NOVAMIGRA

NORMS AND VALUES IN THE
EUROPEAN MIGRATION AND REFUGEE CRISIS

2021 FINAL REPORT

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Imprint

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FINAL REPORT

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From 2014 to 2017, more than three million refugees arrived in Europe. They sought protection from war, violence, persecution and other human rights violations when they arrived in Europe and, in many cases, they also hoped to find a lasting perspective for a new life. Many of these refugees have indeed found reception and protection in the European Union, but some still find themselves in protracted situations, and the EU has since made it much more difficult for refugees to enter its territory. The arrival of refugees has plunged the European Union into a deep crisis: The Dublin system for the distribution of responsibilities concerning migration and asylum within the EU, which had been in place until then, has been suspended, and although the New Pact on Migration and Asylum attempts to initiate a new coordinated approach in this area, there is still no common policy on how to fulfil international, European and national legal obligations towards refugees – not to mention the failure to live up to Europe's moral and political responsibility to respond adequately to migration and its causes.

In view of this situation and the controversies about how to deal with the major humanitarian challenges the arrival of refugees poses for the European Union, the question arises as to whether the values on which the European Union, according to its self-image, is based, still apply and are shared. The Charter of Fundamental Rights and the Treaty of Lisbon declare the "universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law" (Lisbon Treaty, Preamble) to be the foundation of the European Union – but can we still say that these values form its common ground? What are the values underlying the political and social responses to refugees coming to Europe? Has the arrival of high numbers of refugees in Europe affected and changed European values? And if so, what does this mean for the future of the European Union and its global role?

These are the questions that the project *Norms and Values in the European Migration and Refugee Crisis* (NOVAMIGRA) has addressed. It has developed a precise descriptive and normative understanding of the current crisis of Europe and its values, assessed possible developments of European values and considered Europe's future in terms of the rights, norms and values that could contribute to overcoming the crisis. In doing so, we have pursued three main objectives: first, to offer a precise and comprehensive understanding of core values or norms in Europe; second, to explain the way values and norms motivate or affect relevant political, administrative and societal agents with regard to migration and the integration of migrants and refugees; and third, to provide a rights-based democratic perspective for the EU and its member states.

This final report of the Horizon 2020 project NOVAMIGRA brings together its main research findings in an accessible way. It draws conclusions for understanding the political situation in the field of migration and flight and offers recommendations on how the European Union should overcome its internal strife without neglecting its obligations towards refugees.

Essen, April 2021

Andreas Niederberger

PREFACE

POLICY RECOMMENDATIONS

Create a better understanding of what the European Union's core norms and values are and imply.

– not in in order to set down one "correct" interpretation once and for all, but in order to facilitate a more reasonable societal dialogue about them. Our findings suggest that many Europeans support the norms, principles and rights that underlie the Union's core commitments, yet lack a clear understanding of their deeper meaning. A dialogue on plausible and implausible interpretations of the EU's core commitments would also be an important bulwark against populist arguments.
→ *See Sections 1.1, 1.2 and 4.2.*

Focus a public dialogue on the European Union's core commitments on human dignity and human rights rather than the idea of "European values".

While "value talk" has the merit of facilitating emotional commitment, the concept of values is ambivalent and can be used in ways that exclude outsiders and undermine the rule of law. What is needed instead is more clarity about the normative implications of human rights and their relationship to preserving cultural identity. This would address fears that a commitment to cosmopolitan norms could be over-demanding.
→ *See Section 4.2.*

When values are discussed as part of civic orientation lessons, make explicit if and how they connect to applicable norms, rights and duties.

In order to enable a dialogue about the commitments expected from newcomers in the process of civic integration, course materials should make explicit whether they refer to legal norms, moral norms, social conventions or values in a stricter sense. This should also be reflected in the teaching methods used for integration lessons.
→ *See Sections 3.2 and 3.3.1.*

Involve stakeholders, including refugees and immigrants, in decisions about the proper place of value transmission in civic integration.

Values are plural and contested, both among immigrants and in member states' domestic public spheres. The design of integration course curricula and materials should be based on the experience of integration practitioners at local, municipal and regional level. Refugees and immigrants often have their own experiences of defending universal rights and principles in adverse conditions, and their voices should be heard in the consultation process.
→ *See Sections 3.1 and 3.3.*

Strengthen the work of civil society and municipal actors in the reception and integration of newcomers.

Europe's "refugee crisis" has not only led to polarisation between member states but also prompted an unprecedented enthusiasm in civil society to support the reception and integration of newcomers. In many settings, initiatives have collaborated closely with municipalities to establish best practices. However, actors in civil society often face unstable working conditions due to a reliance on short-term external funding and, in some member states, government obstruction to accessing EU funds. To strengthen these actors, measures are needed to remedy these issues.
→ *See Sections 3.1 and 3.3.*

Remain adamant about the unconditional character of the European Union's core commitments.

The EU's legitimacy rests on its claim to further cosmopolitan norms. Although the exact content of these norms is open to discussion, their egalitarian and universalist core cannot be compromised. Following an ethics of hospitality when dealing with migrants and asylum seekers is one minimum requirement in any conception of cosmopolitanism. This does not mean fully open borders, but it does require that newcomers be granted access to legal institutions and the right to apply for asylum status upon arrival.
→ *See Sections 4.1 and 4.3.*

Europe's Values and the Migration and Refugee Challenge: Introduction and Main Messages

Therese Herrmann and Andreas Niederberger

References to "European values", and to values more broadly, have recently proliferated in political discourse on migration issues. Right-wing nationalist and conservative parties have framed immigrants' cultural orientation as a threat to European values, including liberal values, such as tolerance, autonomy or gender equality. National and supranational governments on the centre-right and centre-left have increasingly appealed for respect of civic values – the rule of law, democracy, a commitment to human rights – in response to the rise of right-wing nationalism, which has often thrived on anti-immigrant messages. At the same time, governments across Europe have ascribed increasing importance to value transmission in their civic integration policies, with some moving to make an adherence to values a condition not just for acquiring citizenship but also for residence permits or eligibility for social security payments.

While references to values have increased in migration debates, values themselves have remained noticeably undefined and often ambivalent. One point of confusion has been whether values refer to cultural conventions or to universal normative orientations. Upon assuming presidency of the European Commission, Ursula von der Leyen made migration the responsibility of the newly created "Vice-Presidency for Promoting our European Way of Life". Responding to criticism about the culturalist connotations of this title, von

BOX 1: *Central Value References in the Treaty on European Union (TEU)*

Article 2: "The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail."

Article 3
(1): "The Union's aim is to promote peace, its values and the well-being of its peoples."

(5): "In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens."

Article 7 (1): "On a reasoned proposal by one third of the Member States, by the European Parliament or by the European Commission, the Council [...] may determine that there is a clear risk of a serious breach by a Member State of the values referred to in Article 2."

INTRODUCTION

der Leyen linked the European way of life to the values defined in art. 2 of the Treaty on European Union – dignity, freedom, democracy, equality, rule of law and human rights – and stressed their universal character.[1]

Yet in her mission letter to the newly appointed Vice-President for Promoting our European Way of Life, Greek EPP member Margaritis Schinas, von der Leyen chose to describe the domain differently. Here, she notes that "the European way of life is built around solidarity, peace of mind and security" (President of the European Commission 2019). Rather than referring to universal liberal values, von der Leyen seemed to focus on personal value orientations – peace of mind and security – to describe how migration policy should promote a specific way of life.

The new emphasis on values in European public discourse has also been accompanied by a renaissance of traditional conservative interpretations of collective values. When right-wing nationalist governments in central and Eastern Europe, but also far-right parties in Germany, Sweden or France, have proclaimed the need to protect national or European values, their list of values has often included a traditional emphasis on family, Christian faith and local custom. Still, when it comes to motivating values in the migration context, far-right groups have often invoked both the traditional conservative and the universal liberal sense of values, alternating, like France's far-right *Rassemblement National*, between propagating traditional Catholic family norms, on the one hand, and proclaiming, on the other, to defend gender equality from its supposed threat by Muslim immigrants.

To complicate the picture even further, it may be argued that value-laden language also increased on the side of pro-immigrant and human rights activists. Throughout Europe, local support groups have lobbied municipal governments to remain open to immigrants in spite of restrictive national policies, often invoking local values and identities (for case studies, see Goździak, Main and Suter 2020).

Human rights activists sometimes argue that aspects of its migration and refugee policy contradict the EU's foundational values and commitments. In the area of migration and refugee policy, the argument has resonated with many, given the documented infringements on fundamental rights and applicable procedures in various member states and at the EU's external borders. But seeing the lose connection between values and political commitments sketched above, in what sense, if any, can we really extrapolate a concrete meaning from the EU's foundational values when it comes to its migration policy? And how, if at all, has this changed in the course of Europe's "refugee crisis"?

NOVAMIGRA (*Norms and Values in the European Migration and Refugee Crisis*) took this as the starting point and analysed the content, meaning and use of values in European migration and integration politics since the "refugee crisis" of 2015. From 2018 to 2021, the project combined philosophical analysis with legal theory, social sciences and anthropological approaches to pursue three leading questions. Firstly, we reconstruct what Europe's core values are and how they relate to migration. Secondly, we analyse if and how these values have changed in the wake of the 2015 "refugee crisis". Thirdly, we construct core principles for a realistic cosmopolitan migration policy, based on our empirical analysis.

WHAT ARE "EUROPEAN VALUES" AND HOW DO THEY RELATE TO MIGRATION?

> **Conclusion 1**: The idea of "European values" may be read as referring to individual attitudes, but we propose to interpret it in terms of Europe's public commitments.

Values and attitudes to migration: Existing approaches

Although references to values have proliferated in European public discourse on migration in recent years, the idea of "European values" has rarely been studied systematically in the migration context. Existing empirical research often understands values as individuals' long-term orientations and tests how these orientations influence their more concrete policy positions.[2] Read in this sense, values are understood as an individual's long-term beliefs about a set of desirable ends – for her personal life, but also for her political community – which she generally orients her actions towards. Interpreted broadly with regard to migration, they may include an individual's views about the desirability of having immigrants as part of their local or national communities, as measured by the World Values Survey, the European Social Survey or Gallup's Migration Acceptance Index.

More often, however, the relation between an individual's values and her positions on questions of migration is taken to be more abstract. Where quantitative research measures the impact of an individual's values on her more immediate political attitudes, it understands values more narrowly as a set of relatively stable fundamental goals she may choose to pursue in her life – material wealth, security, self-fulfillment or beauty are examples. Empirical research connecting values to political attitudes has then sought to establish that these orientations can explain variations in political preferences across societies (Schwartz 1994; Knutsen 1995; Jost et al. 2015) and generations (Inglehart 1977; Inglehart 2019).

Attempts to use value-based approaches to explain attitudes towards migration in particular are rather recent (see Davidov and Meuleman 2012). Dennison and Dražanová (2018) have shown that four of the ten core personal values identified by Schwartz (1992) have strong effects on attitudes to immigration: The conservative values "tradition", "conformity" and "security" predict restrictive attitudes to immigration, while "universalism" predicts positive attitudes.
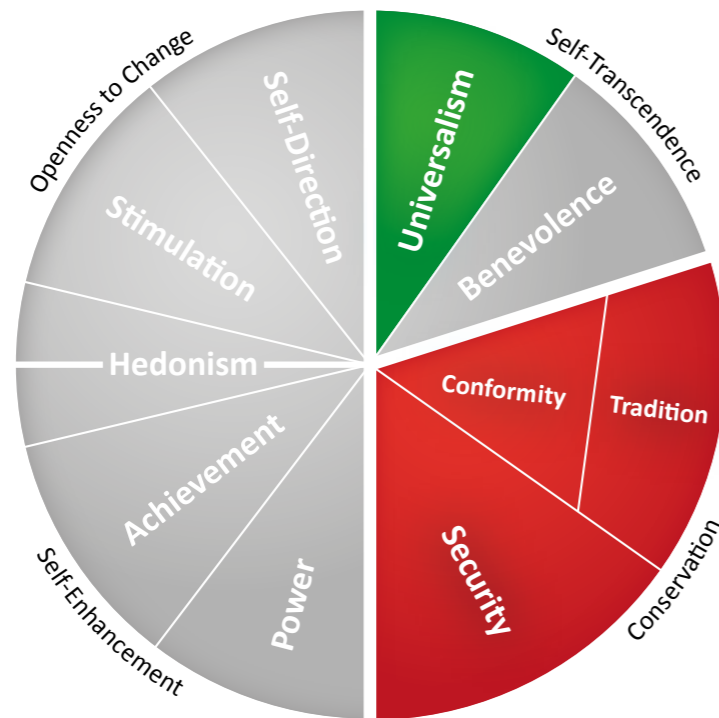

Figure 1. Basic human values according to Schwartz (2012).
Values shown to predict attitudes towards immigration by Dennison and Dražanová (2018) are highlighted. Red indicates a prediction for restrictive attitudes, green a prediction for liberal attitudes.

Norris and Inglehart (2019) have used their research on long-term value changes in prosperous societies to explain the recent success of right-wing populism in both Europe and the United States. Like Schwartz, they also show that anti-immigration sentiments are strongly correlated with authoritarian values, especially where immigration is associated with greater ethnic diversity. But Norris and Inglehart aim to go further and use their theory of value change to explain how right-wing populism has recently gained political traction. Their core thesis is that the success of right-wing populism is a backlash in reaction to long-term cultural changes that have seen the *decrease*, rather than the rise, of conservative values.

According to Inglehart and Norris, it is precisely the realisation that cultural change moves Western societies away from conservative values which politically activates older, more socially conservative voters. Anti-immigrant positions have then recently acquired prominence because conservative voters, sensing a "tipping point" in value change, have made use of their greater share of votes in the electoral system to prevent liberal "post-materialist" values from manifesting themselves as electoral choices.

These two recent examples give some indications about the strengths and weaknesses of using personal values to predict political attitudes and behaviour. As Dempster, Leach and Hargrave (2020) stress, values form part of a fairly new approach to the study of political attitudes that goes beyond demographic data to take into account a person's psychological dispositions and worldviews. However, the research is ambiguous on what precisely values refer to and how they may be kept apart from other medium- and long-term normative orientations, such as the social norms a person internalises

in early life, or her political ideologies. Empirical value research has identified a plurality of possible value scales, each conceptualising core human values and the relations between them differently.[3]

Moreover, the examples above suggest that the relation between human values and political attitudes is complex. On the one hand, it is mediated by the structure of political opportunities, including the formation of political parties and social movements. On the other hand, even where political opportunity structures exist, a person's values may be activated differently given her wider political and normative judgements. Norris and Inglehart's (2019) discussion shows that values do not automatically translate into political attitudes, but instead do so as the result of their perceived political importance (or "salience") in the eyes of voters.[4] Voters may come to feel that their values are under threat, or, more abstractly, that social cohesion itself is under threat and needs shared values to be restored. Under different circumstances, this may not be the case. It would be equally possible for someone to hold strong values personally, but to conclude that other norms and values are more relevant politically.

In order to understand if and how values drive political action, it is therefore not enough to focus on personal values exclusively. NOVAMIGRA argues that, to analyse Europe's core values and what they imply for questions of migration, this perspective needs to be supplemented by a focus on public values.

NOVAMIGRA's approach: Values as public commitments

> **Conclusion 2**: Understood broadly, the EU's values can mean all the EU's foundational commitments, including its commitment to fundamental rights and constitutional principles. Read more narrowly, however, the idea of the EU's values refers to values as a specific kind of such commitments, which is distinct from – and may even come into conflict with – a commitment to fundamental rights and principles.

In analysing "European values" with regard to migration, NOVAMIGRA supplements a focus on values as personal orientations with an understanding of values as public commitments. Where values are understood as public rather than personal commitments, they refer to the commitments underlying public life and its institutions. The idea of "European values" is a fitting example. While it is possible to read them as referring to the values shared by Europeans, they may also mean the values underlying the European Union as a polity. Indeed, the difference seems to be inscribed in the central reference to values in the EU's treaties, that is, art. 2 of the Treaty on European Union. The text (see figure 1 above) distinguishes between the values of the Union and the values common to member states. In the phrasing of this clause, the latter can be read as a reference to a societal consensus underlying the Union's institutional values (Terhechte 2017; see also Kochenov and Klammert 2019) – although the details about how to interpret the clause's unusual phrasing remain disputed among scholars.

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[3]   See Jost et al. (2015) for further discussion of this diagnosis.

[4]   For a recent discussion of the concept of salience in the context of immigration debates in Europe, see Dennison 2019.

But what would it mean to say that the rule of law or human rights are central values in the European Union? Values may be understood as public commitments in a broader or in a stricter sense. Read in a broad sense, the idea of the EU's core values refers to all the EU's fundamental normative commitments, including the constitutional principles and rights it subscribes to via its foundational treaties. Understood in a stricter sense, the EU's core values refer to a *specific kind* of normative commitments among others.

Public values, read in the strict sense, refer to desirable long-term goals that public action is generally oriented towards realising or further realising. In acknowledging something as a value, therefore, a polity refers to the goods it strives to accomplish collectively. Norms or principles, by contrast, indicate what prescriptions one ought to abide by when realising certain goals. As such, they do not indicate what should be considered "good" (or politically desirable) but rather point to ways of accommodating conflicting worldviews fairly and peacefully.
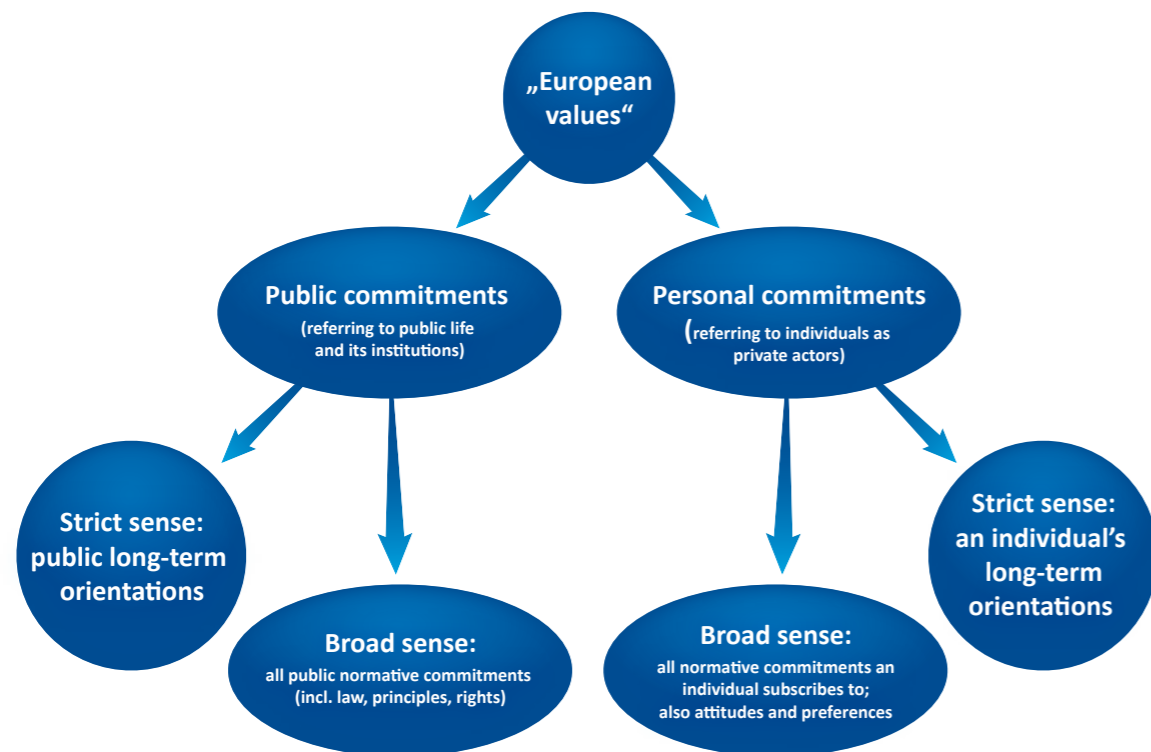

Figure 2. Possible meanings of "European values"

Although the distinction between values, on the one hand, and norms or principles, on the other, is often crucial in the philosophical discussion (see Section 1.1 in this report), it is not clear-cut in either public discourse or in the EU's foundational treaties themselves. In the context of the recent success of right-wing authoritarian parties and movements in the EU, the EU's values have come to be strongly associated with the defence of rights and the rule of law. For example, the European Commission's proposal, in 2018, for a regulation to establish a Rights and Values Programme relies on an interpretation of the EU's values that strongly references the EU's Charter of Fundamental Rights, among other things calling for the EU to "support[…] civil society organisations, in order to sustain open, democratic and inclusive societies" (European Commission 2018, 4).

However, when it comes to questions of immigration, the idea of values has often been used in a narrower sense, which puts noticeably less emphasis on rights and the rule of law. When actors in public discourse assert that "European values" – or, sometimes, "ways of life" – must be protected against the effects of immigration, values are understood as defining European identity in a way that seems to precede rights and the application of positive law.

> **Conclusion 3:** One can distinguish a value-based and a rights-based interpretation of "European values". The difference has practical implications. Values may be interpreted as part of a cultural identity that needs to be protected. Rights, by contrast, articulate standards that are owed to people.

The distinction between understanding Europe's core commitments strictly in terms of values or more widely in terms of a variety of normative concepts – including rights, norms or principles – is not only relevant for conceptual purity. NOVAMIGRA argues that it has practical consequences when it comes to migration (see Sections 1.1 and 4.2 in this report). As we discuss in more detail below, we argue that values can be interpreted as part of a cultural identity in need of protection. Rights, by contrast, articulate standards that are owed to people.

Yet NOVAMIGRA's research is not only interested in the distinction between a strict and a wide reading of Europe's core values because of its normative consequences, but also as an analytical tool to allow us to track shifts in how the EU's core commitments are interpreted and discussed in public. In reconstructing the EU's central norms and values with regard to migration, we start by focusing on the EU's central documents and then proceed to map how actors on the ground interpret and appropriate the value references contained in them. When mapping how public actors interpret Europe's basic normative commitments with regard to migration, we do not distinguish, at this level, the idea of "values" from other normative concepts, such as norms, principles and rights. However, when analysing these interpretations more closely, we go on to make use of the narrower sense of the concept of values. Shifting between a broader and a narrower sense of the idea of values allows us to grasp changes in the meaning of values invoked in public discourse in the wake of the "refugee crisis", as we discuss below.

In analysing how actors in Europe's migration and integration politics frame Europe's norms and values on the ground, we focus on three fields: European migration policy (Sections 2.1 and 2.2 in this report), the challenge of populism (Sections 2.3 and 2.4) and integration (Chapter 3).

Have Europe's Values Changed in the Wake of the "Refugee Crisis"?

It has been suggested that Europe's response to the 2015 refugee challenge prompted a shift in its core values. However, we observe that the content of Europe's values has not changed in any obvious sense. Our research shows that the values referred to by EU institutions to justify migration policy decisions remained consistent before and after 2015. Similarly, the values conveyed to newcomers in civic integration courses have also remained unchanged and continue by and large to coincide across

member states where such courses exist. Even where right-wing populists use national or European cultural values to argue for restrictions on immigration, the content of the values they refer to has not radically changed – although, as we argue below, there have been subtle shifts in their meaning.

The level of individual attitudes:
More positive overall, but polarisation

> **Conclusion 4:** At the level of individual attitudes, there is no sign that immigration is perceived more negatively since the "refugee crisis". In fact, many member states register markedly more positive opinions. However, attitudes have polarized across member states.

Have individual values changed in the wake of Europe's "refugee crisis"? Read over a medium-term period, the available data show consistency. In fact, both Eurobarometer (see figure 3) and European Social Survey data indicate that individual attitudes towards non-EU migrants in the EU have become more positive over time (Heath and Richards 2019; Ademmer and Stöhr 2018). However, attitudes towards immigrants have polarised across member states (see figure 4 below; see also the discussion in Ray, Pugliese and Esipova 2017).

