EU BORDER SCAPES Bordering, Political Landscapes and Social Arenas: Potentials and Challenges of Evolving Border Concepts in a post-Cold War World

SEVENTH FRAMEWORK PROGRAMME EUROPEAN COMMISSION European Research Area

Funded under Sicio-economic Sciences & Humanities

EUBORDERSCAPES

Working Paper 11

The EU's internal market paradigm as de-bordering tool and dominant vision for Europe?

Bernhard Koeppen

July 2015

EUBORDERSCAPES (290775) is Funded by the European Commission under the 7th Framework Programme (FP7-SSH-2011-1), Area 4.2.1 The evolving concept of borders

Abstract

The Internal Market - also “Single Market” - represents a pivotal feature of the European Union.

As the free movement of people and goods is of crucial importance to a “real” single market, the absence of any borders and barriers is not only characteristic, but a basic necessity for the functioning of this market. Hence, it seems very likely that the question of de-bordering within the Union should be a significant concern within EU’s policy. Nonetheless, an analysis of most prominent official EU-documents linked to the Single Market on content referring to border issues and barriers reveals a surprising “absence” of border discourses. Although European economic integration is rather advanced, this ostentatious absence of a “border discourse” is not merely a communication strategy but also following the logics of the Internal Market strategy. Nonetheless, it is obvious that border-like obstacles hindering perfect integration remain persistent.

Anyway, potential border discourses are both rather inessential in the single/internal market context but also purposely avoided. As a matter of fact, de-bordering measures and effects linked to the single market paradigm are founded on purely economic interests. Thus, in a broader context, the question remains whether and why the single market paradigm’s significance is so extremely and ostentatiously dominant in the European project, whilst other prominent fields of policy, such as social affairs or matters of ‘positive integration’ remain marginal or are left to insignificant, weaker mechanisms that have no formal bite.

Keywords

EU-internal border, European internal market, Single market, four freedoms, de-bordering

Acknowledgment

The author thanks Frédéric Durand and Christophe Sohn for their critical comments on drafts of the paper and continuous discussion on this aspect of invisible, yet still relevant bordering.

Introduction - the EU's Internal Market vision as powerful paradigm

The implementation of a true single market – hereafter internal market - is one of the most prominent characteristics of the European Union (EU) and promoted as the *"the EU's main economic engine, enabling most goods, services, money and people to move freely."* http://europa.eu/about-eu/index_en.htm (retrieved 24th of May 2014). The sheer centrality of economic cooperation and activity is already obvious when tracing the EU's history from the European Coal and Steel Community (ECSC) via the European Economic Community (EEC) and the European Communities (EC) to the European Union. The leitmotiv of an extensive economic union, including a monetary union, dates back to the treaty of Rome when the creation of a common market was first agreed. The earnest implementation of an internal market is closely linked to the Single European Act (SEA) of 1987. The *"community shall adopt measures with the aim of progressively establishing the internal market over a period expiring on 31 December 1992 […]"* and that this "*internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of this Treaty."* (Single European Act, Section II, Article 13).

Even though the abolition of internal borders had not been realised by the end of 1992, there is no doubt, that the European Union was (and is) always meant to be "a unique economic and political partnership" http://europa.eu/about-eu/index_en.htm (retrieved 24th of May 2014) with a - per definition borderless - internal market as a core feature. Indispensable and central elements of the European internal market (and any true single market) created in 1993 are the above-mentioned so-called "four freedoms": the free movement of goods, free movement of capital, free movement of services and free movement of people. These freedoms are not only of factual importance but also possess great symbolic value.

A fully-functioning internal market is not only dependent on the four freedoms but also directly connected to an open and operational labour market. It is especially the element of an open labour market, which links directly to the free movement of persons, yet a tangible, physical vision of "borderless Europe". Both internal market and labour market represent two central aspects of the European Union's policy and are consequently subject to two distinct Directorate-Generals of the European Commission: DG Internal Market & Services and DG Employment, Social Affairs & Inclusion.

As already mentioned, the basic requirement for this internal market, whose four freedoms are crucial elements, is the absence of any border or obstacle within the member states. This also implies the need to clearly define (and mention) the external borders of this community. As far as the member states are concerned they can be said to already possess a truly borderless vision as regards economic activity and the mobility of individual citizens. In view of this, one could argue that it follows logically that the critical study of border-related issues should be a major concern to both internal and labour market-related policy and decision-making processes. Borders do hinder the freedoms mentioned above and tend to generate additional negative impacts on economic, social and spatial integration.

