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Explaining the uneven Europeanisation of Spanish immigration policy through the notion of usage

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ABSTRACT

This paper argues that the uneven Europeanisation of Spanish immigration policy can only be fully explained within a theoretical framework accounting for a so far neglected variable: the usage of the European Union (EU) made by national actors pursuing specific domestic goals. In order to 'bring agency back' into the study of the Europeanisation of Spanish immigration policy, this article builds a 'bottom-up' research design based on three conceptual tools (*usage*, *discourse* and *refraction*) to analyse why and how Spanish policy-makers use the EU in legitimising, strategic and cognitive ways. Taking the usage made of the 1999 Tampere European Council as a case study, it is shown how Spanish actors selectively seize and use EU resources, acting as interpreters and elaborating a discourse which is contingent on domestic aims. The paper concludes that the effects of any type of usage of the EU cannot but be uneven, inasmuch as discourse is always refracted through the ideas and identities of national policy-makers, who are the ultimate subjects of Europeanisation.

To

my parents

and

my housemates

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I. Introduction

As Spain joined the European Communities in 1986, less than 0.5% of its population was of foreign origin. Today, the country's share of foreign-born residents is 12.15%, the second highest in Europe. In view of these figures, it does not seem exaggerate to describe the 'migration turnaround' experienced by Spain and the rest of Southern Europe over the last decades as 'one of the most salient novelties of the contemporary global international migration scene' (Arango 2000: 253). This significance seems to be confirmed by the considerable amount of academic attention devoted to Spain and Spanish policy responses to 'the immigration phenomenon', as well as to the role played by the European Union (EU) in their formulation. However, it is only over the past few years that Spanish immigration policy has been approached from the theoretical framework of Europeanisation as defined in the early 2000s. This recent literature coincides in describing the Europeanisation of Spanish immigration policy as 'selective', 'differentiated' or 'ambivalent'. Nonetheless, the explanatory factors behind this unevenness have only been superficially explored.

This paper argues that the uneven Europeanisation of Spanish immigration policy can only be fully explained within a theoretical framework allowing for the introduction of a so far neglected variable: the usage of the EU made by national actors pursuing specific domestic goals. In order to 'bring agency back' into the study of the Europeanisation of Spanish immigration policy, this dissertation builds a 'bottom-up' research design based on three conceptual tools (*usage*, *discourse* and *refraction*) to analyse why and how Spanish policy-makers use the EU in legitimising, strategic and cognitive ways, taking the example of the European Council held in Tampere in October 1999 and the usage made of it. As this case study shows, the effects of any type of usage of the EU cannot but be uneven, as discourse is always refracted through the ideas and identities of domestic actors.

The paper starts by contextualising the literature on the Europeanisation of Spanish immigration policy within two different corpuses of research: the study of the Europeanisation of national policies and politics of immigration and scholarly work on Southern Europe and 'the new immigration', after which the main conclusions of recent accounts of Spanish immigration policy are summarised. A schematic overview of Europeanisation theory is subsequently provided in section III to justify the choice of a 'bottom-up' approach to Europeanisation. The analytical notions of *usage*, *discourse* and *refraction* are then presented in order to build the theoretical framework. The methodology specifies how the empirical material has been approached, justifying the choice of case study. Section V presents the main findings of the empirical research, providing an in-depth analysis of three types of usage of the 1999 Tampere European Council by Spanish policy-makers. The paper concludes by synthesising the results of the case study, as well as commenting on the implications of the empirical research conducted, especially as far as Europeanisation theory is concerned.

II. Literature Review

1. The Europeanisation of national immigration policies

Within the scholarly study of Europeanisation, the issue of domestic change in the field of immigration is particularly interesting for two main reasons. Firstly, immigration policy 'concerns the member state's sovereign discretion over the entry and residence of non-citizens in its territory', one of the areas where Europeanisation has always been assumed to be more difficult (Ette and Faist 2007: 4). Secondly, and more importantly, whilst the 'ontological' phase of *integration* of national immigration policies has received much academic attention, scholars do not yet seem to have adopted a 'post-ontological focus' (Radaelli 2003: 33)[1]. As a result, it is only recently that the *Europeanisation* of immigration policies and politics has received some attention (Ette and Faist 2007: 9), even if empirical studies (ibid: 5) and 'comparative and

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[1] Cf. Caporaso 1996 and Geddes 2007: 50ff.

systematic research' are still rare (ibid: 11). This gap is certainly linked to the fact that this is a 'newly supranationalized policy area' (ibid: 4), as only since 1999 with the entry into force of the Amsterdam Treaty have national immigration policies been increasingly communitarised.

As Ette and Faist point out, this imbalance needs to be corrected, not least because the relation between European integration and Europeanisation is not automatic: 'many proactive efforts to bring about a common European policy do not necessarily imply the subsequent Europeanisation of domestic politics' (Vink 2002: 13). In other words, there is not a 'simple linear process by which EU competencies are straightforwardly translated into domestic political change in the Member States' (Geddes 2007: 49). Furthermore, national immigration policies have experienced major changes in the last ten years, the Spanish case being an illustrative example in this regard (Ette and Faist 2007: 11).

2.   The Europeanisation of Southern European immigration policies

The study of the Europeanisation of Spanish immigration policy must also be contextualised within the literature on Southern Europe and 'the new immigration' (King and Black 1997), which has analysed the qualitative differences between migration to Portugal, Spain, Italy and Greece since the mid-1980s and the post-war immigration to Western Europe, stressing the similarity of 'push and pull factors' in the four countries (Baldwin-Edwards and Arango 1999; Anthias and Lazaridis 1999; King, Lazaridis and Tsardanidis 2000). In these accounts, EU influence is generally conceptualised as *pressure* by 'Northern' EU Member States on the Southern newcomers to adopt a strict immigration policy not corresponding to the structural needs of Mediterranean economies, an imposition which would explain the prevalence of irregular immigration across the region. More specifically, scholars like Reyneri have insisted on labour market segmentation and the burgeoning underground economies of Mediterranean Europe as powerful 'pull factors' attracting undocumented immigrants to Southern Europe, thereby highlighting the negative effects for these four countries of an

immigration policy where legal entry channels are the exception and regularisations the rule (Reyneri 2001, 2003a, 2003b). Yet, since the early 2000s, in parallel to theoretical innovation in the study of Europeanisation, migration scholars working on Southern Europe have not only paid more attention to country specificities, but also attempted to unpack the loose notion of EU *pressure.*

3. The uneven Europeanisation of Spanish immigration policy

It is against this double background that the evolution of the literature on Spanish immigration policy and its Europeanisation is to be understood. In this regard, there are significant differences between research conducted in the 1990s and the early 2000s, where the external constraints experienced by Spain were approached rather descriptively and tend to be conceptualised through loose notions such as 'EU influence' or 'direct' vs. 'indirect' Europeanisation (Moreno 2000), and recent accounts by scholars such as Fauser (2007), González-Enríquez (2009) and Moreno (2008), whose remarkable analytical depth and surprisingly convergent conclusions are worth commenting.