Such polarisation has been most pronounced on questions of both immigration from poorer countries and asylum, and it spiked in the wake of the 2015 and 2016 "refugee crisis". Nevertheless, the negative changes in attitudes in some member states have been found to be relatively modest, in the sense that – with a few notable exceptions – they do not appear to have had a lasting impact on the trend towards more positive overall views on immigration (see the discussion in Heath and Richards 2019).
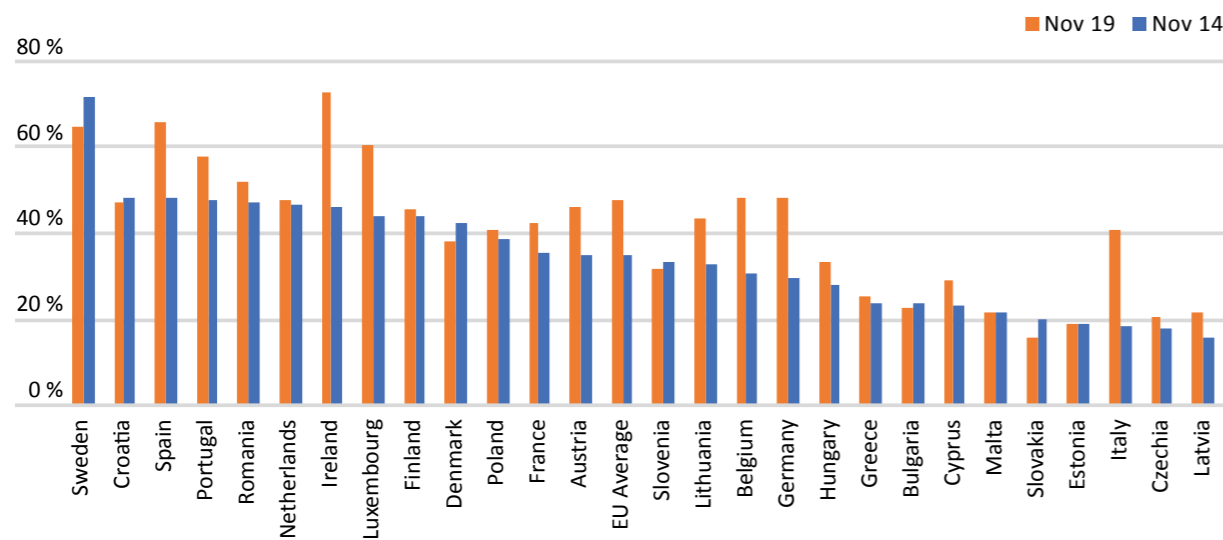
Figure 3. Positive views towards non-EU immigrants.
Share of respondents indicating that immigration of people from outside the EU evokes a "very positive" or "fairly positive" feeling for them. Source: Eurobarometer.

Moreover, there are no indications that the "refugee crisis" has triggered a change in the values underlying these attitudes. Studies reflecting how the recent success of authoritarian populism within and outside the EU aligns with voters' values see no short-term changes in individual values as such, but instead a change in how these values are represented in the electoral system (Norris and Inglehart 2019).
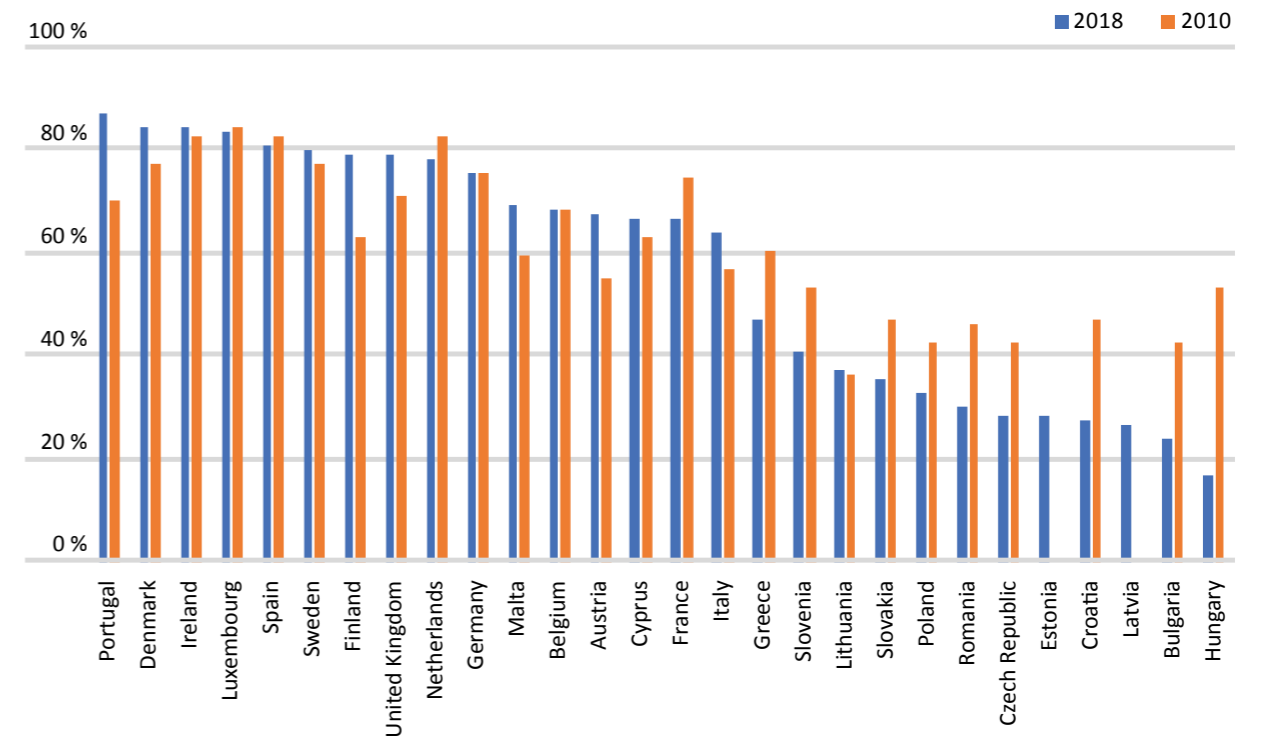
Figure 4. Polarization across member states on whether communities are a good place for immigrants.
Share of positive replies to the question 'Is the city or area where you live a good place for immigrants from other countries?', 2018 v. 2010. Source: Gallup World Poll 2018.

> **Conclusion 5:** In European public discourse on migration and integration, values are invoked more often than before the "refugee crisis". However, their meaning has diversified. More actors invoke the same values, but they imply increasingly different things with it.

The level of public discourse:
Values more salient, but their meanings diverge

Not observing a change at the nominal level of values, NOVAMIGRA went on to use qualitative methods to investigate if and how Europe's values have changed *in practice* in the wake of the "refugee crisis". Here, we do observe changes, but they are often subtle rather than categorical. These changes concern the meaning and the salience of values. Broadly speaking, they can be summarised as follows: In European public discourse on migration and integration, values are invoked more often than before the "refugee crisis", but their meaning has diversified. That is, more actors invoke the same values, but they imply increasingly different things with it.

Value transmission in integration policy

> **Conclusion 6:** In integration policy, the idea of conveying values to newcomers has become more important in member states' integration agendas. However, the rights and duties integration materials associate with specific values differ significantly across member states.

In integration policy, there has been a stronger emphasis on value transmission in the wake of the "refugee crisis". Surveying civic integration agendas in five member states, we observe that member states have both expanded civic orientation lessons and moved civic orientation to an earlier stage of the integration process as a whole. As a consequence, newcomers find themselves increasingly confronted with the obligation to demonstrate knowledge of and – in most cases – adherence to specific norms and values. Across the member states surveyed, teaching and testing norms and values have become relevant not only at the stage of acquiring citizenship but also for obtaining permanent residence permits, and sometimes even earlier than that (see Section 3.2 in this report).

However, countries with no state-led integration programmes, such as Poland, Hungary and Greece, do not follow this trend. Here, integration initiatives are organised by NGOs and local governments, often in tension with national government policy. In this constellation, actors working in integration emphasise immigrants' participation rights and often target educational programmes centred around promoting anti-racism at the local population, rather than immigrants only (see Section 3.1 in this report).

Cultural values, on the other hand, tend to be invoked by right-wing nationalist governments to justify restrictive approaches to immigration. Hence, in Poland and Hungary, discussion of values centres on how to preserve and protect "European values" from the supposedly adverse effects of values enshrined in Islam that are framed as incompatible with Christian European values (see Section 3.3.2 in this report).

	France	Germany	Italy	Netherlands	Sweden
Obligatory civic orientation lessons, 2020	Four-day training course upon signing integration contract	100 hours as part of integration course	10 hours, upon signing integration contract, mostly videos	One-day workshop upon signing "Declaration of Participation"; more in (non-obligatory) preparation courses for integration exam	100 hours, as part of "Establishment Programme"
Obligatory civic orientation lessons, 2014	Two-day training course upon signing integration contract	60 hours as part of integration course	See above	Civic orientation content taught in (non-obligatory) preparation courses for integration exam exclusively	60 hours as part of "Establishment Programme", not obligatory

Figure 5. Obligatory civic orientation lessons for newcomers in selected EU member states, 2014 v. 2020.
Source: own compilation

As conveying norms and values becomes more relevant in states' integration agendas, NOVAMIGRA surveyed civic orientation materials across five member states in order to compare the content of the norms and values conveyed. All results are available online in an interactive Value Landscape. Our survey shows that the main values emphasised largely converge – and match those stressed in the EU's foundational documents. Yet the rights and duties associated with specific values differ significantly across states. Some documents largely restrict themselves to informing about applicable norms and conventions. Others make it explicit that they seek a normative commitment from their readers. While some documents suggest that a commitment to legal norms is sufficient, others go further and indicate that addressees should arrange their way of life in line with specific values.

We also find significant differences in the reference points cited to justify the values invoked. In our survey, only Italy references European law and politics to justify its value set, while the majority of countries invokes national history, legal texts or cultural particularities.

However, we also find that the documents are often unspecific when they refer to norms and values. Many use the terms "values", "norms" and "principles" interchangeably and leave implicit what duties they associate with them. Here, we see room for improvement. In order to enable a more reasonable dialogue about the commitments expected from newcomers in the process of civic integration, civic orientation courses and materials should make explicit whether they refer to legal norms, moral norms, social conventions or values in the strict sense. This should also be reflected in the teaching methods for integration course lessons (see Sections 3.2 and 3.3.1 in this report).

Values in EU migration and refugee policy

> **Conclusion 7:** In European migration and refugee policy, few institutions attempt to define the values they refer to. In the wake of the "refugee crisis", this lack of definition has enabled an increasingly flexible application in relation to policies.

NOVAMIGRA's research found that values and norms referred to by EU institutions involved in migration policy largely remained constant from 2014–2017. The main values cited in the official documents were solidarity, responsibility-sharing, saving lives at sea, human rights and protecting freedom of movement within the Schengen Area. These values have been linked to the EU's human rights framework and its international obligations and, in this sense, have served as categorical restraints for policymaking. However, invoking values often seemed to carry meanings that went beyond merely referencing the applicable legal commitments – to the extent that sometimes values were cited to justify policies that stretched or bypassed legal commitments. In spite of this, we found that very few EU institutions attempted to define the values they referred to (see Section 2.1 in this report).

Since 2015, a number of institutions in EU migration policymaking have increasingly invoked values in ways that only loosely connect them to the EU's human rights framework and international obligations and instead allow institutions to justify policies that seem to contradict them. An example

of this is institutions invoking a commitment to saving lives at sea to justify a migration partnership with Libya, the overarching aim of which was the deterrence of migrants from European shores.

A number of values no longer hold unconditionally, but instead are gradually qualified by other obligations. This holds especially for solidarity, which is increasingly bound to the responsibility of member states to "do their fair share" and implement applicable procedures and border protection measures.

The vagueness of values leaves considerable room for diverging interpretations. The range of interpretations put forward by institutions in migration policy has widened since 2015. Solidarity can again serve as an example. While this value has gained in salience in migration discourses across EU institutions and member states, its interpretations drift apart, ranging from an insistence on implementing a binding refugee relocation scheme to a justification of financial alternatives and various opt-out mechanisms (see Section 2.2 in this report).

Values in populist discourses

Surveying right-wing populist discourses in the wake of the "refugee crisis" in seven member states and at EU level, we observe that the "crisis" has prompted populists across Europe to reinterpret their Euroscepticism in terms of immigration. While most populist parties examined articulated both anti-immigration and anti-EU positions before 2015, populists' EU criticism became entangled with the topic of immigration much more closely after 2015. The threat that the EU allegedly poses to its member states is now presented in terms of its immigration policy. To an extent, this mirrors attitudes in the wider public. Eurobarometer data (see figure 6) show that since the mid-2010s, many people have come to understand immigration as a significant challenge to the EU, while a much smaller share also considers it to be a key issue for their own country or their personal lives.

At the same time, we observe a qualitative shift in how populist discourses represent the communities they claim to defend. Populists' EU criticism shifted in the wake of the "refugee crisis" to emphasise cultural sovereignty over economic sovereignty. This goes hand in hand with a redefinition of the nation in cultural terms, often as a community of values, albeit with strongly ethnic connotations. Across Europe, far-right populist parties have campaigned for preserving national and/or European cultural identity that – according to their claims – is under attack by migrants. Yet populists' definitions of just what constitutes the community of values ostensibly under threat by immigration diverge strongly, and partly contradict each other (see Sections 2.3 and 4.2 in this report).
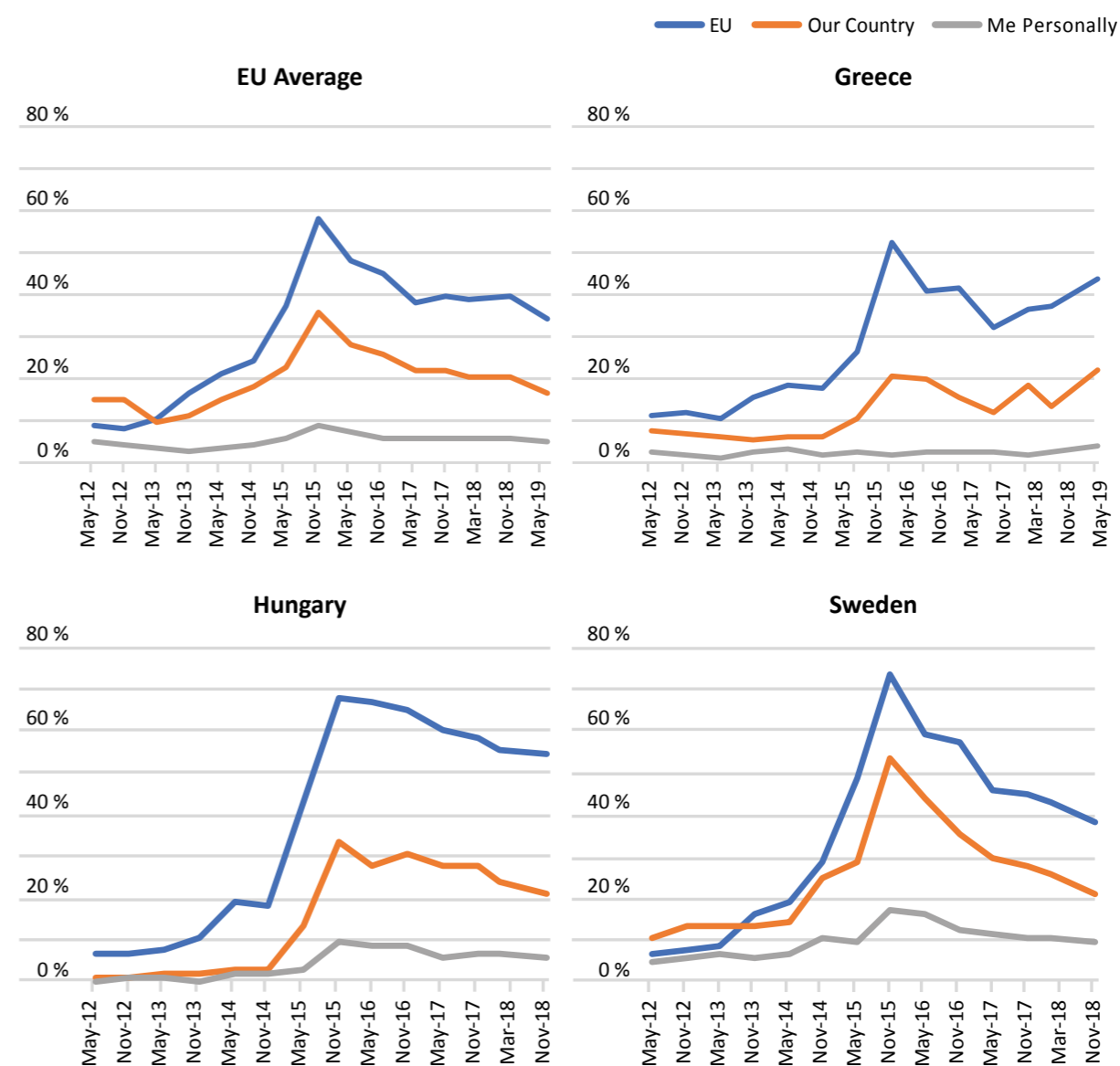

Figure 6. Respondents identifying immigration as one of the two most important issues facing the EU / their country / them personally, EU average and selected member states, 2012–2019.

Source: Eurobarometer.

THE WAY FORWARD:
EUROPEAN COSMOPOLITANISM IN THE WAKE OF THE "REFUGEE CRISIS"

Facilitating a more robust public dialogue about the EU's core commitments

> **Conclusion 8:** Policy should aim to create a better understanding of what "European values" imply – not in order to lay down one "correct" interpretation once and for all, but in order to facilitate a more reasonable societal dialogue about them.

Our empirical findings show a wide-spread ambivalence about what "European values" are, what kinds of duties they imply and how they ought to be interpreted. This observation should be the starting point for thinking about a suitable cosmopolitan ideal for Europe. The overall goal should be to create a deeper understanding of what "European values" mean and imply – not in order to lay down one "correct" interpretation once and for all, but in order to facilitate a more reasonable societal dialogue about them. It seems clear that various agents support the norms, principles and rights that underlie "European values", yet lack a clear understanding of their deeper meaning. Such a dialogue would also be an important bulwark against populist (pseudo-)arguments.

> **Conclusion 9:** A public dialogue on the European Union's foundational commitments should focus on human dignity and human rights rather than the idea of "European values". While "value talk" has the merit of facilitating emotional commitment, the concept of values is ambivalent and can be used in exclusionary ways.

This discourse, we want to suggest, should not be conducted in terms of "European values". "Value talk" has the merit of facilitating emotional commitment – which, however, may easily lead in the wrong direction without proper understanding. The dialogue should instead focus on the EU's commitment to human dignity and human rights. Many Europeans, it seems, deem it important that Europe is committed to these principles. The problem is then not so much that they disagree with this normative orientation on a fundamental level, but rather that cosmopolitan norms seem over-demanding. This is also reflected in our empirical analysis: The protection of national values as well as national and European self-interest is frequently presented as the antidote to following cosmopolitan norms. What is therefore needed is more clarity about the normative implications of human rights and their relationship to preserving cultural identity.

In this respect, it is also important to note that what counts as a coherent, normatively defensible interpretation of human dignity and human rights is neither arbitrary nor completely open, nor is it set down once and for all (see Section 4.2 in this report). Human rights raise many difficult questions about corresponding duties and duty bearers, questions that can and should only be addressed in societal dialogue. However, any genuine commitment to human rights also has some direct implications. This regards in particular:

- **Rights-character:** Human rights articulate standards that are owed to people. Accordingly, the protection of human rights is not some benevolent, supererogatory practice by Europeans – it is a moral, political and legal duty.

- **Universal scope:** Human rights are not exclusively or even primarily the rights of Europeans. They are rights of all human beings, without qualification. Therefore, without a serious commitment to the protection of the human rights of non-Europeans, it cannot be maintained that the EU is committed to human rights.

- **Moral character:** To say that the EU is committed to human rights is to say that it commits itself to a moral standard that it has neither invented nor is fully at its disposal. This does not mean that there is no room for interpretation. It does mean, however, that what follows from this commitment is not merely arbitrary.

- **Institutional implications:** Human rights are not "merely" a moral idea. Rather, it is clear that the human rights idea implies a moral and political obligation to establish institutions that guarantee an effective protection of human rights. What kinds of institutions this requires in the case of the EU is and should be one of the central questions.
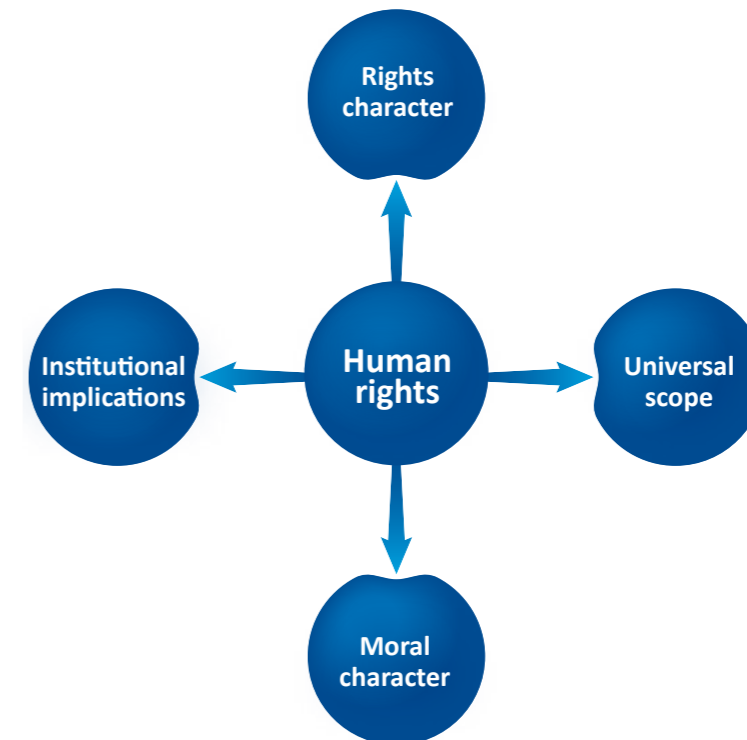

Figure 7. Four key characteristics of human rights

Migration policy and European cosmopolitanism: Three scenarios

In the late 1990s and 2000s, political theorists often enthusiastically described the European Union as a model for a cosmopolitan polity in the making (Eriksen 2014; Habermas 2012). Yet since then, multiple crises have profoundly challenged the European project. In particular, the way the EU reacted to the "refugee crisis" seemed to confirm the suspicion that it had abandoned or at least significantly reinterpreted its cosmopolitan self-understanding. Yet what do we mean when we refer to the EU as a potential cosmopolitan polity? And what implications, if any, does cosmopolitanism have for the EU's migration and refugee policy?

> **Conclusion 10:** Though models of cosmopolitanism vary, they share certain minimum requirements. Following an ethics of hospitality when dealing with migrants and asylum seekers is one basic requirement in any model of cosmopolitanism.

The concept of cosmopolitanism rests on the thought that humans' political standing should not depend on their national membership but reflect their moral status as human beings. It also refers to the view that all human beings are, or should be, members of a single worldwide political community. Starting from these two basic ideas, we reconstruct four dimensions of contemporary cosmopolitanism: moral, political, cultural and civic cosmopolitanism (see Section 4.1 in this report). Depending on which dimension of cosmopolitanism they emphasise, theorists have come to varying conclusions of what "European cosmopolitanism" should look like and what policy paths should be prioritised to realise it. Yet as diverse as these varieties of cosmopolitan may be, it is important to keep in mind that they should not be regarded in isolation from one another. Any full account of what is required of a political order to qualify as cosmopolitan will need to pay attention to the ways in which these dimensions overlap and complement each other.