On the other hand, if the idea of a fully functioning internal market is "the" dominant paradigm not only economically but also politically, questions on borders and bordering become more or less irrelevant, as tangible borders will vanish in the course of further integration anyway. Against such a backdrop, it is possible that current border issues related to the internal market might just be a transitional topic, one that is perhaps not even worth mentioning. In other words, as soon as economic theory, political vision and the actual European internal market are in agreement, border issues can from that moment on no longer be a serious matter.

Nevertheless, it would be a false conclusion to assume that the intensity or absence of 'official' border discussions can give an indication of how far economic integration of the internal market and the implementation of the four freedoms have advanced. Certainly, fewer border discussions may relate to advanced integration but they might also be due to more or less propagandistic factors (omitting border discussions as taboo in order to pretend there is a fully functioning internal market).

This short outline gives a first indication that researching the border context in the current official EU internal market agenda might be a worthwhile undertaking. The main hypothesis is that an extensive border discourse within the EU's internal market strategy papers should be very unlikely or hardly pronounced (either for conceptual and factual reasons or because of opinion formation), because the breakup and suspension of the internal borders between member states is a basic requirement in this context. Considering the largely shared viewpoint that the European Union's politics performed a major, economy-centred shift by introducing the Lisbon Agenda in 2000 (Huffschmitt 2007, Hermann 2007 or Christian Marazzi in the Guardian 14.09.2010), I will discuss to what extent the internal market (and customs union) leitmotiv may be interpreted as another tessera in the constructing of a increasingly market-liberal European Union. Is the internal market more than just one aspect amongst many others within the Union's first pillar (community integration method)? Furthermore, aspects of 'tangible' de-bordering will be critically examined since the not-yet-ideal internal market does know barriers, obstacles and the phenomenon of (tentative) re-bordering.

Methodology and modus operandi

When it comes to discussions on borders and European integration within an institutional context, the several pre- and post- enlargement periods of the European Union (1971, 1983, 1986, 1995, 2004, 2007 and 2013) might at first sight seem the most promising timelines for the study of possible shifts and changes in argumentation. Especially the last three enlargements (2004, 2007 and 2013), adding a total of 13 new member states to the Union, were - besides their political relevance - important events receiving major public attention.

As for the internal and labour market, it can be stated right away that the integration of the Central- and Eastern European member states in the years 2004, 2007 and 2013 were certainly very particular occurrences, which also relate to various debates. However, there have been policy-relevant events and milestones with an even more important impact on the specific context of the Single European Market/Internal Market.

Although the pre- and post-accession periods of new member states have seen public debates verging on the polemical and media releases related to the possible negative impact of further enlargement on national economies and the EU's internal market, these discussions are not really important when choosing a formal, EU-centred perspective. Their integration into the internal- and labour markets is finally also a motive for candidates to join the Union, whilst the EU is interested in enlarging this market and increasing its potentials and performance by doing so. If the expected advantages for both sides – the Union as well as the candidate country – did not estimate the benefits of integration to be greater than the risks, accession just would not (have) happen(ed). Hence, this study excludes the national and local discourses and emphasises the Commission's perspective; more precisely, its (few) purposely published documents related to the internal market and the relevant treaties.

As a starting point, the Maastricht Treaty of 1992 has been selected (Fig. 1) and is analysed individually as it represents the central (key-)document. This is due to the Maastricht Treaty marking the foundation of the European Union under its current form and name. In other words, before 1993 the EU did not exist. Furthermore, the creation of an internal market (common market) is specified as a pivotal characteristic of the EU in the founding treaty.

Major, legally binding follow-ups with an impact on the internal market paradigm, such as the Lisbon Agenda and the strategies implemented in response to the global financial crisis, namely the Single Market Acts, are other prominent documents in this research. As mentioned above, to complete the choice of documents, most eminent official EU publications published and promoted by the DGs

Internal Market & Services and DG Employment, Social Affairs & Inclusion - treaties, directives and communiqués - of the periods 2000 to 2003 and 2010 to 2013 have been analysed with regard to the respective border discourses and reference to internal and labour markets.