Fauser qualifies the Europeanisation of Spanish immigration policy as 'selective', as she identifies EU-induced 'absorption' and 'transformation' in immigration control measures, but 'inertia' or 'even retrenchment' in the areas of labour and irregular migration (2007: 149-150), explaining this asymmetric evolution through 'the empowerment of governmental actors', to conclude that 'the Europeanisation of politics allows for Europeanisation of policies' in the Spanish case (ibid: 152).

While acknowledging the role played by the EU in Spanish policy responses to immigration, González-Enríquez shows how the rhetoric assumption of EU goals such as the 'fight against illegal migration' is at the basis of ambivalent policies, 'shifting priorities between control and integration', and divergence between stated aims and actual results (2009: 156). According to this scholar, a key explanatory variable for this ambiguity is Spain's lack of human and financial

resources to canalise legal migration, which has led to the emergence of 'a cheap model of management' based 'on the belief that the market would adjust spontaneously to [...] the demand for workers' (ibid).

In this same vein, Moreno has recently stressed 'the dissonance between discourse and practice' in Spanish immigration policy, especially in the field of border control, where EU-imposed strict rules are selectively implemented in favour of Latin American and Eastern European immigrants, for example through 'the delay in the introduction of visa requirements for certain Latin American nationalities known to be migrating to Spain in large numbers' (2008: 280).

These three studies have several features in common: firstly, their privileged object of study are domestic policies, politics and polities; secondly, their approach to Europeanisation, is 'top-down', which determines not only their focus on EU *pressure* and Spanish *responses* to it, but also the special attention paid in the three analyses to immigration control, as well as their shared verdict about the differentiated Europeanisation of Spanish immigration policy. This last coincidence is particularly significant: the three scholars respectively emphasise selectivity, ambivalence and dissonance, pointing to the uneven EU impact on Spanish immigration policy. This dissertation intends to explain this unevenness by focusing on the micro level of domestic actors, for which a 'bottom-up' approach to Europeanisation appears most suitable, as the following section will argue.

III. Theoretical Framework

1. A 'bottom-up' approach to Europeanisation

Europeanisation 'has taken on different meanings throughout modern history' (Featherstone 2003: 6). Moreover, the 'booming' academic usage of the term since 1999 (ibid: 5), in parallel to the increasing scholarly interest for the interactions between the EU and its Member States,

has contributed to what Radaelli calls a 'conceptual stretching' of this word (Radaelli 2003: 28ff), which has been employed to describe extremely different phenomena. Nevertheless, today a minimalist consensus seems to exist among scholars on a *negative* definition, i.e. on what Europeanisation is *not*. In this sense, Europeanisation should be distinguished from convergence, harmonisation, political integration and EU policy formation (ibid: 33-34).

As far as a *positive* definition of Europeanisation is concerned, two main approaches can be broadly distinguished. The first conceptualises Europeanisation as 'adaptational pressure' on the part of EU Member States, advancing the concept of 'goodness of fit' as main analytical tool to study EU-induced domestic change (Börzel 1999; Cowles *et al*. 2001). Börzel and Risse have refined this framework through a model based on policy and institutional misfits. The presence of at least one of these two types of misfit is considered as a necessary precondition for Europeanisation. Furthermore, drawing on both rationalist and sociological institutionalism, the authors make an analytical distinction between two 'logics of domestic change': a 'logic of consequentialism' and a 'logic of appropriateness', as to incorporate into the model domestic institutions as change-facilitating factors (Börzel and Risse 2003). As it becomes evident, this first approach to Europeanisation adopts a 'top-down' perspective, the central notions of EU *pressure* and *adaptation* by Member States being conceptualised as two sides of the same coin. Both analytical tools are indeed suitable for the analysis of the 'objects' of Europeanisation: policies, politics and politics

Yet, an alternative framework for the study of Europeanisation has been proposed by scholars such as Radaelli, who has criticised the notion of 'goodness of fit' on different grounds, not least because 'adaptational pressure' is not always a 'necessary precondition' for domestic change. Indeed, even in the absence of any EU pressure, domestic actors use 'European policy to justify and legitimate change' (Radaelli 2003: 46). This author has repeatedly argued for what he calls an 'inside-out' or 'bottom-up' approach to Europeanisation, as opposed to

research designs 'limited to the analysis of "European effects" in certain areas of change', which 'do not control for rival alternative hypotheses' (ibid: 50ff).

According to Radaelli, what is most problematic about analysing Europeanisation 'top-down' is that this perspective 'tends to *prejudge* the role of the EU in domestic politics and policy change. It also makes it impossible to distinguish between domestic change as the result of EU impact and change originated by globalisation or by domestic problems', being 'inconsistent with [...] the active role of domestic players in decoding, editing and creatively transforming EU governance, thus *making use of Europe* rather than simply reacting to it' (Radaelli and Franchino 2003: 947-948). What this scholar proposes is starting at the domestic level and raising the question 'whether the EU affects this system of interaction and if so, in what way (as a resource, as a reformulation of the problem, [...] as a constraint on what is feasible, [...] as a new frame of reference, etc.)' (ibid).

2. The notion of *usage*

A particularly interesting and relatively unexplored aspect of Radaelli's call for regarding Europeanisation 'bottom-up' is the reintroduction of *agency* as a variable, particularly the creative capacity of domestic actors as *interpreters* and *mediators* between the EU and the national level. To operationalise agency, this paper draws on the attempt made by Jacquot and Woll (2003) 'to put the micro level of social interactions into light', applying 'the method approach of sociology' to Europeanisation. The aim of these two scholars is 'to provide a new analytical instrument' to bring back in the individual, 'so far [...] ignored' by the Europeanisation literature (2003: 10). Thus, they define a 'sociology of the usage of European integration', to draw attention to 'the central role of individual actors' (ibid: 3) and their capacity to concretely *translate* the effects of European integration, as they engage in this process for a variety of reasons' (ibid: 2-3).

a) Defining *usage*

In order to unpack domestic agency, the authors advance the concept of *political usage*, which covers 'both the strategic interaction of rational actors with the European institutions and the more sociological effect of usage – as "daily practice"- on the interests and identities of the actors. The concept thus ties political changes and transformations to the utilisation an actor is able to make of the European integration process and the less conscious, habitual practice that might evolve out of this utilisation' (ibid: 3). Political usage is therefore 'the whole process of transforming resources and constraints into political practices' (ibid: 4), a transformation that is 'necessary for any impact of the European integration process on national political systems', as the EU cannot 'have an impact if no actor seizes it and transmits it to the national level' (ibid: 6).

