

## Negotiating Unilateralism:

### Deportation and Interstate Cooperation in Germany and the United States

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**Abstract:** In the field of migration policy, the achievement of domestic policy priorities often depends critically on cooperation with other states. Looking at the cases of Germany and the United States, this paper asks how interstate cooperation shapes state capacities in a policy field high on the agenda at the EU's 2002 Seville summit: *deportation policy*. As European and North American states endeavor to implement measures of migration control, deportation efforts are increasingly frustrated not by domestic obstacles, but by the refusal of foreign governments to issue documents for repatriation. Strategies to secure interstate cooperation are most evident in the arena of bilateral diplomacy. However, examining only formal processes, I argue, does not tell us much about the efficacy of cooperation. Instead, the paper examines bureaucratic strategies devised by immigration officials at the level of *implementation*. I argue that this informal venue can allow for interstate cooperation in instances where formal cooperation is not possible. By working at a policy level that is largely invisible to the domestic and international public, administrative officials can exercise power where the hands of diplomats are tied.

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## I. Introduction: Deportation, Travel Documents, and Interstate Cooperation

On 8 January 2003, after months of protracted ministerial negotiations and last-minute opposition by the Senegalese parliament, Swiss and Senegalese executives signed a bilateral *accord de transit* providing for the return of expelled West African asylum applicants without identity papers from Switzerland to Dakar. There, Swiss officials were to be given 72 hours to determine the deportees' nationality by arranging for interviews with representatives of the various West African consulates (*Neue Zürcher Zeitung*, 9 January 2003). Unlike conventional readmission agreements, which regulate the readmission of a country's *own* nationals,<sup>1</sup> the Swiss-Senegalese agreement was the first of its kind to provide for the admission of third country nationals of *undetermined* nationality. In Switzerland, the signing of the agreement was accompanied by a well-orchestrated public relations campaign which hailed the *accord* as an internationally unprecedented success in the country's quest for migration control. However, the political euphoria proved to be short-lived. Two months later, on March 3<sup>rd</sup>, Senegalese foreign minister Tidiane Gadio informed the Swiss minister of justice, Ruth Metzler, that he had decided against submitting the agreement to the Senegalese parliament for ratification (*Neue Zürcher Zeitung*, 5 March 2003). When Senegalese President Abdoulaye Wade publicly announced this unexpected turn-around, he justified it as a response to "enormously hostile public opinion." What had happened was that between January and March, two Senegalese non-governmental organizations had orchestrated a media campaign and, as a result, successfully mobilized the Senegalese public against the agreement.

The failure of the Swiss-Senegalese transit agreement illustrates the difficulties encountered by states in the international arena in their endeavors to deport foreign nationals. These difficulties arise from a fundamental conflict of interests between, on the one hand, the deportee and his<sup>2</sup> country of nationality, and the deporting state, on the other. Deportation, which by definition takes place against the will of the individual,<sup>3</sup> can impose enormous costs by severing the familial, professional, and social ties between an immigrant and his country of residence. Equally important, deportation is rarely in the interest of the immigrant's *country of nationality* given the fact that most deportees return to countries outside of the advanced industrialized world. There, the return of émigrés usually involves the loss of vital foreign

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<sup>1</sup> Often, this also includes third country illegal entrants who transited through the country in question.

<sup>2</sup> As the majority of deportees are male, this paper uses the male pronoun when referring to deportees.

<sup>3</sup> In most cases, the individual has the prior opportunity to depart voluntarily.

currency (through remittances) and puts additional pressures on already saturated or unstable labor markets. Moreover, the reintegration of deportees can pose significant social challenges where deportees have engaged in criminal or “subversive” political activity abroad or where deportees return with only a rudimentary knowledge of the country’s language and culture. In contrast, advanced industrialized countries increasingly consider it to be in their interest to carry out deportation orders, whether this is justified as a necessary condition for maintaining the integrity of the immigration system, or as a way of reducing the fiscal, social, or political costs incurred by the presence of unwanted migrants. Since September 2001, national security concerns have further strengthened the case for deportation.

A prolific literature examining the ability of liberal states to control immigration has identified the constraints of judicial activism, interest group lobbying, and normative political discourse, both at the domestic and international level (Calavita, 1992; Hollifield, 1992; Cornelius, Martin et al., 1994; Freeman, 1994; Soysal, 1994; Jacobson, 1996; Sassen, 1996; Joppke, 1998; Gimpel and Edwards, 1999; Andreas and Snyder, 2000; Guiraudon and Lahav, 2000). However, little attention has so far been paid to role of *foreign states* in thwarting control policies.<sup>4</sup> This is striking, given the fact that, today, the single most intractable problem faced by deporting authorities is the issuing of travel documents by receiving governments. As states have monopolized the means of movement (Torpey, 2000), legitimate movement across national borders crucially hinges upon the possession of official travel documents recognized by the receiving state. In Germany, as recently as the mid-1980s immigration authorities had to obtain travel documents for about 30 to 40 percent of all deportees.<sup>5</sup> Less than two decades later, it is estimated that 80 to 90 percent of all asylum applicants arrive without identifying documents.<sup>6</sup> The significance of identity papers cannot be overstated given the fact that a long list of countries, particularly in the developing world, recurrently refuse the readmission of citizens without

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<sup>4</sup> For some exceptions, see Mitchell, C. (1992). *Western Hemisphere Immigration and United States Foreign Policy*. Pennsylvania, Pennsylvania University Press, Zolberg, A. R. (1995). *From Invitation to Interdiction: U.S. Foreign Policy and Immigration since 1945. Threatened Peoples, Threatened Borders: World Migration and U.S. Policy*. M. S. Teitelbaum and M. Weiner. New York, W.W. Norton, Mitchell, C. (2000). *The Political Costs of State Power: U.S. Border Patrol in South Florida. The Wall Around the West*. P. Andreas and T. Snyder. New York, Rowman & Littlefield.

<sup>5</sup> Böhlting, T. (2001). *Abschiebungshindernisse heute: Bürokratie, Zuständigkeiten und Desinteresse!* 10. Migrationspolitisches Forum, Berlin.

<sup>6</sup> Personal interview, Dietmar Martini-Emden, director, Clearing House for the Procurement of Travel Documents, Trier (Rhineland Palatine), 26 February 2002.

papers, either by denying that the individual in question is their national, or by indefinitely delaying the issuing of necessary travel documents. The loss of identity documents therefore can provide a fruitful strategy for migrants to avert deportation.

