

The Influence of National Institutions on Post-Arrival Enforcement Regimes; Institutional change in Federalist Belgium and a Centralized Netherlands.

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Abstract:

This qualitative research follows earlier research conducted on the immigration and deportation policies of various E.U. member states, which have showcased varying policies and policy changes nationally, even within the overarching structure of E.U. policy with regard to migration into the shared borders of the E.U. and its Schengen Zone. It will focus on E.U. member states Belgium and the Netherlands, as a result of their proximity, and variation with regard to policies of deportation. Through theories on irregular migration, institutionalism and institutional layering or change, an attempt is made to highlight the national, unique contexts in which member state policies regarding irregular migration and deportation take shape. It is argued here that the culturally and historically unique national contexts, and the resulting unique institutional scripts influence the possibilities for change with regard to institutions and actors dealing with deportation. This in turn partly influences the national policies, tools, and outcomes of the varying national post-arrival enforcement regimes in the E.U.

Keywords: *irregular migration, post-arrival enforcement, institutionalism, E.U. immigration policy, the Netherlands, Belgium.*

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E.U. Member States Belgium and the Netherlands: Irregular Migration, Deportation Policies and National Institutional Variance.

Migration in the 21st century has been a hotly contested topic both publicly and politically. It is defined by the International Organization for Migration as “the movement of persons away from their place of usual residence, either across an international border or within a state (IOM).” This process occurs across the globe and in all nations, and has occurred continuously throughout history. Migration, as a timeless human phenomenon, is as a topic very much present in the public and political debates. It has captured the attention of the national institutions and political arena of each nation state, and very much so in Europe in recent years. The conceptual gap exists between what is deemed regular migration, which was desired and necessary, and irregular migration which was undesired and politically charged (Ambrosini, 2015). From stricter control in Europe by the 1970s, and migration’s debut in what Castles terms ‘high politics’ in the 1990s, the topic became ever more prevalent on national, institutional and political agendas (Castles, 2004, p. 857). Liberal entrance policies and irregularity morphed into more stringent controls regarding the borders of national citizenship. At times tolerated irregularity became policed illegality, excluding migrants from “the normal standard social phenomenon (Ambrosini, 2015, p. 144).” Nowadays immigration control is evident in many fields, from immigration policy on an international, diplomatic scale through by bilateral agreements between nations or within political/economic unions, all the way down to the local municipal level of control over people residing within a given territory (Lahav & Guiraudon, 2006; van Houte & Leerkes, 2019; Ambrosini, 2015).

The possibilities for the deportation of migrants in a given national territory is an important aspect of immigration control, as it signifies state capacities to enforce its specific laws. The post arrival enforcement regime in Europe, mostly specified on either forced return or Assisted Voluntary Return (AVR), has been one of the tools for states to enforce the deportation of irregular migrants (van Houte & Leerkes, 2019, Ambrosini, 2015). There exists, however, a wide variety of enforcement regimes in Europe, due to the plethora of different European states, with varying institutional contexts, who design and implement different policies in unique contexts. This has been found to be the case in research done over the last couple of years, showing that despite a supposed unifying structure in the form of the

E.U. and agreements such as the various Dublin accords, Schengen members still exhibit a variety of deportation laws, policies, and capabilities (Van houte & Leerkes, 2019; Leerkes & van Houte, 2020).

The Netherlands and Belgium, despite their supposed unity under the Schengen Agreement and the subsequent Schengen Convention, have exhibited a variety of differences in their deportation regimes. The Schengen agreement was signed in 1985 in Luxembourg by Belgium, the Netherlands, Germany, France, and Luxembourg itself (Popa, 2016). It was further developed through the Schengen Convention in 1990, and eventually implemented in 1995 (Schengen Area, 2020). It was designed to allow citizens of these countries to travel, work and live in any of the other countries freely, and to facilitate increased national cooperation between member states (Schengen Area, 2020).

While the Schengen Zone has had a great effect on both Belgium and the Netherlands, both still maintain control of their national territories. However the European agreement which saw the abolition of internal borders, visa requirements and a common visa policy was in part intended to ease travel and trade, as well as harmonizing various European countries' policy regarding cross border issues. Despite this, policies regarding the deportation of irregular migrants in these two countries vary, as do the policy outcomes. The Netherlands is leaning toward what Van Houte & Leerkes (2019) describe as a 'total regime' (p. 20). Belgium, on the other hand, has demonstrably lesser rates of return based on Assisted Voluntary Return (AVR) and Forced Returns, leading to their categorization as a 'non enforcement regime', or 'hampered regime' based on the most current literature (Van houte & Leerkes, 2019, p. 11, Leerkes & van Houte, 2020). What has been interesting is to research the unique national institutions and the change occurring within, which might influences this policy variety in terms of formation and output.

One of the many reasons for the existing variety in policy regimes dealing with irregular migration and deportation is indeed the fact that these are independent countries, with different political frameworks and institutional contexts. It is this, specifically, that was the focus of this research, as the influence of national institutional contexts remains very important to the study of (non)deportability in the E.U. As a result, theories on institutionalism and change within institutions can be useful in finding evidence of variance within these national contexts. Institutions, which encompasses a plethora of elements, from government forms, to citizenship regimes, to the dominance of certain discourses in the

public or media can vastly influence the trajectory for policy changes, as preexisting laws, agencies, and actors influence what develops further. Even in the unifying context of E.U. regulations national contexts differ in the E.U.; what is necessary is to study why this variance remains prevalent.

For this research two E.U. member states, namely Belgium and the Netherlands, were analyzed in order to ascertain whether institutions dealing with irregular migration and deportation within national contexts differ, despite the overarching existing E.U. policy framework. Furthermore, the aim is not only to find evidence of variance, but also to link this the theories of institutionalism and institutional change and show the influence of historically unique institutional national developments.

This variety in both national institutional context and possible changes to migration law and policies is exactly what has been studied in this research, and specifically was focused on two E.U. member states, the Netherlands and Belgium. Through an institutionalist perspective an attempt was made to highlight national variance within migration laws and practices, despite the overarching existence of E.U. policy. Several of the institutions that have been found to be influential are firstly Belgium's federal system, and the resulting focus on regional/local authority with regard to irregular migration and deportation, alongside the Netherlands centralized, corporatist leaning government form. Furthermore, access to the welfare state is crucial to identifying differences between these two E.U. members. Further influence can be found in the actors present in the political institutions of Belgium and the Netherlands, as their framing of irregular migration in their respective contexts vary. Through utilizing these theories on institutions and institutional change a cause can be seen for the various regimes of deportability that exist within the overall unifying structure of E.U. policy. The tools that each nation has to enforce deportability originate from two main dimensions. Leerkes Van Os & Boersema (2016) identify these two main dimensions of the deportation regime utilized by nations; namely the infrastructure to apprehend and deport irregular migrants, and secondly the infrastructure to seduce, convince, or discourage irregular migrants into leaving (p. 3). Both are relevant in the research on institutional change with regard to irregular migration, as both can influence what change occurs as a result of exogenous shocks to nation states.