What is most interesting about the concept of *usage* is that it captures the complex relation between the two above-mentioned 'logics of domestic change' identified by Börzel and Risse (2003)[2]. Given that usage of the EU is often purely strategic, the concept primarily refers to 'the mediation done by an actor to transform a material or immaterial resource provided by the European institutions into a political action' (ibid: 6). However, the idea of *usage* also evokes repetition. The main assumption in this regard is that repeated strategic mediation by domestic actors develops into an almost unconscious habit, in a process leading 'to cognitive and/or normative adaptations, which in turn change the behaviour of the actor' (ibid 5). Thus, 'by insisting on the discretional action of individuals', the notion of *usage* captures 'Europeanisation as a dynamic process, which is much less linear and automatic than in the dominant conception' (ibid: 6), not least because usage does not always lead to domestic change (ibid).

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[2] These two logics are just one among many conceptualisations of the dichotomy 'interests vs. norms' (March and Olsen 1998), another one being for instance the distinction between 'policy transfer' or 'simple policy learning' and 'social learning' (Thielemann 2002).

b) A tripartite typology of *usage*

In their paper, Jacquot and Woll distinguish three different types of usage, which correspond to different phases in any given political process (ibid: 7) and action logics (ibid: 9):

a) *Strategic usage*: this first type of usage refers to 'the transformation of resources in political practices with the intention of pursuing a specific goal', an objective which is 'clearly defined and consciously pursued' (ibid: 6).

b) *Cognitive usage*: it 'covers, first of all, the understanding and interpretation of a political subject. Secondly, it applies to the diffusion of specific ideas which provide a framework for understanding and deliberating over a certain subject. Eventually, cognitive usage provides the vectors for persuasion within a policy discussion' (ibid: 7).

c) *Legitimising usage*: this broad notion tries to capture the whole range of instances in which domestic actors, typically national governments, import legitimacy from the EU level through a discourse where EU interests, resources or constraints become central. Even if this sort of usage is mostly rhetorical, it should be kept in mind that discourse has real effects, as it 'conveys associations and images that then circulate and transform national references' (ibid).

3. The concept of *discourse*

The third constitutive element of the theoretical framework is the concept of 'discourse' and its link to domestic change, an issue on which the main scholarly reference is Schmidt. Discourse, as defined by Schmidt, 'consists of both a set of policy ideas and values and an interactive process of policy construction and communication' (Schmidt 2001: 249-250).

Thus, the concept covers two distinct dimensions: an ideational one, where 'discourse performs both a cognitive function, by elaborating on the logic and necessity of a policy programme, and a normative function, by demonstrating the programme's appropriateness

through appeal to [...] values and identity' (ibid), and an interactive dimension, where 'discourse also performs two functions: coordinative, by providing a common language and framework through which key policy groups can come to agreement in the construction of a policy program, and communicative, by serving as the means for persuading the public' (ibid). Discourse can be one of the factors involved in policy change 'both with regard to its ideational content [...] and to the interactive process by which it enables policy elites to co-ordinate the construction of the policy program and communicate it to the general public' (ibid).

4. The metaphor of *refraction*

The last conceptual component of the framework is the idea of *refraction,* a word used by Geddes (2007) within a 'top-down' and 'object-centred' theoretical approach to Europeanisation to account for the EU's divergent impact across Member States, as 'EU measures are refracted through the territorial, organisational and conceptual borders that mediate the EU's influence' (2007: 60), more concretely 'into domestic contexts [...] where there are [...] differing [...] traditions of citizenship and social rights, and divergent ideas about belonging, entitlement and identity' (ibid: 62).

In this paper, this evoking metaphor is incorporated into a 'bottom-up' and 'subject-centred' approach to Europeanisation. The concept is therefore taken further, being applied to explain the divergent impact of the EU across actors: as national policy-makers interpret and decode EU discourse, the ideas contained in it are refracted through the different ideas and identities of domestic actors, the number of different possible 'translations' being therefore infinite.

5. Building the framework

It is in the light of these four theoretical elements that the thesis advanced by this dissertation takes shape: the unevenness of the Europeanisation of Spanish immigration policy can be best explained by adopting a 'bottom-up' approach allowing us to shift the focus from the *objects*

to the *subjects* of Europeanisation: domestic actors, who populate a micro level where the EU is *used* in multiple contexts, according to very different action logics, and with extremely divergent and often unpredictable results.

Thus, this paper uses a 'bottom-up' research design, incorporating Jacquot's and Woll's concept of *usage* to investigate why and how national policy-makers *use* the EU. Among the many possible ways of carrying out such an analysis, Schmidt's conceptualisation is added to the framework, in the understanding that all three types of usage distinguished above can be identified not only *through* but also *in* domestic actors' discourse, being therefore possible to talk about *discursive usage* of the EU.

Finally, the notion of *refraction* appears as a promising analytical tool to explain the uneven effects of usage at the domestic level: when making usage of the EU, domestic actors re-appropriate its discourse, which implies deconstructing the latter into its constitutive ideational elements, subsequently recombining these ideas into an 'edited' version suiting their specific aims, the number of possible combinations being infinite. This is so because the ideas contained in EU discourse are *refracted* through domestic actors' own ideas and identities.

Thus, this paper adds to Jacquot's and Woll's assertion that there can be no EU impact without usage (2003: 6) the claim that there can be no usage without refraction, insisting on the unpredictability of the effects of any usage, as just shown. From this perspective, Europeanisation *cannot but be uneven*, as it is contingent upon subjects' usage of the EU.

IV. Methodology

Following Radaelli's advice of employing 'bottom-up' research designs to study Europeanisation, special attention has been paid in this paper at 'remaining' at the domestic level, combining this methodological priority with a parallel emphasis on the subjects of

Europeanisation, i.e. domestic policy-makers: firstly, the actors under consideration have been Spanish MPs, as national political actors *par excellence*, and government members, although only in the framework of their formal interaction with the Spanish parliament, as privileged locus of national sovereignty and politics. Secondly, their discourse has been primarily analysed against the background of domestic developments in the field of immigration policy and contextualised within the Spanish immigration debate of the moment, parliamentary discourse constituting thus the raw material of this paper's empirical section. Thirdly, EU discourse has been examined only *after* Spanish discourse, restricting the research to those texts which domestic actors refer to, and checking them against what is said *of* them at the domestic level, as to ascertain what kind of usage is being made and why. Fourthly, the reader is provided with a minimum amount of information on the EU context, EU discourse being relevant only as 'original' of the 'translation' being used at the domestic level.

Such a 'bottom-up' approach appears as most adequate not only to focus on the subjects of Europeanisation, especially on the creative role of domestic agents as 'interpreters', but also to gain an insight into 'what the EU looks like' when regarded 'bottom-up', i.e. from the Spanish parliament in this case. Therefore, the usage of the 1999 Tampere European Council has been exclusively contextualised against the evolution of Spanish immigration policy up to 1999-2000 and the 1999 parliamentary debate on a new Alien Law, inasmuch as what is relevant from this paper's perspective is what Spanish MPs *learn about* 'Tampere', not what the summit actually was.