The obstacles to deportation erected by insufficient interstate cooperation are not new. The virtual absence of deportations to communist states during the Cold War, for instance, was not solely the result of ideological leanings, as is often assumed. An examination of German news coverage during the 1950s reveals frustration about the logistical *impossibility* of deportations to countries with whom the Federal Republic held no diplomatic relations. Beginning in the 1960s, international obstacles to deportation lost in significance, as an ever increasing number of asylum applicants were protected under administrative decrees which categorically mandated deportation stops to certain politically unstable countries.<sup>7</sup> In 1986, in a consequential move, the conference of interior ministers decided to resume deportations to most of these countries (König, 2000). With the move toward a renewed commitment to immigration enforcement in the late 1980s, German authorities thus found themselves dealing with a substantial number of deportable migrants from an ever increasing number of countries. Similar changes in the demographics of immigration were evident in the United States. Thus, the current salience of the problem of travel documents is, first, the result of changes in the demographics of immigration, with migrants arriving from an ever increasing and more remote number of locations, and, second, the consequence of a political commitment to actually following through on deportation orders.

Watching deportations fail because of missing travel documents is particularly frustrating for immigration officers because issuing papers is the final step in a long chain of administrative measures toward deportation. Being unable to bring deportees across the border turns the administrative achievements of identifying, locating, apprehending, prosecuting, and detaining deportable immigrants into sunk costs. Second, even if agencies finally succeed in procuring documents, the fiscal costs incurred by the delay are substantial.<sup>8</sup>

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<sup>7</sup> While in 1980, 21 percent of asylum applicants arrived from countries covered under deportation stops, four years later, this number had increased to 68 percent. König, J. (2000). *Rückkehr und Verbleib von Asylbewerbern und Flüchtlingen in Deutschland*. Bonn.

<sup>8</sup> For instance, in 2002, the U.S. Office of the Inspector General examined the implementation of the Institutional Removal Program, designed to assure that criminal aliens about to be released from prison will be deported without further delay. The OIG estimated that the fiscal costs arising from delays in deportation owing to missing travel documents of criminal aliens alone amount to approximately \$128 million annually. Office of the Inspector General,

The problems faced by agencies in their attempt to implement deportation mandates are indicative of the challenges of migration control at large. Immigration policies, whether designed at the national or, as is increasingly the case with the European Union, supranational level, continue to be conceived of as essentially domestic policies which rarely take into account the interests of foreign states affected by the policy (Sassen, 1998). Not surprisingly, then, when it comes to implementing these domestically conceived policies, state actors are forced to realize that they depend upon the cooperation of foreign governments for implementation (Mitchell, 2000).

Given that the implementation of deportation policy requires the cooperation of foreign governments, how have executive actors adapted to this challenge? This paper will examine strategies<sup>9</sup> pursued by German and U.S. executives at three distinct levels of intervention. First, both governments have attempted to address the issue of cooperation at the level of formal *diplomacy*, either by entering into bilateral readmission agreements or by imposing sanctions for non-cooperation. Second, at the informal level of *implementation*, interior bureaucrats have devised administrative strategies aimed at both foreign diplomats and their interior officials. Lastly, interior officials have tried to target individual *deportees*, rather than their governments, for cooperation. Executive strategies at these multiple levels operate simultaneously, sometimes complementing each other, at other times working independently. At all levels of intervention, however, the driving force between policy measures are interior immigration officials who move between the various levels as a way of venue-shopping (Baumgartner and Jones, 1993; Guiraudon, 2000). While formal diplomacy plays an increasingly important role in policy development, in particular on part of the European Union, it is at the level of implementation that measures of interstate cooperation are tested and subsequently adjusted. And, under particular conditions, those charged with implementation, while lacking the international clout of foreign policy makers, are able to secure international cooperation in instances where formal policy measures have failed.

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U. S. D. o. J. (2002). Immigration and Naturalization Service Institutional Removal Program. Washington, D.C., U.S. Department of Justice.

<sup>9</sup>The paper does not address policies that aim at actively promoting the *voluntary* return of migrants.

## II. Executive Strategies for Securing Cooperation

### II.1 Diplomatic Strategies Targeting Governments

*Germany and the European Union.* In the 1990s, Germany entered into readmission agreements with several countries<sup>10</sup> in an effort to formalize conditions and procedures for the return of deportees. Even though international law obliges states to readmit their own citizens,<sup>11</sup> many states have dragged their feet, using, as Gregor Noll put it, “the issue of travel documents as an informal filter for remigration” (Noll, 1999). Readmission agreements thus are considered procedural documents for assisting target countries to meet their international obligations. Even though European states have been anxious to stress that these agreements are nonreciprocal, practice shows that readmission agreements increasingly contain economic incentives for compliance (Noll, 1999). Not only have European countries started to enter into bilateral readmission agreements, increasingly readmission agreements are part of EU policy. The Amsterdam Treaty, which entered into force in 1999, first authorized the Community to conclude readmission agreements.<sup>12</sup> Going one step further, the Justice and Home Affairs Council in 1998 decided that all future agreements between the European Union and third states *must* include readmission clauses. Readmission and transit agreements have since then become the centerpiece of a Community-wide return policy.

However, while the European Commission has drafted a green paper outlining a common return policy (Commission of the European Communities, 2002), Community policy to date has not yet formalized these provisions. Interior ministers across Europe have repeatedly pushed for the imposition of economic sanctions on countries who violate their return obligations. Still, at the 2002 Seville Summit, the European Council failed to reach agreement on this controversial issue (Council of the European Union, 2002).<sup>13</sup> Portugal, France, Luxembourg, and Sweden

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<sup>10</sup> In the 1990s (with the date at which the act took effect): Rumania (1992, 1999), Bulgaria (1994), Poland (1994), Czech Republic (1995), Vietnam (1995), Switzerland (1996), Croatia (1997), Federal Republic of Yugoslavia (1997), Algeria (signed in 1997), Austria (1998), Morocco (1998), Hungary (1999), Estonia (1999), Latvia (1999), Lithuania (2000), Hong Kong (2001).

<sup>11</sup> For instance, the 1994 Cairo Program of Action stipulates that “governments of countries of origin of undocumented migrants and persons whose asylum claims have been rejected have the responsibility to accept the return and reintegration of those persons, and should not penalize such persons on their return.”