The first timeline (2003 - 2003) includes the pre- and post-Lisbon Agenda phase. It is especially this treaty that is often seen as the turning point ushering in a "neo-liberal" European project, with clear strategic priorities that underline competitiveness before social cohesion and (after Gothenburg) sustainability (Hermann 2007, Hufschmidt 2007). The emphasis on 'competitiveness' is, however, directly connected to the paradigm of a fully functioning internal market. The Europe 2020 strategy, as successor of the Lisbon Agenda, is considered a rather "visionless" continuation of its predecessor, by and large. *"As the comparison of differences and similarities between the Lisbon strategy and the Europe 2020 strategy pointed out, the similarities between the two strategies prevail. The Europe 2020 strategy is hence a mere continuation of the Lisbon strategy with some changes regarding the governance framework. Taking into account the financial crisis, a successful implementation of the Europe 2020 strategy is even more difficult."* (Höpker 2013, p. 37). Yet, the Lisbon Agenda's mid-term evaluation (known as the "Kok Report", after the person who headed this review) was already critical. However, the Kok group's recommendations became themselves subject to criticism, as they provided the EU Commission with the rationale to declare that the social and environmental elements of the Agenda were no longer priorities and to put all the emphasis on economic aspects (e.g. van Apeldoorn & Hager 2010, Barbier 2011) – including the implementation of a reinforced internal market. Thus, as far as a neo-liberal understanding of "competitiveness" is concerned, even more emphasis was placed on this strategic priority over the years, just when the failure of the initial Lisbon Strategy became evident (Tabellini & Wyplosz 2006, Jessop 2006, Wyplosz 2010).

The second period studied from 2010 to 2013 does reflect the full impact of the global financial crisis as well as the issue of full free movement of workers from the "new" accession countries of 2004 (and the pre-opening for citizens of 2007 member states) (Fig. 1).

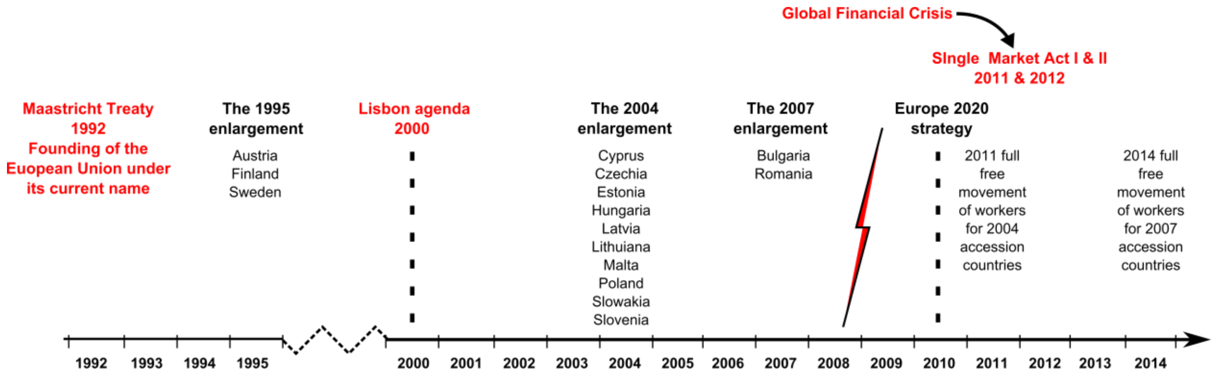

Figure 1: Prominent events with major impact on the EU's internal market (and labour market)

A total number of 24 documents were included for in-depth textual analysis . These were the treaties in force, except for the treaty of the atomic energy community (charter of fundamental rights, treaty of the functioning of the EU, treaty of the EU, treaty of Lisbon), the "Monti Report", labour market- and internal market-related publications. They represent all major texts published on the commissions/DGs websites and are mainly regulations, strategy documents and speeches as well as a few general brochures addressed to citizens.

The foundation: borders and the common market in the Maastricht treaty

The Maastricht treaty is the fundamental document of the EU. Thus, it represents a factual text of juridical relevance and was never intended to develop any form of discourse or deliver arguments on targets. Actually, this is also true for most of the other publications issued by the Commission: they are 'acts'. Hence, it is not surprising that they do not debate pros and cons but set out clear directions.

When examining the Maastricht treaty, a consequential - if predictable - pattern followed by most other documents and statements issued by the Commission soon becomes clear. Opportunities and goals are presented with emphasis, whilst possible (current or former) obstacles, which should be resolved, are not directly addressed or totally avoided (as for the term "obstacle(s)", it is only used twice in the whole document). This is certainly not surprising.

At first sight, the hypothesis of internal borders being irrelevant, when outlining a truly integrated (European) union, seems verified. Border(s) as a keyword occurs only two times in the whole treaty.

In Article 100 the external border is mentioned as such: *"The Council […] shall determine the third countries whose nationals must be in possession of a visa when crossing the external borders of the Member States."* The other context relates to the functioning of the internal market and the goal of creating a monetary union: The European Monetary Institute (EMI) shall promote the efficiency of cross-border-payments. It is, finally, by indirect indication that within the EU internal market borders are (still) relevant, as cross-border-payments seem not to be efficient, yet. They even deserve to be mentioned in the treaty. Thus, the cumbersome character of specific national regulations and the different standards for European integration are not ignored.