Historical institutionalism, and institutional layering, or change, are useful lenses through which to study this variety in institutions and their influence on the deportation of

irregular migrants. Institutions can be best seen through examples, such as political institutions like ministries, parties, citizenship regimes, legal systems, or the character of civil society, to name a few. The crucial view within historical institutionalism is that dubbed the ‘artificiality’ of politics; in other words the shaping of politics by the institutions it operates in (Immergut & Anderson, 2008, p. 347-348). Institutions, as cultural scripts which are uniquely molded by context and history, are “socially constructed in the sense that they embody shared cultural understandings of how the world works (Scott, 1995, p. 33... as cited in: Thelen, 1999, p. 386).” These understandings have been molded by historically unique contexts which influence how institutions develop and change over time. Migration, and the policies designed for controlling migration are similarly shaped by the institutional context they exist in, and are molded by these unique national understandings of how the world works. With regard to the various deportation regimes of European nations it is believed to be useful to research through this lens of institutionalism, as institutions help define both the politics and policies that lead to the deportation of irregular migrants. The need for this is visible in the variance existing in the E.U. member states of The Netherlands and Belgium, not only concerning deportation numbers and effectiveness, but what possibilities there are for changes within national laws and practices. Through various research already conducted, it was apparent that institutions and institutional contexts are partly responsible for shaping the eventual post arrival enforcement regimes (Castles, 2004; Lahav & Guiraudon, 2006; Gibney, 2008.)

Through the use of theories of institutional change, I have analyzed the influence of institutions specifically on the migration debate (Mahoney & Thelen, 2010, Thelen, 2009, Van der Heijden, 2011, Aoki, 2001). Institutional change denotes the “partial renegotiation of some elements of institutions, the crafting of new elements on to institutions, amendments, additions and legal changes to institutional frameworks (Thelen... as cited in Van Der Heijden, 2011, p. 11).” Steinmo (2008) identifies with the crucial role of institutions and national contexts, because the way they have historically evolved partly determines what is possible as an outcome with regard to changing said institutions. One important distinction within the literature on institutionalism, and institutional change is that between incremental change and exogenous shocks (Van der Heijden, 2011, p. 9). For the purposes of this study it will not be possible to focus on incremental change in the Netherlands’ and Belgium’s institutions, mostly as a result of time constraints. Therefore, I identified one exogenous shock which is useful in the study of the influence of institutions with regard to the varying

states' post-arrival enforcement regimes. This shock to their institutional contexts was the creation of the Schengen Zone, and its effect on the laws and practices dealing with the deportation of irregular migrants within the unique institutional contexts of the Netherlands and Belgium. The research question, focused on the influence of national institutional contexts on policies directed toward irregular migration is accordingly as follows.

What institutional context existed in Belgium and the Netherlands prior to the creation of the Schengen, and how did they differ?

I selected a further sensitizing question in order to dive deeper into the institutional characteristics which set these the political institutions of these E.U. members apart, and the influence of actors within institutions on policy changes with regard to their respective post-arrival enforcement regime.

How was the exogenous shock of the creation of the Schengen Zone constructed as a challenge by actors within Belgium's and The Netherlands' political institutions?

For the purposes of comparative analysis these two European countries were chosen, as their proximity and language, as well as their membership to the European Union provide a solid basis for researching evidence of institutional change in their respective post arrival enforcement regime. The creation of the Schengen Zone marked a great change in the international context within which European states' institutions operated, so it can be very beneficial to study these institutional influences regarding an agreement that facilitated (labor)migration on such a grand scale. This shock was relevant not only to the cases of Belgium and the Netherlands, but all European countries that dealt with the changes as a result of joining the Schengen Zone. In this regard, this study could potentially be useful in studying institutionalism with regard to irregular migration in a great many other European nations.

The institutions that I found to be related to institutional change in post arrival enforcement regimes were Belgium's federalist state form, the Netherlands' centralized form of government, their various ministries, the differing welfare regimes and their respective citizenship regimes and the legal system. In these countries a variety of policies and measures have been attempted in order to address the presence of irregular migrants. This study will trace the changes to the constitutions and laws of both countries occurring around the time of the start of the Schengen Zone in 1995. The choice for these two European

nations needs to be explained on the basis of strategy; both the Dutch and Flemish languages are accessible to me. Additionally, their proximity coupled with their distinct institutional and political variety will provide valuable insights into the influence of national institutions on national policies regarding the deportation of irregular migrants.

Theoretical framework: Irregular Migration, Institutionalism and Change.

Migration as defined earlier is a globe spanning process which influences every nation state. While it is both timeless and a natural part of human society, the nation state model has ever more clearly distinguished between those who 'belong' and those who do not; citizens and non citizens, or regular and irregular migrants. Migration itself happens for many reasons, of which Castles (2004) names a few: "Chain migration and networks, family and community position within the lifecycle, The migration industry and policies as opportunity structures (p.859-863)." However with the advent of nation states and citizenship regimes, migration changed and was influenced by the national policies and laws for stimulating or restricting both inward and outward migration (Vink & Bauböck, 2013). By identifying who is a citizen and who is not, the distinction between citizen and migrant became legally clear (Vink & Bauböck, 2013; Vink, 2015). Laws and policies were implemented in order to gain political or national/institutional control over the process of international migration, leading to structures of national and international immigration control. These policies for immigration control in Europe truly gained momentum after 1994, with the electoral attention increasing significantly (Lahav & Guiraudon, 2006, p.201-202).

Firstly, an attempt was made to distinguish regular migration, which was desired and necessary for many countries, from irregular migration, which was uncontrolled and unwanted politically (Ambrosini, 2015). Illegal was the initial term, which denoted a "term of exclusion from the 'normal' standard social phenomena (Ambrosini, 2015, p.144)." Irregular has much the same definition, and Ambrosini (2015) identifies two dimensions influencing the relationship between a society and its institutions vis á vis those deemed irregular migrants. These are authorization and recognition, wherein authorization deals with the institutional arrangements governing the status of irregular migrants, and recognition deals with how society perceives those migrants (Ambrosini, 2015, p. 146). This definition, and the distinction between regular and irregular migrants, varies depending on the national institutional contexts within which policies are made, leading in many cases to quite distinct

regimes attempting to control irregular migration. From the Dutch *Vreemdeling*, to the German *Ausländer*, to the U.S. terminology of Alien, each nation has its own context in which it develops ideas about, and methods on how to deal with migration in all forms.

Migration to these defined polities is affected by the specific national policies they enact, which vary widely across Europe and in fact the world. Irregular migration arises out of the relatively recent (1990s) turn towards restrictionism, and the securitization of migration (Lahav & Guiraudon, 2006, p. 204). This is partly as a result of a “failure of states to effectively manage migration and its effects on society (Castles, 2004, p. 852)”. As irregular migration is seen as a failure to ‘protect’ the citizenry and territorial integrity, politics in many European countries including Belgium and the Netherlands has attempted to address the issue of irregular migration more fiercely.