We argue that the various dimensions of cosmopolitanism converge in formulating certain minimum requirements for the European Union. If the EU wants to understand itself as cosmopolitan at all, it must, as a minimum,

- promote human rights in its foreign policy,
- promote human rights domestically, and
- follow an ethics of cosmopolitan hospitality in its dealings with migrants and asylum seekers.

While the latter does not mean fully open borders, it does require, among other things, that newcomers must be granted access to legal institutions and the right to apply for an asylum status upon arrival.

> **Conclusion 11:** The status quo of the EU's migration and refugee policy is untenable because it rests on contradictory imperatives. The transferal of "core state powers" to the Union raises expectations of a European super-state. Yet the EU's legitimacy also rests on its claim to to respect and promote cosmopolitan norms.

However, in the EU's political practice, the various dimensions of cosmopolitanism have often been isolated from one another and treated as alternatives – especially when it came to the Union's migration and refugee policy. During the creation and consolidation of the Union in the 1990s, fortifying the EU's external borders, including for potential asylum seekers, was often depicted as a condition for abolishing border controls within the newly created Schengen Area (Huysmans 2006). This pitted the success of the EU's internal political integration against the requirements of moral cosmopolitanism.

Discussing the Commission's New Pact on Migration and Asylum, we argue that these tensions have exacerbated with the "refugee crisis" and go on to sketch three scenarios for the future of Europe (see Section 4.3 in this report). In our **first scenario**, we describe the status quo and find the dilemma the Union currently faces in its migration and refugee policy to be symptomatic of a wider identity crisis. Confronted with some member states' incapacity or unwillingness to comply with basic requirements in hosting asylum seekers, the EU seemed only to be able to maintain its authority in migration and refugee policy at the expense of forsaking fundamental cosmopolitan norms, such as respecting the right of newcomers to access legal institutions and apply for an asylum status.

The impasse the Union faced as part of its "refugee crisis" expresses wider tensions in the process of Europe's integration. As an increasing amount of "core state powers" (Genschel and Jachtenfuchs 2018) are transferred from member states to Union level, the EU is increasingly faced with the expectation of performing state functions at a supra-state level, including when it comes to border control. Yet simultaneously, the Union's claim to legitimacy rests on its status as a global "normative power" (Manners 2002), which respects and promotes liberal constitutional principles both at home and abroad.

We argue that this this mismatch between the normative commitments of a "Union of values" and the functional requirements that confront the EU's administration is not just an abstract identity question. As a form of "organized hypocrisy" (Lavenex 2018), it runs through the European institutions themselves (see also Section 2.1 in this report). Recently, these tensions have been exacerbated by increasingly polarised visions of the Union's purpose across member states – and, indeed, within them. If the European Union does not attempt to tackle its identity crisis, its image abroad as a normative power will be tarnished irremediably. Its unclear messaging regarding border controls is also likely to further fuel nationalist discontent.

The growing salience of the idea of "European values" – read in the strict sense discussed above – in Europe's political discourse can be interpreted as an attempt to negotiate this tension. As we describe above, values are malleable enough to offer reference points for competing normative visions. Moreover, the culturalist connotations of "European values" connect the discussion about the EU's normative commitments to a sense of European identity (see Section 4.2 in this report), which may be politically expedient in the face of the EU's legitimation crisis. Yet we argue that values' ambivalence is also their problem. Since values can be interpreted as part of a cultural identity that needs to be protected against outsiders, is no accident that "European values" are readily cited by right-wing authoritarian governments and parties, including justify policies that undermine constitutional principles and rights.

We sketch two viable alternatives to the status quo of European migration and refugee policy. In our **second scenario**, the Union takes a step back in the management of its external borders, hands over most

of the operational responsibilities to its member states and limits itself to a supervisory function. From a normative point of view, the Union would acknowledge that the European norms and values are open to distinct contextual interpretations in each member state and would endorse the idea that local migration policies should be tailored to those varying interpretations, so long as the core principle of human dignity is unconditionally respected. A context-sensitive approach to migration may boost their acceptability for the larger public and prevent the antagonistic reaction currently witnessed in some of the member states. But we will argue that it could also generate a lack of general coordination in migration policy and ultimately prove self-defeating.

> **Conclusion 12:** What makes the European Union stand out as a transnational polity is the fact that it is driven by political cosmopolitanism. The exact content of its norms and values is open to discussion but it cannot allow their egalitarian and universalist core to be compromised.

In the **third scenario**, we argue that the European Union could double down on the idea that what makes it stand out as a transnational polity is the fact that it is driven by political cosmopolitanism. It would argue that the exact content of its norms and values is open to discussion but that it cannot allow their egalitarian and universalist core to be compromised. Consequently, the EU would adopt a more proactive stance in the management of migrations, emphasise the need for European solidarity and assert its authority over the issue. A more centralised migration policy would spark some lively debates in several member states and should be handled cautiously to prevent it from backfiring politically. But the benefit of a clarified and internally coherent position could justify taking this risk. To this end, we find three innovations worthy of serious political consideration:

- the proposal to grant a universal right to hospitality within the European Union, which would require revising the Union's foreign policy to roll back the outsourcing of its the border controls to third countries;

- a revised flexible mandatory solidarity scheme that would scrap the possibility for member states to dis-charge their duties by sponsoring the return of migrants; and

- the possibility of granting European citizenship to asylum seekers to empower migrant voices and fuel a critical form of cosmopolitanism.

The Structure of This Report: From Reconstructing the EU's Norms and Values to Constructing a Way Forward

Chapter 1, "Reconstructing Norms and Values in the EU", starts with a comprehensive conceptual analysis, situating the idea of values in the context of other normative concepts, such as norms, rights and principles. Our analysis in *Section 1.1, "Norms and Values: What's at Stake?",* shows that speaking of Europe's normative commitments in terms of "European values" is itself a particular way of framing what is at stake. We demonstrate systematically what it would mean to ground Europe's foundational commitments in the idea of Europe's core values. However, we also argue that it is a genuine alternative to think of Europe's core commitments in terms of (human) rights and human dignity instead.

After clarifying the philosophical grammar of values as a concept, we proceed to reconstruct how the EU's core commitments are interpreted with regard to migration. *Section 1.2, "Values in the Charter of Fundamental Rights of the European Union – with a Focus on Migrants' Rights",* concentrates on the EU's Charter of Fundamental Rights of the European Union, offering a legal-philosophical analysis of how four of its core titles – Dignity, Freedoms, Equality and Solidarity – have been interpreted in the jurisprudence of European courts. Although we highlight that the Charter's restricted personal scope and field of application pose limitations to understanding it as an international human rights instrument, we also identify a number of principles that show genuine potential for extending the Charter's protection of fundamental rights in migration contexts.

In Chapters 2 and 3, we move from the concept and core meanings of Europe's values to analysing how public actors involved in European migration and integration policy understand them in practice. **Chapter 2, "Politicised Values: Migration Policy and the Challenge of Populism"**, traces the value discourses surrounding the European Union's policy response to the "refugee crisis" of 2015 and 2016. *Section 2.1, "Value Shifts in EU Migration Discourse Policy, 2014-2017"*, argues that values served an ambivalent function in EU institutions' discourses in the course of the "refugee crisis". On the one hand, we find that the documents' references to values in justifying policy choices are not simply vacant, in the sense that values would have no discernible influence on the design of the policies adopted. Insofar as the documents link values to the EU's human rights framework and its international obligations, the values referred to do indeed serve as categorical restraints for policymaking.

Yet on the other hand, it is observable that when values were invoked, they often seemed to carry meanings that go beyond merely referencing the applicable legal commitments – to the extent that sometimes values were invoked to justify policies that stretched or bypassed legal commitments. In spite of this, we found that very few EU institutions attempted to define the values they referred to.

Section 2.2, "Value Discourses in EU Migration Policy: The Example of Solidarity", zooms in on one of the values most prominently referred to in the institutional discourse: solidarity. Although all institutions involved in EU migration policymaking invoke it continuously, we observe that the meanings ascribed to solidarity drift apart during the "refugee crisis". Between 2014 and 2017, the institutions invoked solidarity to justify a growing range of often conflicting policy options. However, we also find a common trend in how institutions' understanding of solidarity changes. Initially understood as unconditional by the majority of institutions, solidarity is increasingly bound to the responsibility of member states to "do their fair share" and implement applicable procedures and border protection measures.

Section 2.3, "*Identity Populism in Europe: Responses to the UN Global Compacts on Refugees and Migration*", argues that most kinds of populism in Europe can be described as "identity populism" that strives for a culturalist and ethnic reconfiguration of the value of sovereignty. Across Europe, far-right populist parties have campaigned for the preservation of national cultural identity that –

according to their claims – is under attack from migrants. This became particularly clear during the European negotiations of the Global Compacts on Refugees and Migration in late 2018, when populists were effectively projecting an image of weakened EU states in need of regaining control and reaffirming the importance of borders and national self-determination. We show that EU institutions and populist parties in different EU countries used a similar set of values to fundamentally reduce international responsibilities for refugee protection.

Section 2.4, "*Quality Newspapers v. Populism: Shaping Pro-Immigration Attitudes in EU Member States*", focuses on news media which presumably strengthen pro-immigration attitudes among the European public that are typically connected with pro-European attitudes. In this sense, we identify and analyse media discourses on refugee and immigration policies in France and Germany. We show that quality newspapers constitute a "media membrane" (Alexander 2006) that is often impervious to the demonising rhetoric and alarmist narratives of far-right populists.

Chapter 3, "Values in Integration and Civil Society", looks at integration policies and practices in order to analyse how actors cite values in managing cultural diversity on the ground. *Section 3.1, "Value Agents in Public and Civil Society Institutions"*, surveys the plurality of value agents in integration measures at local, regional and national levels. *Section 3.2, "Values in Civic Orientation for Immigrants: Evidence from Five EU Member States"*, compares values in state-issued civic orientation materials across selected member states. In general, we find a visibly stronger emphasis on civic orientation and value transmission after 2015 in the states under study. When it comes to the content of the values transmitted, our findings show that, on the whole, the values emphasised in orientation courses across member states concur – and match the set of liberal core values emphasised in the EU's foundational treaties. However, the duties the materials associate with specific values strongly differ across member states.

Section 3 studies the on-the-ground dynamics around specific values in depth. We focus on two values often held to be particularly important in the context of Europe's "refugee crisis": gender equality and religious tolerance. *3.3.1, "Valuing Gender Equality: Ideas, Practices and Actors in Integration Courses"* discusses integration course teachers' experiences in conveying the value of gender equality in Germany and Sweden. We find that, although teachers where adamant about the general importance of gender equality, they often expressed ambiguity about how to convey it to integration course participants, citing a political climate where gender equality has been instrumentalised in political discourse to justify restrictive approaches to immigration. The section develops policy recommendations on teaching gender equality in a neutral and inclusive way, specifically by referring to national and international legislation and rights documents.

Section 3.3.2, "The 'Refugee Crisis and Religious Tolerance in Europe", attests to the large variety of functions the concept of values may perform: While, for some, religious values provided a motivation to assist and solidarise with asylum seekers, others read them as identity markers under threat by demographic change und cultural pluralisation. In contexts like this, we find that it was often NGOs and civil society activists who defended the normative content of Europe's foundational values. Their engagement in aid of refugees and to promote diversity in Europe can be understood as an implicit practice of religious tolerance. Building on their experiences, the sections provides policy recommendations for how the EU can support actors on the ground in promoting religious tolerance in local settings.

Finally, **Chapter 4, "A Cosmopolitan Perspective for Europe",** constructs starting points for a migration policy that remains true to the EU's cosmopolitan self-understanding after the "refugee crisis". *Section 4.1., "Migration, Cosmopolitanism and the European Project",* surveys various dimensions of cosmopolitanism in order to discuss what an understanding of the EU as a cosmopolitan polity might imply for its migration policy. Distinguishing between the dimensions of moral, political, civic and cultural cosmopolitanism, we argue that, although each approaches the question of migration differently, they converge in setting out minimum requirements for the treatment of non-members.

Section 4.2, "The European Union as a Cosmopolitan Structure: Reference Points and Constraints," goes on to identify reference points and constraints for a normatively defensible yet feasible cosmopolitan order for Europe. We find that an important reference point for a cosmopolitan perspective for Europe is the explicit and continued commitment of the EU and its citizens to cosmopolitan values. The reach of this commitment is, however, constrained by a vast unclarity in the interpretation of these values and their outright rejection by right-wing populists. The section concludes by setting out specific policy recommendations for dealing with these constraints.

In *Section 4.3, "A New Idea(l) for Europe: Report on the Future of Cosmopolitanism in Europe"*, we conclude with a detailed analysis about what the idea of European cosmopolitanism implies for current challenges facing the EU's migration and refugee policy. Discussing the European Commission's New Pact on Migration and Asylum, we contend that maintaining the status quo is untenable since it confronts the Union with contradictory expectations. We present two alternative scenarios for the future and conclude by debating three political innovations through which the Union could reassert its claim to represent cosmopolitan norms and values.

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Reconstructing the EU's Norms and Values

Chapter I

Chapter Summary

The "European migration and refugee crisis" is also a crisis of "European values". References to "European values" figure prominently in political debates of our times, especially in the context of the EU's immigration and refugee policy. Important concepts invoked in contemporary political debates include human dignity, human rights, solidarity, freedom and rule of law. We also find these values inscribed in the EU's foundational documents. There, they are adduced as the core values guiding the European project. One such document is the Charter of Fundamental Rights of the European Union.

When engaging with the debate on European values and migration, it is striking that not only does there seem to be little common ground between the opposing parties but not even a common understanding of Europe's core values and what they imply: While some point out that the European Union is betraying its core values in the way it tackles the "refugee crisis", others claim that it is precisely those core values that justify a restriction of migration to the EU in general. This observation raises important questions.

One such question is whether the EU does indeed betray its values or not. This question is addressed in Chapter IV, Section 2, and Chapter IV, Section 3. This chapter aims to answer a set of more fundamental questions: Should the EU's normative commitments be understood as (European) values? Or are these commitments more adequately understood as principles, norms and (human) rights? And what practical difference does this make? With respect to the Charter of Fundamental Rights: What role has the Charter in EU's normative self-understanding? What resources does the Charter provide for the legal inclusion of migrants in the EU?

It is essential to tackle the more fundamental questions first. To bring these questions into view, it is important to distinguish the EU's normative commitments, such as are laid out in the EU Charter of Fundamental Rights, from the fact that we do indeed speak of those commitments as "European values". Even though talk of "European values" might well be a useful shorthand, it is a different question whether we *ought to* understand those commitments as values as opposed to norms, rights or principles.

In **Section 1, "Norms and Values: What's at Stake?",** we provide a thorough analysis of the normative concepts that are part and parcel of our political and everyday discourses. The result is a map of basic normative concepts. We identify two opposing approaches for connecting those basic normative concepts to make sense of the idea of "European values", pointing out the strengths and implications of each of these conceptual strategies. The section concludes by identifying some important questions that follow from this analysis with regard to the EU's migration and refugee policy.

Having clarified the philosophical grammar of "European values", we proceed to reconstruct how these values figure in the EU's foundational documents**. Section 2, "Values in the Charter of Fundamental Rights of the European Union – with a Focus on Migrants' Rights"**, concentrates on the EU's Charter of Fundamental Rights of the European Union, offering a legal-philosophical analysis of how four of its core titles – Dignity, Freedoms, Equality and Solidarity – have been interpreted in the jurisprudence of European courts. Although we highlight that the Charter's restricted personal scope and field of application pose limitations to understanding it as an international human rights instrument, we also identify a number of principles that show genuine potential for extending the Charter's protection of fundamental rights in migration contexts.

1. Norms and Values: What's at Stake?

Marcus Düwell, Marie Göbel and Jos Philips

At a Glance

Should the EU's central normative commitments be understood as (European) values? Or are these commitments more adequately understood as principles, norms and (human) rights? And what *practical difference* does this make? Our research shows that it is important to pay attention to a set of key distinctions when answering these questions.

Firstly, it is important to distinguish between the *EU's normative commitments* (e.g. freedom, human rights, solidarity, rule of law) and *framing* these commitments as "(European) values". In other words, one needs to distinguish the phrase "European values" from the principles, ideas or values it denotes.

Secondly, it is one question what *rhetorical functions* it serves to refer to "European values" in political discourse. Another, different question is whether it is indeed plausible to assume that the EU's guiding normative ideas *are* "(European) values" and, if so, what this might mean. The focus of our research is mainly on the second question.

Thirdly, regarding the second question, it is important to note that (a) the term "value" can acquire different meanings, both in everyday usage and in various academic disciplines; and (b) there are differences between values and other normative concepts such as norms, duties, principles, rights and human rights. We develop a conceptual map that elucidates these differences.

Fourthly, the conceptual map distinguishes two ways of connecting basic normative concepts such as rights and values and, at the same time, of conceiving of "European values": a "value-based approach" and a "rights-based approach", which, respectively, make values and (human) rights central to a reconstruction of the EU's normative commitments.

Introduction

Over the last couple of decades, the European Union has articulated its normative commitments in various forms – in particular in the Treaty of Lisbon, the Charter of Fundamental Rights of the European Union and the EU acquis more generally. In political discourse, but also in official documents, these commitments are frequently expressed in terms of "European values". It seems clear from both written and spoken statements, official as well as less official ones, that the EU is adamant about its normative commitments.

Paradoxically, however, just *what* the EU is committed to, and just what its commitments *imply*, is less clear. This is especially problematic in times like ours when basic normative commitments are internationally highly contested and when questions of "value" and "identity" are driving forces of political discourse – a tendency which has doubtlessly only been reinforced in the "migration and refugee crisis".

Questions about the meaning and the normative implications of "European values" arise on at least three different levels:

- **Firstly** and most evidently, the EU regards itself as committed to many values. For example, the EU Charter refers to human dignity, freedoms, equality, solidarity, citizens' rights and justice. It is not always clear how these and other values relate to one another, how to balance them in case of conflict and whether we should understand them as values in the first place.

- **Secondly**, it is far from self-evident what is meant by "value(s)". The expression "someone's values" is often used in a very broad sense: It simply refers to something that someone "finds important", something that he or she feels committed to in some way. (That "someone" might be an individual or collective actor, a state, a political community, an institution, etc.). However, this often leaves unclear what follows, or ought to follow, from this value commitment. For example, provided that the EU is committed to the "values" freedom, equality and solidarity: What follows from this regarding the question how the EU should (not) act towards its own citizens as well as towards non-Europeans such as asylum seekers?

- **Thirdly**, one may wonder what might be a proper basis for reconstructing "European values": Who or what decides which values should count as "European values"?

These problems are aggravated to the extent that certain populist and anti-EU arguments also draw on values such as freedom, equality and solidarity. If it seems almost arbitrary what consequences one should draw from these values, they are in danger of forfeiting their potential to function as a bulwark against certain exclusionary tendencies – provided that this is what they are supposed to do in the first place. Furthermore, it seems that values – understood in the broad sense just indicated – "undersell" what the EU in fact has on offer: Within the EU, guiding normative ideas, such as human dignity, freedom, equality and others, are not merely stated on some abstract, non-binding level. Rather, they are embedded in a large political and legal framework of rights, and in

It seems that values – understood in a broad sense – "undersell" what the EU in fact has to offer.

particular *human rights*, where they come with fairly determinate duties (although the legal status of these duties may vary) and often also enforcement mechanisms. None of this is to say that there may not be good reasons to continue to speak of "European *values*" (although there are also clearly reasons against this). However, it does indicate the need to examine in greater depth what lies behind references to values and what a commitment to these values implies from a normative perspective.

We return to the third question just raised in Section 4.2 of this report (see also Göbel 2020). In the following, we address the first two dimensions only, with a focus on the second dimension: Because the EU's normative commitments are so often expressed in terms of "(European) values", it is essential to investigate what precisely is meant by such a commitment.

1.1 VALUES, NORMS AND RIGHTS: A MAP OF BASIC NORMATIVE CONCEPTS

The term "value" has a variety of meanings both in everyday usage and in different academic disciplines. In everyday life, it is often used in a very broad sense: "Values" stand for everything that is normative – as opposed to factual –, i.e. broadly speaking everything that has to do with how the world should be or how human beings should act. At the same time, the term "value" tends to be used differently in different academic disciplines, for instance:

- In **economics**, "value" often means "market value", which is a specific meaning of the term that we will bracket here.

- **Sociology and cultural anthropology** are particularly sensitive to the plurality and diversity of values that are embraced by different individuals and groups. Accordingly, they often refer to values in a quasi-empirical, "individual-relative" or "group-relative" sense: Values are something that people *actually* have or believe in, rather than something that morally *ought* to guide their actions. Moreover, social scientists are often concerned with local, context-specific values rather than, for example, universal values.

- In **law**, we encounter, among others, the peculiar meaning of "values" as "constitutional values", such as human dignity, in the constitutions of many EU countries. Constitutional values are often understood as having a double moral-legal character: They are legally binding norms yet also have a moral foundation.

- Finally, in **practical philosophy**, and especially in moral philosophy, the focus is often on universal values that morally ought to be respected and protected. According to one influential view, universal moral norms are grounded in universal values. Moreover, other than in everyday usage, in philosophy the concept of a value is expressly distinguished from other central normative concepts such as norms, principles, duties, rights and human rights.

As these examples show, the term "value" is equivocal, and values might be studied from various academic perspectives (which is, of course, not to say that these meanings and perspectives are unrelated). That is why any systematic exploration of "European values", especially if it is conducted in a multidisciplinary fashion and meant to shed light on a normative question, presupposes two things:

(1) Distinguishing between different value concepts in order to arrive at a common terminology as well as a shared understanding of what values are;

(2) A clearer understanding of the differences between values and other normative concepts.

These are the main goals of the following conceptual map. It aims to set out, in a somewhat simplified yet relatively uncontroversial way, some of the main normative concepts and how they are usually understood in philosophy.

Map of basic normative concepts

Value(s)

The term "value" is often used in a very broad sense, as equivalent with "the normative" (as opposed to "the factual"). A value is then simply something that is valuable or good.

One can, however, also speak of values in a narrower sense. Values are then often contrasted with other normative concepts, such as norms and principles (see below).

One can distinguish various "kinds" of values:

- A value may be something that is valuable or good in an objective sense ("objective value") or something that is regarded as valuable or good in a subjective sense ("subjective value").

  o In a subjective sense, values are conceptually closer to beliefs or preferences. The phrase "my/our value(s)" falls into this category: They are values that one deems important in some sense, to which one feels committed and that have an influence on what one has reason to do or not to do. Such values are plural, they may conflict with one another and they may be morally wrong.

  o In a more objective sense, values are either understood as something that everybody values or as something that everybody morally ought to value. Such values are often taken to ground universal norms.

- Values can be moral or non-moral (aesthetic, legal, professional, scientific, epistemic, etc.).

- Values can be expressed on different levels of generality. However, they are often fairly general.

Examples: *Freedom, equality, solidarity, loyalty, beauty, autonomy, spending time with one's loved ones*

Political values

Political values are the values of a polity or values that have or should have a central role in shaping the public sphere of a polity. They are distinguished from personal values.

Examples: *Freedom of expression, non-discrimination, state neutrality*

Moral values

Moral values are values that morally ought to be protected, respected and/or promoted. They are often considered to be universal and as grounding universal moral norms.

Examples: *Freedom, equality, solidarity*

Norm

A norm is a prescription for action ("You ought (not) to…") that can be rather general or fairly specific.