In an indirect way, the obvious presence, and potentially problematic character, of borders occur in articles 2 and 3. Here, the community's tasks are clearly defined, which are the establishing of *"a common market and an economic and monetary union and by implementing the common policies or activities referred to in Articles 3 and 3a, to promote throughout the Community a harmonious and balanced development of economic activities, sustainable and non-inflationary growth respecting the environment, a high degree of convergence of economic performance, a high level of employment and of social protection, the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States."* (Maastricht Treaty, Article 2). Furthermore, the common market is outlined more precisely in article 3 as *"an internal market characterized by the abolition, as between Member States, of obstacles to the free movement of goods, persons, services and capital."* Even though not directly addressed, it is clear, that there were, and are, obstacles to free movement: national borders being one of the most important ones. Certainly, when the treaty was signed, the internal market was still far from real and territorial borders and their management (e.g. by controls of persons and goods) did hinder further integration, although the Schengen Agreement – already guaranteeing the free movement of persons within the Schengen Area - was implemented a few years before. Nonetheless, the term "border" is absent, perhaps also in part due to the treaty being a future-oriented strategy document and legislative text, rather than an analysis or lament of the current state of integration at the time.

It is certainly not the pure frequency of keywords which determines their importance but the textual context and specific articulations. Keeping this in mind, the 'common market' is easy to define as a leading paradigm ('common market' occurs 7 times and 'internal market' 12), especially as it is already subject to article 3. As a consequence, a separate border discussion is not a subject of the treaty. Finally, the treaty implements nothing other than the results of (political) discourses held long before and on different levels. Any serious 'border issues' would certainly have been clarified before working on the treaty - a treaty whose central vision is an economic and social space without internal borders. This logic is coherent and applies to the other examined documents of this study as well.

The non-discourse on borders

As already mentioned at length, the central leitmotiv of the Internal Market is "freedom". More precisely, with the commitment to a common market (as true internal market) and an economic and monetary union, the four freedoms, free movement of capital, goods, workers and the freedom to establish a business, became essential requirements. Thus, "physical" borders as well as judiciary or other regulatory obstacles in all their variations are a major source of concern for the Commission and might be expected to be a controversial topic in the key documents examined. However, the opposite is true. None of the publications (not even the speeches) contain a real discourse on borders or bordering and exclusion or inclusion . The term "border" occurs mostly in a technical context or as spatial reference (e.g. border regions, information exchanges across borders). If borders are mentioned, this is connected to (cross-) border trade, (the necessity of) border control (on the EU outer border), border procurement (to be abolished within the EU) and border (economic) transactions (to be facilitated).

Although territorial borders are not a subject (with the exception of mentioning and defining that there is an EU external border) and the four freedoms are presupposed as given, obstacles to the free movement of persons and cross-border financial issues are of major concern. After all, and despite the striking promotion of a borderless European vision, different national regulations, especially those concerning the labour market and social security, as well as a lack of information on potential opportunities, do represent major obstacles, like an invisible but 'real', tangible border in daily practice.

The ambiguity of the proclaimed internal market paradigm, with the four freedoms and persisting factual hindrances for businesses as well as citizens due to divergent national and even regional regulations, is linked to the form of integration that has been chosen. An ambitious project such as the formation of an internal market (which already involved the 12 member states that signed the Single Europan Act during the initial phase), needs rules concerning the harmonisation of different national standards. This modulation can be undertaken either by introducing a new and binding system of rules (laws) or by mutual recognition of national standards and acts. In the EU, the latter was chosen. This means that *"those areas and products for which the European Union had not introduced specific European wide-regulations, member states were obliged to accept products and services that are legally produced and marketed in one of the other member states."* (Hermann, 2007, p. 71). Such a procedure facilitates the fast implementation of an internal market, as complex negotiations over the establishment of standards are not necessary. However, this approach is also criticised and referred to as 'negative integration' or 'downward harmonization', as it is in principle the lowest standard found in one of the member states, which then becomes the point of reference (Gral & Tague 1989). *"The common market has thus become a neoliberal market characterized by weak regulations or even deregulation."* (Hermann 2007, p. 71). Today, the EU's internal market is not only a merger of its respective national markets but is also increasingly open to third countries (markets) via bi- and multilateral trade agreements (with the exception of certain goods, such as agricultural products). Whilst before 1992 many believed that the European Internal Market might become an 'economic fortress', trading only with itself and erecting a protectionist border (Gral & Tague 1989), almost the opposite has become true. The vivid and emotional debate against the Transatlantic Trade and Investment Partnership (TTIP), a project favoured by the EU commission, is basically due to the fear of another round of liberalisation of the EU market(s) via 'negative integration' with the U.S. In this case, it is again the EU Commission which has taken the initiative for further economic de-bordering, whilst a wide variety of critical unions, NGOs and activists, mainly from Europe, prefer to maintain either the status quo or fundamentally change and even 're-border' the current – in their point of view – EU internal market to a certain extent.