Furthermore, parliamentary discourse appears as an optimal research material for other reasons. Firstly, it is 'located' in a formal setting, which guarantees a certain degree of elaboration and makes possible to observe the 'decoding' mechanisms employed by domestic actors. Yet, parliamentary discourse is not only about utterance and reproduction. It also 'takes place' in a dynamic context where debate, interaction and persuasion 'happen', so it is

spontaneous enough as to allow for detecting the presence of cognitive usage. Thus, the sources consulted for a qualitative analysis have mainly consisted of Spanish parliamentary proceedings, national party manifestos, and Spanish and EU legislative texts.

As for the choice of case study, analysing the usage within Spanish parliamentary politics of the European Council held in Tampere in 1999 seems to perfectly suit the specific purpose of this study: firstly, it is possible to test the *legitimising*, *strategic* and *cognitive* usage of the Tampere Conclusions by Spanish domestic actors, in three different moments and with different objectives: on the one hand, 1999-2000 represents a crucial point in the evolution of immigration policy in Spain, not least because in autumn 1999 the conservative party (PP)[3] suddenly withdrew its support to the proposal for a new Alien Law being debated in the low chamber, ending the cross-party consensus on immigration, politicising the issue for the first time in Spanish history and including it in its manifesto for the 2000 general election. This unexpected electoral move was *only* possible thanks to the legitimising and subsequently strategic usage made by PP members, who seized the Tampere Conclusions both in 1999 and in 2000 with two specific domestic aims (Bendel 2007: 144). On the other hand, it is also feasible to test the diffusion of one of the main ideas elaborated by the PP drawing on 'Tampere' in 1999, Spain's role as 'the EU's gatekeeper', the parliamentary debates on the 'immigration crises' in Ceuta and Melilla in 2005 and the Canary Islands in 2006 offering excellent materials for this purpose.

Secondly, both in 1999-2000 and in 2005-2006 a minority government was in power (the Conservatives in 1999-2000 and the Socialists[4] in 2005-2006), parliamentary debate being thus expected to be more lively. Lastly, the Tampere Conclusions represent the 'founding stone' of the Common EU Asylum and Migration Policy, constituting therefore a programmatic

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[3] *Partido Popular, PP.*
[4] *Partido Socialista Obrero Español, PSOE.*

discursive resource especially suitable for domestic usage, as well as for conflicting interpretations and appropriations by national actors.

V. Case Study

1. Contextualising the usage of the Tampere European Council

a) Spanish immigration policy 1985-2000

Spain became a country of immigration at about the same time it formally joined the European Communities: its first Alien Law was published on 1 July 1985[5], whereas its EU accession Treaty was signed on 12 June 1985. Beyond the academic debate[6] on this law having been a precondition implicitly imposed on Spain due to its new duties as 'gatekeeper' of the European Community[7], there is a wide consensus on the restrictive nature of the text[8]. For instance, the law did not foresee permanent permits, being also silent about family reunification or immigrant integration. Crucially, access by foreigners to the Spanish labour market was tightly regulated, which would soon lead to the emergence of the main structural feature of immigration in Spain: irregularity.

Although the text was criticised since its very inception, it was only in 1998-1999 that the reform of the 1985 Alien Law was undertaken, its unsuitability to manage a rapidly changing migratory reality having become too evident. Indeed, in the absence of legal entry channels or any rights, rapidly increasing immigrant arrivals[9] throughout the 1990s found a situation dominated by irregularity and exclusion. This period also saw the emergence of a markedly pro-migrant climate among political elites and civil society (Arango 2000: 266-267), the

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[5] *Ley Orgánica 7/1985 sobre derechos y libertades de los extranjeros en España* (LO 7/1985).
[6] Cf. Arango 2000: 265; Gortázar 2002: 4-5; Fauser 2007: 140.
[7] For many scholars 'the idea behind the law was to ease the concerns [...] about the possibility that new members of the Community [...] might become an entry point for undocumented migrants' (González-Enríquez 2009: 140). See also Moreno (2000, 2008).
[8] This is a surprising feature, especially considering that Spain had not even 250,000 foreign legal residents in 1985 and that immigration was virtually inexistent as political issue during the 1980s.
[9] In 1999, the Ministry of Interior registered 801,339 foreign legal residents, compared to 241,971 in 1985 (Moreno 2008: 257).

Spanish parliament becoming particularly vocal since 1995 on the need for integration measures (Arango 2000: 271-272). It is in this context that a new Alien Law was debated in both chambers in autumn 1999 and finally approved in December of that year[10], becoming LO 4/2000.

Nonetheless, the parliamentary procedure of this reform was rather atypical. Although the PP group had fully participated in the drafting of the proposal until its vote in the Constitutional Committee on 10 November 1999, before the vote in Plenary on 25 November some members of the PP government questioned the compatibility of the proposal with the Conclusions of the Tampere Summit held on 15-16 October. The PP did not have a majority in the Parliament, so in spite of its group's abstention, the proposal was approved by the low chamber. However, the PP subsequently presented 112 amendments in the Senate which radically altered the liberal spirit of the text[11], the most polemic issue being the restriction of most of the civil and social rights foreseen by the text to *legal* residents. These amendments were unanimously rejected by the Parliament on 22 December, the law being finally approved in its original version. Nonetheless, the PP announced its intention to reform the text in the next legislature as to 'make it compatible' with the Tampere guidelines, which it eventually did in December 2000[12], before LO 4/2000 had even entered into force and after gaining by absolute majority the March 2000 general election.

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[10] *Ley Orgánica 4/2000 sobre derechos y libertades de los extranjeros en España y su integración social* (LO 4/2000)

[11] LO 4/2000 granted both civil liberties (assembly, strike, unionisation) and social rights (family reunification, public education and healthcare) to *all* immigrants present in Spanish territory, regardless of their administrative status (Fauser 2007: 143; González-Enríquez 2009: 143). This move 'in the direction of decoupling nationality and citizenship rights' (Moreno 2008: 272), would have provided Spain with one of the most progressive immigration policies in the EU. Furthermore, the law also introduced an ordinary regularisation procedure, 'reduced the state's discretionary powers' and 'enhanced immigrants' legal guarantees' (González-Enríquez 2009: 143).

[12] LO 8/2000 was far more restrictive than LO 4/2000 with regard to rights and sanctions (Fauser 2007: 143). Indeed, the ruling 236/2007 of the Constitutional Court declared some of its provisions unconstitutional (CG2009b: 36).