- There are many different "kinds" of norms: legal norms, moral norms, political norms, conventional norms, religious norms, etc. In terms of the content of a norm, these categories may overlap: For example, "You ought not kill" is a moral, legal and religious norm; respect of human rights is demanded by both morality and law; and so on.

- There are many different views of what grounds norms, where "ground" roughly means: what justifies a norm or makes it valid. One view is that norms are grounded in values. A different view would be that norms derive from rights (that are themselves not grounded in values).

- Norms are often, but not always, more concrete than values.

Examples: *You ought not kill; The government ought to make rules which prevent people from becoming subject to the arbitrary will of others; You ought not consume alcohol; You ought to wait when the light is red.*

Principle

Principle is a norm that is formulated on a rather high level of generality. Principles may still be formulated on different levels of generality, although it may vary exactly how high.

In moral reasoning, principles fulfil several important functions, in particular:

- Principles play an important role in determining concrete norms, rights or duties (which, however, also necessitates the inclusion of various empirical and context-specific considerations).

- They may function as rough guidelines for moral orientation, such as the "no-harm principle" and the "precautionary principle".

- Some principles are meant to guide moral and legal reasoning in a more fundamentally binding sense, such as "the categorical imperative", which is usually considered as a fundamental moral principle, or in the legal domain "the rule of law".

In its common usage, the term "principle" is often used interchangeably with the terms "norm" and "value".

Examples: *Act only in accordance with that maxim through which you can, at the same time, will that it become a universal law; Everyone ought to respect human rights.*

Right

A right is an entitlement or justified claim (not) to perform certain actions or that others (do not) perform certain actions (Wenar 2020).

- As entitlements, rights differ from e.g. mere wishes or interests: A right may not be granted (or not granted) as one seems fit. Rather, it is an important feature of rights that they can be claimed or that the object of the right (that which it protects) is owed to the right-holder: The claim involved in a right is sufficiently strong to hold others under an obligation. A different way of saying this is that rights are often understood as claim rights, which are rights that correlate with duties by others.

- These are typically not only negative duties, i.e. duties to refrain from doing certain things, e.g. from killing someone. Rather, rights also correlate with positive duties, i.e. duties to actively provide access to certain goods, e.g. food or education.

- Rights may be legal or moral. According to a widely held view, moral rights imply a moral duty to their institutional protection (i.e. for instance, but not necessarily, their protection by law). For example, if everyone has a moral right not to be tortured, then there is also a moral duty to establish and support political and legal institutions that effectively prevent people from being tortured. Hence, the protection that rights envisage is typically of an institutionalised kind.

Examples: *Right to life, right to vote, right not to be tortured, right to a decent standard of living*

Human rights

Human rights are typically understood as the rights that every human being has, simply in virtue of being human.

- This is the standard definition of human rights as moral rights. They must be distinguished from human rights as legal rights, which, however, are often regarded as being grounded in moral rights.

- Human rights are claim rights, i.e. they always correlate with duties by others (individuals and – arguably primarily – states) to guarantee their effective protection.

Examples: *Human right to life, human right to a decent standard of living, human right to freedom of expression*

Duty

A duty is a specific kind of norm: It is a decisive reason to do something, regardless of whether one wants to do it or not. Like norms, duties may be of different kinds: moral, legal, religious, etc.

Examples: *Duty to pay taxes, duty not to injure others*

1.2 TWO APPROACHES TO EUROPEAN NORMS AND VALUES

The preceding explanation of the basic differences between normative concepts is not only important for any attempt to think about "European values" more systematically, and especially in an interdisciplinary fashion. It also points at two different ways to reconstruct central EU commitments. Accordingly, we now discuss two approaches for connecting the basic concepts just outlined: a *value-based approach* and a *rights-based approach*. The former makes values central to a reconstruction of the EU's normative commitments, the latter rights, or more precisely human rights. These approaches firstly represent two ways to conceive the connections between central normative notions such as values, rights and norms. As such, they are useful for understanding normative and "value-laden" discourses of various kinds. Secondly, they also indicate two different ways to think of "European values" more specifically. The question is therefore whether the EU's normative commitments are more adequately reconstructed on a value-based approach or on a rights-based approach.

We would like to stress an important point in advance. The question of whether values or rights should be made central to a reconstruction of the EU's normative commitments differs from the question of whether one should *refer* to these commitments as "European values", which, among other things, depends on the discursive functions of the *term* "European values". In other words, one might adopt a rights-based approach to the EU's normative commitments and yet continue to speak of them as "European values". It is therefore important to emphasise that the decisive difference between a value-based and a rights-based approach is not about *terms* but about *underlying ideas*

or *understanding*: The question is what is meant by "European values", no matter whether one uses the term or not.

A value-based approach to "European values"

Central to the first approach is the assumption that the EU's normative commitments should be understood as *values,* and more specifically as *European* values – rather than, for example, as universal principles or rights. Thus, for instance, provided that (respect for) human rights and freedom belong to Europe's core commitments, then human rights become "the value 'human rights'", freedom becomes "the value 'freedom'", etc. In other words, human rights are first of all understood as a value, freedom is first of all understood as a value, and so on with the other "European values". These values are general (e.g. freedom, equality, solidarity) and they guide action as aims: Usually, they ought to be realised or further realised, to a sufficient or perhaps even maximal degree. Values are therefore regarded here as the basis of duties, norms, rights and human rights.
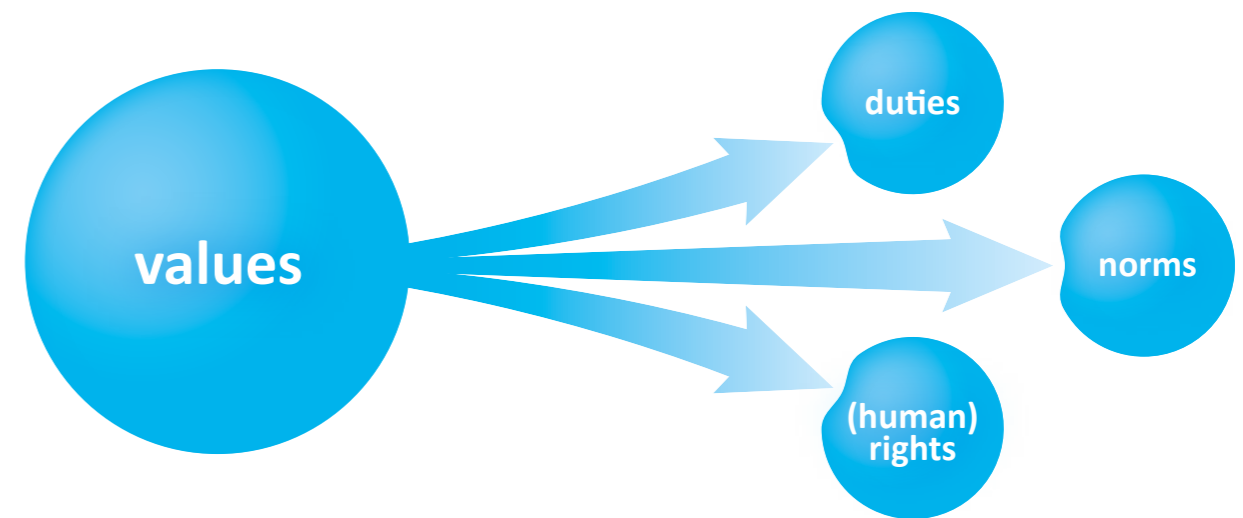
Figure 1. Structure of a value-based approach to normative concepts

Strengths of a value-based approach

An approach that makes values central also has at least three notable strengths:

- **Firstly**, a value-based approach is potentially less restrictive in the sense that more "things" may qualify as "European values". As pointed out in our conceptual map, values are neither necessarily moral nor universal. That is why, in a value-based approach, the EU's normative commitments might, for instance, also include certain particularistic, conservative, religious or communitarian values. Many of these values would not figure in a rights-based approach. However, one might, of course, also deem this as precisely one of the merits of a rights-based approach.

- **Secondly**, and as a consequence of being less restrictive, a value-based approach may be more able to "connect" with people's actual values and beliefs. Accordingly, people may find it easier to identify with the relevant values and feel more motivated to actually support them in their actions. Of course, this "motivational advantage" of a value-based approach is not undisputed: A defender of a rights-based approach might object that people can just as much be motivated to act in accordance with what they understand to be their moral duty. In addition, she might object that people's actual values might be misguided, so that it would be misplaced to demand that political and legal standards ought to conform with them. And yet, critical points aside, the value-based approach seems rather strong with regard to questions of community-building and of identification with societal norms.

- The **third** strength of a value-based approach consists of a rebuttal of certain weaknesses. As noted above, a value-based approach is potentially exclusionary – however, arguably it can also avoid being exclusionary. It may, furthermore, be compatible with a liberal order of society (in the sense explained above): The freedom of all members of a political community to pursue their own values and goals could itself be considered an important value. Thus, in short, the objection might be raised that the two strengths we introduced as being characteristic of a rights-based approach would also apply to a value-based approach, at least when interpreted in a particular way.

A rights-based approach to "European values"

Central to the second, alternative approach is the idea that every human being has certain inalienable *rights* – human rights. Human rights should primarily be understood here as *moral* (rather than legal) rights, which, however, give rise to a moral duty to their political and legal protection. According to a widely held view, human rights protect the basic preconditions of agency, i.e. (roughly) of pursuing one's own goals autonomously and of shaping one's life – preconditions being, for example, having sufficient food and shelter, the freedom to express one's views, not being tortured, etc. In short: Every human being has a justified moral claim that her ability to act ought to be institutionally protected against certain threats, a claim that is sufficiently strong to impose duties on others.

A rights-based approach can still grant a limited role to values. However, it regards rights (which correlate with duties) as the fundamental normative concept. Hence, according to this approach, the EU's normative commitments should first and foremost be understood as commitments to (human) rights rather than as commitments to values. This has direct consequences for how the specific commitments are interpreted. For instance, "freedom" is not understood as a "value freedom" but as a "right to freedom", which then further translates into a set of negative and positive rights. "Freedom" thus becomes "particular freedoms" (e.g. from torture, of movement, of expression, of work) that a human being needs in order to act, and these freedoms are associated with certain norms and with duties for institutional and individual actors.
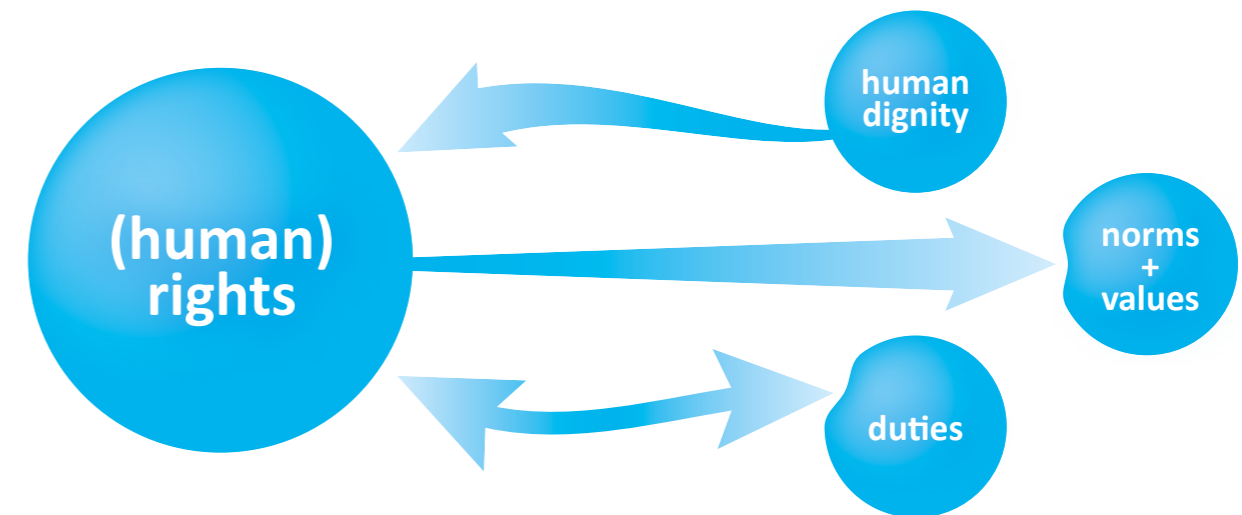
Figure 2. Structure of a rights-based approach to normative concepts

Strengths of a rights-based approach

An approach that starts from (human) rights has at least three notable strengths:

- The **first** strength of this approach is that it rests on an idea that is fairly uncontroversial, namely: What all human beings have in common is that they are beings that can act and that need certain things in order to do so: certain kinds of freedoms, certain material conditions, and so on. Of course, this is not to say that the very idea of human rights is not disputed, among philosophers and others – we cannot go into these controversies and questions about the justification of human rights here. However, rights theorists would argue that the assumption that all human beings are entitled to the preconditions of their agency is much less disputable than the assumption that there are any objective values, for instance because it is dubitable how the "existence" of these values might be proven.

- Although some values may be regarded as universal, values are often understood as relative to individuals or contexts, thus grounding particular duties towards particular individuals or groups (e.g. towards one's compatriots only). Especially in political discourse, "value talk" hence often has a (strong) exclusive tendency. This is also visible in references to "*European values*" in the context of immigration and integration debates. Reconstructing the EU's normative commitments primarily in terms of human rights has the **second** advantage that it provides resistance to such exclusionary tendencies: It does not matter whether the human rights idea has its historical origin in Europe (which is contestable anyway) or whether human rights qualify as particularly "European" in some other sense. Rather, the very nature of human rights is that they belong to everyone and ought to be respected and protected by everyone – by the EU just as by anyone else. The central question is therefore not how the "European value order" may be protected. Rather, the question is how the EU may meet human rights standards – with regard to both Europeans and non-Europeans.

- **Thirdly**, the rights-based approach is in line with the "liberal" idea that the state (or a supranational political body such as the EU) should be neutral with regard to different ideas of what is a "good life". In other words, it is not the business of the state to determine what is or should be "valuable" for everyone. The human rights idea, by contrast, is compatible with this liberal approach and with value pluralism: Broadly speaking, it asks that everyone ought to be able to pursue her own values and at the same time sets limits to how values might be justifiably pursued – not, however, with regard to some overarching idea of the good but to the idea that all human beings are rights-holders.

Although some values may be regarded as universal, values are often understood as relative to individuals and contexts.

CONCLUSION

The preceding remarks show that a value-based approach and a rights-based approach to the EU's normative commitments each has its own advantages. Our aim has not been to argue that one is stronger than the other. Still, we wish to end with some evaluative considerations. They concern (1) how the two approaches relate to one another and (2) how they relate to the EU's self-understanding. Finally, we point (3) to some further questions, which are particularly important with regard to the "European refugee and migration crisis".

(1) **What is the relationship between a rights-based and a value-based approach and "European values"?** While it is clear that one cannot simultaneously adopt both approaches, they do not have an exclusive claim on the different terms and concepts. Both can include the terms and concepts of values, norms, human rights, etc. The difference between the approaches lies in how they understand and connect the various concepts as well as which concept they make central – that of a human right or that of a value.

(2) **How do a value-based approach and a rights-based approach relate to the EU's self-understanding?** The EU often refers to its values (such as freedom, equality, solidarity, etc.) in such a way that these values indeed find their place in a more elaborate framework of rights and more particularly human rights. It may therefore seem that the rights-based approach is the better way to reconstruct the EU's normative commitments. However, one could also maintain that after the Second World War the commitment to human rights was of primary importance, while, in recent decades, the EU and its member states have spoken in various ways of the normative basis of Europe. There may, then, to a certain extent be a change in the normative self-understanding of the EU. The result may be that not only a rights-based approach but also a value-based approach offers a possible reconstruction of this self-understanding – perhaps all the more so because Europe's normative self-understanding is related to different legal traditions and different moral underpinnings of these legal traditions (in different traditions of thought and in different historical and cultural experiences).

(3) Finally, the following are important points of attention for the rights-based and the value-based approaches (and for any other plausible articulation of the EU's normative commitments), especially with regard to the "European refugee and migration crisis":

o Does the approach chime in with a liberal social order, in which it is not the state's, or the EU's, business to decide for people how they should live?

o Does the approach have adequate resources to fend off exclusionary tendencies, assuming that we do indeed have good reasons to find such tendencies objectionable?

o Does the approach offer enough guidance for the EU to decide what it should or may do to further realise human rights and European values – not least in its treatment of refugees and migrants?

o Does the approach have sufficient attention for institutionalising the protection of values or rights, attending to both more formal and less formal institutions?

o Does the approach have adequate resources to motivate people, and also institutions, to do what it takes to uphold the EU's normative commitments over time?

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2. Values in the Charter of Fundamental Rights of the European Union – with a Focus on Migrants' Rights

Alessandra Facchi, Paola Parolari and Nicola Riva

At a Glance

Since its adoption in 2000 and especially since it obtained binding force through inclusion in the Treaty of Lisbon, the Charter of Fundamental Rights of the European Union has substantially contributed to producing a qualitative change in the very way the EU describes itself: as a "Europe of Rights".

From our analysis of the Charter in the light of the jurisprudence of the European courts, the following principles emerge as particularly significant:

- The dignity component of every right, which sets a limit to the possibility to restrict other rights beyond a minimum threshold (art. 1). This applies for every human being, irrespective of her national origins.

- The link that the Charter institutes between liberty and security (art. 6). This contradicts the idea that national security can only be attained through restricting some of the fundamental freedoms of non-citizens.

- The substantive conception of freedom as entailing not only a duty of non-interference but also a positive obligation on the side of institutions to actively promote the conditions for the effective exercise of freedom. This includes the right to asylum (art. 18) and protection against unlawful removal (art. 19).

- A notion of equality that includes an explicit respect for differences (art. 21).

- A rich conception of solidarity, which mandates a European welfare system able to secure for everyone (citizens and non-citizens) the possibility to access the means necessary to fulfil basic human needs.

With regard to migrants, the potential role of the Charter in promoting an increased protection of fundamental rights is continuously in tension with the limits of its field of application and personal scope.

The Charter is still grounded, in many respects, on the ambivalent function of citizenship as both an inclusive and an exclusionary institution. This impinges on migrants' access to some of the rights enshrined in the Charter. In this regard, the Charter is more similar to national constitutions, which include both human rights and citizens' rights, than to international human rights instruments.

Introduction

The unique supranational organisation called the "European Union" is the ongoing development of a process of regional integration that was originally conceived as a peace project based primarily on economic cooperation. Fundamental rights initially remained outside the scope of the original European Communities, but they became part of the process of European integration very soon. Since the judgements on the cases *Stauder v. Stadt Ulm* (1969) and *Internationale Handelsgesellschaft mbH v. Einfuhr- und Vorratsstelle für Getreide und Futtermittel* (1970), the Court of Justice of the European Union (CJEU) has affirmed several times that fundamental rights are part of the general principles of Community law (now EU law). From that moment on, a truly political process began, which finally led to the adoption of the Charter in 2000.

The Charter represents a milestone in the progressive inclusion of the protection of fundamental rights within the political goals and the legal framework of the EU, since it substantially contributed to producing a qualitative change in the very way the EU now describes itself: That is to say, as a "Europe of Rights".

The Charter was solemnly proclaimed during the Nice European Council in December 2000. At the beginning, it was a non-binding document. However, the conclusions of the Cologne European Council already prefigured the possibility to integrate it in the Treaties. In 2007, with the Treaty of Lisbon, the Charter finally became a primary source of EU law. Art. 6 of the consolidated version of the Treaty on European Union (TEU) currently in force states: "The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg, on 12 December 2007, which shall have *the same legal value as the Treaties*" (emphasis added).

This section of the final report offers a legal and philosophical analysis of how four of the Charter's core titles – Dignity, Freedoms, Equality and Solidarity – have been interpreted in the jurisprudence of the European courts. In the case law discussed below, our focus is on questions of migration and integration. The text represents an abridged and revised version of NOVAMIGRA's study *Values in the Charter of Fundamental Rights: A Legal-Philosophical Analysis with a Focus on Migrants' Rights* (Facchi, Parolari and Riva 2019).

The Charter's field of application and personal scope

Since its adoption (and even before its entry into force[1]), the Charter has attracted increasing judicial attention. To date, an explicit reference to the Charter can be found in more than 200 cases brought before the CJEU. However, its potential role in promoting an increased protection of fundamental rights is continuously in tension with the limits of its field of application and personal scope.

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[1]   See CJEU, *Pergan Hilfsstoffe für industrielle Prozesse v. Commission* (2007) and *Parliament v. Council* (2006).

The principle of subsidiarity and the limited nature of the competences of the EU are clearly stated in art. 51 of the Charter and reaffirmed in several other articles, which state that the rights that they enshrine are recognised in accordance with the national laws on the subject and/or with EU law, where relevant. There is therefore a prevailing concern to prevent EU law's undue interference with the sovereignty of member states, which may significantly weaken the Charter's potential.

> *The Charter's potential role in promoting an increased protection of fundamental rights is continuously in conflict with the limits of its field of application and personal scope.*

As regards the personal scope of the Charter, the very decision to dedicate Title V to citizens' rights could suggest that the other rights enshrined in the Charter are granted to everyone (Paciotti 2010, 41). However, there are indications that the situation is more complex. First, the distinction between EU citizens and third-country nationals re-emerges in different parts of the Charter. For instance, art. 15 states that "everyone has the right to engage in work and to pursue a freely chosen or accepted occupation" (par. 1). However, only EU citizens are granted "the freedom to seek employment, to work, to exercise the right of establishment and to provide services in any Member State" (par. 2), while third-country nationals are entitled only to working conditions *equivalent* (and not equal) to those of EU citizens (and only if they are authorised to work in the territories of a member state, par. 3).

Secondly, even when the Charter does not connect rights with EU citizenship, it grants several of them in accordance with EU and/or member states' law, which distinguishes different entitlements depending on the different *status* of individuals. In particular, while beneficiaries of international protection are granted many of the rights enshrined in the Charter (including freedom of movement and maintenance of family unity as well as access to employment, education, health care, social welfare and accommodation), migrants (with the partial exception of long-term residents) generally enjoy less favourable conditions.

In this regard, it is significant that, while the Charter explicitly recognises the right to asylum, it is silent on the issue of the right to migrate. Freedom of movement is granted to third-country nationals, "in accordance with the Treaties", only if they are "legally resident in the territory of a Member State" (art. 45 (2)). Furthermore, although the impact on national sovereignty of the growing body of EU laws relating to asylum, borders and immigration (prominently those concerning the Schengen Area and the Common European Asylum System (CEAS)) has to be considered, the decision as to whether, and under what conditions, a third-country national may be authorised to enter and stay in a member state mainly depends on the legislation of that state.

Particularly relevant to NovaMigra's interests are the limits of the personal scope of the Charter, that is, the fact that it is still grounded, in many respects, on the ambivalent function of citizenship as both an inclusive and an exclusionary political and legal institution. The Charter hence reproduces the mechanism of overlapping "circles" of equality in status, rights and duties, thus creating, at the same time, relations of equality and inequality. This especially impinges on migrants' access to some of the rights enshrined in the Charter. In this respect, the Charter is more similar to national constitutions,

which include both human rights and citizens' rights, than to international human rights instruments. That is no surprise insofar as the Charter refers to a specific, even if supranational, political community.

The Charter is composed of six titles dedicated to the core values that the EU wants to place at its very foundation: dignity, freedoms, equality, solidarity, citizens' rights and justice, plus a final title on *General Provisions Governing the Interpretation and Application of the Charter*. This unconventional structure stems from the will to stress the principle of *indivisibility* and *interdependency* of fundamental rights. The centrality given to this principle marks a not trivial difference with, for instance, the Council of Europe (CEO) system, where civil and political rights, on the one hand, and social rights, on the other, go "at different speeds".