On the whole, as regards the internal market, the EU commission follows an easily traceable de-bordering strategy that favours the fastest and straightest possible path to market liberalisation.

It is therefore not surprising that in official documents no special attention is given to the nature and impact of borders since they are deemed to vanish anyway, at least as far as border-like obstacles to the four freedoms are concerned.

As already explained, it happens that borders have become irrelevant in the document since they are seen as also having become irrelevant in reality: they must not exist in a perfect market.

Certainly, the border as central, not to say "classic" and tangible obstacle to free movement is present in different contexts in the official documents, as borders in practice do (still) matter. However, these border-related issues tend to be mentioned indirectly. The set of expressions and the ways of enunciating frontier and border-related topics is quite variable. The notion of "barrier" or "obstacle" is a rather clear paraphrase, but more often they are denoted in a more subtle way, such as when important steps towards a true internal market are emphasised, or when "positive" terms, such as "co-operation", "common" or "trans" etc. are used ostentatiously.

Checking indirect keywords or the deliberate absence of border terms it becomes clear that according to the EU’s perception the Internal Market does not function fully nor are the four freedoms implemented to their full extent. If all was as it should be, there would be no need for promotion and propaganda. When looking at the batch of publications issued during the period of the global economic crisis, it is especially hindrances to the free movement of workers (not citizens!) that are stressed as an obvious, tangible problem. Hence, although the border-free internal market is already “provided” for most EU member countries, invisible borders or bordering features are persistent.

Free movement of persons: difficult feature of the internal market?

As a response to the financial crisis, the commission intends to tap the full potential of the single market. In Single Market Act II, it is especially the free movement of persons (a.k.a. workers) which is considered as still being underdeveloped. Thus, it is hoped that increasing job-related, intra-EU mobility amongst (unemployed or “threatened”) citizens will counter the negative economic and social consequences of the 2007-08 global financial crisis as well as that of European debt.

“Four drivers” have been introduced within the Single Market Act II: developing fully integrated networks, fostering the mobility of citizens and businesses across borders, supporting the digital economy across Europe and strengthening social entrepreneurship, cohesion and consumer confidence. A closer look reveals that the Single Market Act II is much more than just “a reminder” of the basic elements of the internal market. It is not only a criticism of still existing obstacles to freedom of movement but also a document of fear: that protectionism and an eventual resurrection of national borders might find favour in an era of austerity.

“The mobility of citizens and businesses is at the heart of European integration and the Single Market. The Commission will continue to work towards its vision of a Single Market where citizens, workers and businesses are free to move cross-border whenever and wherever they want to and without unjustified restrictions imposed by divergent national rules and regulations. Mobility is a precondition for the Single Market to deliver on its potential, be it social, cultural, political or economic. The price of low mobility is high. Despite the fact that unfilled job vacancies have been rising since mid-2009, unemployment is at record levels in many Member States. At the same time, the cross-border mobility of businesses is hampered by difficulties to finance new business projects and by administrative burden. While the EU's better regulation agenda has led to an improvement of the business environment, a constant focus on the reduction of unnecessary regulatory and administrative burden must be maintained. Important next steps towards our common vision are

therefore to match labour demand and supply cross-border, improve the access to finance and advance the business environment in Europe." (Single Market Act II, p. 8)

The idea of ensuring and further facilitating European citizens' mobility is not a philanthropic offer to enable the fulfilment of whatever individual dream, or to achieve personal goals, but purposely and exclusively linked to economic benefits and the expectation of a better functioning labour market. The idea of opening national borders in this context is meant to enable an optimal distribution of the workforce. In the specific context of the financial and debt crises, it is believed that enhanced mobility might relieve unemployment, especially in the member states of southern Europe since affected citizens might then move to those European countries with more stable economies and a greater demand for labour. These latter nations might even generate new growth and become the avant-garde of a pan-European economic take-off, speaking hopefully.

As already mentioned, with regard to the de-bordering character of the internal market, it should not be forgotten that the whole rationale follows a purely economic logic. Free movement of persons within the internal market means the free movement of "workers, also connected to article 15 of the charter of fundamental rights of the European Union, where the freedom to choose an occupation and the right to engage in work in any member state is given to all EU citizens. This fundamental right is notoriously perceived critically by national discourses, not exclusively in xenophobic milieux but also by liberal and left-wing activists as well as by labour unions, because of the fear of the erosion of social rights and greater competition that the EU's current fondness for "negative integration" brings with it. On the other hand, the freedom of movement and residence granted to every EU citizen, as laid down in article 45 of the fundamental rights charter, is also put into question as soon as so-called "benefit tourism" enters the discussion. The failed attempt to pass a national law to restrict the free movement of EU citizens accused of "benefit tourism" (also called "Armutszuwanderung / poverty migration") by the German government in 2014 is an example of this attitude, even within the 'borderless' European Union. A distinction between more and less useful EU citizens seems to prevail in the minds of decision-makers (and others). Yet, the perspective remains purely economic; broader political visions or (positive) social effects and issues remain side effects.