<sup>12</sup> Article 63(3)(b)

<sup>13</sup> Most importantly, the General Affairs Council was unable to agree on Article 11, which stated that “The Council of the European Union may invite, while not undermining the principal objectives of the Community’s development policy, in particular the need to better focus aid on the reduction of poverty, the Commission to review, within the framework of its competences and respecting the commitments already, the allocation to the non-cooperative country.”

opposed the proposal, arguing that the cutting of development aid would be counterproductive to the prevention of migration flows. Moreover, strong concerns were voiced about the international relations implications of this step; as Portuguese prime minister Barroso pointed out, “it would be very negative if Portugal accepted sanctions against countries with which it has excellent diplomatic relations” (Silva, 2002). Scholars of European integration have argued that domestic policy makers use the EU for the pursuit of migration policies that are too politically controversial to be realized at the national level (Joppke, 1998; Guiraudon, 2000). In a similar vein, an observer of immigration politics has argued that “the U.S. and Europe are reluctant to discuss migration at the UN headquarters because it is such a sensitive issue politically both at home and sometimes in foreign relations. They prefer to bring it up in some regional [EU] setting” (Francis, 20 March 2003). However, as the case of economic sanctions has shown, even the European Council may at times be a venue that is too politically exposed for the pursuit of highly controversial policies. Thus, despite intergovernmental efforts to arrive at a common policy, to date return policy at the EU level is limited to the conclusion of multilateral agreements that do not include enforcement measures.

*United States.* Unlike European countries,<sup>14</sup> the United States has been hesitant to pursue the conclusion of bilateral return agreements. After the Mariel boatlift, the Reagan administration in 1984 signed a readmission agreement with Cuba which committed Cuba to taking back 2,476 Cuban refugees with criminal records, in return for which the United States would resume the issuance of immigration visas to Cuban nationals. The following years were marked by repeated suspensions and resumptions of the agreement, depending on the state of diplomatic relations (Zolberg, 1995). More recently, the Justice Department’s policy to pursue the deportation of criminal immigrants has included the conclusion of bilateral agreements. In March 2002, the United States and Cambodia signed an agreement that provided for the return of about 2,000 Cambodian nationals convicted of crimes. While INS officials have denied that economic incentives were part of the agreement,<sup>15</sup> it appears that U.S. officials had previously threatened Cambodia with visa sanctions (Rodriguez, 10 May 2002). In the only case of visa sanctions so

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<sup>14</sup> Since 1990, West European countries have concluded over 200 readmission agreements, Möhle, H. (2000). *Refugees Back to the Roots*. BUKO 23.

<sup>15</sup> (Personal interview, senior INS official “A,” Washington, D.C., August 2002)

far,<sup>16</sup> the U.S. Department of State imposed sanctions on the South American country of Guyana for a 30-day period starting in September 7, 2001 (The Guyana Chronicle, 14 September 2001). Thus, in the face of virtually identical international constraints, European governments and the United States have pursued divergent strategies to secure bilateral cooperation: while EU countries have signed readmission agreements tied to economic incentives, the United States has relied more on unilateral measures such as visa sanctions to secure cooperation. I will now examine the efficacy of diplomatic strategies by looking at four cases in particular: Germany's readmission agreements with Rumania and Vietnam, the U.S.-Cuban readmission agreement, and the imposition of sanctions on Guyana by the U.S.

*Rumania.* In late 1992, Germany and Romania signed a readmission agreement which committed Romania to taking back her nationals with few formalities, providing for a long list of possible identification documents, including the oral testimony of fellow nationals (Reermann, 1997). The agreement was concluded in the wake of a mass exodus of Rumanians, mostly gypsies, 103,787 of whom filed asylum applications in Germany in 1992.<sup>17</sup> The agreement had immediate effects in terms of both deterring further immigration and allowing for the deportation of Romanians already in the country. Within two years, the number of asylum applications had dropped precipitously to 9,581. Deportations were mostly conducted through nationally coordinated charter flights which left daily from Berlin to Bucharest, providing for the deportation of a staggering figure of more than 60,600 Romanians in 1993-1994 (Reermann, 1997). There is a broad consensus that the readmission agreement with Romania—like its Bulgarian counterpart<sup>18</sup>—has fully lived up to the expectations of German policy makers. In my interviews with deportation officers, respondents consistently pointed to the Romanian and the Bulgarian readmission agreements as the ideal case of interstate cooperation.

While the German federal ministry of the interior has denied a direct link between financial payments and the conclusion of the agreement, Germany did grant DM 30 million in aid

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<sup>16</sup> Excluding Cuba. A deportation officer in San Diego informed me that the State Department had also imposed visa sanctions against Pakistan, a claim which I have not been able to corroborate so far.

<sup>17</sup> 23.7 percent of all applications, *Bundesamt für Migration und Flüchtlinge*.

<sup>18</sup> In 1994, Germany signed a similar agreement with Bulgaria. The Bulgarian agreement went a step beyond the German-Romanian agreement by providing for the readmission of Bulgarians who had chosen to become denaturalized (without having acquired German citizenship), thereby addressing the increasingly common problem of the return of *stateless* individuals. Reermann, O. (1997). Readmission Agreements. *Immigration Admissions: The Search for Workable Policies in Germany and the United States*. K. Hailbronner, D. A. Martin and H. Motomura. Providence, Berghahn. 3: 121-145.



payments to Romania which were earmarked for the reintegration of returned refugees in Romania (Markmeyer, 30 October 1992; *Deutscher Bundestag*, 1993). More important than financial incentives, however, is the prospect of European Union membership for Eastern European countries. As the EU Commission has started to systematically assess the compliance of aspiring members states in the field of Justice and Home Affairs (Guiraudon, 2000), countries across Eastern Europe are agreeing to enter into readmission agreements.

*Vietnam.* If Rumania is the model case for the efficacy of readmission agreements, the results of the German-Vietnamese agreement have been modest at best. The 1995 agreement committed Vietnam to the readmission of about 40,000 nationals by the year 2000.<sup>19</sup> Even though the German government once again denied a direct connection, the agreement was part and parcel of a financial assistance deal worth DM 200 million, only DM 16 million<sup>20</sup> of which was allocated for the reintegration of returnees (Noll, 1999). One year earlier, Germany had briefly stopped development assistance to Vietnam in response to Hanoi's refusal to readmit Vietnamese contract laborers from the former GDR (Möhle, 2000). Since the conclusion of the readmission agreement, however, Vietnamese authorities have erected high administrative hurdles to its implementation. While Vietnam had committed itself to the return of 13,500 nationals by 1997, only 2,518 deportations had taken place (König, 2000). In the experience of German authorities, applications for readmission are processed excruciatingly slowly and, more often than not, elicit a negative response. By making false statements about their identity, Vietnamese nationals in many cases have been able to evade deportation under the agreement.<sup>21</sup> It appears that the financial aid incentives have not been sufficient to trump the perceived costs incurred by Vietnam. In addition to the loss of foreign currency through remittances, Vietnam has been concerned about the reintegration of thousands of westernized citizens into a socialist society, some of whom may be political regime opponents (*Frankfurter Allgemeine Zeitung*, 13 October 1998). In any case, even though the agreement has fallen far short of expectations, its critics recognize that the limited number of deportations constitute an improvement over the previous status quo when deportations to Vietnam were virtually impossible. This difference is also evident when we compare German figures with data from the United States, which has no readmission agreement with Vietnam. While from 1995-1997, Germany was able to deport 2,518

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<sup>19</sup> 10,000 former contract workers, 20,000 rejected asylum applicants, and 10,000 undocumented persons.