The attempt at controlling this irregular migration by states is done through many avenues on international, national, and local level. From policing a given national territory in search of irregular migrants, to bilateral agreements, to programs of assisted or forced return; all are tools for national governments to address migration outside of accepted avenues (Lahav & Guiraudon, 2006; van Houte & Leerkes, 2019; Ambrosini, 2015). This nexus of control options and deportation tools will be referred to as the post-arrival enforcement regime, a term already in use in previous research on the topic (van Houte & Leerkes, 2019). Immigration control can take many forms, from clear examples like border control, to more externalized efforts through the incorporation of various actors via visa regimes, carrier sanctions, and bilateral agreements (Lahav & Guiraudon, 2006, p. 209). Other possibilities for immigration control can include bilateral agreements, or more local incentives for Assisted Voluntary Return (AVR), measures for forced return such as policing and detention, and institutional or social exclusion through the denying of access to the welfare state and citizenship laws (van Houte & Leerkes, 2019, p. 15-16). While naturalization has always been one option, Gibney (2008) among others see that deportation, or the removing of persons illegally residing within a territory, has gained traction in the political arena of nation states (see also: Ambrosini, 2015; Castles, 2004). Attempts at control over irregular migration has been shown to vary greatly in terms of scope and methods, even in the overarching structure of the E.U. and the common laws to deal with irregular migration (Leerkes & van Houte, 2020).

All this has lead researchers to ask where this variance arises from, and it is this direction in which the theories on institutionalism, institutional change and the narrowing elements of institutional path dependency can perhaps shed some light. The same indeed can be said for the Netherlands and Belgium, who exhibited differences when it comes to the development of migration policy and the subsequent post arrival enforcement regimes. What this research has discovered is that these differences in policy and tools partly arise out of the specific national, cultural, and institutional contexts from which they originate. However, these unique national contexts operate in a wider setting, namely the E.U.'s borderless Schengen Zone. Through consecutive agreements such as the Dublin Convention, treaties were implemented that were aimed at unifying the disparate national policies within the E.U., and create unified laws and policies designed to deal with the deportation of irregular migrants. The Dublin Convention, in 1990 shows clearly the beginning influence of external laws changing the national constitutions of Belgium and the Netherlands, as it determined that the state who authorized the entry of an (ir)regular migrant or refugee must be responsible for their application, and this needed national legal changes (Hurwitz, 1999). Boundaries between those who belong and those who do not, according to E.U. policy, was supposed to be instrumental in moving national policies with regard to irregular migration and deportation in the same direction, and yet the variance at the national level is influential in preventing this from happening fully or effectively (van Houte & Leerkes, 2019).

Historical institutionalism highlights one of the root causes of this national variance, as the unique contexts of national development came to be as a result of this unique context, and institutions were built on the partial remains of institutions that came before it (Immergut & Anderson, 2008, p. 349). Besides unique historical contexts, states differ based on the choices actors within institutions on what to preserve, and what to change (Immergut & Anderson, 2008). Furthermore, historical institutionalism emphasizes that the 'rules of the game' matter, and that not only interests, but also the behavior of actors is influenced by the unique historical context existing in each nation.

According to institutionalism, it is institutions that help shape the politics, and therefore policies, of each nation, with large varieties existing across Western Europe. Institutions can be defined as "the informal rules of the game, organizational patterns of political behavior, and organizational structures both within and outside of government (Immergut & Anderson, 2008, p. 345-346)." Within these organizational patterns and structures actors such as politicians, lawmakers and judges operate, and at the same time are

influenced by them. Institutions can also be seen as social categories and cultural scripts which identify categories of social actors and their place within the system (Abdelbnour, Hasselbladh, & Kallinikos, 2017, p. 1777-1778). Thelen (1999) reserves a powerful role for culture within institutions, as they are concurrently socially constructed and act as a nationally and culturally unique manual, conceptualizing how the world works according to this specific group of people. These socially constructed scripts, developed through time in a unique way for each nation state. The actors operating within their structures are therefore constrained by these existing organizational patterns and cultural scripts. The effect of unique cultural developments over time has an effect on the pathways institutions take to change over time. Furthermore culture itself, when organized socially in defense of an existing national order can be a defining element of that nations trajectory regarding institutional change (Heydemann, 2008, p. 31)

Historically each independent nation developed its own institutions, run by its own political elites. Throughout time these political elites made decisions on what institutions to preserve and what to change leading to vastly different institutional contexts (Berger, 1973, p. 334... as cited in Immergut & Anderson, 2008, p. 349). The historical process of changing institutions (and the policies coming out of them) is best viewed through institutional layering, a term developed further in recent times by Kathleen Thelen. Institutional layering, or the changing of institutions by the adding or removing of elements such as actors, rules, regulations, bureaus, ministries or departments is useful in identifying how institutions change, and in what circumstances change occurs (Van der Heijden, 2011, p. 11). In her work she identifies two main forces influencing the process institutional layering, namely incremental change and exogenous shocks (Van der Heijden, 2011, p. 9, Thelen, 1999). As much other research on institutionalism refers to layering and change identically, this research will utilize the more common term change to denote the process of layering.

For the purposes of this thesis a choice was made to focus on the creation of the Schengen Zone as an exogenous shock that influenced institutional change, and more specifically a shock that was crucial in the shaping of modern institutions dealing with deportation in the Netherlands and Belgium. The creation of the Schengen Zone, while planned, represented a large outside influence on national policies of immigration and deportation. E.U. member states, including the Netherlands and Belgium made changes to their national constitutions, and had to deal with the influence of other national parliaments

throughout. The outside influence, and the drastic change this borderless Union advocated, fit the terminology of an exogenous shock well.

Naturally institutions are part of the answer as to why policies arise in their specific form. Other related theories of path dependency and new institutionalism contain related analysis, but allow for more influence of the actors that operate within a nation state's institutional context (Hira & Hira, 2000; Abdelbnour, Hasselbladh, & Kallinikos, 2017). The difference between institutionalist theory and new institutionalism can be summed up quite clearly through the concept of rational choice. Developments in institutional change occur in order to ease transactions, be they economic or social, and actors are influential in decision making (Hira & Hira, 2000, p. 268). However, in new institutionalism, the state as addressed here is seen as an autonomous entity which offers a restricted set of options; based on culture, history, institutional context and more (Hira & Hira, 2000, p. 271-272). Thelen (1999) herself shows the role of politics to be crucial in institutional developments, as those who wield political power are reflected in the institutions they govern, which in their turn "magnify particular patterns of power distribution in politics (p. 394)." What this means is that over time, as institutions change, the script of choices, and avenues for change, narrow as both politics and institutions create and maintain policy based on existing social scripts, which narrows choices. After new policies are enacted, the possibilities for change in different directions becomes even more limited.