Although the European Union's general visions do include important cultural, social and political dimensions, it currently follows a dominantly economy-driven logic in its most prominent actions and measures. One could argue that, in the final analysis, this is more than consistent, as the EU was from the beginning a political idea of peace and integration based on economic cooperation. In his very critical analysis, blaming the EU of having become a prototypical neo-liberal experiment, Hermann (2007) argues that giving priority to economic over social and other issues has a long tradition and dates back to the foundation of the Union.

Nonetheless, the four freedoms, including the free movement of people, is not just rhetoric but a fundamental principle of the EU and its member states. This became especially evident when the referendum in Switzerland "against mass immigration" was held in early 2014. According to the plebiscite's outcome, the Swiss parliament must pass a law on immigration rules, including quotas, by 2017 at the latest. Switzerland is only associated to the EU but integrated into the single market by various treaties (more than 120) on a bilateral basis, all connected together. As the poll's result will directly affect the Switzerland-EU Agreement on the Free Movement of Persons (AFMP), a major dilemma is in the making. It is due to *"the existence of the so-called guillotine mechanism, according to which the termination of the Free Movement Agreement would entail the automatic termination of the other agreements with the EU."* (Carrera, Guild, Eisele 2015, p.1). The immediate response of the EU and EU-member states' governments to the Swiss vote was not only immediate but also ostentatiously harsh and intransigent. Although an official legislative initiative was not yet in view, Switzerland was stante pede excluded from EU-funded students- and scientists' exchange schemes, a sanction and targeted warning towards the Confederatio Helvetica, who had dared to touch one of the four freedoms.

This clear statement against any tinkering with the internal market is simply consistent but might seem slightly dishonest nevertheless. It is not only the already mentioned attempts of restricting the free movement of "benefit tourists" by national governments but also the fact, that for a transitional period of up to 7 years, most accession countries after Lisbon were only incompletely integrated into the internal market as the free movement of their citizens to work was restricted. This might serve to prove that *"libertarians are known for advocating free trade, but not for advocating the dismantling of immigration laws."* (O'Neill, 1991:290). This also means that the European Internal Market does per definition not know or accept borders, but if, as in this case, political pressure related to fear of mass immigration from poorer member states is considered too important (Heinen & Pegels, 2006) the paradigm becomes flexible and the borders, at least temporarily, remain intact.

On the other hand, when British premier Cameron put into question the free movement of persons within the European Internal Market to Britain verbally (before the elections) in 2014, there was a similar, negative and almost furious expression of denial by leading European politicians and namely German chancellor Merkel.

Assaults and dangers concerning the Internal Market and the common currency Euro, being the "other" structuring project of vital importance to the Union and its economies and societies, are taken very seriously. They do not have to achieve threatening dimensions such as the Greek debt crisis, in order to be recognized and anticipated.

As for the political and societal dimension of the European Union, it seems that if processes of degeneration occur, they are noticed and sanctioned, but not with the same severity as if the market integration and monetary union would be concerned. Latest since the adoption of the new constitution of Hungary – promoted by the Fidesz/Orbán government -, the country was subject to several legal proceedings by the EU for violating EU laws. Current Hungary would not be able to join the European Union, for not fulfilling the requirements according to the aquis communataire. Although the country has taken a significant shift towards illiberalism, the tangible sanctions remain rather weak and erratic; also due to the fact that the legal toolkit of the Union does not provide appropriate measures to this kind of problem (Bánkuti, M.; Halmai, G. & KL Scheppele, 2012). Putting in danger the internal market and the common currency leads to almost draconian sanctions, whilst leaving the aquis communautaire is sanctioned by measures such as "[…] strong words, sometimes with letters, and sometimes with Treaty infringement proceedings." (Viviane Reding, 4th of September 2013).

Hence, it should be critically questioned why the creeping establishment of an authoritarian regime, which is already beyond the mandatory requirements of an EU democracy seems to get less media and political attention than most of the (internal-) market and economy as well as migration related challenges. All in all, factual re-bordering is still a virulent topic (latest, when it comes to the free movement of persons) in defiance of the internal market being a consistent, indivisible concept.

