/immigration policies is indicative of the normative tensions implied in the EU’s transition from a regulatory polity towards a political Union”, as Lavenex maintains (Lavenex, 2019).

It is also important to mention the observation done in this period regarding the differential asymmetric speed of each of the four freedoms. Indeed, major progress is being made on the liberalisation of capital movements, but these generous concessions are not being matched in freedom of movement for workers or in actions to give substance to the auspicated *People's Europe*. Against this backdrop, progressive EP players consider that the

⁶Ibid.

⁷ Motion for a Resolution of the European Parliament of 8 13 September 1988 on the Citizen's People's Europe, OJ C 497/88262, 8 September 10 October 1988, pp. 40-41.

overestimation of economic integration over a European sustainable social model could engender the gradual rupture of the links between the European institutions and the citizens, which is also now probably growing wider each day (Burgi, 2014):

*"The accompanying measures in the social, regional and environmental fields are indissolubly linked. The measures connected with a People's Europe are stagnating. That is a political time-bomb of the first order. The credibility of the whole project is at stake."*⁸

Following the signature of the Convention implementing the Schengen Agreements in June 1990⁹, the Parliament expressed critical views regarding the way in which the negotiations were conducted and concluded. More particularly, it manifested its concern regarding the differential fact that the Convention was negotiated outside the Community institutions and, thus, the necessary parliamentary and democratic control of its application was not guaranteed (Thompson and Hosli, 2006; Farrell and Héritier, 2003).

Another key ground of commitment for EP players regarding the Schengen area in this period was the interplay between the free movement of persons and the tackling of racism (Hepple, 2004) and xenophobia at the European level:

*"We call on the Commission to draw up proposals for directives on the harmonisation at the highest level of legislation in the Member States against racism and xenophobia and equal treatment of Community and non-Community migrants, in particular as regards the acquisition of social rights and freedom of movement."*¹⁰

⁸ European Parliament debates of 11 October 1989 on the People's Europe, pp. 51-52 the completion of the internal market, No 3-381, pp. 75-112.

⁹ See [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:42000A0922\(02\):fr:HTML](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:42000A0922(02):fr:HTML) [20th September 2019] [on-line]

¹⁰ Motion for a Resolution of the European Parliament of 4 October 1990 on the report of the Committee of Inquiry into Racism and Xenophobia, OJ C 1727/90, 4 October 1990.

Also, the challenging issue of the democratic control of the security facets of Schengen encountered a fertile discussion ground in the EP during the 1991 Gulf war. More particularly, it touched upon decisively articulated 'liberty vs. security' arguments, radically different from our currently forced 'conflict escalation-refugee outcry' feedback loops:

"The EP hopes that the Gulf war will not be used as a pretext for harsher external border controls not justified on grounds of security. It undertakes to ensure that the Gulf war is not a motive of discrimination against non-Community nationals and calls on the governments of the member states and the other Community institutions to do the same"¹¹.

The EP then considered that it was not acceptable to simply to say 'yes or no' to an instrument of such far-reaching implications as the Schengen Convention. As a matter of fact, the following 'security-related' bodies: OSIRIS, SIRENE, STUP, TELECOM & FREQ, EXP JUR, ARMES, Schengen II, III and IV and so on were also accused by the EP of "taking this issue with a 19th-century approach"¹². It is for the same reason that the Parliament then differentially proposed reversing the procedure: to begin with, it maintained that member state' parliaments should be informed in advance about the initiation and progress of talks, and, subsequently, of a proposal for an agreement. Likewise, it recommended that the draft agreement should be put to them before the agreement is finally concluded between the representatives of the executive. Furthermore, the EP also proposed to overcome the precedence of an intergovernmental agreement over a Community instrument. Indeed, in the EP's view, no use was made of Community decision-making processes in concluding the Convention. The European Parliament and

¹¹ Motion for a Resolution of the European Parliament of 14 February 1991 on the Schengen Agreement , OJ C 0086/91, 14 February 1991.

¹² Report of 5 October 1992 on behalf of the Committee of Civil Liberties and Internal Affairs of the European Parliament 288/92 on the entry into force of the Schengen Agreements. Rapporteur: Mr. L Van Outrive. Historical Archives PE3_AP_RP!LIBE.1992_A3-0288!9200110EN.

the Luxembourg Court of Justice equally perceived that they were equally and deliberately sidelined by the Convention. In this respect, the Commission was also accused of failing in its duty to safeguard Community law. Hence, the EP concluded, in this respect, that this very particular manifestation of a democratic *déficit* also entailed an unacceptable lack of international judicial supervision.¹³ In this respect, as Saurugger and Terpan significantly emphasise, “policy-related elements point to the idea that the Court’s rulings are considered to contribute not only to a pro-market identity of the EU, but to increasingly create a multifaceted identity, including the protection of human and social rights” (Saurugger and Terpan, 2019).