Rational choice has become an influential force in sociological studies of institutions and politics, however it seemingly can not explain the vast degree of variation between nations in for example effective post-arrival enforcement. Based on rational choice, effective policies from other countries would be quickly implemented to improve national policy effectiveness, and yet this often not the case due to the aforementioned institutional context (Shepsle, 2008). Rational choice posits that actors within an institution create this institution fully through rational policy making, and are in essence the institution in which they operate. In short, "rational behavior, expectations, and the expectations for the rational behavior of the other creates the institution and the 'rules of the game' (Shepsle, 2008, p.3)." The clear limitation to the rational choice theory lies in its name; any actor is only approximately rational, and as mentioned before actors within institutions make choices under pressure from many factors (Shepsle, 2008, p. 32). By identifying the influence of context, the new institutionalist approach clearly touches upon path dependency; institutions and their historical roots influence policy creation, output and effectiveness in varying degrees, in

differing nation states (Hira & Hira, 2000, p. 274). To put it more simply, what exists with regard to national, institutional cultural context partly, if not greatly influences what institutional change is possible; this is also evident in the two cases, Belgium and The Netherlands.

In their respective contexts Belgium and the Netherlands vary greatly on several crucial fronts. First and foremost is their varying welfare regimes, which will be shown to be instrumental in influencing the debate on post-arrival enforcement regimes. Evidence from this research clearly identifies a distinction with regard to their approach toward irregular migration and deportation, and the potential consequences for both the state and the migrant. In a debate on an immigration law (*vreemdelingenwet*) D66 parliament members debated about the institutional exclusion of migrants, to which the cabinet response was clear: only irregular migrants were to be totally excluded in order to protect citizens' rights, in this case being the welfare regime of the Netherlands (Tweede Kamer der Staten -Generaal, 1996, Nr. 7). In Belgium's case, a new government had been installed less than a year before this debate took place in the Netherlands, and in the opening speech of the new cabinet a distinction can clearly be seen. Whereas the Netherlands' focus was on protecting the welfare regime, Belgium's cabinet called for a consequent migration and integration policy which will protect illegal migrants against abuse by employers, and to prevent them falling into the informal economy and society (Kamer van Volksvertegenwoordigers van België, 1995, SE 1995 BZ). The data will further dive into where this variance of approach comes from, and the role of institutions herein.

Furthermore, Belgium's federalism, and its resulting devolutionary practices differ greatly from the Netherlands' model of central national government, and this has already shown to have an influence in nationally effective integration (Adam, 2013). This research will show that this effect is as strong with regard to the creation of post-arrival enforcement regimes. Lastly, the Netherlands citizenship regime as compared to Belgium's ethnic (Flanders) and civic (Wallonia) mix is another institutional characteristic that could clearly show its influence in effective policies for post-arrival enforcement (Bertossi & Duyvendak, 2018, Adam, 2013). In fact, Belgium has one of the most liberal citizenship regimes in Europe, with having residence, or family members residing in Belgium being the main criteria for gaining citizenship (Corluy, Marx & Verbist, 2011, p. 355). In Belgium a combination of *jus soli* and *jus sanguinis* exist, influenced by both changing citizenship laws and outside pressure, as well as distinctions between federal regions (Vink & Bauböck,

2013). What this already indicates is that citizenship regimes in both countries has a direct effect on laws dealing with irregular migration.

To sum up there are several elements within the sociological study of institutions and institutional change which are crucially needed when utilizing these theories with regard to immigration control. Firstly, rational actors occupy the spaces of institutions and also influence institution formation; therefore their role within processes of institutional change in response to exogenous shocks must be especially studied. Secondly, actors are concurrently prohibited from 'free' action as institutions partly define, frame, and constrain their actors within specific contexts. Also, approximate rationality is still far from full rational choice. Furthermore, the institutional contexts of Belgium and the Netherlands partly influence not only the type of responses from both politics and society in general, but the way these responses are framed. Lastly, my research aims to provide a basis for analyzing the influence of institutions and institutional change with regard to immigration control through deportability. In the European Union, questions on the influence of national institutional contexts are crucially important in understanding the future for Europe-led, and produced, policies on immigration control and its potential pitfalls.

Primary Data and The Method of Data Collection.

The methods for my research aim for a qualitative case study of both Belgium and the Netherlands, and more specifically a case study of the influence of their varying institutional contexts with regard to the existing post-arrival enforcement regimes. Through qualitative content analysis, parliamentary debates, question sessions, plenary gatherings and official documents of both the Dutch and Belgium parliaments will be analyzed. Qualitative content analysis is at its core, "a searching out of underlying themes in the materials being analyzed (Bryman, 2016, p.562). Furthermore it implies a view of the inductive relationship between theory and research, wherein the emphasis is on the socially constructed nature of social properties (Bryman, 2016, p. 375). This research will include a mix of both inductive and deductive methods, as part of the research is informed by theory, while data analysis will also influence concepts or codes. This approach lends itself well to the study of the role of institutions and institutional change, as both are socially constructed. Furthermore, the actors operating within institutional frameworks are influenced by the them while concurrently influencing institutional change (Abdelbnour, Hasselbladh, & Kallinikos, 2017). Through

qualitative methods such as sensitizing concepts and open-axial coding a document analysis will be conducted of various official government publications regarding the debate on the post arrival enforcement regime of Belgium and the Netherlands.

This research will aim to provide a document analysis of parliamentary records of both the Belgian Federal Parliament and the House of Representatives of The Netherlands. these strategic cases were chosen based on language, proximity, and relevance to the debate on varieties within the deportation regimes of E.U. countries.

As a document analysis this research will focus not only on parliamentary debates and gatherings, but also on government publications, laws, question sessions and speeches by cabinets or political parties. The social setting of politics being conducted has as advantage that it is extremely well document and published in a venue which is open to the public, namely the internet. The amount of data concerning possible insights into institutional change with regard to the post arrival enforcement regime in these two countries makes this research quite feasible in the given timeframe. An important cautionary consideration is the fact that documents cannot always be seen “as firm evidence of what they report (Coffey, 2014, p. 4)”. As such careful consideration will be taken to analyze the data through constant reflexivity concerning both the data and the researchers’ own position.

The research that I conducted on the institutional contextual differences regarding deportation policies in Belgium and the Netherlands was based first and foremost on primary data. The data was collected from the state archives of both the federal Belgium government, as well as national government documents from the Netherlands. I chose to utilize primary data on the basis of several criteria, most importantly the possible subjectivity found in secondary data analysis. Bryman (2016) also highlights this issue, seeing that the secondary data was, in part, influenced by the subjective choices of that researcher, in her/his specific context (p.594). Secondly, my own interpretations of the secondary data may be negatively influenced by my lack of knowledge on the exact process and conditions present in this previous research.

The research I conducted met with several drawbacks. Firstly, contextual factors surrounding this research influenced the collection of primary data. As a result of the outbreak of the Covid-19 virus and the closing of borders, data collection from the physical archives, especially in Belgium, was impossible to conduct. As a result, the internet archives of Belgium’s federal parliament were my only source of primary data, with which there were

some issues. A Belgium law from 1955, the *Archiefwet* allows parliament to publish or omit documents willingly, essentially meaning that records of important debates surrounding the shock of the creation of the Schengen Zone might be omitted from their database. Secondly, Belgium's archives before the year 2000 are based solely on document numbers, and not on content, topic, or even what was recorded, whether it was a question session, law change, or debate. This made it incredibly hard to find real live debates, from the years 1990-1996, in Dutch, on deportation. As a result some of the data on Belgium is presented through the use of secondary data. Lastly, in their government archives, the documents and texts before the year 2000 remained untranslated from French, which is a language I do not command. Based on the fact that Belgium's archives required intensive hours of searching, as there were no usable keywords, search engine, or even titles, it was not simply a matter of handing a French text to an official translator. I would have needed to have the financial means to have a French speaker conduct research in the archives on my behalf, which was neither possible nor secure in terms of validity.