<sup>20</sup> Each country contributed DM 8 million.

<sup>21</sup> In some cases, even a non-matching house number in Vietnam can lead to rejection.

individuals to Vietnam, the INS only managed to repatriate 24 deportees (Immigration and Naturalization Service, 1999).

*Cuba.* Since the breakdown of the 1984 readmission agreement with Cuba, deportations from the United States to Cuba have become close to impossible. While a trickle of deportations remains, the INS considers Cuba as one of the few “non-repatriation countries,” together with Laos, Vietnam, and, until recently, Cambodia.<sup>22</sup> When, in 2001, Cuba was placed on the list of seven countries considered as “sponsors of terrorism,” the issue of non-repatriation to Cuba started to attract renewed attention. From 2001-2002, 74 percent (1,733) of removal orders to these countries were issued to Cuban nationals, of whom only about 1 percent were actually removed (Office of the Inspector General, 2003). Deportations to Cuba are extremely cumbersome even for countries which, unlike the United States, have diplomatic relations with Havana. German authorities, too, consider Cuban nationals as “non-deportable.”<sup>23</sup>

*Guyana.* As mentioned above, in 2001 the United States imposed visa sanctions on Guyanese government officials<sup>24</sup> as a response to the country’s refusal to issue travel documents to deportees. Under a 1996 provision of the Immigration and Nationality Act,<sup>25</sup> the U.S. government can impose immigration sanctions against any government that “denies or unreasonably delays accepting” the return of its citizens. In the case of Guyana, this strategy was immediately effective and, after one month, the U.S. Department of State resumed the issuance of visas. Despite its efficacy in the case of Guyana, the use of immigration sanctions clearly threatens to strain diplomatic relations and is only likely to be used in situations where the U.S. has little to lose. In the words of a senior INS official,

“With Guyana, the State Department for the first time employed sanctions.[...] They probably wouldn’t have dared to use sanctions against a more significant country. But this can also send a signal to other countries. The INS wanted to have sanctions against China, but [the Department of] State refused.”

(Personal interview with senior INS official “A,” Washington, D.C., August 2002)

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<sup>22</sup> The recent readmission agreement with Cambodia is just beginning to be implemented.

<sup>23</sup> Cuba, for instance, requires notoriously hard-to-get reentry visas from any Cuban citizen who has been abroad for longer than 11 months.

<sup>24</sup> With the threat of extending sanctions to all citizens.

<sup>25</sup> Section 243(d), established in 1996.

As the reference to China implies, the pursuit of migration control has to be balanced with other aspects of interstate relations (such as international trade), some of which the Department of State may consider more important.

To sum up, diplomatic measures such as readmission agreements and immigration sanctions have met with varying degrees of success. Not surprisingly, formal agreements work best for countries with a high stake in good interstate relations, as is the case with Eastern European candidate countries vis-à-vis the European Union. In a similar vein, sanctions against foreign states are most likely in situations where interdependence is skewed at the expense of the country to be sanctioned. While these bi- and unilateral measures fall within the parameters of international and national law, their use is nevertheless constrained by the need for good diplomatic relations and public support. As the story of the failed Swiss-Senegalese *accord de transit* shows, deportation is an issue that is easily mobilized by human rights groups. The failure of the EU to agree on the withdrawal of development aid to non-cooperative countries, for instance, reflects concerns about potential political costs, both at home and abroad.

Normative pressures are stronger in Europe than in the United States, in terms of both the primacy of bi- and multilateralism over unilateralism (Forman and Stewart, 2001), and the protection of human rights (Moravcsik, 2001). As a U.S. official who regularly interacts with European colleagues at IGC<sup>26</sup> meetings has commented, “the advantage the U.S. has over European countries is not so much their international power, but rather the fact that we are less worried about taking the bull by the horns.”<sup>27</sup> This is particularly the case with Germany and the historical connection between deportations and genocide. Tellingly, British, American, and French newspapers were all highly critical of the German-Romanian agreement (Markmeyer, 30 October 1992). The *New York Times*, for instance, referred to the *accord* as a “deportation pact” (The New York Times, 25 September 1992), and commented,

“No wave of repression has been as brutal as that carried out by the Nazi regime, which considered Gypsies racially inferior and sent hundreds of thousands—German and foreign Gypsies alike—to their deaths in concentration camps. For years, the memory of that holocaust has made Germany highly reluctant to act against Gypsies. But now that the asylum-seekers are being met with so much violence, and the hatred is striking so much fear in the hearts of politicians, the guilt feelings have been largely forgotten.” (Kinzer, 27 September 1992)

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<sup>26</sup> Intergovernmental Consultations on Asylum, Refugee and Migration Policies in Europe, North America and Australia

<sup>27</sup> Personal interview with senior INS official “A,” Washington, D.C., August 2002.

Finally, the conclusion of readmission agreements does not necessarily tell us much about the actual degree of interstate cooperation. At the end of the day, it is the level of implementation that matters, if deportation policy is to have more than a just symbolic impact. And it is at the level of on-the-ground implementation that interior authorities, rather than diplomats, are the key political actors. Faced with the reluctance of receiving states to issue travel documents, immigration officials are forced to continue where diplomats left off and devise their own strategies to secure compliance. In doing so, they cannot resort to the political influence at the disposal of foreign ministry officials. Instead, deportation officers<sup>28</sup> exploit a structural advantage that is denied to diplomats: the political invisibility of much of their work. In pursuing deportations largely out of the sight of the public, both domestically and abroad, they are able to strike deals where diplomats have failed.