A key element to understand the PP's usage of the Tampere Summit in 1999-2000 is the fact that in 1999 the party 'had never held an internal debate on immigration and had no common position on it' (González-Enríquez 2009: 142). In this context, it found in the Tampere Conclusions a suitable discursive instrument to *legitimise* its sudden change of stance with regard to the proposal for a reform of LO 7/1985 and its ending of the prevailing cross-party consensus on immigration. Even if the PP's *legitimising usage* of 'Tampere' ultimately had no impact, the party appropriated the Tampere Conclusions again in 2000, this time in a *strategic* way, pursuing the specific goal of making immigration a salient issue in the run-up to the 2000 general election, not least by blatantly presenting in its manifesto some of the Tampere milestones as 'its' proposals on immigration.

b) The 1999 parliamentary debate on a new Alien Law from a 'bottom-up' approach

Different proposals for a new Alien Law were presented by three parliamentary groups in 1998-1999: *CiU* (*Convergència i Unió*, the conservative Catalan nationalists), *IU* (*Izquierda Unida*, 'United Left', the heir of the Spanish Communist Party), and the *Grupo Mixto* ('Mixed Group', composed by a number of small leftist parties), the PSOE presenting its own amendments. Behind all these reform proposals was the awareness that the 1985 law was generating situations of irregularity (CG1099c: 23694), hindering immigrant integration. Granting social and civil rights to immigrants was thus seen as the best strategy to facilitate their full inclusion into Spanish society (González-Enríquez 2007: 141ff; CG1999d: 14960). In February 1999, the Parliament's Constitutional Committee ratified a group of ten rapporteurs from all parliamentary groups, who then drafted a new proposal out of the four existing texts, with the explicit aim of achieving the highest level of agreement among all the political forces (CG1999c: 23694). Furthermore, many NGOs, trade unions and migrant associations assisted the rapporteurs during the drafting process, so the proposal was the result of a broad political and social consensus.

This consensus spirit on the part of all parliamentary groups is very uncommon in the fractured Spanish political landscape (CG1999d: 14959). Although it is certainly related to the 'mixed blood' of the text (CG1999d: 14955), this strong will of compromise can only be fully understood against the background of the main domestic issues at stake with regard to this reform.

Firstly, the text was a proposal for an Organic Law, and therefore regarded as developing the 1978 Constitution (CG1999d: 14952). Moreover, a number of Constitutional Court rulings having declared several provisions of the 1985 Law unconstitutional, constant reference to the Constitution was made during the parliamentary debate (CG1999d: 14957). Moreover, the proposal dealt with the 'rights and freedoms of foreigners', which created a strong sense among MPs that Spanish democracy itself was at stake, concretely the rule of law, the respect of human rights (CG1999d: 14949, CG1999e: 15258) and Spain's full development as *Estado social y democrático de Derecho* (CG1999e: 15265). In this regard, respecting the dignity of immigrants appeared as essential to Spain's 'democratic self-esteem' and reputation (CG1999e: 15258).

Secondly, constant mention was made to the 'progressive' or 'socially advanced' character of the proposal in European comparison, notably concerning the civil and social rights recognised to irregular immigrants. This was regarded by MPs as a reason for pride, as a sign of Spain becoming a fully democratic and 'civilised' country and therefore 'European' on its own right (CG1999d: 14952), as the ultimate proof of its belonging to Europe and Western civilisation (CG1999e: 15263). When the PP attempted to restrict these rights to legal immigrants, explicit mention was made to the Spanish transition (CG1999e: 15265), the PP group's stance being strongly criticised as retrograde, authoritarian and inappropriate of a consolidated democracy, where rights and freedoms should be nonnegotiable.

Thirdly, MPs felt *responsible* upon Spanish society in general and immigrants in particular: passing the bill was a moral duty (CG1999d: 14954), as well as a gesture of collective solidarity and personal engagement with the serious parliamentary work behind the proposal and the exceptionally broad consensus backing it. This notion of consensus was in turn closely linked to the idea that immigration matters ought to be kept away of party politics and electoral considerations (CG1999e: 15261). This was strengthened by the mentioned 'organic' status of the proposal, which allowed some leftist MPs to present it as a 'framework law' granting immigrants just minimum rights (CG1999d: 14952).

Fourthly, a general spirit of compassion and solidarity towards the fate of immigrants reigned in the Chamber. Not only the extreme misery of their countries of origin was highlighted, but also their vulnerable situation in Spain (CG1999e: 15255), mainly due to their irregular status. Contributing to this atmosphere, frequent mention was made of the recent history of Spain as country of emigration (CG1999e: 15257). Solidarity to immigrants was thus presented as a historical obligation, as a way of publicly paying homage to Spanish emigrants for the hardships they faced (CG1999e: 15265), 2.6 million of Spaniards still living abroad (CG1999c: 23701).

Once the 1999 parliamentary debate on a new Alien Law disaggregated into these four purely domestic issues through a 'bottom-up' approach, it is possible to analyse the usage made by the PP of the Tampere European Council.

c) The Tampere European Council in the parliamentary debate before its usage

The European Council held an extraordinary meeting in Tampere on 15 and 16 October 1999 'to develop the Union as area of freedom, security and justice by making full use of the possibilities offered by the Treaty of Amsterdam', as concretised in the Vienna Action Plan. The Conclusions of this summit were presented as 'the Tampere Milestones', 'a number of policy orientations and priorities', the first of which referred to the development of 'a common EU

Asylum and Migration Policy', establishing guidelines in four fields: partnership with countries of origin, a Common European Asylum System, fair treatment of third country nationals and management of migration flows (European Council 1999). As for the rationale behind this political declaration, Tampere has been described by some scholars as 'the obvious expression of a real change of paradigms on the Commission's level', a shift explained by a series of realisations by the Commission which 'led to regarding migration as a chance, instead of a threat' (Bendel 2007: 36). This is relevant because the Commission's broader approach to migration went unnoticed among Spanish actors, due to how 'Tampere' was used by the PP, as it will be analysed below.

On 20 October 1999, Prime Minister Aznar (PP) reported to the Plenary on the Tampere Conclusions. Concerning the projected common asylum and migration policy, Mr Aznar clearly distinguished two sets of issues: on the one hand, those related with the control of the external borders of the Union, where Spain had a clear EU mandate, responsibilities and obligations, linking border control to irregular immigration, framed as the *consequence* of human trafficking and criminal networks; on the other hand, legal immigration, where the Council's intention of approximating the rights of legally residing third-country nationals (TCNs) and EU citizens supposed an innovative advance (CG1999b: 14101). When asked explicitly by some MPs about the proposal for a new Alien Law, Mr Aznar expressed his desire that it continues its parliamentary procedure (ibid). Nonetheless, Tampere's implications for judicial cooperation, especially concerning terrorism, received far more attention during this session than immigration and asylum matters.

It is extremely significant that when the proposal was discussed by the Constitutional Committee on 10 November 1999, the PP group made no single mention of the Tampere Summit. Instead, its representative expressed his concern about Spanish society's 'arrogant and discriminatory attitude' toward foreigners, Spain having traditionally been a country of

emigration, concluding that the new law would send a clear message: 'the foreigner in Spain is a person contributing something positive [...], not cheap labour force to be used and then returned' (CG1999c: 23701), explicitly presenting it as his group's stance.