The data from the Netherlands archives was much more accessible, with documents consistently marked based on content, topics, keywords and document type. The search engine was also highly efficient, although at times I also utilized Google's search engine, which was just as effective in finding the documents from the government archive. It is due to these factors that more primary data was collected from the Netherlands, and with the aid of some secondary data from Belgian researchers I was able to conduct my research. This was done using the Dutch language terms for deportation, the welfare state, federalism, and specifically the interior ministry for the case of Belgium. Through this method I was able to access useful data, in between the vast amount of unrelated government documents dealing with Schengen. The Schengen agreement, and subsequent convention and implementation dealt with a plethora of topics and law changes, of which deportation laws or policies were only a small part. Thus, finding specific data on deportation, with regard to the new Schengen agreement, in the respective national contexts, was difficult. Especially in the data on Belgium, if the topic of deportation was addressed, the vast majority of this were individual asylum cases being discussed in parliamentary sessions.

The data collection was based partly on the availability of primary data, and also on the content type of the data. As live parliamentary debates from Belgium in the 1990s were hardly present in their online archives, I attempted to utilize also other document types, such as letters from ministries, statements and most importantly the law changes in the

Vreemdelingenwet and *Koppelingswet* in order to ascertain, based on the theory of institutionalism, what existed before and what was decided in terms of deportation policy. One important note was that initially, the aim was to include some primary data from the Belgium federal region of Flanders, but this was eventually rejected for two reasons. One, if the local or federal data on national deportation laws was to be collected, this would need to encompass all three regions of Belgium, as well as data from the provinces of the Netherlands. This was not possible based on the language barrier present in Belgium, as well as feasibility with regard to time. This regional or federal institutional approach could form the basis of a related, future study utilizing the theories of institutionalism with regard to national variance in post arrival enforcement.

Initially, the specific law changes in Belgium in the form of the *Vreemdelingenwet* (migrant law) and in the Netherlands through the *Koppelingswet* (linking law) provided the basis for my analysis of what existed before, and how that influenced what changes in laws regarding irregular immigration and deportation came to be. Throughout the findings, these amendments to their respective national constitutions were highlighted by both politicians and bureaucrats, and therefore was a useful basis for my primary data. Alongside this, information sessions, parliamentary gatherings, and letters from ministries to the parliament of the Netherlands were utilized in order find primary data on the specific institutional contexts which resulted in variance in the institutions dealing with irregular migration and deportation in Belgium and the Netherlands. These sources were chosen in order to gain a view on the institutions governing the policies of deportation, and also to visualize the existing political views on policies of deportation.

Through the use of sensitizing concepts and various codes I inductively analyzed official government publications in order to see whether evidence of institutional change in the policy field of immigration control through deportation can be discerned. Sensitizing concepts, which “gives the user a general sense of reference and guidance in approaching empirical instances... it merely suggest directions along which to look (Blumer, 1954, p. 7.. as cited in Bowen, 2006, p. 14). Furthermore, codes were throughout the research in order to analytically approach the data (Thornberg & Charmaz, 2014, p. 6). Both open and template coding will be utilized; open codes and concepts which will emerge from the data and pre-formed template codes deduced from the theories on institutions and institutional change (Blair, 2015, p. 17-19). A list of sensitizing concepts and template codes include institutions an institutional change, federalism, citizenship regimes, welfare regimes, legal systems for

immigration control. It is these terms, some derived from the existing theory, which guided my search for evidence of institutional change in the arena of immigration control and deportability. This eventually led to 15 government documents in Belgium and the Netherlands that specifically relate to the changes in laws dealing with irregular migration, and deportation. Table 1 in Appendix A shows directly which government sources were used, a brief description of what this document is, the year, and the place. Furthermore, Table 2 highlights where the primary data was found.

Federalism, Citizenship, and National Institutional Variance in Post Arrival Enforcement Regimes.

The results of this research into the influence of institutions on changes in policies, laws and institutions dealing with deportation came up with some interesting distinctions between the Netherlands and Belgium. In order to clearly show my findings it is necessary to refer back to the research question: what institutional context existed in Belgium and the Netherlands prior to the creation of the Schengen, and how did they differ?

To answer this I utilized the primary data to identify what institution characteristics could potentially influence the possibilities for institutional change with regard to the deportation laws of nations partaking in the Schengen Zone. For the Netherlands, the literature clearly sees citizenship, and the protection of the core benefits of citizenship such as welfare and labor market participation as main drivers for policy changes with regard to the post-arrival enforcement regime (Van Der Leun, 2002; Van Eijl, 2012). Furthermore, the centralized nature of the Dutch government influenced changes through the laws that made the Ministry of Justice in The Hague responsible for all agencies involved in the irregular migration policy field, from the Immigration and Naturalization Service (IND) to the Central Organ for Asylum Seekers (COA) to the courts deciding on whether to declare a migrant illegal (Tweede Kamer der Staten -Generaal, 1996, Nr. 6). What also already existed in the Dutch institutional context was the possibility for coupling identity with social security agencies, as a result of the decision in 1991 to change the *Bijstandswet* (welfare law), so that irregular migrants would no longer have access to the welfare state (van Eijl, 2012, p.183). Alongside this the already centralized role of the Justice Ministry in deportation policies and actions showcase clearly what existed in the Netherlands prior to the start of Schengen in

1995. These elements, the protection of Dutch citizenship, the centralized nature of Dutch government, the central role of the Justice Ministry and the possibilities for excluding irregular migrants through changes in the *Bijstandwet* influenced some of the elements of the *Koppelingswet* (linking law), which has been found to differ from its Belgium counterpart.

In the Netherlands, large scale changes to the law in the form of the *Koppelingswet*, and the various political debates and reactions to this, form the basis of this analysis on changes within Dutch institutions dealing with deportation. Dutch citizens, and the benefits they can access through their citizenship is a red line throughout all parliamentary debates and laws that were studied, and prevalently exists in the discourse of parties on both the right and the left of the political spectrum (Tweede Kamer, 1995, Nr. 148 ; Tweede Kamer, 1996, Nr. 6). Predominantly, the debate centers around the fears of irregular migrants, with topic such as labor market protection, welfare protection, and the possible pull factor resulting from temporary status holders given access to the labor market after some time (Tweede Kamer, 1995, Nr. 147; Tweede Kamer, 1995, Nr. 148). These developments were partly responsible for the policies designed, which as a result of the fear of negatively influencing Dutch citizenship turn out to be much more focused on the policing and deportation of irregular migrants, when compared to neighboring E.U. country Belgium.