Titles of the Charter of Fundamental Rights

Title I	Dignity, Articles 1–5
Title II	Freedoms, Articles 6–19
Title III	Equality, Articles 20–26
Title IV	Solidarity, Articles 27–38
Title V	Citizens' Rights, Articles 39–46
Title VI	Justice, Articles 47–50
Title VII	General provisions governing the interpretation and application of the Charter, Articles 51–54

The Charter (like the other legal documents on fundamental rights) does not provide an explicit definition of the basic values it aims to promote, as these correspond to concepts that are often ambiguous, contested and philosophically thick. Nonetheless, the rights enshrined in it and the (sometimes unconventional) way in which they are distributed in its different titles offer insightful indications.

2.1 The Double Face of Dignity

The first title of the Charter is devoted to dignity. The concept of dignity is among the more controversial ones in the philosophical and legal debate (see Braarvig et al. 2015). In the Charter, dignity seems to refer to the value of the person as a human being, and, insofar as it is common to each and every human being as such, it constitutes the basis of the moral and legal equality of all persons and of their equality in fundamental rights.

The Charter does not provide an explicit definition of this concept nor does it identify the particular features conferring dignity upon a person. Rather, it articulates human dignity at two different levels. Besides a specific set of more directly dignity-related rights, it also assumes a more abstract and far-reaching understanding of human dignity, establishing it both as a fundamental right in itself – a right with a very special status – and as "part of the substance" of all the other rights laid down in the Charter.

Dignity as "part of the substance" of all fundamental rights

Human dignity is the very first right enshrined in the Charter. Art. 1 states: "Human dignity is inviolable. It must be respected and protected". Constructing dignity as an autonomous right is something new in the landscape of human rights law, where dignity is usually referred to not as a right but rather as the basis of human rights. The drafting strategy adopted in the Charter seems to be a different way to reaffirm the special importance assigned to dignity. The _Explanations_ on art. 1 of the Charter state:

> "The dignity of the human person is not only a fundamental right in itself but constitutes the real basis of fundamental rights. [...] It results that none of the rights laid down in this Charter may be used to harm the dignity of another person, and that the dignity of the human person is part of the substance of the rights laid down in this Charter. It must therefore be respected, even where a right is restricted."

These statements can be understood as meaning that all the rights included in the Charter have, at their core, a "dignity component" and that their implementation and enforcement are therefore needed, among others, in order to respect and protect human dignity. The Charter is pluralistic: The rights it enshrines are aimed at protecting not a single value, but rather a set of values. However, the balancing between fundamental rights can never go so far as to undermine human dignity, and, more generally, human dignity may certainly function as a limit to the possibility to restrict other rights beyond the threshold which delimits their core "dignity component".

Charter of Fundamental Rights of the European Union
Title I: Dignity

Article 1: **Human dignity**
Human dignity is inviolable. It must be respected and protected.

As far as the specific provisions of art. 1 are concerned, human dignity is first of all defined as _inviolable_. This means that the duty to respect human dignity does not admit derogation, even in time of war or for public security reasons. Furthermore, art. 1 states that human dignity should be both respected and protected. In particular, the _duty to respect_ is especially connected with the negative obligation not to interfere with human dignity. EU institutions and member states must thus avoid any act which may violate an individual's human dignity. With regard to the _duty to protect_, there is agreement on the fact that it implies positive obligations, understood as the duty to take active steps to ensure that dignity is not violated by other individuals, collective subjects, or public authorities of other states. This includes the duty to protect individuals not only from _actual_ violations but also from _potential_ violations.

The protection of human dignity therefore implies, for instance, that a state cannot send asylum seekers back to unsafe countries of origin if they are likely to suffer inhuman or degrading treatment or the violation of their right to life[2], nor can it deny subsidiary protection to a third-country citizen affected by a severe illness if she could not receive appropriate health care in her country of origin.[3] Furthermore, a state may be held responsible for not providing the necessary protection to victims of domestic and sexual violence.[4] By contrast, it is more controversial whether positive obligations include the duty to deliver special services, such as granting minimum subsistence means (Olivetti in Bifulco, Cartabia and Celotto 2001). However, case law shows that dignity may also play a role in this sense.

For instance, the CJEU had already established in 1983 that the right to free movement of Community workers cannot be exercised with dignity if the best possible conditions for the integration of the worker's family in the society of the hosting state are not granted. These include, _inter alia_, equal treatment for the worker's family in access to housing and educational services. More recently, in 2014[5], the CJEU established that

> "the general scheme and purpose of _Directive 2003/9EC_ and the observance of fundamental rights, in particular the requirements of art. 1 of the Charter [...], preclude the asylum seeker from being deprived [...] of the protection of the minimum standards laid down by that directive" (par. 35).

Accordingly, a

> "Member State must ensure that the total amount of the financial allowances covering the material reception conditions is sufficient to ensure a dignified standard of living and adequate for the health of applicants and capable of ensuring their subsistence, enabling them in particular to find housing, having regard, if necessary, to the preservation of the interests of persons having specific needs" (par. 52).

BOX 1: _N.S. and Others (2011), Court of Justice of the European Union_

The joint cases N.S. v. United Kingdom and M.E and Others v. Ireland were concerned with the definition of the obligations of the EU member states under the Common European Asylum System (CEAS). The CJEU stated that when a member state receives an asylum application, it cannot automatically transfer the applicant to the member state that is formally competent to examine the application under the Dublin Regulation. Instead, they must assess whether systemic deficiencies in the asylum procedure and reception conditions in that member state expose asylum seekers to the risk of being subjected to inhuman treatment.

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[2]   See, e.g., ECtHR, _L.M. and Others v. Russia_ (2015) and CJEU, _N. S. and Others_ (2011) (see Box 1).

[3]   See, e.g., CJEU, _Abdida_ (2014); CJEU, _M'Bodj v. Belgium_ (2014); ECtHR, _D. v. UK_ (1997).

[4]   See, e.g., ECtHR, _Halime Kiliç v. Turkey_ (2016), and ECtHR, _M.G. v. Turkey_ (2016).

[5]   CJEU, _Saciri and Others_ (2014).

Specific dignity-related rights

Title I of the Charter also identifies a specific set of rights, thus suggesting that they have a special link with human dignity. These rights are: the right to life (art. 2), which includes the prohibition of the death penalty; the right to the physical and mental integrity of the person (art. 3), which includes the prohibition of eugenic practices; the right not to be tortured or subjected to inhuman or degrading treatment or punishment (art. 4); and the right not to be reduced to slavery or forced to work (art. 5), including the prohibition of human trafficking. These rights could be considered as the core content of the right to human dignity, that is, as those rights the violation of which can be recognised as a violation of human dignity, irrespective of what specific interpretation of this concept is adopted.

Charter of Fundamental Rights of the European Union
Title I: Dignity

Article 2: **Right to life**
Article 3: **Right to the integrity of the person**
Article 4: **Prohibition of torture and inhuman or degrading treatment or punishment**
Article 5: **Prohibition of slavery and forced labour**

These specific rights that the Charter considers dignity-related are traditionally classified as civil rights and regarded as basic freedoms. Sometimes they are qualified as *negative* freedoms, that is, freedoms *not to be* harmed in specific ways (or freedoms from harm) and distinguished from the *positive* freedoms *to do* something (see Ferrajoli 2007, chap. 15). The unifying feature of these rights might lie in the fact that they express the Kantian idea that human beings should always be considered as "ends in themselves". This means that no human being can ever be treated only as a mean for the satisfaction of someone else's ends (either individual or collective) and/or reduced to a "thing" that can be used as an instrument or even commercialised.

2.2 A Substantive Idea of Freedom

The preamble of the Charter states that the EU "places the individual at the heart of its activities, by establishing the citizenship of the Union and by creating an area of freedom, security and justice" (par. 2). In contrast to dignity (which is held to be inherent to human beings and thus represents a pre-existing limit to the exercise of power by public authorities and private subjects), freedom is understood as something which needs to, and must, be created.

Charter of Fundamental Rights of the European Union
Title II: Freedoms

Article 6:   **Right to liberty and security**
Article 7**:**   **Respect for private and family life**
Article 8:   **Protection of personal data**
Article 9:   **Right to marry and right to found a family**
Article 10:   **Freedom of thought, conscience and religion**
Article 11:   **Freedom of expression and information**
Article 12:   **Freedom of assembly and association**
Article 13:   **Freedom of the arts and sciences**
Article 14:   **Right to education**
Article 15:   **Freedom to choose an occupation and right to engage in work**
Article 16**:**   **Freedom to conduct a business**
Article 17:   **Right to property**
Article 18:   **Right to asylum**
Article 19:   **Protection in the event of removal, expulsion or extradition**

The preamble also affirms that "to this end, it is necessary to strengthen the protection of fundamental rights" (par. 4). Freedom, as a value, is a political goal to be reached through the guarantee of fundamental rights. Importantly, it is not held to be antithetical to security but, rather, complementary to it: There is no freedom without the security of fundamental rights. The complementarity between freedom and security is reaffirmed in the first article of Title II, which states the right to liberty *and* security (art. 6), where liberty refers to *habeas corpus* and the other guarantees protecting individuals from the arbitrary curtailing of their rights.

Charter of Fundamental Rights of the European Union
Title II: Freedoms

Article 6: **Right to liberty and security**
Everyone has the right to liberty and security of person.

All the freedoms stated in Title II may be reconducted to the idea of freedom *of* doing (or not doing) something, as distinct from the idea of freedom *from* those violations of fundamental rights which impinge directly on human dignity. Nonetheless, as with dignity, the freedoms contained in Title II entail not only a duty of non-interference but also a positive obligation of the state to adopt all the necessary measures to grant the conditions for their effective enjoyment. This includes protection against possible violations committed by private (individual or collective) subjects.

The Charter adopts a substantive idea of freedom, understood as an effective possibility to exercise one's freedom, which may require the positive intervention of public authorities. An important indication of this is the fact that Title II includes rights which are not freedoms in a strict sense, but that may be conceived as necessary conditions for the effective enjoyment of such freedoms. This is the case, in particular, of the right to education (art. 14), the right to asylum (art. 18) and the right to protection in case of removal, expulsion or extradition (art. 19).

The right to asylum and protection against unlawful removal

The right to asylum (art. 18) is a necessary precondition of the opportunity to enjoy those fundamental freedoms which could be denied under oppressive regimes. As regards the scope of art. 18, the Charter recognises the right to asylum in accordance with what is established by the Geneva Convention on the Status of Refugees, meaning that it only applies to persons who are, or risk being, persecuted for their race, religion, nationality, political opinions, or for belonging to a particular social group. The "humanitarian refugees", who escape not from personal persecution but from a general lack of protection of their rights, therefore formally fall outside the scope of art. 18.

However, at least a partial compensation of such a restrictive approach may be found in art. 15 of Directive 2011/95/EU (Qualification Directive), which imposes the duty to concede subsidiary protection to persons who, if returned to their country of origin, would face a real risk of suffering serious harm. This is defined as including the death penalty or execution; torture or other forms of degrading treatment or punishment; and a serious threat to a civilian's life or person through indiscriminate violence in international or internal armed conflict.

Charter of Fundamental Rights of the European Union
Title II: Freedoms

Article 18: **Right to asylum**
The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty on European Union and the Treaty on the Functioning of the European Union […].

Article 19: **Protection in the event of removal, expulsion or extradition**
1. Collective expulsions are prohibited.
2. No one may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment.

Wider guarantees are provided by art. 19 on protection in the event of removal, expulsion or extradition. This article does not apply to asylum seekers only, but rather to foreigners in general. Furthermore, it not only reproduces the principle of *non-refoulement* set down in art. 4 of Protocol No 4. to the ECHR but also transposes the relevant ECtHR case law on the right to life and the prohibition of torture and inhuman and degrading treatment and punishments, which goes beyond the concept of persecution, strictly understood. A state may be held responsible for the expulsion or extradition of a person who risks being subjected to the death penalty[6] or suffering inhuman or degrading treatment or punishment[7]. Such a responsibility may also arise when the threat comes not from the authorities of a state from other persons or private groups within it, if that country is not able to provide the necessary protection[8]. Moreover, when an individual is a member of a group subject to systematic ill-treatment, it may not be necessary to give evidence of personal risk factors[9]. Finally, a duty not to send back a person to her country of origin may arise even when she suffers of a severe illness, and there are no adequate health care services in the country of origin[10].

Articles 18 and 19 must also be read in conjunction with art. 6 on the right to liberty and security and art. 47 on the right to an effective judicial remedy. In the area of migration and asylum, there are many measures impinging on personal liberty as set down in art. 6.[11] Although art. 5 (1(f)) of the ECHR includes in its exhaustive list of grounds for detention the need to prevent unauthorised entry or to facilitate the removal of a person from the country, the ECtHR has specified strict conditions with regard to how a lawful arrest or detention should be carried out. In particular, detention should be the last resort[12], and a reasonable limit for the duration of detention must be established by the law and respected by public authorities[13]. Furthermore, the ECtHR has condemned several times the detention

BOX 2: *Khlaifia and Others v. Italy (2016), European Court of Human Rights*

In Khlaifia and Others v. Italy, the European Court of Human Rights dealt with the right to liberty of migrants and the procedural guarantees that must enable them to challenge their detention and expulsion by the state of their first arrival in Europe. The case concerned three Tunisian citizens, who were held in a reception centre in Lampedusa (Italy) and later transferred to two Italian military ships as they awaited deportation to Tunisia.

The Court found that they were illegitimately deprived of their liberty in violation of articles 5 (1), (2) and (4) ECHR, since, respectively: a) there was no legal basis in Italian law for their detention; the applicants were not provided with any information about the legal or factual basis of their detention; and the applicants did not have access to any remedy by which they could have obtained a judicial decision on the lawfulness of their detention.

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[6]   See, e.g., ECtHR, *Ocalan v. Turkey* (2005) and *Bader and Kanbor v. Sweden* (2005); see also, explicitly, art. 19 (2) of the Charter.
[7]   See, among many others, ECtHR, *Ahmed v. Austria* (1996) and *Chahal v. UK* (1996).
[8]   See, e.g., ECtHR, *H.L.R. v. France* (1997).
[9]   See, e.g., ECtHR, *Salah Sheekh v. the Netherlands* (2007).
[10] See, e.g., ECtHR, *D v. UK, Paposhvili v. Belgium* (2016); see also CJEU, *M'Bodj v. Belgium* (2014).
[11] Under EU law, the deprivation of liberty is regulated by the Reception Conditions Directive, art. 8, the Dublin Regulation, art. 28, and the Return Directive, art. 15.
[12] See, e.g., ECtHR, *Mikolenko v. Estonia* (2009) and *Rusu v. Austria* (2008).
[13] See, e.g., ECtHR, *Azimov v. Russia* (2013).

of irregular migrants without a statutory basis and without an adequate motive (see Box 2)[14]. In this perspective, the CJEU has stated:

> "*Directive 2008/115 [Return Directive] must be interpreted as precluding legislation of a Member State which permits a third country national in respect of whom the return procedure established by that directive has not yet been completed to be imprisoned merely on account of illegal entry across an internal border, resulting in an illegal stay.*"[15]

Finally, in order to protect the rights enshrined in art. 18 and 19, an effective remedy against their violation must be provided (art. 47). These rights may be held to be violated, for instance:

- If no suspensive effect is foreseen for the case of appeal against a decision of removal, when returning the person to her country of origin may have potentially irreversible effects[16];

- if there is no procedure through which a detainee may ask for a judicial re-examination of the lawfulness of her detention[17];

- if administrative and practical barriers hinder the ability of the applicant to pursue her asylum claim[18];

- if legal assistance is not practically available to the applicant[19];

- or if a state does not conduct a rigorous scrutiny of the asylum application20. In this perspective, the ECtHR has found, for instance, that pushing back migrants and asylum seekers at sea violates, among others, their right to an effective remedy[21].

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[14] See, e.g., ECtHR, *Khlaifia et al. v. Italy* (2016) (see Box 2).

[15] CJEU, *Affum* (2016), par. 93.

[16] See, e.g., ECtHR, *Gebremedhin v. France* (2007).

[17] See, e.g., ECtHR, *Abdolkhani and Karimnia v. Turkey* (2009).

[18] See, e.g., ECtHR, *Conka v. Belgium* (2002).

[19] See, e.g., ECtHR, *M.S.S. v. Belgium and Greece* (2011).

[20] See, e.g., ECtHR, *Singh and Others v. Belgium* (2012).

[21] See, e.g., ECtHR, *Hirsi Jamaa and Others v. Italy* (2012).

Family life, marriage and religion

Some considerations should also be made with regard to some traditional freedoms enshrined in Title II. We will focus on family, marriage and religion, that is, those freedoms set down in articles 7, 9 and 10.

Charter of Fundamental Rights of the European Union
Title II: Freedoms

Article 7: **Respect for private and family life**
Everyone has the right to respect for his or her private and family life, home and communications.

Article 9: **Right to marry and right to found a family**
The right to marry and the right to found a family shall be guaranteed in accordance with the national laws governing the exercise of these rights.

Article 10: **Freedom of thought, conscience and religion**
1. Everyone has the right to freedom of thought, conscience and religion. This right includes freedom to change religion or belief and freedom, either alone or in community with others and in public or in private, to manifest religion or belief, in worship, teaching, practice and observance.
2. The right to conscientious objection is recognised, in accordance with the national laws governing the exercise of this right.

Art. 7 concerns the respect for private and family life. The relationship between these two dimensions is complex and sometimes ambivalent. On the one hand, there may be cases in which the former has been kept distinct from the latter. For instance, the right to private life is the main reference in relation to the issue of the treatment of personal data, which are also protected in art. 8. Furthermore, reproductive and sexual life are often dealt with in the light of private life. For instance, the ECtHR has found a violation of private life in making gender reassignment surgery conditional on the proof that the person concerned is no longer able to procreate[22], while the CJEU has stated that requiring asylum seekers to go into details about their sexual life on grounds of sexual orientation constitutes a violation not only of their dignity but also of their right to private life[23].

By contrast, in other cases, private and family life are treated as strictly interconnected. In this respect, art. 7 may partially overlap with the right to marry and the right to found a family enshrined in art. 9. Here, it must be underlined that neither the Charter and the ECHR nor the case law of the

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[22] ECtHR, *Y.Y. v. Turkey* (2015).

[23] CJEU, *A. et al. v. the Netherlands* (2014).

CJEU and the ECtHR contain a definition of family, while an empirical approach is usually adopted in order to evaluate whether a concrete situation may fall within the scope of that notion[24]. However, not every claimed expression of family life is protected, even when it is allegedly based on marriage.

In CJEU case law, family life issues are often dealt with in connection with the right to freedom of movement and, in particular, with the concession (or denial) of residence permits. In this perspective, the unity of the family and the consideration of the best interest of the child have been given particular importance in some cases. For instance, on the one hand, the CJEU has stated that "the removal of a person from the country where close members of his family are living may amount to an infringement of the right to respect for family life"[25] and that family reunion should be permitted even if a third-country national entered the territory of the state irregularly and married her EU spouse during the period of irregular permanence[26].

On the other hand, the CJEU has affirmed that a third-country national whose dependent minor children are EU citizens must be granted a residence and work permit in order to live with and support them[27]. In this perspective, it must also be stressed that art. 24 (3) of the Charter states that "Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests". This does not mean that articles 7 and 24 of the Charter deprive states of their discretional power in the examination of applications for family reunification. However, it does mean that states have a duty to examine such applications in the light of those articles[28].

Art. 10 covers both freedom of religion (including the right to change one's religion and the right not to adhere to any religion) and freedom of thought and conscience[29], but issues concerning religion are prevalent in case law. In particular, the CJEU has recognised that "Freedom of religion is one of the foundations of a democratic society and is a basic human right"[30]. Accordingly, EU law prohibits any discrimination based on this ground[31].

The CJEU has recognised that the freedom to manifest one's own beliefs is no less important than the freedom to hold such beliefs. This means, for instance, that the risk of being persecuted for manifesting religion may represent the basis for the concession of asylum[32]. However, while in the *forum internum*, freedom of religion is held to be almost absolute, in the *forum externum*, by contrast, freedom to manifest one's religion or belief may be restricted by the law for the sake of other legitimate goals (i.e. public safety, public order, health and moral, and the protection of the rights and freedoms of others). For instance, the CJEU has established that, although a certain degree of active facilitation of religious choices is required in the area of employment, this has to be balanced with other relevant interests and must not imply an intolerable burden for the employer[33].

The autonomy of religious organisations is also held in great consideration. In this perspective, art. 17 (1) of the Treaty on the Functioning of the European Union (TFEU) states, significantly, that "the Union respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States". This may also imply, within certain limits, the possibility for religious organisations to treat people differently in the name of religious freedom, not only with regard to religious offices but also in the field of significant secular functions, such as schools and hospitals (McCrea in Peers et al. 2014, 296).

Finally, it must be underlined that freedom of religion may interact with other rights enshrined in the Charter, such as, in particular, freedom of expression (art. 11), freedom of assembly and association (art. 12) and the right to education (art. 14). In some respects, all these rights may be seen as functional to a full enjoyment of the freedom of religion. For instance, as regards the right to education, art. 14 (3) of the Charter states:

> "*The freedom to found educational establishments with due respect for democratic principles and the right of parents to ensure the education and teaching of their children in conformity with their religious, philosophical and pedagogical convictions.*"

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[24] See, e.g., ECtHR, *X.,Y. and Z. v. UK* (1997).

[25] CJEU, *Orfanopoulos and Olivieri* (2004), par 98.

[26] CJEU, *Metock and Others* (2008).

[27] CJEU, *Ruiz Zambrano* (2011), which, however, refers to art. 20 TFEU rather than to art. 7 of the Charter.

[28] CJEU, *Rahman and Others* (2012).

[29] This includes, for instance, pacifism (ECtHR, *Arrowsmith v. UK*), veganism (ECtHR, *H. v. UK*), and opposition to abortion (ECtHR, *Knudsen v. Norway*).

[30] CJEU, *Y and Z* (2012), par. 57.

[31] See, in particular, *Directive 78/2000/CE* establishing a general framework for equal treatment in employment and occupation.

[32] CJEU, *Y and Z* (2012).

[33] CJEU, *Cadman* (2006) and *Kilski* (2007).

2.3 EQUALITY:
TWO DIFFERENT CONCEPTS

Equality as a normative principle may be understood in many different ways: as basic or fundamental equality entitling every person to equal consideration; as equality of status, rights and duties; as equality of treatment (in legislation and/or in adjudication); as equality of opportunities; or as equality of achievements. While other ideas of equality can be found in other parts of the Charter, Title III refers mainly to the idea of *equal treatment* (articles 20–22) and to the idea of *equality of opportunities* (articles 23–26) (see Box 3 below).

Charter of Fundamental Rights of the European Union
Title III: Equality

Article 20:   **Equality before the law**
Article 21**:**   **Non-discrimination**
Article 22:   **Cultural, religious and linguistic diversity**
Article 23:   **Equality between women and men**
Article 24:   **The rights of the child**
Article 25:   **The rights of the elderly**
Article 26:   **Integration of persons with disabilities**

These two concepts of equality are not necessarily in conflict with each other. On the contrary, it may be argued that there is a strong link between them: Treating all persons as equals may be understood as requiring granting them equal opportunities, which could legitimate differential treatment when inequalities in the condition of persons are such that it is not possible to equalise their opportunities by treating them in the same way (see Dworkin 1977, chap. 12). Thus, for example, securing equal opportunities for able and disabled people may require granting disabled people additional, or different, resources and services.