## II.2 Administrative Strategies Targeting Officials

*Circumventing Diplomats.* The regional deportation authority in Bielefeld, one of four centralized immigration agencies in the German *Land* of North-Rhine Westphalia, has nationally been at the forefront of devising new strategies for the administration of deportation policy. Its most striking success to date has been the establishing of relations with Armenia and Georgia which allow for the deportation of Armenian and Georgian nationals with undetermined identity. Significantly, the two former Soviet republics have so far refused to enter into bilateral readmission agreements at the interstate level. While deportations had been possible to both countries, an increasing number of deportees without travel documents frustrated deportation efforts in many cases. In response, deportation officers from Bielefeld traveled to Armenia and Georgia with the aim of establishing personal contact with *interior* authorities in the field.

“We established personal contacts with the interior authorities. Normally, contact would have to be established via the foreign ministry to the embassies. But, in our experience, when we invite officials from *interior* authorities, people are much better trained.”

(Personal interview, Torsten Böhling, director, regional deportation authority Bielefeld (North-Rhine Westphalia), 1 February 2002)

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<sup>28</sup> This includes officers and supervisors at the street level, managers at the mezzo level and policymakers at the ministerial level.

By circumventing the diplomatic route and dealing with interior officials directly, German deportation officers not only benefited from the expertise of interior experts (Andreae and Kaiser, 1998), they also effectively eliminated a level of decision-making marked by incongruent policy preferences. Exposed to the constraints of foreign relations, diplomats tend to focus on the entirety of interstate relations, with migration control rarely taking first place. As the director of the Bielefeld authority put it, "deportation is not the favorite topic of the foreign office."<sup>29</sup> Conflicts between the German federal interior ministry and the federal foreign office concerning issues of migration are well documented<sup>30</sup>. Thus, by dealing directly with interior officials who share a common ethos of law enforcement, German officials have found negotiations far less cumbersome. Interior authorities in Armenia and Georgia in turn have come to value cooperation with German officers as a way of identifying wanted criminals.

As a result of these informal negotiations, Germany now can transport deportees with unconfirmed identity to Armenia and Georgia. Armenia accepts German travel documents, while Georgia has agreed to Georgian identity paper made out to the wrong name. While Armenian and Georgian authorities were initially concerned that they would receive third country nationals, experiences have been positive, with German authorities so far only sending individuals whom receiving authorities confirmed as being of Georgian or Armenian origin. Moreover, this strategy has also shown to have a deterrent effect on deportees. Since word has spread that deportations will proceed even in the absence of papers, the number of Georgians and Armenians who present their travel documents<sup>31</sup> has increased.<sup>32</sup>

To sum up, German interior authorities have succeeded in establishing informal channels of cooperation with Armenia and Georgia in a situation where the two countries were unwilling to enter into formal agreements. Interior actors have benefited from the relative insulation of the administrative level from the vicissitudes of public opinion and foreign relations.

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<sup>29</sup> Personal interview, Torsten Böhling, director, regional deportation authority Bielefeld (North-Rhine Westphalia), 1 February 2002

<sup>30</sup> After the conclusion of the German-Rumanian readmission agreement, for instance, the federal ministry of the interior accused the federal foreign office of a too liberal visa policy toward Rumanians which ran counter to the goals of the agreement *Süddeutsche Zeitung* (28/29 November 1992). Streit zwischen Bonner Ministerien: Auswärtiges Amt weist Kritik des Innenministeriums zurück. *Süddeutsche Zeitung*. München.

<sup>31</sup> In order to avoid future bureaucratic complications.

<sup>32</sup> Personal interview, Torsten Böhling, director, regional deportation authority Bielefeld (North-Rhine Westphalia), 1 February 2002

“It is much harder to arrange for agreements at the national level. *Where there is no politics, there is no press.*”

(Personal interview, Torsten Böhling, director, regional deportation authority Bielefeld (North-Rhine Westphalia), 1 February 2002, my emphasis)

And, while establishing personal contacts was a work-intensive process, German deportation officers now benefit from these structures, which, because they are created at the level of implementation, work smoother than many a formal agreement. Experience overall has been sufficiently positive that, as of 2002, officers in Bielefeld have entered into similar negotiations with interior authorities in Azerbaijan.

Yet another strategy for the circumvention of the diplomatic level is to invite foreign interior officials to conduct on-site interviews with deportees. Despite additional costs, this measure has proven promising in cases where embassy interviews have not achieved the desired results. Again, the advantages of conducting interviews with interior, rather than diplomatic, authorities consist in their superior administrative capacity, expertise, and, ultimately, authority to make binding decisions—deportation being an issue of justice and police affairs. In December 2001, the interior ministry of the *Land* Brandenburg organized, in cooperation with the Federal Border Patrol Directorate, a 10-day visit by the interior authorities of Vietnam for the purpose of group interviews. As mentioned above, in the wake of the German-Vietnamese readmission agreement, Vietnamese authorities had set the standards for identification so high that only few applicants were issued with documents. Estimates of the proportion of successful applications by my interview partners at foreigner authorities in Brandenburg ranged between 5 percent and 20 percent.<sup>33</sup> In comparison, after the group interviews with interior officials in December 2001, the proportion of individuals accepted stood at 73 percent (109 out of 150)—a threefold increase even by moderate estimates.<sup>34</sup> As a consequence of this successful experiment, other *Länder* are now planning on organizing similar visits.

*Establishing Relationships with Diplomats.* Even when there is formal interstate cooperation, implementation not infrequently fails because of the unwillingness or inability of

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<sup>33</sup>Personal interviews, municipal foreigner authority Brandenburg a.d. Havel, 21. November 2001; municipal foreigner authority Cottbus, 16. November 2001.

<sup>34</sup>Personal interview, Dietmar Martini-Emden, director, Clearing House for the Procurement of Travel Documents, Trier (Rhineland Palatine), 26 February 2002.

ground-level diplomats to cooperate with sending authorities. The frustrations of German and American deportation officers are considerable when faced with the administrative hurdles erected by foreign embassies when applying for travel documents.

“We need to get papers for a Sudanese national. [...] We apply for an interview with the Sudanese embassy. Many African embassies never reply to our requests. I have seen piles of boxes with unopened letters. Finally we get an interview. The embassy employee tells us, ‘he’s not from Sudan, he’s from Liberia.’ Then we go to the Liberian embassy, they tell us, ‘he’s not Liberian, he’s from the Gambia.’ The Gambians, in turn, argue, ‘if he’s Gambian, he has to sign that he’s applying for papers voluntarily. But maybe he’s not Gambian, he could be from Nigeria.’ We go to the Nigerian embassy, and they say, ‘there is a good chance that he’s from Nigeria. However, you need to provide us with clear evidence.’