Summary

As a true Internal Market is borderless per definition, border discourses in directly related EU publications are kept to a minimum, although "real life" obstacles and bordering practices still remain. The ostentatious avoidance of mentioning (state-) borders is just in line with a credible commitment to the Internal Market paradigm and gives the published documents the intended constitutive character. The European Union's policy is clearly based on a market-economy related logic, with the idea of economic prosperity as the main engine for political cooperation and as a pillar for wealth, social cohesion and peace. Whilst the major fields of adjustment concerning social cohesion are left to the non-binding, open method of coordination, the Internal Market is implemented in a more target-oriented manner, backed up by "hard law". Even though the internal market related de-bordering through 'negative integration' is far from being accomplished, it is definitely much more advanced than all the initiatives towards 'positive integration' or 'upward harmonisation', because it has prepared and established an ambitious, common framework that is binding. The current de-bordering practice, taken as inevitable basis for the internal market, is associated especially with neo-liberal politics because market issues are not only subject to clear and enforceable rules and regulations but the better part of social and other policy issues are left to "soft law" and the open-ended method of coordination. It uses exchange of information and best practices for evaluation, comparative analysis and the promotion of innovative approaches, and thus qualifies as an extremely "soft" approach.

Despite all the criticism, a pristine Internal Market is about to be established. This also means that one of the most tangible as well as important aspects of de-bordering, the free movement of persons (as an inseparable part of the internal market), is realised. In tandem with the overt orientation towards the market and the economy, the free movement of people has also always been a major concern for the European project, from the Treaty of Rome (1957) onwards. Thus, the Schengen treaty (1995) and its incorporation into the Treaty of Amsterdam (1997) is an integral part of internal market strategy as laid down in the Maastricht Treaty (1992), and should be seen as an issue that has been successfully implemented since the establishing of the European Economic Community. Furthermore, the immediate reaction towards the Swiss referendum, as also the ostentatious disaffirmation of David Cameron's vague ideas on restricting immigration in Britain by major political players such as Angela Merkel, are proof of the great importance of a "true" Internal Market, as well as the free movement of people (with or without connection to the Internal Market).

In a broader context, the question remains whether and why the single market paradigm's significance is so extremely and ostentatiously dominant in the European project, whilst other prominent fields of policy, such as social affairs or matters of 'positive integration' remain marginal or are left to insignificant, weaker mechanisms that have no formal bite.

The documents analysed show that state border-related discourses are not an official topic of European internal market publicity, although border-like obstacles hindering perfect integration remain persistent. Thus, potential border discourses are both rather inessential in the single/internal market context but also purposely avoided. Evidently, all de-bordering measures and effects linked to the single market paradigm are founded on purely economic interests. Nonetheless, this fact is no reason for criticism. On the contrary, it would be rather surprising if the specific single market policy were to be diluted by distracting topics and scenarios.

References:

Bánkuti, M.; Halmai, G. & KL Scheppele (2012): Hungary's Illiberal Turn: Disabling the Constitution. In: The Journal of Democracy. 23/2. pp. 138-46

Barbier, J.-C. (2011): Changes in Political Discourse from the Lisbon Strategy to Europe 2020: Tracing the Fate of 'Social Policy'. (= ETUI Working Paper 2011.01)

van Apeldoorn, B. & S. Hager (2010): The Social Purpose of New Governance: Lisbon and the Limits of Legitimacy. In: Journal of International Relations and Development, Vol. 13, No. 3: 209-238.

Carrera S., Guild E. & K. Eisele (2015): No Move without Free Movement: The EU-Swiss controversy over quotas for free movement of persons. (= Policy Brief, Centre for European Policy Studies), 23.04.2015

European Communities (1987): Single European Act. (=Official Journal of the European Communities, No 169/2).

European Commission (2012): Communication from the Commission Single Market Act II – Together for new growth. October 2012. http://ec.europa.eu/internal_market/smact/docs/single-market-act2_en.pdf (retrieved on 28.05.2014)

European Union (1992): Treaty on European Union, In: Official Journal C 191, 29/07/1992. http://10.0.0.48:9091/servlet/com.trend.iwss.user.servlet.sendfile?downloadfile=IRES-72688094-E6459EA8-11681-11645-36 (retrieved on 28.05.2014)

European Union (2007): Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007. In: Official Journal of the European Union C 306, Information and Notices, Volume 50, 17/12/2007. http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C:2007:306:TOC (retrieved on 28.05.2014)

Guild, E. (2002): The Single Market, Movement of Persons and Borders. In J Scott & C Barnard: The Law of the Single European Market: 295 – 310.

Heinen, M. & A. Pegels (2006): Die EU-Osterweiterung und die Arbeitnehmerfreizügigkeit: sind längere Zugangsbeschränkungen sinnvoll für Deutschland? (= focus Migration – Kurzdossier, Nr. 4. Juli 2006, ed. by Hamburgisches WeltWirtschaftsInstitut).