Title III articulates the value of equality at three levels. Firstly, art. 20 expresses a very general principle of equality before the law. Secondly, articles 21 and 22 provide two specifications of such a principle: Art. 21 details a list of the main grounds on which people must not be discriminated against, while art. 22 establishes an explicit link between the principle of equality and the commitment of the EU regarding cultural, religious and linguistic diversity. It is controversial whether art. 22 has to be understood as only prescribing a duty of the EU to respect differences *between* member states or as also extending to the protection of cultural, religious and linguistic minorities *within* them[34]. Thirdly, articles 23-26

reaffirm the principle of equality with regard to specific categories of subjects that may be considered particularly vulnerable: women (art. 23)[35], children (art. 24), older persons (art. 25) and persons with disabilities (art. 26). In this respect, the Charter is perfectly in line with the process of "specification" of fundamental rights that has characterised international human rights law in the last decades.

Equal treatment and non-discrimination

Art. 20 states: "Everyone is equal before the law". It is undisputed that, in the EU Treaties and secondary law, equality is mainly understood as a principle of equal treatment and non-discrimination. As the CJEU clearly says in its judgement on the case *Advocaten voor de Wereld VZW v. Leden van de Ministerraad* (2007): "The principle of equality and non-discrimination requires that comparable situations must not be treated differently and that different situations must not be treated in the same way unless such treatment is objectively justified" (par. 56). The scope and field of application of art. 20 is very wide, it applies to everyone[36] and in relation to whatever issue falling within the scope of EU law.

In this perspective, the principle of non-discrimination enshrined in art. 21 is a specification of the general principle of equal treatment, as it details the main grounds on which people must not be discriminated against. Accordingly, the CJEU has clarified that the non-discrimination provisions contained in EU directives are also "simply a specific expression of [...] the general principle of equality" (Lotti and Matteucci 2010, par. 58). The relevance of explicitly mentioning the grounds of discrimination listed in art. 21 consists in making any categorisation based on them automatically "suspect". Such grounds coincide with those personal characteristics that, more often than others, give rise to discrimination. The list provided by art. 21 is currently the widest among

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BOX 3: *Main Conceptions of Equality in the Charter of Fundamental Rights*

Equality of Treatment

Equality of treatment is a principle of non-discrimination on the basis of a specific set of personal characteristics. It applies both to direct discrimination and indirect discrimination. The latter refers to apparently neutral legislation or policies that result in particular disadvantages for members of a certain group.

Art. 20: Equality before the law

Art. 21: Non-discrimination

Art. 22: Cultural, religious and linguistic diversity

Equality of Opportunities

Equality of opportunities requires that every person is granted a set of opportunities that are instrumental to accessing different social positions as well as the necessary conditions for a minimally decent life.

Art. 23: Equality between women and men

Art. 24: The rights of the child

Art. 25: The rights of the elderly

Art. 26: Integration of persons with disabilities

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[34]   For instance, Alì (2017) tends towards the first interpretation and suggests that the protection of ethnic and cultural minorities may be seen as relying mainly on articles 20 and 21 of the Charter. By contrast, the latter view is defended by Craufurd Smith in Peers et al. (2014).

[35]   Despite the neutral formulation of art. 23, it is more likely that the principle of gender equality is applied to protect women, since, as a matter of fact, they are the most affected by gender-based discrimination.

[36]   However, on the limits of the personal scope of the Charter (which suggest a careful reconsideration of the meaning of "everyone" in art. 20) see par. 1.2 and the Conclusion of this chapter.

all the non-discrimination provisions contained in other international instruments, as it includes, besides more traditional grounds of discrimination – such as sex, race, colour, language, religion, political opinion, national minorities, property – several new ones: genetic features, disability, age, and sexual orientation. However, the list is open and non-exhaustive, as the phrase "such as", which introduces it, clearly indicates.

It is also worth noting that the principle of non-discrimination in EU law explicitly includes a prohibition of indirect discrimination. The principle of equal treatment therefore not only prohibits treating a person less favourably than another in a comparable situation but also prevents the adoption of any apparently neutral provision, criterion or practice that would, as a consequence, put persons belonging to a specific protected group at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

Charter of Fundamental Rights of the European Union
Title III: Equality

Article 21: **Non-discrimination**
1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.
2. Within the scope of application of the Treaties and without prejudice to any of their specific provisions, any discrimination on grounds of nationality shall be prohibited.

Nationality, as a ground of discrimination, is granted a special place in art. 21 (2). This reflects the fact that equal treatment between nationals of different member states has been recognised as being of fundamental importance since the very beginning of the process of European integration. However, since par. 2 is silent on the specific issue of third-country nationals, it is doubtful whether it applies to them (Kilpatrick in Peers et al. 2014, 582, 588–590). A restrictive interpretation has prevailed in CJEU case law, according to which third-country nationals fall outside the scope of art. 21 (2)[37]. The tendency to exclude the applicability of art. 21 (2) to third-country nationals is in line with the absence, in Title III, of any specific provision on migrants and refugees, despite the fact that, like the other categories listed in articles 23–26, they could be considered vulnerable subjects in many respects. This is one of the most significant indications of the actual limits of the personal scope of the Charter.

Since articles 20 and 21 do not – and reasonably could not – provide any universal and objective yardstick to establish "what is comparable", the outcome of a judgement ultimately depends on the relevant criteria which the court discretionally selects on a case-by-case basis. The wider the margin of appreciation in establishing what is comparable, the wider is the risk that the prohibition of indirect

discrimination may be frustrated by an insensitive and unthoughtful construction of the criteria of comparison as well as by the inability to detect intersectional discriminations[38]. A recent example of unrecognised intersectional discrimination may be found in the case _Achbita and Others v. G4S Secure Solutions NV_ (2017), where the CJEU failed to note that employees who are both female and Muslim may be disproportionally affected by a formally neutral provision prohibiting "the visible wearing of any political, philosophical or religious sign" in the workplace (see Box 4 below).

Equality of opportunities

These possible shortcomings in applying the principle of equal treatment might and should be partly compensated and corrected by the principle of equality of opportunities, which is also endorsed in the Charter and in EU anti-discrimination law and policies in general (see Kilpatrick in Peers et al. 2014, 592). This principle may be understood as requiring that every person is granted a set of opportunities that are instrumental to other opportunities as well as the necessary conditions for a minimally decent life. On the one hand, the idea of "instrumental opportunities" includes the possibility to compete, in a fair competition, for access to different social positions, which implies not only that those positions are formally open but also: a) that all the structural, cultural and social obstacles that impose unfair burdens to some competitors are actively removed and b) that the competitors can have access to those goods which are necessary for gaining an effective chance to win the competition. On the other hand, equality in the conditions for a minimally decent life requires the possibility to access those means that are necessary to fulfil one's basic needs. Both of these understandings of equality of opportunity are present in the Charter.

On the one hand, the idea of "instrumental opportunities" seems to be the rationale of articles 23 and 26, which explicitly endorse the idea of "positive discrimination". In particular, art. 23 (2) states that "the principle of equality shall not prevent the maintenance or adoption of _measures providing for specific advantages_ in favour of the under-represented sex"[39] (emphasis added). Similarly, art. 26 establishes that "the Union recognises and respects the right of persons with disabilities to benefit from _measures designed to ensure_ their independence, social and occupational integration and participation in the life of the community" (emphasis added): measures such as, for instance, "reasonable accommodations" in the workplace as foreseen in art. 5 of _Directive 2000/78/EC_.

On the other hand, equality of opportunity for a minimally decent life seems to inform articles 24 and 25 (as well as part of Title IV on Solidarity). Art. 24 states that "children shall have the right to such protection and care as is necessary for their well-being", thus imposing, among others, a positive obligation to provide services, which is a typical feature of social rights. In turn, art. 25 attaches special importance to "the rights of the elderly to lead a life of dignity and independence and to participate

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[38] On the concept of intersectional discrimination see Crenshaw (1989). The idea of a "discriminatory combination of several factors" may be found in the opinion of Advocate General Kokott in the CJEU case _Parris v. Trinity College Dublin and Others_ (2016).

[39] Among the main decisions in which, before the Charter, the CJEU admitted – and fixed some limits to – the legitimacy of positive actions in the context of gender equality, see, e.g., _Kalanke v. Freie Hansestadt Bremen_ (1995).

in social and cultural life". In this respect, the principle of equality works as a bridge between civil and social rights, as the positioning of the Title on Equality – exactly in the middle between the Title on Freedoms and the Title on Solidarity – significantly symbolises.

2.4 SOLIDARITY:
A FOUNDATION FOR HETEROGENEOUS RIGHTS

The history of the idea of solidarity as a major political value goes back at least to the idea of *fraternité* which, together with *liberté* and *egalité*, constitutes one of the basic principles of the French Revolution. Either understood in opposition to liberal individualism or, quite often, as complementary to it (as a sort of counterbalance to redress its potentially atomising and disaggregating tendency), this idea developed during the nineteenth century, along different lines, within different political traditions and social movements, inspiring the social reforms that resulted, in the aftermath of the Second World War, both in the distinctive European social model of the welfare state and the idea of social rights as an essential component of the system of fundamental rights.

Defining how the value of solidarity is understood in the Charter is quite difficult. Title IV includes a set of heterogeneous rights, which range from workers' rights to environmental protection, from family to health care and from the right to social security and social assistance to consumer protection. Nonetheless, it seems undeniable that there is a connection between some of these rights and the idea of the welfare state. This is confirmed by the European social *acquis* on which these rights rest, including the European Social Charter (ESC) and the Community Charter of the Fundamental Social Rights of Workers (CCFSRW). Moreover, in 2017, the EU institutions adopted a joint declaration on the creation of a European Pillar of Social Rights, which not only recalls the Charter but also widens the catalogue of rights enshrined in Title IV.

Charter of Fundamental Rights of the European Union
Title IV: Solidarity

Article 27:   **Workers' right to information and consultation within the undertaking**
Article 28**:   Right of collective bargaining and action**
Article 29:   **Right of access to placement services**
Article 30:   **Protection in the event of unjustified dismissal**
Article 31:   **Fair and just working conditions**
Article 32:   **Prohibition of child labour and protection of young people at work**
Article 33:   **Family and professional life**
Article 34:   **Social security and social assistance**
Article 35:   **Health care**
Article 36:   **Access to services of general economic interest**
Article 37:   **Environmental protection**
Article 38:   **Consumer protection**

Workers' rights

Title IV opens with a set of workers' rights. There is a wide *acquis* in this area because EU law has been dealing with these rights since the very beginning, although mainly in the perspective of the freedom of movement and the constitution of a common European market. Among the articles on workers' rights, some – such as art. 27 on the right to information and consultation within the undertaking and art. 28 on the right of collective bargaining and action – have a "procedural" nature. Others – such as art. 30 on protection in the event of unjustified dismissal and art. 31 on fair and just working conditions – have a more substantive dimension. However, they all seem to share the traditional goal of re-equilibrating power imbalances between employers and workers. Not by chance, they have horizontal effects, implying duties not only for states but also directly for employers.

Art. 31 establishes an explicit connection between working conditions, on the one hand, and the dignity and integrity of a person on the other. It states that "every worker has the right to working conditions which respect his or her health, safety and dignity" (par. 1), including a limitation of maximum working hours, daily and weekly rest periods and an annual period of paid leave (par. 2). It is undisputed that the personal scope of art. 31 extends to every worker, independently of the type of her contract of employment, although it is worth remembering that art. 15 (3) grants third-country nationals only the right to working conditions *equivalent*, and not equal, to those of EU citizens. However, art. 31 is quite vague in several other respects, since its meaning depends on the definition of the concepts of "working conditions", "health and safety" and "dignity".

Some indications may be found in EU law, in the ESC and in CJEU case law. For instance, the *Explanations* refer to art. 26 of the ESC on "the right to dignity at work", which establishes the duty of the state "to promote awareness, information and prevention of sexual harassment" and of any other "recurrent reprehensible or distinctly negative and offensive actions directed against individual workers". Any form of disrespect of the worker's personhood must therefore be regarded as a violation of her dignity. As regards health and safety, the CJEU judgement in the case *UK v. Council* has been determinant in defining the general principle that health has to be understood "as a state of complete physical, mental and social well-being", in accordance with the definition of this concept provided by the World Health Organization.

Art. 31 is also closely connected with art. 30 on protection in the event of unjustified dismissal. This provision may be understood as protecting workers' job security as another necessary precondition of their dignity and autonomy. Many cases concerning dismissal have come before the CJEU in connection with transfer of undertakings, insolvency, collective redundancy, discrimination and reconciliation between family and professional life (all issues explicitly regulated by secondary EU law). Unjustified dismissal may be defined as dismissal without a valid reason. EU law identifies some cases of automatically unjustified dismissal: For instance, art. 10 of Directive 92/85/EEC qualifies as automatically unjust the dismissal of pregnant workers and workers who have recently given birth or who are breastfeeding. However, what constitutes a valid reason for dismissal is generally established on a case-by-case basis. In this regard, workers' rights may conflict, and need

to be balanced, with the right to conduct a business as set down in art. 16 of the Charter. The latter, of course, is not unlimited[40], but it is not unlikely to prevail either[41].

Finally, in the cluster of workers' rights, articles 29 and 32 are also worthy of attention. Art. 32 prohibits child labour and prescribes the special protection of young people at work, including against economic exploitation. This implies that young workers must be granted not only working conditions appropriate to their age (and which do not interfere with their education) but also equal payment compared to adult workers. In turn, art. 29 on the right of access to a free placement service deserves attention because it is shaped as an entitlement to a specific benefit. Granting a free placement service implies a duty of the state to supply such a service, irrespective of whether it does it directly, i.e. through a public body, or indirectly by allowing this service to be provided by private subjects (see Lotito in Bifulco, Cartabia and Celotto 2001, 219; Ashiagbor in Peers et al. 2014, 800–801).

> **BOX 4:** *Achbita (2017), Court of Justice of the European Union*
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> *Achbita v. G4S Secure Solutions NV* involved a female employee at a private Belgian firm who was dismissed for refusing to remove her headscarf at work. In its ruling, the CJEU held that it constitutes no direct discrimination when a private firm adopts an internal rule banning the visible display of political, philosophical or religious signs in the workplace. The Court found that, since G4S's internal rule covers any manifestation of political, philosophical and religious beliefs without distinction, it does not introduce a difference of treatment on the basis of religion or belief for the purposes of Directive 78/2000/EC.
>
> The Court also stated that the aim to display a policy of political, philosophical or religious neutrality must be considered legitimate, as it is an expression of the freedom to conduct a business (art. 16 of the EU Charter). Therefore, if the means of achieving that aim are appropriate and necessary, possible disadvantages affecting persons adhering to a particular religion or belief cannot be considered as a form of indirect discrimination either.

Entitlements to benefits

The most typical entitlements to benefits can be found in art. 34 on social security and social assistance and in art. 35 on health care, which clearly extend beyond workers' rights only. In particular, art. 34 includes, on the one hand, the right to social security benefits and social services providing protection in cases such as maternity, illness, industrial accidents, dependency or old age, and loss of employment (par. 1) and, on the other hand, the right to social and housing assistance "so as to ensure a decent existence for all those who lack sufficient resources" (par. 2). EU rules on social security mainly concern the coordination (and not the harmonisation) of national legislations to grant the effectiveness of free movement of workers[42]. Art. 35 includes the right of access to preventive health care and the right to benefit from medical treatment. A real right to health is missing in this article, although it states that

"a high level of human health protection shall be ensured in the definition and implementation of all the Union's policies and activities". This is especially relevant if considered in connection with art. 37 on environmental protection.

Social security, social assistance and health care are the rights which more directly recall the idea of equal opportunities for a minimally decent life. Not by chance does art. 34 (3) explicitly connect the right to social and housing assistance to the goal of combating social exclusion and poverty. However, even these rights are not granted to everyone unconditionally, but rather in accordance with national laws and practices as well as with EU law, where relevant. It is also worth noting that the ECtHR has found making an entry permit conditional on having no recourse to public funds admissible[43]. The EU and the member states therefore retain a very wide margin of appreciation in defining who is entitled to what benefit. In this perspective, while some of the "core benefits" covered by these rights have been recognised, for instance, as applying to refugees and beneficiaries of subsidiary protection, victims of human trafficking, asylum seekers and long-term residents, they are not available to every migrant as such. As pointed out by the European Union Agency for Fundamental Rights (FRA), not only "an acknowledged right to enter or remain [in a EU country] is normally necessary for accessing the full range of social rights" but also "for most migrants, being permitted to enter or to remain in a state is only the first step in establishing full residence rights", while "accessing employment, education, housing, health care, social security, social assistance and other social benefits can be a challenging exercise" (2015, 181). Migrants in an irregular situation are especially vulnerable to exclusion.

Nonetheless, at least minimum standards must be granted to everyone, in any circumstances. For instance, the ECtHR has stated that a state's responsibility for the violation of the prohibition of inhuman and degrading treatment may arise, for instance, if it supplies a wholly inadequate amount of financial support[44], fails to provide shelter in extreme situations[45] or puts an individual's life at risk through acts or omissions that deny the individual health care that has otherwise been made available to the general population[46].

Family and professional life

Art. 33 on family and professional life may be seen as representing a bridge between the group of labour rights and those rights which are shaped as entitlements to benefits. On the one hand, par. 1 prescribes that the family is granted (not only legal but also) economic and social protection. According to art. 16 of the ESC, on which this provision rests[47], this protection includes "such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means". On the other hand, par. 2 is specifically devoted to reconciliation between family and professional life and states that "everyone shall have the right to protection from dismissal

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[40]   See, e.g., CJEU, *Ring and Werge* (2013).

[41]   See, e.g., CJEU, *Alemo-Herron and Others* (2013) on transfers of undertakings; CJEU, *AGET Iraklis* (2016) on collective redundancies; and CJEU, *Achbita and Others* (2017) on religious neutrality in business policies.

[42]   See, in particular, Regulation (EC) No 883/2004 on the coordination of social security systems and Regulation (EU) No 492/2011 on freedom of movement for workers within the EU.

[43]   ECtHR, *Bah v. UK* (2011).

[44]   See, e.g., ECtHR, *Larioshina v. Russia* (2002) on the amount of old-age pension and social benefits allegedly insufficient to maintain an adequate standard of living.

[45]   See, e.g., ECtHR, *M.S.S. v. Belgium and Greece* (2011).

[46]   See ECtHR, *Powell and Rayner v. UK* (1990).

[47]   See the *Explanations*.

for a reason connected with maternity and the right to paid maternity leave and to parental leave following the birth or adoption of a child".

Apparently, the letter of art. 33 (2) considers only children as care recipients, thus ignoring other dependent family members. Furthermore, focusing on protection against dismissal for maternity and parental leave, it does not refer to other substantive forms of support[48]. Art. 27 of the ESC might widen the scope and meaning of art. 33 (2). On the one hand, it establishes, among others, that states have a duty to take appropriate measures "to develop or promote services, public or private, in particular child day-care services and other childcare arrangements", on the other hand, the notion of "family responsibilities" adopted in this provision may be wider than parenthood responsibility. Art. 33 (2) must also be read in accordance with the fact that EU law and policies are increasingly upholding – besides the more traditional aims of protecting maternity and granting equal treatment of women at work – the additional goals of freeing women to take paid work and promoting a more equal allocation of care burdens between women and men.

In this perspective, it is worth noting that in June 2019 the European Parliament and the Council passed Directive 2019/1158/EU on work-life balance for parents and carers (which repealed the previous Directive 2010/18/EU on parental leave). This directive is noteworthy because it sets a number of new or higher minimum standards not only for parental leave but also for *paternity* and *carers*' leave as a key deliverable of the European Pillar of Social Rights. Such a new focus on paternity and care responsibilities in general (not limited to parenthood) could expressly fill the denounced gap in art. 33 (2) of the Charter, thus providing the basis for further measures to combat those stereotyped gender roles that prevent women from achieving effective equality of opportunities not only in the field of employment but in the whole spectrum of social life.

In the public debate, references to European values are sometimes used to support restrictive migration policies aimed at protecting European cultural traditions. According to our reconstruction, some elements of the Charter point in a different direction.

CONCLUSION

The debate on European values and their relationship to fundamental rights is becoming more and more central in the European public space, as is shown, for instance, by the *Proposal for a Regulation of the European Parliament and of the Council establishing a Rights and Values Programme* (2018) aimed, among others, at reaffirming

"*the Union's vocation to be a community based on shared values and rights, a shared historical and cultural heritage and people's involvement*" in the face of "*emerging*

movements which challenge the idea of open, inclusive, cohesive and democratic societies where civic participation and the enjoyment of rights make it possible to build a tolerant way of living together."

In the public debate, references to European values are sometimes used to support restrictive migration and refugee policies aimed at protecting European cultural traditions. According to our reconstruction, some elements of the Charter seem to point in a different direction. The values and the corresponding rights expressed by the Charter – with their critical tension – could represent a starting point for imagining a more inclusive Europe capable of meeting its cosmopolitan responsibility: A place in the world where respect for the individual rights of everyone can secure a social space where differences could peacefully coexist.

The following principles have emerged from our analysis as especially significant in this respect:

- The **dignity component** of every right, which sets a limit to every form of oppression of each human being, irrespective of her national origins;

- the link that the Charter institutes **between liberty and security**, which contrasts with the current rhetorical idea that national security can be attained only by restricting some of the fundamental freedoms of non-citizens (and, sometimes, also of citizens);

- the **substantive conception of freedom** as something that cannot be secured only by abstaining from interfering with individual conduct and by imposing restrictions on such interference, but that also **requires a commitment of institutions** to promote the conditions for its effective exercise;

- an **idea of equality** conceived not only as non-discrimination and equality of opportunities but which also explicitly includes **respect for differences**;

- a **rich conception of solidarity** that insists on workers' rights but, at the same time, starting from the right to health care, provides the foundations for a European welfare system able to secure for everyone (citizens and non-citizens) at least the possibility to access those means which are necessary to fulfil basic human needs.

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[48] However, according to the *Explanations*, art. 33 (2) rests not only on the already mentioned Directive 92/85/EEC on pregnant workers and on art. 8 of the ESC on the protection of maternity but also on art. 27 of the ESC on the right of workers with family responsibilities to equal opportunities and equal treatment.

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Politicised Values: Migration Policy and the Challenge of Populism

Chapter II

Chapter Summary

The 2015 "refugee crisis" has affected migration policies and public discourses at different levels of the European Union, including national governments, EU institutions and civil societies. As a result of the crisis, values have been more fiercely invoked in political and public debates. The overt invocation of values has led to serious conflicts both within and between EU member states over their meanings and implications, as is obviously the case with the values of solidarity, democracy or human rights. However, despite this rise of "value talk", very few political or civil society actors have attempted to define the values they referred to. The lack of definition of the values in question enabled a flexible application in relation to policies and political or public discourses. For example, since 2015, a number of institutions in EU migration policymaking have increasingly invoked values in ways that only loosely connect them to the EU's human rights framework and international obligations and instead allows institutions to justify policies that seem to contradict them. An illustration of this is institutions invoking a commitment to saving lives at sea to justify a migration partnership with Libya, whose overarching aim was the deterrence of migrants from European shores.

At the same time, and in response to the "refugee crisis", populists have reconceptualised national sovereignty in terms of cultural sovereignty by highlighting the importance of protecting national/"European values". In this vein, the terminology used in EU criticism itself changed in the wake of the "refugee crisis" to become much more closely entangled with the topic of immigration. The "threat to national sovereignty" that the EU allegedly poses is no longer understood primarily in economic terms ("economic sovereignty") but in cultural terms ("cultural sovereignty"). Immigration and the EU have become interchangeable enemies in that regard: They allegedly threaten national sovereignty as well as the national identity and culture of EU countries.

This chapter focuses on the values and norms underpinning refugee and migration policies. To identify and understand these values, we reconstruct and analyse the correlating arguments and narratives of certain EU bodies, political parties and media outlets. The chapter examines if and how migration debates in and among EU member states have affected the design of EU refugee and migration policies.