(Bernd Joachimsmeier, director, municipal foreigner authority district Ostprignitz-Ruppin (Brandenburg), 27 November 2001)

In response, some deportation offices, both in Germany and the United States, have started to strategically foster relationships with foreign ambassadors and their representatives in order to streamline and accelerate the issuing of travel documents. While, as the following quote explains, professional treatment itself can go a long way, some German authorities have felt the need to also provide personal services for diplomats.

“We use our relationship with consulates to get documents expedited. [...] I can’t stress the importance of liaison enough! We need to treat them professionally. And other districts don’t do this. Treating them professionally means to pay them personal attention. In other districts—so consuls tell us—they send a guard with the alien, they have no clue. We pick the consular officer up from the airport, after we have initiated contact, and then we sit with them, as they do their interviews. We make it a pleasant experience for them. Officers from Guatemala, El Salvador, and Honduras do whole groups, and they issue document at the same day! [...]

What has really helped with cooperation with consulates are tours. We invite consuls over and give them tours of the border, the jails—this tends to change things dramatically. Otherwise they have no idea how their nationals are affected by detention. We have done this with consuls from Venezuela, Guatemala, El Salvador, and Jamaica. These people just had no idea how tough it really is. They are now quicker at issuing documents.”

(INS deportation officer “B,” Detention & Removal program, San Diego, July 2002)

“The deputy ambassador of country X asks for a break in the middle of an interview to get a massage. [...] Ambassadors get invited to St. Augustin and are given theater tickets for Starlight Express in Bochum. Well, it’s hard to know where corruption starts. [...] It has become custom to give ambassadors access to mobile phones during their visits. Even if this means that they make calls to Africa for hundreds of DM.”

(Senior federal immigration official, Germany, January 2002)

In addition to providing incentives for cooperation, German deportation offices in particular have started to recognize the impact that insufficient resources can have on the issuance of travel documents. It is not only German and U.S. deportation officers who are faced with an ever increasing workload, foreign embassies, too, are constrained by scarce resources. The lack of resources is particularly acute with African embassies in Germany. It is said that the embassy of Niger, for instance, does not even have heating.<sup>35</sup> The Bielefeld deportation office has developed a software package for the Algerian embassy to aid in the registration of deportees. Both in Germany and the United States, embassy interviews are increasingly conducted in groups, in order to lessen the strain on resources. Sometimes interviews at the various African consulates are arranged consecutively in order to allow for a back and forth between ambassadors. These challenges have been greatly aided by the centralization of the tasks of procuring travel documents. This process has been particularly pronounced in Germany, where the task is no longer in the hands of municipal agencies but has been moved up to the regional and even national level. Centralization has allowed for the professionalization and administrative streamlining of these tasks and has increased the political clout of domestic agencies vis-à-vis foreign embassies.

“Ambassadors welcome centralized authorities. Some of them will only negotiate with centralized agencies. The embassies are absolutely overburdened, there is chaos. Often municipal authorities never hear back. Or embassies can’t find the file. The whole process can extend over years, only because of a missing photograph. Now this is much more positive and personal, because of the meetings. It’s the only way to stay up-to-date. In addition, a central authority carries more political weight.”

(Personal interview, Dietmar Martini-Emden, director, Clearing House for the Procurement of Travel Documents, Trier (Rhineland Palatine), 26 February 2002)

While interpersonal relationships between domestic interior authorities and foreign diplomats have provided solutions to the problem of travel documents in some instances, its efficacy is clearly limited by the lack of sanction power of immigration agencies. Ultimately, interior agencies depend upon the willingness of foreign ministries to directly address problems with ambassadors by means of diplomatic notes or personal interviews. However, diplomats may often decide that it is not in their interest to take the risk of fracturing already unstable foreign relations. And, of course, there always is the issue of administrative turf. As a German

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<sup>35</sup> Personal interview, Herr Martini-Emden, director, Clearing House for the Procurement of Travel Documents, Trier (Rhineland Palatine), 26 February 2002.



immigration official put it, “the foreign office doesn’t want to be the agent of interior authorities.”<sup>36</sup>

### II.3 Administrative Strategies Targeting Deportees

Once diplomatic efforts and attempts at interagency liaison have failed, immigration authorities still have one strategy up their sleeve: manipulate the behavior of the deportee. This strategy, not surprisingly, is the most politically controversial as it is most in danger of infringing upon individual human rights. If agencies succeed in gaining the cooperation of a foreign national, the issuance of papers in the vast majority of cases is virtually assured. With the possible exception of Cuba, even the most recalcitrant countries honor the voluntary applications of their nationals for travel documents. While the above strategies of interior authorities when dealing with foreign diplomats are strikingly similar in Germany and the United States,<sup>37</sup> strategies targeting the individual level show significant divergence. Where the U.S. Immigration and Naturalization Service has become strongly reliant on detention as a tool of migration control, legal protections have prevented an equally punitive incarceration policy in Germany.<sup>38</sup> Instead, German authorities are beginning to institute so-called “departure centers” (*Ausreisezentren*) which try to secure the cooperation of deportees by means of individual sanctions.

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<sup>36</sup> Personal interview, Dietmar Martini-Emden, director, Clearing House for the Procurement of Travel Documents, Trier (Rhineland Palatine), 26 February 2002.

<sup>37</sup> This convergence is observable across the advanced industrialized world. Administrative infrastructures promoting the exchange of information and the pooling of resources which are being built up within states, are increasingly being extended into the international arena. Within the European Union, intergovernmental working groups have a long tradition, such as the Trevi Group of EC interior ministers and officials, set up as early as 1975 Geddes, A. (2000). *Immigration and European Integration: Towards Fortress Europe?* Manchester, Manchester University Press. Increasingly, however, interstate cooperation is being extended beyond the European Union. One of the most prominent groups, the Intergovernmental Consultations on Asylum, Refugee and Migration Policies in Europe, North America and Australia (IGC), established a Working Group on Return in 1994 that was charged with monitoring return-related problems and devising strategies for dealing with them. The groups has drawn up a list of “problem countries” and have paired IGC participating states with these countries, charging them with promoting cooperation Noll, G. (1999). *Rejected Asylum Seekers: The Problem of Return*. Geneva, UNHCR, Center for Documentation and Research,.. Thus, the deporting countries of the west are increasingly joining forces to pool their resources to tackle the issue of non-cooperation of third countries.