Höpker, L. (2013): The Chances of Success of the Europe 2020 Strategy – An Analysis against the Background of the Lisbon Strategy. In Study Papers: European and European Legal Studies, Europa-

Kolleg Hamburg Institute for European Integration, https://europakolleghamburg.de/fileadmin/user_upload/documents/Study_Papers/SP_1304_Hoepker.pdf. (April 2015)

Jessop, B. (2006): State- and Regulation-theoretical Perspectives on the European Union and the Failure of the Lisbon Agenda. In: Competition & Change, 10 (2): 141-161.

O' Neill, O (1991): Transnational Justice. In: Held, D. (Ed.) Political Theory Toda: 276-304.

Reding, V. (2013): The EU and the Rule of Law – What next? Speech held at the Centre for European Policy Studies/Brussels, 4th of September 2013. SPEECH/12/379. http://europa.eu/rapid/press-release_SPEECH-13-677_de.htm (June 2015)

Tabellini, G. & C. Wyplosz (2006): Supply-side Reforms in Europe: Can the Lisbon Strategy be Repaired? In: Swedish Economic Policy Review 13 (1): 101-56.

Wyplosz, C. (2010): The failure of the Lisbon strategy. http://www.voxeu.org/index.php?q=node/4478, (April 2015).

Annex: documents for analysis

1. Bolkestein, F. (1999): The strategy for Europe's internal market. SPEECH/99/145
2. European Commission (1997): Action plan for the single market. Communication of the Commission to the European Council, CSE (97) 1 final, June 1997
3. European Commission (1999): The Strategy for Europe’s Internal Market. Communication from the Commission to the European Parliament and the Council. COM (99) 624 final, 24 November 1999
4. European Commission (2003): European Parliament legislative resolution on the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: Internal Market Strategy - Priorities 2003-2006 (COM(2003) 238 – C5–0379/2003 – 2003/2149(INI))
5. European Commission (2004): Commission sets priorities for catching up with Lisbon agenda, Press Release IP/04/74, Brussels 21 January 2004
6. European Commission (2005): Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions - Report on the implementation of the Internal Market Strategy (2003-2006) COM/2004/0022 final
7. European Commission (2010): Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions. Towards a Single Market Act For a highly competitive social market economy 50 proposals for improving our work, business and exchanges with one another, COM/2010/0608.
8. European Commission (2011): Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions - Single Market Act - Twelve levers to boost growth and strengthen confidence - "Working together to create new growth" {SEC(2011) 467 final}
9. European Commission (2011): Commission staff working paper - Overview of responses to the public consultation on the Communication ‘Towards a Single Market Act’. Accompanying document to the communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions A Single Market Act Twelve levers to boost growth and strengthen confidence ‘Working together to create new growth’ COM(2011) 206 final

10. European Commission (2012): Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Single Market Act II – Together for new growth. COM/2012/0573
11. European Commission (2013): Internal market. From crisis to opportunity: putting citizens and companies on the path to prosperity. Luxembourg
12. European Commission (2013): Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Free movement of EU citizens and their families: Five actions to make a difference. COM (2013) 837
13. European Communities (1987): Single European Act. (=Official Journal of the European Communities, No 169/2).
14. European Parliament and the Council of the European Union (2004): European Parliament and Council Directive 2004/38/EC of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC.
15. European Parliament and the Council of the European Union (2004): Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems
16. European Parliament and the Council of the European Union (2009): Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (Text with relevance for the EEA and for Switzerland)
17. European Parliament and the Council of the European Union and the European Commission (2010): Charter of Fundamental Rights of the European Union.
18. European Parliament and the Council of the European Union (2011): Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union Text with EEA relevance
19. European Union (1992): Treaty on European Union, In: Official Journal C 191, 29/07/1992. http://10.0.0.48:9091/servlet/com.trend.iwss.user.servlet.sendfile?downloadfile=IRES-72688094-E6459EA8-11681-11645-36 (retrieved on 28.05.2014)
20. European Union (2007): Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007. In: Official Journal of the European Union C 306, Information and Notices, Volume 50,

17/12/2007. http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C:2007:306:TOC (retrieved on 28.05.2014)

21. European Union (2010): Your Single Market? Single Market Act for a highly competitive social market economy. Luxembourg
22. European Union (2012): 20 Years of European Single Market. Together for new growth. Main achievements. Luxembourg
23. Mc Creevy, C. (2005): The Internal Market Strategy. Implementation – Scoreboard. Speech-Press Release - DG Internal Market and Services.
24. Monti, M. (2010): A New Strategy for the Single Market – At the Service of Europe's Economy and Society. Report to the President of the European Commission José Manuel Barroso.