Section 1, "Value Shifts in EU Migration Discourse Policy, 2014-2017", argues that values served an ambivalent function in EU institutions' discourses throughout the "refugee crisis". On the one hand, we find that values referred to do serve as categorical restraints for policy-making, as the documents link values to the EU's human rights framework and its international obligations. Yet on the other hand, it is observable that sometimes values were invoked to justify policies that stretched or bypassed legal commitments. In spite of this, we found that very few EU institutions attempt to define the values they referred to.

Section 2, "Value Discourses in EU Migration Policy: The Example of Solidarity", zooms in on one of the values most prominently referred to in the institutional discourse: solidarity. Although all institutions involved in EU migration policy-making invoke it continuously, we observe that the meanings ascribed to solidarity come apart during the "refugee crisis". Its interpretations are ranging from an insistence on implementing a binding refugee relocation scheme to a justification of financial alternatives and various opt-out mechanisms.

Section 3, "Identity Populism in Europe: Responses to the UN Global Compacts on Refugees and Migration", outlines that most kinds of populism in Europe can be described as "identity populism" that strives for a culturalist and ethnic reconfiguration of the value of sovereignty. Across Europe, far-right populist parties have campaigned for the preservation of national cultural identity that – according to their claims – is under attack from migrants. This became particularly clear during the European negotiations of the Global Compacts on Refugees and Migration in late 2018, when populists were effectively projecting an image of weakened EU states in need of regaining control and reaffirming the importance of borders and national self-determination. We show that EU institutions and populist parties in different EU countries used a similar set of values to fundamentally reduce international responsibilities for refugee protection.

Section 4, "Quality Newspapers v. Populism: Shaping Pro-immigration Attitudes in EU Member States", focuses on news media which presumably strengthen pro-immigration attitudes among the European public that are typically connected with pro-European attitudes. In this sense, we identify and analyse media discourses on refugee and immigration policies in France and Germany. We show that quality newspapers constitute a "media membrane" (Alexander 2006, 304) that is often impervious to the demonising rhetoric and alarmist narratives of far-right populists.

1. Value Shifts in EU Migration Discourse Policy, 2014–2017

Angeliki Dimitriadi and Haris Malamidis

At a Glance

Since 2015, the question of whether EU migration policy rests on shared values has risen to the forefront, largely due to growing divisions between the Visegrád Group, North Europe and South Europe. However, beyond member states' divisions, EU institutions have also taken diverging positions on migration, although to a lesser extent than member states.

The European Commission sought to protect the Schengen Area and ensure a burden-sharing of asylum seekers. The European Parliament highlighted the need for a humanitarian approach towards asylum seekers. The Justice and Home Affairs Council defended national concerns over security, but also showed the willingness and capacity to host refugees. The European Council aimed to balance the different perspectives. At times, however, it was at odds with proposals put forth by the European Commission, particularly on relocation and burden-sharing.

By and large, the values and norms referred to by the EU institutions involved in migration policy remained constant during the period 2014–2017. The main values cited in the official documents were solidarity, responsibility-sharing, saving lives at sea, human rights, and protecting freedom of movement within the Schengen Area. These values have been linked to the EU's human rights framework and its international obligations and, in this sense, have served as categorical restraints for policymaking.

However, the invocation of values often seemed to carry meanings that went beyond merely referencing the applicable legal commitments – to the extent that sometimes values were invoked to justify policies that stretched or bypassed legal commitments. Despite this, we found that very few EU institutions attempt to define the values they referred to.

Introduction

In 2015, more than one million irregular migrants arrived in the European Union (EU), with the overwhelming number having entered through Greece (see figure 1).[1] The challenge of balancing humanitarian responses and legal obligations while "ending" irregular migratory journeys has been continuous for the EU, particularly since 2011. A patchwork of policies emerged in response to the increasingly high number of deaths at sea, the "refugee crisis" of 2015, search and rescue operations in the Mediterranean in 2016–2017 and the challenge of integration in member states.

An underlying question throughout has been which norms and values are integrated in the discourse of policymakers and European institutions. The guiding assumption is that the normative discourse in fact influences policy proposals regarding migration and asylum policy. Values lie at the core of the European project and have acquired a critical role in European integration and EU governance after the Treaty of Lisbon (2009). The Treaty functioned as an opportunity to legally affirm common values held by all EU member states. Since 2015, the question of whether those values are really "shared" by Europeans – and to what extent they are indeed common – has risen to the forefront, largely due to the growing divisions between the Visegrád Group, North Europe and South Europe. A geographical and political divide has emerged, with significant implications for finding a common way forward as regards migration and asylum policy. At institutional level, this division is less visible – but we find evidence that it increases after 2016.
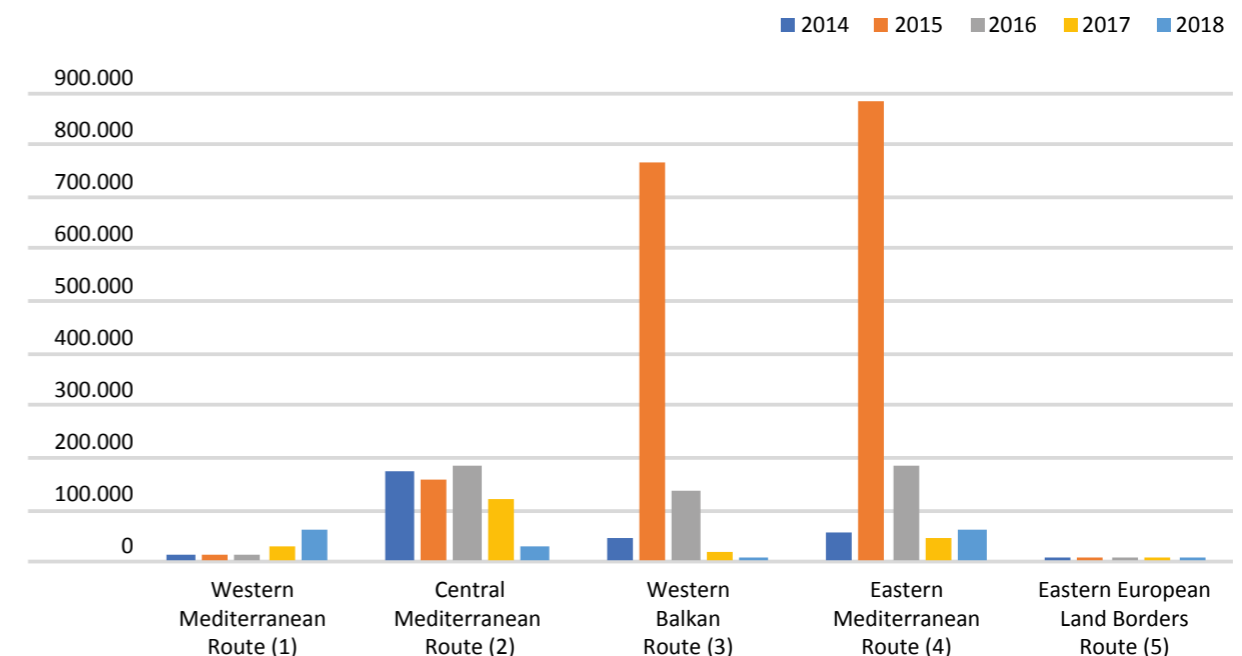
Figure 1. Irregular arrivals into the EU, by migration route, 2014–2018.
Source: own elaboration, based on Frontex.
Destinations: (1) Spain; (2) Italy and Malta; (3) Hungary, (Austria, Germany, ...); (4) Greece; (5) EU's Eastern external border (Estonia, Finland, Hungary, Latvia, Lithuania, Norway, Poland, Slovakia, Bulgaria or Romania), via land

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[1]   Throughout the text, the term "irregular migration" means irregular entry into the EU and thus asylum seekers and forced migrants as well as economically motivated migration.

By looking at the institutional position on migration and asylum formulated over the past decade, migration does not appear to be a priority for EU institutions until 2011. In that sense, the period since 2011 and especially 2015–2016 has been a game changer, with more institutions taking an active stance on migration. The European Commission sought to protect the Schengen Area and ensure a burden-sharing of asylum seekers. The European Parliament highlighted the need for a humanitarian approach towards asylum seekers. The Justice and Home Affairs Council defended national concerns over security, but also showed the willingness and capacity to host refugees. The European Council aimed to balance the different perspectives regarding relocation and burden-sharing.

On the whole, our research shows that values are important in three ways (see figure 2; for a full account, see Dimitriadi and Malamidis 2019). Firstly, they provide the limits within which both institutional narratives as well as policy proposals move. Secondly, by adopting and advocating these values to third countries, the EU projects soft power that is crucial in the externalisation of migration management. Thirdly, the story of the European Union is one of a unity of states brought together by common values that construct a shared identity. Values thus serve many purposes: They reflect the EU's legal framework as well as its operational limits and assist in the construction of what it means to be European. Simultaneously, they can be instrumentalised, and this is also their greatest contribution from a policy perspective.

However, this does not mean that values with respect to European institutions do not contradict the reality on the ground. The EU affirms, for instance, the principles of saving lives at sea, which derives from the fundamental right to life, and at the same time limits its search and rescue operations in the Mediterranean, employs policies of deterrence in third countries, enforces tough border controls and therefore constructs the narrative of "threat" at the borders of the member states. At the same time, however, prevention of arrivals through "soft" power may seem (and likely is) cruel and inhumane, but not necessarily outside the boundaries of norms and laws. In that sense, inclusionary values may well serve exclusionary policies.

Figure 2. Purposes of values in EU migration policy

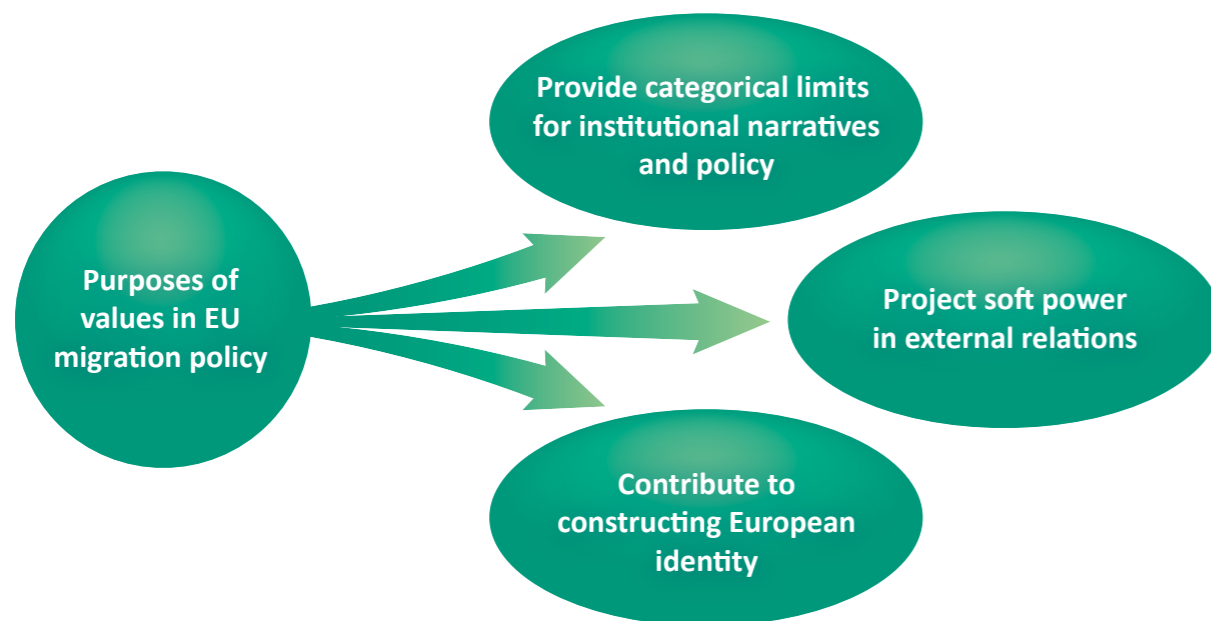This section of the final report is an abridged version of NOVAMIGRA's study *Talking of Values: Understanding the Normative Discourse of EU Migration Policy* (Dimitriadi and Malamidis 2019). The study provides an overview of the values emphasised by EU institutions in official documents and tracks how these shifted over the course of the "refugee crisis". We identify four main values: solidarity and responsibility-sharing, saving lives at sea, human rights, and protecting freedom of movement within the Schengen Area. In the last part of this section, we provide an overview of how the stances of key EU institutions towards values developed as part of the evolution of EU migration policy. Section 2.2, "Value Discourses in EU Migration Policy: The Example of Solidarity", discusses solidarity as a case study of how the value discourses of institutions have shifted over the course of the "refugee crisis".

1.1 TALKING OF VALUES (AND RIGHTS)

Research design

Methodologically, we analyse, on the basis of selected documents, the narratives regarding values put forth by various EU institutions. Narratives are "problem-setting" (Maricut 2017), i.e. they identify a policy issue (or problem) and link it to proposed solutions. Narratives thus serve a specific purpose, namely to "fix the assumptions for decision-making under conditions of high ambiguity" (Roe 1994, 37). From the perspective of policymakers, narratives are "institutionally constructed" (Maricut 2017, 163), i.e. they are a direct result of the institution that constructs the story and usually in line with the institution's end goals and overall agenda. Migration policy has a long history in the making within the EU and its institutional actors, and the "refugee crisis" of 2015 did not alter the institutional approach and/or direction but rather reinforced it. In other words, the narratives that appear in the official documents, agendas and discussions, as well as public statements by representatives of these institutions, largely reflect the way migration is understood by said institution.

What role for values is there then in this setting? Since values can be specified but also implied in the narrative, we took an interpretative approach when combing through the official documents. NOVAMIGRA's starting point is that values are incorporated in the constitutional makeup of the Union. Art. 2 of the Treaty on European Union (TEU) states:

> "The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail."

Solidarity is also referenced multiple times throughout the TFEU, although there is still no singular notion of what constitutes solidarity (Thym and Tsourdi 2017).

The Charter of Fundamental Rights of the European Union (see Section 1.2 in this report) is the bedrock of the value framework reflected in the Treaties as well as in the legislative proposals put

forth for migration and asylum. Its significance should not be underestimated when looking at values. The Directorate-General (DG) for Justice is tasked with preparing the annual report on the implementation of the EU Charter, a strong signal that it is not only "on paper" but should also be fully implemented by member states and institutions, according to one of our interviewees.

Taken together, these rights and values are often referred to as "EU values" or "European values". We therefore incorporate here the approach put forth by Düwell, Göbel and Philips (see Section 1.1 in this report) that "European values are values that the EU endorses, things that the EU regards as fundamentally important. Or also, values that political institutions and citizens across the EU endorse". We also adopted Düwell, Göbel and Philips's distinction between a "value-based" and a "rights-based" approach to EU values to distinguish various value-based and rights-based narratives around specific values. In accordance with Section 1.1 of this report, we define the value-based approach as regarding values as the basis of duties, norms, rights and human rights. The rights-based approach, by contrast, refers to the view that the EU's normative commitments should first and foremost be understood as commitments to (human) rights, rather than as commitments to values.

Values still set the parameters for EU migration policy. But they often remain vague and, as such, flexible in relation to policies.

However, although values are critical to the EU, they are also instrumental in putting forth the narrative for specific policy proposals. An example of this is saving lives at sea, where legal and ethical responsibility is utilised to support deterrence policies (see the discussion in Dimitriadi and Malamidis 2019). It can be debated whether political instrumentalisation infringes on the importance of values. Even where they are used in an instrumental way, values still set the parameters within which European policy is designed and applied to migration. The problem is that values often remain vague and undefined, and, as such, flexibility exists both in their interpretation but, more critically, also in the policies that project them.

The timeframe of the research, in line with the overall focus of the NOVAMIGRA project, is the period 2014–2017. We start the year before the beginning of the "refugee crisis", which we approach here as a moral, political and management crisis rather than one of numbers. Throughout that period, specific institutions put forth differing approaches and policy reactions, gradually revealing a division between member states on the one hand and the supranational level on the other.

How do EU institutions talk of values?

When referring to European values at an institutional level, documents tend to refer either to rights, norms or issues that guarantee the "Union" of Europe. From the early 2010s onwards, the discourse of the European Commission, the Council of the European Union and the European Council produced a framework of values as shared values, common values, indeed "universal values". The aim was to foster inclusiveness and unity as well as to project a specific set of values useful for the establishment of cohesion, both in message but also policy, as regards migration and

asylum. In relation to external policies, values allow for the development of "soft power" projected by the EU to third countries undergoing a process of "Europeanisation" in their institutions (e.g. Turkey). For asylum, common values form the basis for the establishment of a common asylum system. Thus, values "can act as potential lines of transnational alliances between various actors, be they among civil society organisations, professional bodies, political parties, or more classically Member States through their representatives" (Dratwa 2014, 92).

How do institutions talk of values? At its most basic level, communications, press statements and reports refer to "common values", "shared values" or "European values". Sometimes, the discussion on values tends to interchange with use of the term "rights". At times, there is specificity in the values discussed, while at other times terms are used vaguely. Both approaches serve a purpose. When the narrative aims for specificity, it is possible to offer narrow definitions of terms utilised in the documents (as evident in the relocation discussions, see Section 2.2 in this report). However, for most of the normative language used in relation to migration, an ambiguity exists, allowing for a flexible interpretation and thus manifestation through the relevant laws and policies.

1.2 The Development of EU Migration Policy – And Its Value Basis

Migration and asylum policy in the EU has evolved over a long period of time. Irregular migration has been a consistent focus. Asylum, however, has only occupied a prominent place since 1999 and the European Council in Tampere. Asylum policy has since developed through multiannual programmes (see Box 1).

The Tampere Council established minimum standards for member states, with the long-term goal of achieving harmonisation across the EU. Since then, there have been two multiannual programmes, the Hague Programme (2005–2009) and the Stockholm Programme (2010–2014), which focused on the implementation and improvement of the CEAS. Their aim was the establishment of a common asylum procedure in order to curtail "asylum shopping" within the Schengen Area. In theory, if all member states were to offer the same procedures, standards and results in similar decisions, then there would be no reason for migrants to attempt secondary movement within Schengen. This rationale makes sense to a certain extent, although it fails to take a critical element into account: Not all member states have the same capacity (financial, human resources), experience and willingness. Perhaps most critically, not all member states link asylum with integration (Greece is a notable example).

From the early days, the underlying principle of the CEAS has been that the member states are "safe countries" by virtue of their membership of the EU. This was confirmed in discussions with senior staff in EU institutions. This has been the foundation on which the Dublin Regulation was built, allowing for intra-EU transfers to first countries of arrival as well as family reunification. By the time the Stockholm Programme was announced, not all member states could fully meet the "safe country" criterion. The European Court of Human Rights played a critical role in challenging the presumption of safety through the case of *M.S.S. v. Belgium and Greece* (see Section 1.2). The Court's decision resulted in a temporary suspension of transfers under the Dublin Regulation to Greece, a suspension that remained in place until 2016.

BOX 1: *Multiannual Programmes in EU Asylum Policy, Part I*

The Tampere Programme, 1999–2004

The Tampere Programme first laid down common priorities to guide the development of EU Justice and Home Affairs (JHA) policies. In asylum policy, member states agreed to establish a Common European Asylum System (CEAS) based on the Geneva Convention of 1951. The instruments born out of Tampere included the European Asylum Dactyloscopy Database (EURODAC) Regulation, the Reception Conditions Directive, the Dublin Regulation, the Qualification Directive and the Asylum Procedures Directive.

The Hague Programme, 2005–2009

The Hague Programme began the second phase of CEAS implementation. Its focus lay on the establishment of a common asylum procedure and a uniform protection status for those granted asylum or subsidiary protection. The European Asylum Support Office (EASO) was established as part of the programme. Its purpose was to monitor the implementation of the CEAS and assist with harmonisation, primarily through training of national staff.

The Stockholm Programme, 2010–2014

The Stockholm Programme focused on providing for a more coherent application of the CEAS instruments, with the aim of increasing trust between member states. This phase focused on amending legislation. It produced the Recast Qualification Directive, the Dublin III Regulation, the Recast EURODAC Regulation, the Recast Reception Conditions Directive and the Recast Asylum Procedures Directive.

Based on Wagner, Baumgartner and Mouzourakis (2019)

It should be noted that the EU has fallen short of developing emergency instruments as regards migration and asylum. The only exception was the introduction of the Temporary Protection Directive (TPD). It originates from the 1990s and the Treaty of Amsterdam (1999). In response to the war in former Yugoslavia and the influx of refugees to the EU, art. 63 (2) of the Treaty introduced temporary protection during mass displacement. The TPD that came into force in 2001, also part of the CEAS established under Tampere, sought "i) to establish minimum standards for giving temporary protection in the event of a mass influx, and; ii) to promote a balance of effort between Member States in receiving and bearing the consequences of receiving such persons" (Beirens et al. 2016, 1).

Unlike asylum processing, the TPD introduced measures to respond to mass influx with an in-built solidarity mechanism. The "mass influx" was left undefined in the document and was to be established by Council decision following recommendations from the Commission. Crucially, the underlying principle of the TPD was solidarity. Although the term is left undefined, the measures that indicate solidarity are specified: financial assistance through AMIF (Asylum, Migration and Integration Fund) as well as in terms of the actual reception of displaced persons.

The TPD remained unused during the "refugee crisis". Only two countries have ever requested its activation, Italy and Malta in 2011 amid the turmoil of the Arab Spring, but the Commission did not submit a relevant proposal to the Council, according to a migration expert interviewed by partly arguing that it was unclear whether arrivals constituted a mass influx. Thus, the flexible language of the TPD allowed for varied interpretations of its critical element. Failure to activate the emergency mechanism revealed that not all member states nor institutions understand mass influx in the same way and perhaps not all are willing to show solidarity.

When the European Agenda on Migration – the fourth programme on migration (see Box 2) – was announced in 2015, there were renewed calls to activate the TPD. However, it was not a decision member states wanted to make. According to one of the senior staff in the European institutions

interviewed, activating the TPD would have set an unwelcome precedent for the future as regards emergency measures.

The inability to reach a political agreement reflected largely divisions between member states. Nonetheless, institutional divisions existed and continue to exist, evident first and foremost in the discourse adopted on migration.

BOX 2: *Multiannual Programmes in EU Asylum Policy, Part II*

The European Agenda on Migration, 2015–2020

The European Agenda on Migration sought to offer a more holistic proposal for migration and asylum, blending measures to counter irregular migration, emphasising the focus on legal avenues of entry and legal economic migration, and reiterating the importance of asylum. Its implementation took place amid the unfolding of Europe's "refugee crisis". The rise of far-right nationalist parties in various member states meant that the reform of the CEAS, for which the European Commission strongly campaigned, was not adopted. Legislators found agreement on the Qualification Regulation, the Reception Conditions Directive, the EURODAC Regulation and the Union Resettlement Framework. No agreement was found on the European Union Agency for Asylum, the Procedures Regulation or the Dublin Regulation, with member states divided over the way forward.

Based on Wagner, Baumgartner and Mouzourakis (2019)

1.3 JUSTICE AND HOME AFFAIRS COUNCIL

Of the three actors that have long been involved in migration policy, the Justice and Home Affairs (JHA) Council is perhaps the most influential. The JHA Council was formally established in 1994, but the influence of justice and particularly of home affairs officials/ministers pre-exists the institutional set-up. Home affairs representatives, often coming from ministries of interior or citizen protection, came to dominate the governance structure developed around Schengen and eventually also migration (Carrera, Hernanz and Parkin 2013). This is crucial as regards the handling of the "refugee crisis" but also the broader normative approach of the institutions. Migration and particularly irregular migration first and foremost involve countries of origin, transit and destination. It can be argued that it is primarily a foreign policy matter because the root causes of irregular movement lie outside the borders of the EU. Yet it is home affairs representatives that influenced Schengen governance in the 1990s, directing the discussion towards security rather than the humanitarian dimension. In this framework, the Dublin Convention of 1990 (which entered into force in 1997) sought to function as a balance to the abolition of internal border controls by ensuring that the external borders function as "gatekeepers" (Triandafyllidou and Dimitriadi 2014) to the Schengen Area.