<sup>38</sup> While deportees can be held in detention for a maximum of 6 months, this is rare. In most cases, judges refuse to grant detention powers beyond a period of 3 months. This often does not allow authorities sufficient time to procure travel documents.

*Deportees in Dead-end Departure Centers.* Based upon a Dutch pilot project,<sup>39</sup> departure centers are centralized holding centers in remote geographic locations that attempt, through regular interviews and sanctions, to compel deportable individuals to disclose their identity and cooperate in applying for travel documents.<sup>40</sup> While the centers are open in the sense that its residents can freely enter and leave, a vast array of administrative measures aim at limiting individuals' alternatives to deportation. Residents are neither allowed to leave the municipality surrounding the centers<sup>41</sup> nor to engage in enumerated or voluntary work; they are denied social assistance and only have access to emergency medical care. Residents have to regularly report to immigration authorities and undergo intensive interviews with deportation officers several times a week. Experiences with departure centers, which so far have operated on a pilot basis, have been sufficiently positive for the country's current immigration bill to include the option of establishing departure centers at the *Land*-level.<sup>42</sup> The departure center in Braunschweig in Lower Saxony, for instance, reports that out of a total of 123 residents, officials have succeeded in establishing identity in 34 percent of cases. Of the remainder, 35 percent escaped, 5 percent were released without resolution, and 34 percent remained unresolved at the center.<sup>43</sup> At the center in Ingelheim, Rhineland-Palatine, the average length of stay is 309 days (ranging from 4 to 809 days) (*res publica*, 2002). Not surprisingly, these centers have been the subject of much political controversy. So much so that, in 2002, the term "departure center" (*Ausreisezentrum*) was selected as the runner-up for Germany's annual national competition for the "*Unwort des Jahres*" ("un-word" of the year). The jury argued that the term misleadingly conjured up visions of voluntary departure, even vacation travel (*taz*, 31 January 2003). In the late 1990s, a pilot project in Lübecke, North-Rhine Westphalia, had to be closed because of rioting and public protest during a *Land* election period. Significantly, departure centers are generally set up in remote locations, removed from cities, not only to increase the costs of public protest, but also to

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<sup>39</sup> Ter Apel, built in 1995 at a former NATO-deport.

<sup>40</sup> Interview, *Bezirksregierung* Braunschweig (Niedersachsen), 31. January 2002.

<sup>41</sup> Unlike in the United States, in Germany residents have to register their place of residence with the municipal police. Both citizens and non-citizens are obliged to carry identifying documents which can be checked by the police. In the case of migrants held in departure centers, identifying papers would clearly state the imposed limitations on movement.

<sup>42</sup> The original attempt by Otto Schily, the federal minister of the interior (SPD) to *mandate* the establishment of departure center failed because of opposition by the coalition Greens and the left wing of the Social Democrats.

<sup>43</sup> Internal data, departure center Braunschweig (Lower-Saxony), March 2002.

prevent solidarization of the native population with deportees. From an integrationist perspective, this has been a serious issue of concern.

“Centralization can cause problems. [...] For the native population this is not a good situation. In this situation, sensitivity can’t develop, on the contrary, this doesn’t allow for constructive interactions with strangers.”

(Personal interview, Imke Schmal, legislative staff member, member of the *Bundestag* Rüdiger Veit, SPD, Berlin, 18 December 2001)

From the perspective of migration control, however, centralization—and the related remoteness of the centers—is an important strategy of invisibility. The logic underlying the following quote, though made in the context of centralized reception centers for asylum applicants, also describes the rationale behind the structure of departure centers:

“Deporting is, of course, a difficult undertaking. Our strategy is [...] to centralize. In the past, we had a more humane approach. But then we had to deal with more and more opposition. Folks didn’t want to leave, and support groups sprung up all over the place. People really started to celebrate refugee work. [...] The churches became very active. [...] Centralization did help. Even though the big reception centers are not without problems—there often are social tensions between the foreigners—they do manage to prevent integration. Otherwise people are all over the place, in particular in sports clubs.”  
(Personal interview, Roland Schmid, advisor to the CDU, state parliament Baden-Württemberg, 11 January 2002).

In their attempt to set up institutions that allow for the systematic “wearing down” of deportees’ resistance to cooperation, the ability of interior agencies to exercise their administrative discretion relies to a significant extent on the invisibility of implementation to the larger public. While even the most remote departure centers do not escape the attention of advocacy groups, activists will find it much harder to mobilize a public that is not directly affected by these institutions.<sup>44</sup>

*Deportees and the Specter of Indefinite Detention in the United States.* In the U.S., the Immigration and Naturalization Service has used the threat of indefinite detention to coerce deportees to cooperate in applying for travel documents. In 1996, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 established a policy of mandatory detention for “criminal aliens” in removal proceedings. As an unintended consequence, the policy change resulted in the *de facto* indefinite detention of immigrants for whom travel documents could not be secured. By 2000, more than 2,800 so-called “lifers” were in INS detention. In 2001, the

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<sup>44</sup> This does not only apply to the “liberal” segment of the public. Opposition to centralized facilities also arises from “not-in-my-backyard” campaigns, which exploit public concerns about crime and public order.

Supreme Court in *Zadvydas v. Davis* ruled that under the Immigration and Nationality Act<sup>45</sup> INS can detain non-citizen under final orders of removal only for a period of time necessary to carry out their deportation (House Committee on the Judiciary, 2001). As a result, the INS has established a centralized view process at its Washington, D.C. headquarters which kicks in after the expiration of the 90-day removal period. However, the immigration act provides for the provision of “stopping the clock” in cases where the detainee does not cooperate with applications for travel documents.<sup>46</sup> Thus, deportation officers can use the possibility of continued detention to exert pressure on deportees to cooperate and file for documents.

“Section 241 states that the refusal to cooperate stops the clock. And we make good use of this. If someone does not cooperate in filling in forms we just let them sit. We have someone who’s been in detention for over 2 years. If someone doesn’t help me, I don’t help him, it’s that easy.”

(INS deportation officer “H,” Detention & Removal program, San Diego, July 2002)

“It is a crime not to cooperate. The Attorney General actually has started to push for its implementation. The US Attorney Office supports this. We’ve had successful cases of prosecution, one man from El Salvador got 16 months. [...] Most people want to go home once they get out of detention, they are fed up with prison. This is my personal opinion: I don’t agree with putting deportees into prison. This is too harsh. Many have never been even near a prison, and they can’t stand it, are terrified, nearly go crazy.[...] If the detainee refuses to cooperate, we keep them in custody. Since *Zadvydas*, we have 180 days to prove that there is a reasonable chance that we will get documents. If they impede our efforts, they can be prosecuted and the clock stops. The longest has been in for 3 years. It takes 1 – to 1 ½ years in detention to break them.”