It was only after its approval in committee meeting that some members of the government questioned the compatibility of the proposal with 'Tampere'. Thus, on 25 November 1999, when the proposal was discussed and voted in plenary session, Mr De Grandes, the PP's speaker, made clear that 'Spain cannot and must not design an autonomous immigration policy vis-à-vis the Amsterdam Treaty, the Schengen acquis and the Tampere Conclusions, of which our country has been *the main promoter*' (CG1999d: 14961).

In brief, the Tampere European Council only entered the 1999 Spanish parliamentary debate on a new Alien Law once its seizure by the PP as legitimising resource had taken place, and only inasmuch as it could be used as such, as the following subsections show.

2. Three types of usage

a) Legitimising usage (1999)

In order to use the EU to justify its newly-discovered stance on immigration, PP policy-makers had first to 'interpret' the Tampere Conclusions, translating this text into a 'domestic code' and elaborating a legitimising discourse by recombining some of the ideas contained in the original document, as it is explained below.

A first striking feature of the PP's interpretation of the Conclusions is its emphasis on the *compulsory* nature of the text agreed in Tampere, on the idea that the options for Spain with regard to its domestic immigration policy were restricted after the summit, Spanish policy-makers having to be extremely careful not to contravene concrete guidelines (CG1999e: 15267). Indeed, terms such as 'responsibility', 'obligation', 'duty', 'community compromises',

'necessary', 'indispensable' and 'essential' are constantly used by Mr De Grandes (CG1999d:14961ff and CG1999e:15266ff).

Secondly, the PP's discourse presents the need for an 'efficient', 'coherent' or 'rational' *management* of migratory fluxes as being the inexorable 'counterpart' of a series of 'ambitious endeavours' undertaken by the EU: the creation of the Schengen space (CG1999d: 14962), the establishment of an area of Freedom, Security and Justice developing Title IV of the Amsterdam Treaty, and finally 'the Tampere Milestones', especially conclusion number 21 stating that 'the legal status of third country nationals should be approximated to that of Member States' nationals' (European Council 1999). The concept of *management* is subsequently linked to: a) *border control*, a policy area where Spain is bound by 'solidarity obligations' upon EU Member States, due to its special geographical status as the Union's 'external border' (CG1999d: 14961); and b) to the 'restless' fight against mafias benefiting from *illegal immigration* (ibid).

This 'tailor-made' decoding of the Tampere Milestones allows the PP to implicitly unpack the notion of *extranjero* (foreigner, alien) into three different categories: *ciudadano comunitario,* i.e. EU citizen; *residentes legales extranjeros* (ibid.), i.e. 'TCNs who reside legally on the territory of its Member States'[13], the only TCNs to whom Tampere's notion of 'fair treatment' applies; and finally *los extranjeros en situación de ilegalidad*, i.e. the 'phenomenon' of 'illegal immigration'[14].

Whilst in the 'original' of the Tampere Conclusions the issue of illegal immigration is approached within the framework of the 'management of migratory fluxes', it is nonetheless remarkable how Mr Grandes ignores the external aspects of the EU's concept of 'migration management', using it instead to frame illegal immigrants in the discursive field of border control and human trafficking, as it has just been showed. This seems particularly shocking, as

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[13] Cf. Tampere Conclusions number 18 and 21.
[14] Cf. Conclusions number 23 ff.

both the establishment of partnerships with countries of origin to promote co-development and the formulation of a 'comprehensive approach to migration' are the first guidelines listed in the document in order to develop a common EU asylum and migration policy. Moreover, the last section of the Conclusions was devoted to the establishment of a 'stronger external action', adding for the first time an external dimension to the area of Freedom, Security and Justice (European Council 1999; Boswell 2003). This aspect, probably the most crucial contribution of the Tampere summit, and linked to the mentioned paradigm shift on the Commission's side, was nonetheless completely absent from the PP's 'version' of what had been agreed by the European Council.

Once the Conclusions decoded for them to fit into the specific debate which was being held by the Spanish parliament as to serve the PP's domestic interests, it was discursively possible to legitimise the curtailing of rights for irregular immigrants. Spain's chief responsibility upon its 'European friends' as 'the EU's gatekeeper' having been stressed and the notion of 'fair treatment' linked to legally residing TCNs, the PP could argue that some of the provisions of the proposal, such as 'the extension of socio-economic rights to situations of illegality [...] and the institutionalisation of a permanent mechanism of regularisation' would give '*incentives* to the illegal entry of foreigners in Spain *and in the EU*'. These provisions would not only 'frontally collide' with Spain's 'community compromises', but blurry 'the boundaries between situations of legality and illegality' (CG1999d: 14962), a dichotomy just introduced into the domestic level through a legitimising discourse built upon a subjective interpretation of the Tampere Conclusions.

What is probably most interesting is that the PP ultimately failed in its attempt of appropriating 'Tampere'. Although its members tried to present themselves as its only legitimate interpreters[15], MPs accused the government of 'not having read' the Conclusions

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[15] This claim was reinforced by the fact that the PP had been in office since 1996.

(CG1999e: 15262), making detailed reference to fragments omitted by the PP[16] and raising other issues *also* covered by the document (ibid: 15264). This escalating dynamics of reapropriation of 'Tampere' by the Parliament achieved its dramatic climax when Mr Castellano (IU), told the PP group: 'Do not ever take the name of Tampere in vain again!'(ibid: 15262).

In this atmosphere of outrage and deep disappointment, Mr Campuzano (CiU) accused PP members of 'political and social irresponsibility' for breaking the consensus on immigration, claiming: 'we have opened Pandora's box' (CG1999e 15261), other Member States providing with numerous examples of the negative consequences of the politicisation of immigration (CG1999c: 23705). MPs of different political signs also showed a shared anger towards the PP's disrespect for parliamentary work, strongly criticising its choice of a 'security approach' to immigration and describing its amendments as a 'wire fence' (ibid: 15259).

This subsection has examined the mechanisms through which the PP imported legitimacy from the EU level to justify its last-minute change of stance on the 1999 proposal for a new Alien Law. A discourse was elaborated where EU interests and constraints became central, thus making a *legitimising usage* of the Tampere Conclusions in the terms defined by Jacquot and Woll (2007: 7). However, as these two scholars note, 'usage does not necessarily imply impact' (ibid: 6). This paper advances the notion of *refraction* (cf. section III) to explain the absence or the uneven impact of usage. In the case under consideration, it has been shown how the discourse elaborated by the PP drawing on the Tampere Conclusions tried to introduce the dichotomy legal vs. illegal immigrant, as well as the notion of Spain's responsibility as the EU's gatekeeper. Nevertheless, these two ideas were refracted into an audience holding radically different views on both issues, as it is analysed below.