In the Dutch deportation policies, the 1990s showcase very well the influence of national institutions on change within, and policies developed as a result. In the question session on the vast changes to the *Vreemdelingenwet*, later referred to as *Koppelingswet*, the state secretary of Justice Schmitz shows how the demand to be registered and identifiable as an irregular migrant already existed; for social security laws there already was a legal necessity to be identifiable, and that this identity can be traced to the current status of the migrant (Tweede Kamer, 1996, Nr. 6). The *Koppelingswet* came together with several other changes in the roles of various institutions, which led to a further centralization of the actors involved in the process of deportation. The Dutch Military Police, a nationally coordinated organization gained the task of *in-policing*, or monitoring internally for illegally residing migrants (Tweede Kamer, 1995, Nr. 147; Tweede Kamer, 1995, Nr. 103). As mentioned earlier, the Justice Ministry in the Hague gained control over nearly the entire process of deportation policy. On top of that, much of the discourse also concerned the creation of detention center Ter Apel, which would in fact act as an unfree containment center for those migrants whose applications for residence were rejected (Tweede Kamer, 1996, Nr. 148).

All these developments paint a picture of what the national political context was like in the Netherlands before, and at the legal start of the Schengen Zone in 1995. What existed already were possibilities for linking the irregular migrant's identity with social security agencies, along with the centralized role of the Justice Ministry in deportation policies and actions. Much concerns the legal protection of citizenship and the labor market, as well as a move toward criminalization in the form of military policing and unfree detention centers (Tweede Kamer, 1994, Nr. 120). Institutional theory is useful in analyzing these law changes as what was shown to exist prior to the start of Schengen influenced the changes made in the *Koppelingswet*. This can clearly be seen in the prior existing changes to the *Bijstandwet* in 1991 which made it possible for the irregular migrants to be denied access to the welfare state. The already centralized role of information systems involved in irregular migration and deportation already existed in some form, therefore the *Koppelingswet* was ever more likely to build upon this, instead of creating completely new policy.

What existed in Belgium was in many ways very different than the existing national discourse in the Netherlands. The largest variance which resulted in differing institutional changes can be found in the concepts of citizenship maintained in Belgium, as well as the fundamental role of (cultural) federalism in the state. At the very core, citizenship itself was a contested topic nationally, with the Walloon and Flanders federal regions differing on the interpretation hereof. Walloon followed more closely a French Republican model while Flanders broadly followed multicultural views that also existed in the Netherlands (Martiniello, 2003, p.230). This has implications for what exists, and the 'hampered regime' in Belgium as indicated by Leerkes & van Houte (2020) has some influence from the institutional views on citizenship. When within a nation different regions claim different ideological roots for citizenship, then determining national policies on who has the right to it, and those who do not and need to be deported, becomes a hampered task.

In Belgium, the changes to the constitution in the form of the *Vreemdelingenwet* were analyzed alongside its Dutch counterpart. Also, the nationally unique views on government and citizenship show the institutionally unique reason for variance in these E.U. countries' approach to deportation policies. The federal model itself lead to the devolved responsibilities with regard to the post-arrival enforcement regime, most clearly visible in the switch of the (irregular) migration portfolio into the hands of the Interior Ministry (Kamer van Volksvertegenwoordigers van België, 1993, Nr. K.133/5). What this law change highlights is the central role of the local municipal government in the post arrival enforcement regime. It is

the local municipalities that are responsible for taking in the claims for asylum, it is their responsibility to judge on these claims, as well as house them within the municipal boundaries (Kamer van volksvertegenwoordigers van België, 1995, Nr. 16). Article 7 talks specifically about the crucial role of local councils and mayors in the decision making process, as they get to decide who gets temporary stay in their locality, or needs to be deported as an irregular migrant. This again indicates the influence of the federal system, as decision making is very much devolved to the local, municipal level.

While municipalities were required to record all decisions and pass this on to the Interior Ministry, research has shown this occurred quite ineffectively as there were consistent problems in communication between departments, as well as wholesale different approaches between regions/municipalities that did not lend itself well to coordination or cooperation (Martiniello, 2003, p. 231). Even in the explanation session (*toelichting*) in 1996 about changes to the *Vreemdelingenwet* the ruling cabinet highlights the fact that so much variance exists on the local level, wherein some municipalities have liberal irregular migration policies while others, such as Namen and Ronse flat out denied the vast majority of applicants (Kamer van volksvertegenwoordigers van België, 1996, Nr. 364/1; Kamer van volksvertegenwoordigers van België, 1992, Nr. 356/1). This naturally results in different approaches, and statistics, when it comes to the post arrival enforcement regime as well; in varying places within the Belgian nation, varying degrees of policies on deportation existed. This is clearly relevant in the debate on path dependency within institutional change, as what comes before partly determines what will be decided next with regard to post arrival enforcement policy (Hira & Hira, 2000). While in the Netherlands registration and the coupling of identity with social security also existed, in Belgium this did not. On top of that, the decentralized local power of municipalities to decide which migrant can stay and which must be deported, along with local information systems, did not lend itself well to the creation of national databases, which resulted in a fragmented policy field (Martiniello, 2003, p.231).

In Belgium, the exogenous shock of the creation of the Schengen Zone arrived in a markedly different context, leading to variance in deportation policies and capabilities when compared to its E.U. neighbor, the Netherlands. First and foremost, federalism in Belgium was concurrently mentioned in government documents as the main institutional factor with regard to the post-arrival enforcement regime. The devolved nature of decision making on those irregular migrants who may stay or must be deported, varied greatly between regions,

and even municipalities within the same region. Furthermore, registration systems remained also in the hands of local and municipal actors/councils, and the communication of this information to the central government was hampered at best (Martiniello, 2003). This in part influenced the law changes in Belgium's *Vreemdelingenwet*, which reinforced the role of local authority in the post arrival enforcement regime. As mentioned by Immergut & Anderson (2008) and many others, according to institutionalism this narrowed the possibilities for changes in the laws and institutions dealing with the post arrival enforcement regime. This meant that before, and after the creation of Schengen, the local power, along with differing views of citizenship in Walloon and Flanders were influential in deciding future changes. These changes then ultimately reinforced the strength of the local municipalities, further empowering the federal model, and further diverging from centralized control or information systems linked to registration.

The second, sensitizing research question was as follows: how was the exogenous shock of the creation of the Schengen Zone constructed as a challenge by actors within Belgium's and The Netherlands' institutions? In the Netherlands, government documents showed a specific framing of irregular migration, namely through fear. The most evident is the prevalence of the 'disaster year of 1994' in the political discourse; fears about the effect of irregular migration on citizenship existed before these law changes were made and Schengen was implemented (Tweede Kamer, 1995, Nr. 148). Here the fear of the irregular migration, and the pull factor if access to welfare and the labor market were liberally accessible, was the dominant theme resulting in even Schengen, an agreement between national governments, being seen as a potential threat (Tweede Kamer der Staten -Generaal, 1995, Nr. 147). Registration and centralization were at the forefront of Dutch policy making in the 1990s with regard to post arrival enforcement, as a result of a fear that Dutch citizenship benefits such as welfare and access to the labor market would pull in undesirable irregular migrants. Schengen, itself an agreement that would open borders and lead to shared responsibilities on irregular migration to the area, came at a time where the discourse in the Netherlands became markedly fearful. As mentioned before irregular migrants had to be kept from accessing the welfare state, and a military police force was given the role of in-policing. Also, the focus in political discussions was very much the creation of unfree detention center Ter Apel (Tweede Kamer, 1996, Nr. 148). The responsibility of a military police force in policing irregulars, and an unfree detention center for those irregular migrants who had been denied (temporary),

and references to the year 1994 are very useful in exhibiting well the existing fear, and the state reaction to those fears.