(INS deportation officer “B,” Detention & Removal program, San Diego, July 2002)

Without a doubt, this strategy gives INS deportation officers a degree of power over deportees that its absent in Germany. While residents of German departure centers have the option of leaving for a life in illegality, detainees in the United States only face the choice between continued detention or deportation. At present, a number of lawsuits are underway which charge that current INS policy “establishes insuperable hurdles which make it virtually impossible for many immigrants to be released within the six-month limit set by the court” (Riley, 20 March

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<sup>45</sup> INA, section 241(a)(6)

<sup>46</sup> INA section 241(a)(1)(C): “The removal period shall be extended beyond a period of 90 days and the alien may remain in detention during such extended period if the alien fails or refuses to make timely application in good faith for travel or other documents necessary to the alien’s departure or conspires or acts to prevent the alien’s removal subject to an order of removal.”

2003). Should the INS lose these cases, this would very likely further impede their ability to secure travel documents for deportees.

### **III. Discussion and Conclusion**

In the field of migration policy, the achievement of domestic policy priorities often depends critically on cooperation with other states. Looking at the cases of Germany and the United States, this paper has asked how interstate cooperation shapes state capacities in a policy field high on the agenda at the EU's 2002 Seville summit: deportation policy. As European and North American states endeavor to implement measures of migration control, deportation efforts are increasingly frustrated not by domestic obstacles, but by the refusal of foreign governments to issue documents for repatriation. Strategies to secure interstate cooperation are most visible in the arena of formal bi- and multilateralism. European countries, both individually and collectively, are drawing up readmission agreements with receiving states, a strategy that is also pursued by the United States, though to a lesser extent. However, examining processes of interstate cooperation in the formal, and public, arena, I have argued, does not necessarily tell us much about the efficacy of cooperation.

In this particular realm of foreign relations, it is not the foreign ministries, but interior authorities that drive policy developments. Readmission agreements are merely the tip of the iceberg of governmental strategies to secure interstate cooperation. While foreign ministries play a crucial role in the conclusion of these agreements, it is the agenda of interior officials that is being realized. In the case of countries with a high stake in cooperation, such as the accession countries to the European Union, formal agreements—coupled with administrative assistance for implementation—often are sufficient to secure policy goals. However, as we have seen, for many countries, in particular in West Africa and East Asia, even where agreements exist, on-the-ground cooperation is practically non-existent or at best problematic. It is here, at the level of implementation, that we can observe interior bureaucracies stepping in as key actors and draw up strategies for cooperation.

Scholars of European integration have established that, in the realm of asylum and immigration, it is the member states' interior, justice, and police officials that have been and continue to be the key actors in Community-wide policy harmonization (de Boer, 1996; Koslowski, 1998; Geddes, 2000; Guiraudon, 2000). By linking the issue of asylum and

immigration with those of international crime and national security, law enforcement officials have been able to occupy the emerging political space of Justice and Home Affairs. Guiraudon's study of European cooperation in the arena of migration and asylum identifies the benefits of this transnational policy venue: the evasion of national judicial constraints, the exclusion of institutions sympathetic to migrant interests such as NGOs and the European Parliament, and the setting up of structures of cooperation with sending and transit countries (Guiraudon, 2000). This paper, going beyond the realm of the European Union, has argued that the international space, while less vulnerable to the veto of pro-immigrant actors, is far from immune from it. This is particularly the case when domestic legislative bodies have to ratify agreements, as the example of the failed Swiss-Senegalese *accord de transit* has shown. Where the visibility of interstate agreements does not allow for the creation of formal structures of international cooperation, domestic interior actors can step in. The venue of policy implementation is, all in all, the least visible arena of public policy. Bureaucrats charged with implementing deportations possess a degree of insulation from the interference of outside actors that is not afforded to actors at the formal level of policy making, whether domestically or internationally. Thus, even though immigration bureaucrats are far from having resolved once and for all the problem of travel documents, a study of the level of implementation reveals a wide variety of policy measures that would remain invisible if we were to limit our analysis to the formal level of public policy.

While the invisibility of implementation strategies does allow state actors to better pursue their goals of migration control, the secretiveness of this arena also raises concerns regarding the accountability of executive actors and the protection of human rights. Few groups are able to monitor what happens to migrants during deportation and after their return. For instance, in a highly controversial measure, the United States<sup>47</sup> continues to deport migrants to Somalia, even though at present the country has no formal government. From an administrative perspective, this makes deportation particularly easy because the U.S. can issue its own travel documents which do not get checked upon arrival. From a human rights point of view, however, this policy raises serious concerns about the well-being of deportees after their return. Another example is the informal (and illegal) practice some German authorities reportedly have pursued to send charter planes filled with African deportees of varying nationalities to one West African country

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<sup>47</sup>Germany officially does not conduct deportations to Somalia at present. However, I have heard from U.S. deportation officers that they have witnessed deportations from Germany to Mogadishu.

and hope that immigration officials will accept them.<sup>48</sup> In a similar vein, an eye witness reported that, in October 2001, on a flight from Brussels to a West African country, a number of Jamaican deportees were on board who, after landing, had no financial means to make their way back to Jamaica.<sup>49</sup>

On a more positive note, governments are gradually beginning to realize the need to couple deportation with support for reintegration. The International Office for Migration, for instance, offers its services to western governments to support the reintegration of returnees. In the case of the return of refugees from Germany and other EU countries to Kosovo and Bosnia-Herzegovina, this approach overall has proved successful. However, IOM only works with voluntary returns, not with forcible removals. Finally, a strategic reintegration policy not only would help to protect the rights of returnees, it might also help receiving states to deal with the inflow of their nationals. And, to return to the purpose of this discussion, a coordinated return and reintegration policy may yet be the most successful strategy for international cooperation. Rather than clearing paths through the thicket to avoid the obstacle of non-cooperation that is blocking the road, this might actually be a first step toward removing the obstacle.

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<sup>48</sup> Confidential source, deportation officer, Germany.

<sup>49</sup> Written communication, Chidi Odinkalu, Senior Legal Officer, International Centre for the Legal Protection of Human Rights (INTERRIGHTS), London, UK, 27 February 2003.

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