Another key issue which gathered major attention in this period is that of the escalating violation of privacy. EP players even then refers to the fact that Schengen is presented as a probable excuse for a systematic classification, profiling and follow-up of the movements of European citizens, an idea which deeply resonates with the generalised, daily and worldwide violations of privacy rights of global citizens nowadays:

*"First the Schengen Information System (SIS) and then the European Information System (EIS):
Is Europe collecting information about its citizens on a hard disk?"¹⁴*

On a more general and equally foreboding note, MEP Van Ootrive (PSE-BE) then stated that:

"Citizens are left out in the cold. The consequences of the lack of cohesion, overlapping and greater internal control, and the financial implications will soon make themselves felt. There is a reason to fear that this exercise will backfire, in view of the already considerable — and growing — aversion

¹³ Ibid.

¹⁴ Report of 5 October 1992 on behalf of the Committee of Civil Liberties and Internal Affairs of the European Parliament 288/92 on the entry into force of the Schengen Agreements. Rapporteur: Mr. L Van Ootrive. Historical Archives PE3_AP_RP!LIBE.1992_A3-0288!9200110EN.

of European citizens to Brussels. But the citizens are not alone in being left out on account. Public prosecution departments and courts have not been sufficiently involved in the work either.”¹⁵

Indeed, the cleavage between European citizens and EU institutions continues to increase now by the day, accentuated by a rooting lack of solidarity in the drafting of measures to tackle the devastating effects of a multilevel economic crisis. In this sense, it is also important to remark Vassallo’s link “between the economy and confrontational activism before and after the economic recession” (Vassallo, 2019), which also impacts the proliferation of stronger citizens’ protests against discriminatory and exclusionary ways to handle the Schengen Area and the FMP. Similar approaches are also examined in Menz’ work on identity formation in the European Union’s social and labour market policy (Menz, 2019). Indeed, it is necessary to bring such factors back to the debate on the studied issues, as they are often detached and yet, so socially and normatively relevant.

3. The post-Maastricht democratic *déficit* and the Schengen area

This phase is notably characterised by the following key turning points: The 26 April 1994 Bonn Protocol (appliance of asylum protocol); the 26 March 1995 Schengen Convention launch of the end of internal border areas for the original five states, Portugal and Spain and the online launch of the Schengen Information System (SIS). This same year, on April 28, Austria joins Schengen and, on 26 July, EU members sign Europol Convention. On 19 December 1996, Denmark, Finland and Sweden join Schengen, in a year that, from the EP’s documentation view is featured by a critical examination of the preparatory documents of the Intergovernmental Conference of 1996. Regarding this highlight, the EP then demanded that more democracy or the democratisation of Community acts is required. Such request was closely linked to the solicitation of more transparency and

¹⁵ Ibid.

efficiency in the Union, which were also essential objectives of the revision of the Maastricht Treaty on this occasion.

Such requests also deeply affected the debate on the 'four freedoms'. It is important to note how EP players constantly reiterated and pointed out that the free movement of persons is to be considered the most important of the four freedoms (Midhurst, 2008). They also, hence, reminded that this 'freedom' includes the freedom of establishment, as well as the right to work or study in a Member state other than the person's country of origin.

In this period, and coinciding with the war in the ex-Yugoslavia, the EP was also used as a sounding board of minority, yet progressively more present, nationalist and xenophobic voices, which expressed highly discriminating views from a fundamental rights perspective:

"We stress the need to harmonise the methods for obtaining nationality by basing them on the parental relationship (ius sanguinis) rather than on the place of birth (ius soli)".¹⁶

The EP debates of this period also richly discussed the crucial and multilayered issue of migration, usually from a diversity of intertwined perspectives. For instance, MEP Roth (V-DE) indicated that:

"Particularly shocking is the growth of a European Community Police State with all-embracing controls, systematic criminalisation and institutional discrimination against people of different national origin, in which inalienable and civil rights are infringed — an alarming development which lead, as a result, to an apartheid-like division in our society."¹⁷

¹⁶ Motion for a Resolution of the European Parliament of 19 May 1993 on barriers to the free movement of persons within the Community and Schengen Agreement , OJ C 665/93, 19 May 1993.

¹⁷European Parliament debates of 15 July 1993 on Immigration, pp. 150-165.