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[16] Especially Conclusions 1-3, which state e.g. that the EU's shared freedom should not 'be regarded as the exclusive preserve of the Union's own citizens. Its very existence acts as a draw to many others […]. It would be in contradiction with Europe's traditions to deny such freedom'.

As it emanates from the parliamentary proceedings, in 1999 the notions of alien/foreigner and immigrant (*extranjero* and *inmigrante*) were often used as synonyms by many MPs, which is not surprising considering that the proposal officially referred to *foreigners* in Spain. Indeed, also the concept of alien was blurry, not least because EU citizens were not fully 'foreigners' anymore (CG1999c: 23700). Against this background, it is easy to understand why the dichotomy legal vs. illegal immigrants was received at best with perplexity and often with mistrust by the Chamber.

As for the PP's idea about Spain's being responsible for diligently fulfilling its tasks as the EU's gatekeeper, it was refracted through MPs' alternative view of Spain's responsibility vis-à-vis the EU. Indeed, apart from the PP, all parliamentary groups in the Chamber discursively associated 'Europe' with democracy, freedom and human rights. Thus, as highlighted above, granting rights to all immigrants present in Spanish territory was framed as a crucial *responsibility* for Spain, a relatively new democracy which still needed to prove its credentials as an outright 'European', 'Western' or 'civilised' country.

Thus, the PP did not manage to reframe the notion of responsibility because its discourse, in spite of being backed by the legitimising usage made of the EU, was refracted into a domestic context where there was an extremely broad and solid consensus about the concrete implications of Spain's 'Europeanness'. This consensus crystallised into a discourse where Spain's first and foremost responsibility towards Europe was being an exemplar democracy. Granting rights to facilitate immigrant integration was therefore seen as ultimate proof of Spain's 'Europeanness', the proposal for a new Alien Law being even more progressive than the measures in place in many older Member States. Against this background, it is not surprising that the PP's discourse failed not only to convince the Parliament, but also to legitimise its new stance on immigration, as it implicitly argued that Spain's 'Europeanness'

obliged to *restrict* irregular immigrants' rights, whilst for most MPs 'Europe' was associated to *granting* rights.

b) Strategic usage (2000)

Even if the legitimising usage of 'Tampere' was not enough for the PP to have its amendments approved, as explained above, the party resorted again to the Conclusions in the following months, although this time making a *strategic usage* of them. In the run-up to the March 2000 general election, the PP associated the new Alien Law to several racist incidents in early 2000, arguing that it favoured illegality, hindering immigrant integration and thus causing social tensions (Moreno 2000: 19; Bravo 2004: 109).

Against this background, it is not surprising that the PP's 2000 manifesto devoted a few pages to immigration policy for the first time (PP 2000: 152ff), under the title 'A common EU asylum and migration policy', this section consisting of selected fragments of the official Spanish translation of the Tampere Conclusions. Spanish immigration policy's contingency on the EU was systematically highlighted, Spain's commitment to European integration 'defining' the 'response' which the country ought to give to immigration (ibid: 113). Spanish immigration policy needed to be consistent with 'the responsibilities taken on upon the EU at the Tampere Summit', which ultimately obliged 'the recently-passed Alien Law to adapt to them' (ibid: 152). Thus, even when literally copying the Conclusions, the PP had to 'translate' them, adapting EU discourse to its specific domestic goals before inserting it into Spanish domestic politics.

As it becomes evident, the PP, not having a party stance on immigration[17], but seeing the potential of bringing the issue to the electoral arena (Fauser 2007: 144), *strategically* used the Tampere Conclusions, transforming an EU resource into a concrete political practice 'with the intention of pursuing a specific goal' (Jacquot and Woll 2007: 6): taking the lead in the

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[17] During the debate on the new Alien Law the PP was accused of 'not having' an immigration policy (CG1999e: 15264), being inconsistent or non-proactive on immigration issues.

politicisation of a potentially rentable electoral issue, placing itself in an advantageous situation by framing the matter in the terms from which it would benefit most. Indeed, adopting the latest EU statement on a newly supranationalized policy field undoubtedly is a strategic move, as making domestic policy fully coincide with EU guidelines can be regarded as a particularly 'safe' choice.

Therefore, given that the PP's strategic usage of Tampere had more to do with framing to its advantage an issue that was slowly becoming politicised than with winning the 2000 election, its effects can be best analysed in the long run, as the following subsection discusses.

c) Cognitive usage (2005-2006)

As noted in section III, one of the analytical assumptions behind the concept of *usage* is that making a *legitimising* or *strategic* usage of the EU develops into an almost unconscious habit, leading to *cognitive usage* (Jacquot and Woll 2003: 5), i.e. 'the diffusion of specific ideas which provide a framework for understanding', deliberation and persuasion (ibid: 7). When formulated in terms of discourse, this proposition implies that a legitimising discourse used by domestic actors for strategic reasons can have cognitive effects in the long term, as discourse 'conveys associations and images that then circulate and transform national references' (ibid). The purpose of this subsection is therefore to test whether one of the main ideas of the legitimising discourse elaborated by the PP in 1999 through the usage of the Tampere Conclusions, Spain's responsibility as the EU's gatekeeper, gained currency in the Spanish parliament in the following years, reframing the mentioned deeply-entrenched notion of Spain's 'Europeanness' as democracy shared by most MPs, which would point to the presence of *cognitive usage*.

For this purpose, the so-called 2005-2005 'immigration crises' appear as a particularly suitable moment to find relevant discursive material: throughout the summer and autumn of 2005, repeated incidents took place in Ceuta and Melilla, the two Spanish exclaves on the Moroccan

coast, as 'hundreds of African immigrants tried to climb the fences of 'Fortress Europe' and several died from the injuries they sustained in the attempt' (Bendel 2007: 32). As for the *crisis de los cayucos*[18], throughout the summer of 2006, what was depicted as an 'avalanche' of sub-Saharan immigrants tried to reach the coasts of the Canary Islands, hundreds of them dying or disappearing before arriving. Given the humanitarian and symbolic[19] issues at stake, both events were intensely mediatised and soon labelled as 'crises', although similar episodes have happened regularly in both locations since the 1990s.

Thus, 2005-2006 was the perfect moment for the PP's idea of Spain's role as 'the EU's gatekeeper' to germinate and spread out. Firstly, during both 'crises' the EU's external border was under an extraordinary migratory pressure, so Spain's border-control responsibilities can be expected to have come to the fore in parliamentary debates. Secondly, given that cognitive usage is only observable over a relatively extended timeframe, the fact that these events happened several years after 1999 makes it plausible to assume that there might already be signs of an increased conviction among MPs of Spanish duties concerning the EU's external border.

Yet, an analysis of 2005-2006 parliamentary debates shows that, instead of the PP's idea of Spain's responsibility as the EU's gatekeeper, it is rather the EU's responsibility upon Spain what appears to be increasingly prevalent in the Chamber, this reframing of the notion of responsibility taking place in two steps: in 2005 the emphasis is on Ceuta and Melilla being 'European' and on the need for the EU to contribute enough means to control a border which is as European as Spanish; this discourse is taken further in 2006, MPs not only criticising the EU for ignoring its responsibilities upon Spain, but stressing the EU's collective responsibility upon Africa, as it is detailed below.