This question was more difficult to answer for Belgium, primarily due to the lack of available primary data in the form of live parliamentary sessions from Belgium's online federal archives. Crucially, from analyzing the law changes in the *Vreemdelingenwet* and the political reaction therein, there exists no discourse of fear as identified in the national context of the Netherlands. In the aforementioned texts and law changes, not a mention is made at this time for the protection of Belgian's citizenship, or the welfare and labor market rights therein. Verily, even the Flemish party (NVA), which would later notoriously attempt to combat irregular migration, only had questions concerning soft, voluntary deportation policies in line with other E.U. countries (Kamer van Volksvertegenwoordigers van België, 1992, Nr. 225/1). Much concerns the rights of the irregular migrant, their access to translation, and their right to not be detained for long (Kamer van Volksvertegenwoordigers van België, 1996, Nr. 513/1.) This is a marked difference with the discourse in the Netherlands, and showcases again the unique national contexts in which institutional changes are made which influence future policies. While there are attempts on a national level to make a distinction for those in Belgium illegally and in need of deportation, according to the law change in 1996 this has to be done in coordination, and with approval of the local municipal actors (Kamer van Volksvertegenwoordigers van België, 1996, Nr. 364/1). Naturally there are bureaus designed to police municipalities in their actions, and adherence to national laws is necessary, yet there are nevertheless clear differences between municipalities and regions in Belgium (Maes, 2010). In Belgium, Schengen was seen as a challenge mostly in terms of how to coordinate an already fragmented federal system, with large discrepancies throughout, in order to move closer to the E.U. line set in the Dublin and Rome accords (Belgische Kamer van Volksvertegenwoordigers, 1996, 364/1). Fear of a degeneration of the concept of citizenship, or the benefits thereof, was not a theme that was found in any of the government documents on the institutional and legal changes in Belgium with regard to the post arrival enforcement regime. What was a main theme is the central role of the federal, devolved system, and the authority of local municipal actors to decide on issues of deportation.

From the evidence gathered it is visible that the 'hampered regime' as indicated by Leerkes & Van Houte (2020) has, at least in part, roots back into Belgium's national history. The federal system of government, with lots of responsibilities regarding irregular migration

and deportation in the hands of local municipal councils, and no complete national information databases, did not lend itself well to the creation of a ‘total regime’ as evident in the Netherlands (Leerkes & Van Houte, 2020). Furthermore, federalism in Belgium itself allowed for a variety of approaches, and decision making with regard to deportation. With no preeminent national institution for judging on deportation, much room was left for municipal/local actors to make decisions on the deportation of irregular migrants. In this space the varying conceptualizations existing in Belgium on citizenship and who has access to it are varyingly interpreted by different federal and local councils, leading to variety in overall policy, all the way down to variety even in decisions on individual cases of irregular migrants attempting to reside in these communities. In comparison, the Netherlands had already centralized some aspects of registration for irregular migrants, militarized the policing of irregular migrants, and started the construction of the unfree containment center in Ter Apel in order to house those yet to be deported. Furthermore, the national database for those residing in the country illegally was linked not only to the migrants’ identities, but also all levels of social security agencies involved in the welfare state, including housing, schools, and employers (Tweede Kamer der Staten -Generaal, 1996, Nr 204, Van Eijl, 2012).

What existed in E.U. member states the Netherlands and Belgium clearly differed, in many ways. The Netherlands adopted laws and policies surrounding the Schengen Zone, and the removal of external borders, through the unique contextual lens existing there. The disaster year of 1994, a prevalent discourse in the Dutch Chamber of Parliament, weighed heavily on the securitization of irregular migration, as evident in the role of the military police and the purposed need for an unfree detention center. Fear, always a potent tool in the political arsenal, resulted in part in the total regime that is identified today in the Netherlands (Leerkes & Van Houte, 2020). Centralization, already happening before the advent of Schengen and continuing after, through for example the formation of a national police force, showcases path dependency clearly, what exists before will be more easily expanded upon instead of replaced completely.

These differences in deportation capabilities, laws, and actors between E.U. members the Netherlands and Belgium originate in the unique national contexts in which they arose, and had varying outcomes that influence their respective deportation regimes to this day. The exogenous shock of the creation of the Schengen Zone arrived in the Netherlands at a time of centralization with regard to the post-arrival enforcement regime, as well as the disaster year of 1994 which put the fear of irregular migration high on the agenda. In Belgium, the

Schengen Zone was indeed also a shock, with law changes meant to harmonize its policy with E.U. accords such as Dublin. However, the patchwork federal system of Belgium, which devolved both decision making and information systems regarding post-arrival enforcement to the local municipal level, was much more focused on the rights of both those powerful local actors, and the irregular migrants themselves. Protection of the welfare state, or the labor market, was not a topic discussed in the national parliament, while in neighboring the Netherlands it was permanently present in the discourse. All of this lead to differing policies, focused on devolvement or centralization, on citizens' rights or human rights, all in the supposedly unifying structure of Schengen and the E.U.. This is what this research also clearly indicates, that despite over three decades of E.U. policy making with regard to irregular migration and deportation, variance still exists to a certain degree. In this case, the varying institutional contexts of Belgium and the Netherlands lead to differing policy goals, aims, and included actors, which to this day means differences exist within the supposed harmonizing policies of the E.U.

Conclusion: Institutional Change in the Post Arrival Enforcement Regimes of the Netherlands and Belgium.

My research has attempted to shed some light on the root causes of variance between E.U. Member states with regard to their post-arrival enforcement regimes. What has become clear as a result of this research is that the institutions dealing with post arrival enforcement changed in the Netherlands and Belgium according to preexisting, unique national contexts in which policy making takes a path dependent course based on what exists before in terms of laws and institutions dealing with irregular migration and deportation. In Belgium's context, liberal citizenship laws, as well as variance between federal regions and even municipalities in the process of deportation, and the power of the local municipal authorities through the Interior Ministry, was very relevant in the shaping of policies regarding deportation. In the Netherlands, a centralized government had in the early 1990s already made steps toward national databases, and the linking of information systems dealing with irregular migration and deportable migrants. Furthermore, the fear of further 'disasters' as 1994 was called lead to political parties on both sides of the spectrum to claim the need to protect Dutch citizenship, as well as the benefits that came with it. This lead to the formation of varying deportation policies, with varying degrees of succes as indicated by previous research. In the

overarching structure of E.U. policy, such as the Dublin Convention, there are supposed harmonizing policies aimed at bringing national governments in the E.U. closer together in terms of migration to, and deportation from the Schengen area. However, vast historically unique differences in institutions remain, even in close neighbors such as Belgium and the Netherlands.