In a similar vein, the neglecting of the solidarity and diversity dimensions of European integration were then said to have then contributed to the fragmentation and erosion of the European sociopolitical texture, which makes it (also today) ever less capable of humanly responding to humanitarian crises:

"Human rights must not be a matter of variable geometry. They are universal and immutable. The right of asylum, the right to live with one's family, the right to move about, the international conventions, are not to be interpreted in one way for a period of economic expansion and another for a time of recession".¹⁸

In this regard, there was then a rising fear that legal migration was also being put into question *per se*, as MEP Coimbra Martins (PSE-PT) maintained, with an accent on an increasingly neglected solidarity principle:

"We are all immigrants and our residence permit is only temporary".¹⁹

These tensions were also compatible with the shift that Lavenex has analysed from “the EU’s traditional ‘market power’ identity anchored in a regulatory approach focused on economic priorities to the aspirations at ‘normative power’ identity based on universal values and a politically predominant ‘statist’ identity that addresses asylum/immigration policies as a corollary of and challenge to internal community-building and security” (Lavenex, 2019). Against this backdrop, the EP firmly pointed out that the free movement of persons is not just an integral part of the internal market but also one of the main

¹⁸ Ibid.

¹⁹ European Parliament debates of 15 July 1993 on Immigration, pp. 150-165.

objectives of the European Union, in accordance with article 7a EC.²⁰ This entailed also the development of a EP self-assumed mission to avoid the consolidation of a 'Fortress Europe' (Eberhardt, 2007). Accordingly, the EP considered that, in order to achieve the free movement of persons for all the citizens of the Union and for all citizens of third countries legally resident in the Union, it should call on the Commission, the Council and the Member States of the Union to finally adopt and put into practice compensatory measures to ensure internal security once border controls were abolished, without turning the Union into a 'Fortress Europe'. Also MEP Pailler (GUE/NGL-FR) then offered one of the finest definitions of 'Fortress Europe' within the examined EP debates:

"Human rights organisations are right to be alarmed and to warn of the dangers. I am opposed to the creation of this 'Fortress Europe', which in enhancing its own security remains deaf to the appeals of the victims of repression and poverty; this discriminatory Europe, which denies immigrants the right to vote in municipal and European elections, despite the recommendations of the Council of Europe; this Europe in which money is free to circulate, while men and women are unable to cross the frontiers of fear and indifference"²¹.

Subsequently, in 1997, 'Schengen' achieved intergovernmental cooperation with thirteen countries. Before that crucial date —and also coinciding with the signature of the Amsterdam Treaty— the EP preparatory documents of the 1996 Intergovernmental Conference²² relevantly saw the Schengen Agreements as a laboratory:

²⁰ See <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012E/TXT> [28th March 2015] [on-line]

²¹ European Parliament debates of 6 June April 1995 on Schengen and the right of asylum, No 4-461, pp. 202-206.

²² http://www.europarl.europa.eu/igc1996/fiches/fiche25_en.htm [28th September 2019] [on-line]

*"Schengen' was originally designed as a 'working laboratory' and its incorporation on the Treaty was foreseen —as an integral part of the approach—from the outset."*²³

They also upheld that more democracy, and even the democratisation of Community acts, was required. This claim was closely linked to the demands on further transparency and efficiency in the Union, which were already essential objectives of the revision of the Maastricht Treaty. Although there was unanimity on the need to eliminate the Union's democratic *déficit*, there were still differences of opinion at this point "as to the areas in which democracy was inadequate, as well as to the means that must be used to reduce the lack of democracy."²⁴ Indeed, as Saurugger and Thatcher examined, "the ability of EU institutions to construct a EU political identity has been limited not only by existing national identities but also by the coexistence of rival EU political identities within policy domains" (Saurugger and Thatcher, 2019). The EU's FMP is a paradigm of this conundrum, especially from the EP's experience, in which "cleavages emphasised at the party debate and the cleavages associated with voters' behavior" (Barbet, 2019) interact in an extremely dynamic way, as Barbet carefully studied. This paradox was expressed by EP players in this fashion:

*"The free movement of persons is relegated to the tomorrow that never comes."*²⁵

²³ Free movement of persons, Justice and Home Affairs: an outline approach, Conference of the Representatives of the Governments of the Member States, 10 February 1997, CONF/3817/97. Historical Archives CIG CIG1996 2080/INST INST-030 0200CIG1996

²⁴ Briefing of 5 March 1997 on the ICG and the democratic nature of the Union, Secretariat Working Party, Task-force on the 'Intergovernmental Conference". Historical Archives CIG CIG1996 2010/TFOR TFOR-010 0260.

²⁵ Briefing of 5 March 1997 on the ICG and the democratic nature of the Union, Secretariat Working Party, Task-force on the 'Intergovernmental Conference". Historical Archives CIG CIG1996 2010/TFOR TFOR-010 0260.