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[18] *Cayuco* is a fishing-boat used in Mauritania.
[19] In both cases, it was difficult not to evoke the image of 'Fortress Europe' being 'assaulted' (Ceuta y Melilla) or 'invaded' (Canaries).

Concerning the first step mentioned, it is striking how in 2005 Ceuta and Melilla were systematically depicted as gates *to the EU* or even as *EU enclaves*, their fences materialising *Europe's* Southern border (CG2005a: 14-15; CG2005c: 7). Furthermore, there was a generalised awareness that the events happening in both cities had to do with their *belonging to the EU* (CG2005c: 4). Consequently, the border to be controlled was *both* Spanish *and* European (CG2005a: 3), the fences surrounding the two cities being referred to as '*our* external borders' (ibid: 8-11). This complete merging of the Spanish and European status of Spanish territory and its borders was in turn discursively linked to the EU's role in the 'crisis': inasmuch as African immigrants were trying to jump the fence because they 'want to get to Europe', the problem was 'European' or 'Europe's' (CG 2005b: 6002), the EU being *also* responsible for its solving.

In keeping with this reasoning, the members of the PSOE government insisted before the Chamber on the initiatives taken to raise the issue at the EU level. Whilst the executive acknowledged Spain's responsibility for rigorously controlling the EU's border in both cities (CG2005c: 7), the notion of responsibility is not framed as it was in 1999, as a further element is incorporated into this discourse: precisely because the fences around Ceuta and Melilla are a 'common' EU border, Spain's tasks as gatekeeper are carried out 'in the name of the EU', which means that the latter must provide the necessary means for these tasks (CG2005a: 21), all 'EU partners' being expected to show solidarity with Spain (CG2005b: 5928).

This discourse emphasising the EU's responsibility upon Spain was taken a step forward in 2006, the Canary Islands being similarly framed as 'European territory' and the 'crisis' as a common EU problem. This time the EU was even criticised by MPs of different political signs, being perceived as 'washing its hands' of the Canaries (CG2006b: 9850). Furthermore, commitments made to Spain by the EU, especially regarding FRONTEX's deployment, were systematically perceived as 'not enough', 'scarce' or even 'a joke' (ibid: 9853). This broad

consensus on the lack of solidarity and commitment (CG2006c:26) on the part of the EU and its

Member States (ibid: 9854) led MPs to insist on the crucial importance of engaging 'Europe' in

this matter, making Member States feel involved in the Canaries' situation, the Spanish

government needing to be more proactive at the EU level (ibid: 9862).

More interestingly, the notion of responsibility was reframed in 2006 as collective

responsibility (CG2006c:26) or 'co-responsibility'. Behind this new twist of the term there is not

so much the idea that the EU must help Spain in its 'gate-keeping' tasks, but rather the

emergent awareness that Spain, as 'Mediterranean' country, must take on a leading role at the

EU level to make Member States aware of their collective responsibility towards Africa,

especially as far as cooperation with 'countries of origin and transit' is concerned. For instance,

some MPs urged the government to take advantage from the salience of the crisis in the

Canaries to bring Europe back to the African continent, to persuade the EU of the failure of its

attitude of 'giving the back to Africa' and of the pressing need for it to 'look south' (CG2006c:

44).

When compared to the 1999 competing notions of Spain's responsibility as European country

exposed above, what is most striking about the 2005-2006 reframing is that both 1999 ideas

insisted on *Spain's* responsibility, on the crucial importance for Spain of proving that it was an

EU Member State on its own right by living up to its 'Europeanness', be it by honouring its

duties as 'the EU's gatekeeper' or by adopting socially-advanced legislation. In contrast, less

than a decade later, MPs seem to be far more aware of both *the EU's* responsibility upon Spain

and *Spain's* responsibility as 'Mediterranean country' at the EU level and internationally.

Thus, it is possible to conclude that, even if in 2005-2006 there is some evidence for the

diffusion of the idea of 'responsibility' and thus for *cognitive usage*, its reframing by MPs

points again to the uneven effects of any usage of the EU: whilst usage ultimately leads to

'reconceptualise interests, reshape institutions and reframe culture' (Schmidt and Radaelli

2005: 19), refraction makes the concrete results of this process not only uneven but also unpredictable, as it emanates from the example of the usage of the Tampere European Council by Spanish policy-makers.

VI. Conclusion

This paper has attempted to shed some light into the uneven Europeanisation of Spanish immigration policy by unpacking the micro level of domestic actors and analysing their usage of the EU, taking as case study the Tampere European Council and its usage by national policy-makers. By means of a 'bottom-up' and 'subject-centred' approach to Europeanisation, and the conceptual instruments of *usage* and *discourse*, it has been detailed through what mechanisms and with what aims Spanish politicians use the EU, as well as explaining through the notion of *refraction* why the effects of this usage are not only uneven but also unpredictable.

Through the in-depth analysis of the usage of the Tampere Conclusions, it has been examined how and why this non-binding EU document was used in a *legitimising* way in 1999 and a *strategic* way in 2000 by PP members, also testing the presence of *cognitive* usage with regard to one of the main ideas introduced by the PP in 1999 drawing on this EU document: Spain's responsibility as 'the EU's gatekeeper'. As it can be concluded from this case study, domestic actors selectively seize and use EU resources, acting as interpreters and elaborating a discourse which is contingent on their specific domestic aims. However, the effects of this usage are always uneven, inasmuch as discourse is *refracted* into the ideas and identities of domestic actors. The example of the usage made by Spanish actors of 'Tampere' illustrates the uneven impact of any usage, inasmuch as the idea of 'responsibility' advanced by the PP was not only refracted through an alternative notion of democratic responsibility in 1999, but also reframed in 2005-2006 within a broader EU-Africa framework.

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Among the many issues raised by this dissertation which would benefit from further exploration, the links between Spain's identity as 'newcomer to Europe' and the Spanish parliament's relative progressiveness on immigration seem especially significant. Furthermore, the question should be asked whether the depicted pro-migrant stance of most parliamentary groups in the Spanish parliament is likely to make its voice heard at the EU level in the near future, or at least to keep *refracting* the EU's restrictive discourse on immigration, especially in the context of the current recession.

Ultimately, this paper has shown the analytical potential of approaching Europeanisation 'bottom-up' and 'bringing agency back' into its study, as only from this perspective it is possible to understand that *Europeanisation is always uneven*, not only across Member States, but also across domestic actors. In this regard, the notion of *refraction*, as conceptualised in this dissertation, appears as a promising tool not only to unpack the micro level of the subjects of Europeanisation, but also to unveil the crucial role played by their ideas and identities in any process of domestic change.

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