The theories of historical institutionalism and institutional change were useful in this research for several reasons. Firstly, as the nations of Belgium and the Netherlands have differing historical national contexts, utilizing this theory to provide a basis for variance allowed me to identify differences in their respective contexts. Also, as historical institutionalism focuses on national uniqueness, and the existence of modern institutions built on the remains of the old, it showcases clearly the process of change in post arrival enforcement regimes in Belgium and the Netherlands. This relevance of what had existed before is crucial to understanding the changes that Schengen brought nationally, as the respective historical contexts of Belgium and the Netherlands influenced in part how these countries adapted and changed their national laws to fulfill E.U. obligations. Furthermore, what had existed before in the post arrival enforcement regimes of these two countries neatly fits into the theory of institutional change, as it clearly gave a step by step framework on how to analyze institutional change. The drawback of institutionalist theory can be seen in its broad definition. Most elements of a nation or society can be seen as an institution, from its political institutions all the way to the national language itself. Therefore it is hard to pinpoint where institutional influence ends, and rational actor behavior starts. In my research the broad definition of institutions meant that some information was not useful for empirical research, as showing whether this was as a result of historical, institutional factors would not be possible.

What is crucial here is that these national institutional contexts, which vary across the E.U. even more so than between these two neighboring countries, can very well be instrumental in influencing Schengen Zone policies and their outcome. If institutional variance leads to varying policies between close neighbors within this union, then likely there are far greater institutional contextual factors between other members of the Schengen Zone. Research has shown the variance existing between the Netherlands and Belgium; what then would be the result when institutionalism and change in national post arrival enforcement regimes is tested in other E.U. states, for example Hungary or Greece? Future research could determine further whether the unique historical and contextual factors in each member state

has an influence, and how, on E.U. policy and directives with regard to the post arrival enforcement regime dealing with irregular migration.

What is evident from this research is that E.U. members the Netherlands and Belgium have a unique national historic context which influences in part the decisions made on future institutional changes. The importance of the welfare state, centralization and the fear of irregular migration existing in the Netherlands before Schengen influenced institutional changes to the national post arrival enforcement regime in the *Koppelingswet*. Federalism, especially the rights of the local councils, as well as the irregular migrants themselves were dominant in the Belgium context before Schengen. Likewise, this influenced how institutions dealt with, and changed laws in accordance with their entry to Schengen in the form of the amendments to the *Vreemdelingenwet*. Furthermore, this variance of institutions and actors dealing with deportation leads consequentially to varying policies, and policy effectiveness in general. As the research by Leerkes & van Houte (2020) shows there are clear differences in the approaches, tools, and institutions dealing with the post arrival enforcement regimes of Belgium and the Netherlands, and my research attempts to show that this variance arises in part from unique national historic contexts. A necessary consequence for an E.U. that attempts to harmonize national policies is that perhaps national contexts are more relevant to the debate on post-arrival enforcement regimes. My research aimed to find the unique national variance in institutional contexts and the process of change within them in neighboring countries the Netherlands and Belgium, which among other things share many cultural and historical qualities. In the E.U., there exists greater institutional and historical variance between member states, and the need to study their influence can not be understated.

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Appendix A

Table 1.

Documents.	Type.	Year.	Where.
Voorstel van resolutie betreffende de aanmoediging van de vrijwillige terugkeer van vreemdelingen naar hun land van herkomst.	Proposal for resolution on the voluntary return of irregular migrants.	1992.	Brussels, Belgium.
Wetsvoorstel houdende wijziging van artikel 12 , laatste lid, van de wet van 15 december 1980 betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen.	Law amendments to the <i>Vreemdelingenwet</i> .	1993.	Brussels, Belgium.
Verslag van een algemeen overleg over de brief van de Staatssecretaris van Justitie van 9 november 1994 met de stand van zaken asielzoekersproblematiek.	Report of the parliamentary discussion on the literal problem of asylum seekers.	1994.	The Hague, the Netherlands.
Verslag van een algemeen overleg van de vaste commissie voor Justitie en de algemene commissie voor de Rijksuitgaven met de Staatsecretaris van Justitie over het asielbeleid.	Report of the commission for Justice on national spending with regard to asylum policy.	1995.	The Hague, the Netherlands.
Akkoord tussen de regeringen van de Benelux, de Bondsrepubliek Duitsland en Frankrijk betreffende geleidelijke afschaffing van grenscontroles, Schengen, Brief van de Staatsecretarissen van Buitenlandse Zaken en van Justitie.	Amendments to the <i>Vreemdelingenwet</i> , also collectively known as The <i>Koppelingswet</i> .	1995.	The Hague, the Netherlands.
Brief van de Staatssecretaris van Justitie aan de Voorzitter van de Tweede Kamer der Staten-Generaal.	Letter from the State Secretary of Justice on the disaster year of 1994 and The	1995. 1995.	The Hague, the Netherlands. The Hague, the Netherlands.

	Ministry of Justice's efforts.		
Plenaire vergadering woensdag 28 juni.	Plenary session.	1995.	Brussels, Belgium.
Omzendbrief betreffende de procedure bepaald bij artikel 12bis van de wet van 15 december 1980 betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen en betreffende het recht op verblijf van de vreemdelingen bedoeld in artikel 10 van dezelfde wet	Letter from the Interior ministry on the procedures with regard to (ir)regular migration as a result of the new <i>Koppelingswet</i> .	1995	The Hague, the Netherlands.
Gewone zitting (1995-1996), handelingen van de plenaire vergadering.	Parliamentary session.	1995.	Brussels, Belgium.
Wetsontwerp tot wijziging van de wet van 15 december 1980 betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen.	The law amendments to the <i>Vreemdelingenwet</i> .	1996	Brussels. Belgium.
Wijziging van de Vreemdelingenwet en enige andere wetten teneinde de aanspraak van vreemdelingen jegens bestuursorganen op verstrekkingen, voorzieningen, uitkeringen, ontheffingen en vergunningen te koppelen aan rechtmatig verblijf van de vreemdeling in Nederland.	The law amendments, collectively known as the <i>Koppelingswet</i> .	1996.	The Hague, the Netherlands.
Verslag van een algemeen overleg over de verslagen van de vergaderingen van het Uitvoerend Comité Schengen.	Report of parliamentary discussion on the Committee of Schengen	1996	The Hague, the Netherlands.
Brief van de Staatssecretaris van Justitie, de Minister van Binnenlandse Zaken en de Staatssecretaris van Buitenlandse Zaken.	Letter from the state secretaries of Justice and Foreign Affairs with the Interior Ministry	1996	The Hague, the Netherlands.

	on the steps taken to address the issue of irregular migration		
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Table 2.

Content Type	The Netherlands	Belgium
Parliamentary debates, laws, question session	Chamber of representatives and the Senate: www.officielebekendmakingen.nl	Federal Parliament: www.dekamer.be
Government publications	www.officielebekendmakingen.nl	www.dekamer.be