In such context, MEP Schulz (PSE-DE) demanded a renewed emphasis and commitment on free movement of persons: "We do have in the European Union, on the basis of Community law, free movement of services, capital and goods, but we do not have freedom of movement for individuals". Therefore, he presented a critique of intergovernmentalism with a special emphasis on the virtues and potentialities of supranationalism and of the guarantees of EP democratic control: "The European Union is implemented not on the basis of Community law but on the basis of intergovernmental cooperation outside the Community law, at the level of bilateral treaties. The end result of which would be that the Council would say, yes we have freedom of movement, but we do not have it where it legally belongs. That is why it is indispensable for this Parliament to say today that we want freedom of movement. We have a very favourable attitude to the constructive elements of the Schengen Agreements, but we want a guarantee that these arrangements will have a basis in Community law with parliamentary control."²⁶

This reflects the conclusions of Fabbrini's studies on how "while supranational institutions have aimed to construct a European political identity with state-like features, intergovernmental institutions have instead operated to de-construct that identity in order to preserve the national identities of the member states" (Fabbrini, 2019).

Concomitantly, MEP Roth (V-DE) alluded then to the revealing concept of 'sugar coating' related to these issues:

²⁶ Ibid.

*"The opening of the internal borders was the sugar coating designed to conceal the taste of the new barriers at the external borders of Schengen, and to legitimise the fact that the new Schengen frontiers have been created within the European Union."*²⁷

He also affirmed that Schengen emerged undemocratically and that it was being operated also undemocratically, eroding the overall quality of democracy in the Union. The way it operated was also said to help consolidating a two-class system and even a blueprint for institutionalised discrimination:

*"The undemocratic way in which Schengen came about and the undemocratic way in which it operates have often be criticised by this Parliament. This is a two-class system, and as far as I am concerned it is also the model of a European heartland I really do not want!"*²⁸

MEP Berthu (I-EDN-FR) again viewed Schengen as a laboratory and launched a question on the purpose of such laboratory, whose answer is still lingering today.:

*"One might legitimately wonder whether the Schengen Agreements, which have often been described as an experimental laboratory, can be extended to the whole of the Union. But the way to answer that question is to start by learning the lessons of the experiment. Otherwise, what would be the purpose of the laboratory?"*²⁹

The later war in Kosovo certainly stood as a key turning point regarding the EP discussions on free movement of persons and on the Schengen area. More particularly, EP players then considered that the EU's engagement in the Kosovo crisis should mark the start of a

²⁷ Ibid.

²⁸ European Parliament debates of 10 March 1997 on the future of Schengen, Schengen, No 4-196/7, pp. 6-13.

²⁹ Ibid.

genuine common foreign and security policy and called on the European Council to lay the foundations for establishing new structures in line with the requirements set up by the recent Washington conference, i.e. a new 'Marshall Plan' and the strengthening of the West's security structures³⁰. The year 1998 marked also the entry into force of the significant EUROPOL Convention in this realm. Against this backdrop, MEP Mohamed Ali (GUE/NGL-ES) equally emphasised the key concept of the 'socio-cultural integration of immigrants':

"In this Schengen area that is being created, there should be a clause making it possible to implement common policies on the socio-cultural integration of immigrants, avoiding any discrimination against people or groups due to race, colour or religion or due to national, social or ethnicity."³¹

As this phase came to an end, it is important to remember that, in 1999, the Schengen *acquis* became part of EU. The EP also then welcomed the signs of strengthening of the European Union and considered it vital to bring such strong political *momentum* to the Commission, taking advantage of the contextual possibilities then offered by the Amsterdam Treaty.

Conclusion

The studied documentary EP collections from the eighties and nineties undoubtedly contribute to visibly re-launch a now much neglected differential dimension of European integration: The parliamentary representation of citizens' perspectives on the effects, potentialities and challenges of the Schengen area and their impact on the socioeconomic

³⁰European Parliament debates of 14 January 1999 on Schengen cooperation, pp. 240-254.

³¹ *Ibid.*

risks and opportunities for regions and countries constantly undergoing highly instrumental centre-periphery dynamics (Moreno, 2013). Moreover, the fact that EP actors constantly underline the defining nature of the Schengen area as a laboratory also begets the power to ask which are the purposes and outcomes of such experiment and, more importantly, which is the direction that the European society wants to imprint to such feasibility study, without sidelining, once again, the human rights and the social opportunities factor of the EU's FMP.

The examined documents also evidence a trend which could be usefully appropriated by innovative democratic dialogue and cooperation experiences: That of striving to revert the preeminence of security considerations —ingrained in an ever growing worldview (and business model) dominated by overarching notions of security, surveillance and control—, thus placing fundamental freedoms and rights at the centre of the EU's decision-making process. After all, these sources remind us about the fact that the EU is more than a market. Hence, re-establishing a dialogue on who we want to be and what is to be done to achieve it —by means of 'looking back to see beyond'— offers us a leeway to reconfigure profoundly unsettled human mobility rights in our present.

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