In the post-Maastricht period, the link between migration, asylum and security further consolidated, particularly following 11 September 2001 and the terrorist attacks in Madrid in 2004 and in London

in 2005. Terrorism was (and is) discussed not only in reaction to an event but also as a potential side effect of internal free movement and externally fragile borders. However, the implication of irregular border movement has always been that it functions as a source of insecurity and is thus a "threat" (Huysmans 2006). Since the JHA Council consists of security professionals, its focus on migration and asylum has been consistently structured around addressing "bogus refugees" (through Dublin and its implementation) and ensuring that an absence of internal border controls is countered by shifting the burden onto the external borders and even moving beyond. Regarding the external borders and beyond, the Council has had a crucial role in influencing policy, particularly as regards incorporating the security dimension. It has also been instrumental in influencing the European Commission and the respective DG on migration (formerly Home Affairs, now Migration and Home Affairs).

1.4 EUROPEAN COMMISSION

The European Commission's position on migration has been described as "hovering between vision and Realpolitik" (Papagianni 2006, 234). It reached the height of its liberal tradition with the Tampere Programme (Ripoll Servent 2018) and has since consistently sought to function as a balance between the security-oriented approach of the Council and the humanitarian perspective of the Parliament, adopting both perspectives as regards irregular migration but also protection of asylum seekers. The Treaty of Lisbon in 2009 significantly empowered the European Commission in the areas of freedom, justice and security. This is more evident post-2011, when EU institutions responded to an evolving emergency at the external borders and the Commission acquired a strengthened role in migration governance[2].

In the spring of 2011, amid the Arab Spring, Italy received an estimated 30,000 Tunisians. Left largely on its own to handle the influx, Italy granted temporary protection permits, which enable travel within the Schengen Area. The expectation was that since Tunisians have significant diaspora in France, they would seek to travel there (Triandafyllidou and Dimitriadi 2013). As hundreds boarded the trains from Ventimiglia to Nice (the closest border between Italy and France), French authorities began reintroducing border controls along the route as well as returning Tunisian migrants arriving on French soil to Italy. The deputy mayor of Nice at the time declared: "It is a little too easy for Italy to be generous with the territory of others" (Erlanger 2011).

The European Commission during that period did not focus on identifying measures for burden-sharing with Italy, as one would perhaps expect, but rather sought to secure a key role for itself in Schengen governance. In its communication of 5 May 2011 (European Commission 2011), in a silent nod to the Franco-Italian dispute, the European Commission noted that "while the current crisis confirms the need for increased solidarity at European level and better sharing of responsibility, it must be recognised that the EU is not fully equipped to help those Member States most exposed to massive migratory

movements". In that same communication on migration, the Commission announced its intention to explore the possibility of introducing a coordinated process for the reintroduction of border controls[3]. This placed the Commission at the centre not only of the legislative proposal but also of the monitoring and evaluation of the Schengen governance package.

Although both the Treaty on the Functioning of the European Union (TFEU) and events of the Arab Spring strengthened the role of the Commission and the Directorate-Generals particularly in setting the agenda, it is worth noting that the Commission has the power neither to veto nor alter decisions. The implication here is significant in relation to values: The institution is constrained by its very role and can neither propose too restrictive policies on migration (which Parliament would reject) nor policies that can appear to effectively encourage asylum-seeker flows and/or migration (which both the JHA Council and the European Council would reject). To this we should add the role of the President in shaping the institution. Under President Juncker, for example, the Commission was seen, according to one of the migration experts interviewed, as fairly political, often at the expense of functioning as an interlocutor between the Parliament and the Council. This resulted in the Commission often adopting JHA Council proposals in an effort to ensure that national governments would support the legislative and policy changes put forth.

EU Institution	Main emphasis in migration policy
European Commission	Protect Schengen Area, ensure burden-sharing of asylum seekers
European Parliament	Highlight need for humanitarian approach towards asylum seekers
Justice and Home Affairs Council	Defending national concerns over security, but also showing willingness and capacity to host refugees
European Council	Balance conflicting perspectives on relocation and burden-sharing

Figure 3. EU institutions' main emphases in migration policy

1.5 EUROPEAN PARLIAMENT

The European Parliament has perhaps been the staunchest supporter of the humanitarian approach to migration and asylum, but the least influential institutionally until recently. Following the Maastricht Treaty, the European Parliament created a standing committee that would address the issues discussed in the new Justice and Home Affairs Council. The Committee on Civil Liberties, Justice and Home Affairs (LIBE) "is responsible for the vast majority of the legislation and democratic oversight of Justice and Home Affairs policies. Whilst doing so, it ensures the full respect of the Charter of Fundamental Rights within the EU, the European Convention on Human Rights and the strengthening of European

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[2]   The Directorate-General Migration and Home Affairs holds responsibility both for the monitoring of the implementation by member states of regulations and directives issued regarding migration and asylum as well as the implementation of the Schengen Acquis.

[3]   The European Council of 23-24 June 2011 called for such a mechanism and invited the Commission to submit a proposal in September 2011.

citizenship". The explicit reference to the Charter and the Convention gives a clear indication of the direction of LIBE, which since its inception sought to ensure the protection of fundamental rights within the EU. According to Maricut, prior to the Treaty of Lisbon that significantly strengthened the role of the Parliament, "it was the Parliament's exclusion from decision-making in the Justice and Home Affairs that forced it to seek a different narrative to legitimize its relevance […] and thus turned into a human-rights advocate" (2017, 170). By formally recognising the European Parliament as co-legislator, parliamentary accountability is at the heart of the Area of Freedom, Security and Justice (AFSJ) in post-Lisbon Europe. According to Carrera, Hernanz and Parkin, the Treaties and the EP Rules of Procedure "expressly confer upon LIBE the responsibility to hold the Council and Commission accountable in AFSJ decision-making, and to protect fundamental rights as laid down in the Treaties and the now legally binding EU Charter of Fundamental Rights" (2013, 4).

By becoming co-legislator over security-related (i.e. old Third Pillar-related) policy areas and giving the European Parliament a binding say in the conclusion of international agreements on JHA, the Treaty of Lisbon not only formalises LIBE's role as a decision-maker on AFSJ matters but also grants it powers over the internal and external security agenda in addition to the protection of fundamental rights. Here, again, a common component between the Commission and the Council is the protection of Schengen and the right of free movement: a critical aspect of the internal security agenda. However, in the framework of the consultation process and particularly the review of the CEAS, LIBE has campaigned to protect the human rights of asylum seekers, with an explicit focus on reception conditions and the asylum process (Ripoll Servent and Trauner 2014). It is a position LIBE also upheld throughout the "refugee crisis", with Parliament producing critical policy recommendations for the review of the CEAS drawn from the Treaty of Lisbon, encouraging burden-sharing and arguing for a more humanitarian approach to migrants and asylum seekers.

1.6 The European Council

In contrast to the previously mentioned institutional actors, the European Council is a very recent arrival in the governance of migration and asylum. Without direct involvement in the day-to-day management of migration, it was always seen as the balanced body that strikes a compromise between national interests and supranational aspirations. Its role in migration until recently was minimal, as evident from the agendas and communiques issued of past meetings in the period before 2011. As migration acquired prominence and moved beyond the domain of AFSJ into the foreign policy dimension, the European Council became more involved.

2011 was a year dominated by the Arab Spring and particularly the situation in Libya, the beginning of the Syrian conflict and, within Europe, the Eurozone crisis. Thus, migration was finally on the agenda and remained for the years to follow. However, in spite of looking inward, an effort was made to put forth policies that focus on the countries of origin and transit (strengthening the Global Approach to Migration and Mobility (GAMM) and the role of the European External Action Service (EEAS)). The European Council focused on the effective management of the external borders, presented as essential to the free movement of European citizens and a cardinal achievement of European integration (General Secretariat of the Council 2012). The European Council introduced a safeguard to the Schengen

mechanism and for the first time supported the idea that a successful migration policy begins outside Europe's borders.

The European Council tended to reaffirm the JHA Council's proposals with a focus on a security approach – strengthening external borders, the Schengen governance package – while turning increasingly outwards. In 2012, for example, migration and particularly irregular migration was discussed within the EU's Global Approach to Migration and Mobility. The European Council further underlined the importance of solidarity and cooperation in the management of external borders, asylum and the fight against illegal immigration (ibid., 48). Solidarity remains undefined in the conclusions of European Council meetings and is used vaguely. Cooperation in the management of external borders is an indirect reference to "Frontex" as well as the partnership framework developed with third countries in the Southern Neighbourhood. The themes repeat themselves once more in 2015 amid the "refugee crisis", with solidarity being the most tested concept within the European Council and where national and supranational interests eventually clashed. Thus, although the European Council did not seek (nor need to have) a specific approach to migration, in the period 2014–2017 it reveals the growing conflict between the national and the supranational, but also serves as a forum where the idea of "European values" is indirectly challenged.

Conclusion

This very brief sketch of the perspective held by EU institutions as regards migration and asylum in the period pre- and post-Treaty of Lisbon reflects three things. Firstly, deeply entrenched approaches developed and cultivated over time as regards the "value" axis around which each institution tackles migration and asylum. At times, there is a clear overlap, and in some cases divergence. Secondly, the institutions traditionally have a coordinated response as regards Schengen, which emerges as the dominant value to be protected as intrinsic to the Union and its preservation. Nonetheless, they have different points of departure regarding how that right should be protected in the face of irregular migration and asylum-seeker flows. Thirdly, all institutional actors are reactive in their approach to migration and asylum. Apart from LIBE, which positioned itself in the arena of fundamental rights early on, the Council, the Commission and the European Council place migration at the core of their agenda largely in response to the Arab Spring of 2011. Although migration pre-exists 2011 and is part of the Area of Freedom, Security and Justice, it does not dominate it to the extent evident in the post-2011 world. Nonetheless, it is an area of contestation between institutions even prior to 2014 and particularly since 2009.

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2. Value Discourses in EU Migration Policy: The Example of Solidarity

Angeliki Dimitriadi and Haris Malamidis

At a Glance

Solidarity emerges as one of the values most often referred to in the EU's official discourse. It forms the basis for the unity of the member states and is not only projected in the institutions' policy narrative but also often translates into policy.

References to solidarity have gained in salience in EU institutions' discourse, but – as with other values – solidarity's lack of definition enables a flexible application in relation to policies. This results in differences in its implementation and, sometimes, its instrumentalisation.

Despite its pivotal position, solidarity is neither commonly understood nor fully embraced by all EU institutions. In the course of the "refugee crisis", we observe that its interpretations diverge, ranging from an insistence on implementing a binding refugee relocation scheme to a justification of financial alternatives and various opt-out mechanisms.

Moreover, we note that solidarity is gradually qualified by other obligations in the EU's discourse. Initially understood as unconditional, solidarity is increasingly bound to the responsibility of member states to "do their fair share" and implement applicable procedures and border protection measures.

Introduction

The rise of far-right populist parties and the emergence of the "refugee crisis" were important developments that posed a normative challenge for the EU. With respect to migration, the period 2014–2017 was characterised by reactionary policies and the outburst of populist discourses, the rise and fall of the "Welcome" culture, a growing debate on sharing responsibility, the raising of fences and border closures and political divisions within the Union. Since values lie at the core of the European project, the question of whether those values are indeed common has also come to the forefront.

NoVaMigra's research focuses on the norms and values mobilised in the narratives put forth by European Union institutions involved in migration and asylum policy during this period. We seek to identify whether specific values are shared across institutions – at least as regards the official discourse – and if the institutional approaches to these values have changed over the years. Our emphasis is on the narratives produced by the institutions and the values referred to as their underlying basis rather than on the policies themselves. We base our research on an extensive selection of official documents, agendas and discussions as well as public statements by representatives of these institutions. The research is complemented by data derived from informal, semi-structured interviews with policymakers and researchers involved in migration and refugee policy issues (see Section 2.1 in this report).

This article represents an abridged and revised excerpt from NoVaMigra's study *Talking of Values: Understanding the Normative Discourse of EU Migration Policy* (Dimitriadi and Malamidis 2019). The study's core part identifies four main values in EU institutions' discourse: solidarity and responsibility-sharing, saving lives at sea, human rights, and protecting freedom of movement within the Schengen Area. Of the values discussed, the present section focuses on solidarity, which is in many ways the most crucial value among those selected. It forms the basis for the unity of the member states and is, arguably, not only projected in the institutions' policy narrative but also often translates into policy.
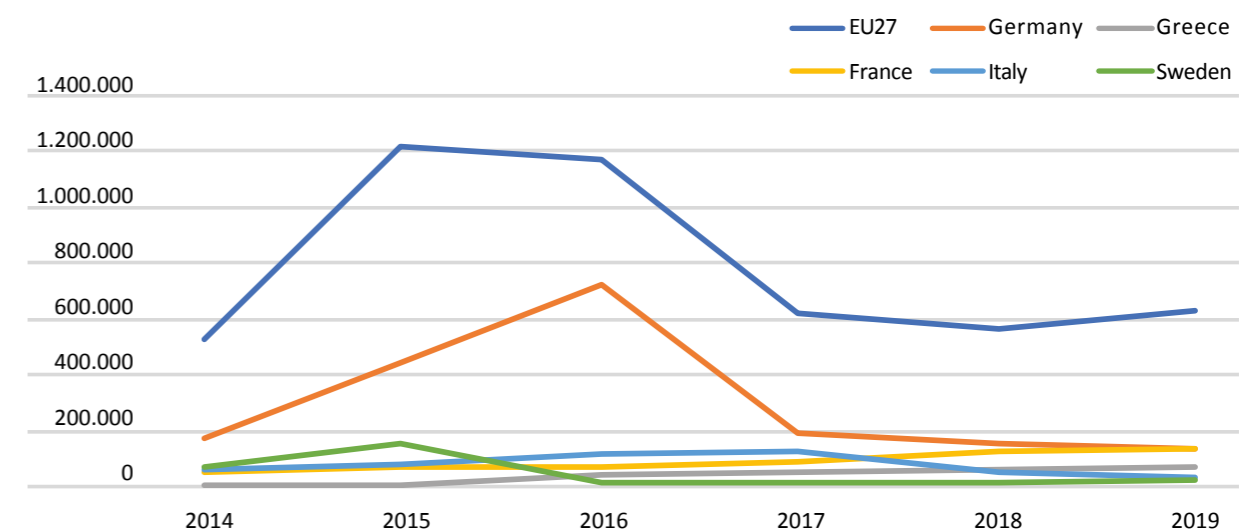

Figure 1. First-time asylum applications in the EU and selected member states, 2014–2019.
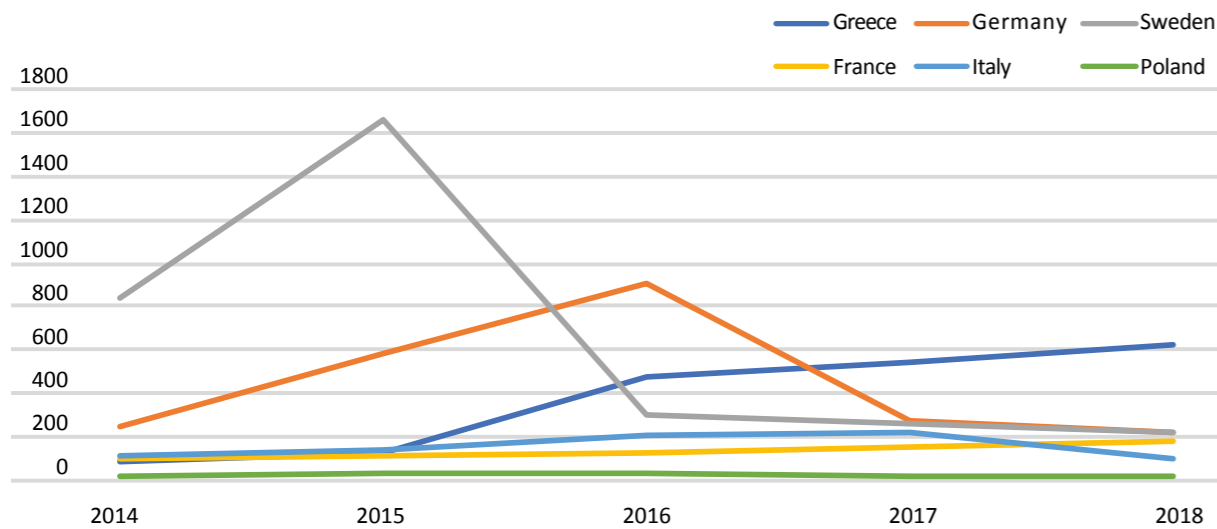Source: own elaboration, based on Eurostat

Figure 2. Asylum applications per 100,000 inhabitants in selected member states, 2014–2018.
Source: own elaboration, based on European Stability Initiative

We find that solidarity, despite its pivotal position, is neither commonly understood nor fully embraced by all. The "refugee crisis" of 2015 and 2016 was a real test to solidarity in the European Union, both among member states and in relation to refugees. We observe that a shift takes place in the discourse, as part of which solidarity is gradually qualified by other obligations. Initially understood as unconditional, solidarity is increasingly bound to member states' responsibility to do their fair share and implement applicable procedures and border protection measures.

BOX 1: *Key References to Solidarity in EU Law*

Article 4 (3), Treaty on European Union (TEU)

"Pursuant to the principle of sincere cooperation, the Union and the Member States shall, in full mutual respect, assist each other in carrying out tasks which flow from the Treaties.

The Member States shall take any appropriate measure, general or particular, to ensure fulfilment of the obligations arising out of the Treaties or resulting from the acts of the institutions of the Union.

The Member States shall facilitate the achievement of the Union's tasks and refrain from any measure which could jeopardise the attainment of the Union's objectives."

Article 80, Treaty on the Functioning of the European Union (TFEU)

"The policies of the Union set out in this Chapter and their implementation shall be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States. Whenever necessary, the Union acts adopted pursuant to this Chapter shall contain measures to give effect to this principle".

2.1 Solidarity: The Basis of the System

The Court of Justice of the European Union (CJEU) has recognised the principle of solidarity as "a general principle inferred from the nature of the Communities" and based on mutual trust between member states. Perceived as the vital prerequisite for responsibility-sharing, solidarity reflects the legal obligation of member states, as laid down in art. 4 (3) of the Treaty on European Union (TEU) (see Box 1). Thus, solidarity is at the basis of the whole of the Union system. A failure by the Union and its member states to implement solidarity, which by their very accession to the Union the member states have acknowledged, strikes at the fundamental basis of the Union's legal order.

Furthermore, art. 80 of the Treaty on the Functioning of the European Union (TFEU) (building on the former art. 63, par. 1 and 2 TEC) institutionalises the principle of solidarity in the field of border management, immigration and asylum.

The narratives of the institutions project two dimensions of solidarity: internal EU solidarity (between member states) and external solidarity between the EU and third countries that are partners (or would-be partners) in migration management. As we see further on, solidarity towards migrants and refugees is considered part of the EU's external solidarity. Nevertheless, it is rather often the case that the use of solidarity in EU documents primarily targets the member states or third countries regarding how to address the refugee issue, and not the refugees *per se*.

How is solidarity defined? Surprisingly, none of the EU institutions attempts a definition of solidarity, with the exception of the Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE). In a working document on solidarity and fair sharing of responsibility presented in a LIBE Committee meeting in February 2016, solidarity is defined as the

> "unity or agreement of action that produces or is based on community of interests, objectives, and standards. In the context of the EU's policies on asylum and immigration, the principle of solidarity is intended to ensure that support is given to those Member States which, on account of geographical and demographic factors, carry a heavier burden of responsibility than others."

According to this definition, solidarity is based on *unity* in order to defend the *interests of the community*. Community in this case appears to refer to the EU and its member states, but also to the Schengen Area and its members.

2.2 Internal Solidarity

The increased migratory flows of 2014 amplified the role of solidarity. The progress report on the Task Force Mediterranean (TFM) notes: "The European Commission is starting to use art. 33 of the recast Dublin Regulation with the aim of strategically framing solidarity measures available at EU level for the benefit of Member States under pressure" (European Commission 2014). Solidarity in this case is linked with the application of art. 33 of the Dublin Regulation, which refers to the

mechanism for early warning, preparedness and crisis management. The mechanism requires that the member state facing disproportionate pressure or problems in its asylum system draws up a preventive action plan monitored by the Commission and the Council. Art. 33 (4) states: "The European Parliament and the Council may, throughout the entire process, discuss and provide guidance on any solidarity measures as they deem appropriate". Solidarity is left undefined and to a large extent voluntary.

In October 2014, the Justice and Home Affairs (JHA) Council held a meeting to identify ways to cope with the migratory pressures. This was the second act following the informal meeting of JHA ministers in Milan in July 2014, where a decision was made to "develop a common narrative and action at the EU level" (General Secretariat of the Council 2014). The commitment reflected the effort of the member states to unite in order to overcome the polarisation triggered within the EU. According to the Council's conclusions, the adequate way to achieve this unity should be based "along the principles of solidarity/responsibility", since "these migratory flows do not only affect countries on the frontline but Europe as a whole" (ibid.). The three pillars for future policies should be "action in cooperation with third countries, reinforced management of external borders and Frontex" as well as internal "action at Member States' level: reception and fingerprinting" (Justice and Home Affairs 2014). Solidarity, in this case, seems to refer to the member states and aims to reinforce their unity through the implementation of the European policies on migration. This will eventually translate into a conditional form of solidarity, bound by responsibility-sharing that begins first within each member state (see responsibility below). It is also used by the JHA Council as a core principle which should accompany cooperation with third countries.

In the European Agenda on Migration, launched in 2015 (see Section 2.1), solidarity acquires an added weight, which is also reflected in the policy narrative of the institutions. Hundreds of migrant deaths precede the Agenda, alongside an unfolding humanitarian crisis on the Greek-Turkish maritime border. The Agenda firmly incorporates the value of solidarity and hints that it should become the new norm in migration management. The wording in the introduction is indicative of the European Commission's approach under the presidency of Jean-Claude Juncker, a staunch supporter of solidarity:

> "We need to restore confidence in our ability to bring together European and national efforts to address migration, to meet our international and ethical obligations and to work together in an effective way, in accordance with the principles of solidarity and shared responsibility" (European Commission 2016a, 2).

The Agenda further notes that "it would be an illusion to believe that this is a short-term need which will not return" (European Commission 2016a, 10–11). Moreover, it continues by arguing that "every crisis will be different, but the EU needs to heed the lesson and be prepared to act in anticipation of a crisis, not just in reaction" (ibid.). In this respect, the implementation of a long-term plan on migration requires the collaboration of all member states, and it is precisely the value of solidarity on which this collaboration will be based.

Relocation as manifestation of solidarity

Relocation became the litmus test of European solidarity. The European Council meeting in April 2015 highlighted the need to "reinforce internal solidarity and responsibility and committed itself, in particular, to increasing emergency assistance to frontline Member States and to considering options for organising emergency relocation" (Council of the European Union 2015). In May 2015, the European Commission introduced a policy package to fulfil the practical expression of solidarity as proposed in the Agenda (European Commission 2015a). The proposal included policies on the relocation of 40,000 Syrian and Eritrean nationals distributed by Italy and Greece to the rest of the member states over the next two years, with member states receiving "€6,000 for each person relocated on their territory" (ibid.).

An additional policy included the resettlement of 20,000 people in clear need of international protection over the next two years, reflecting the external dimension of solidarity. The addition of a financial incentive may be an indication that the Commission did not feel confident that the physical redistribution of asylum applicants would be well-received without the financial assistance. As one of the interviewees noted, the EC assumed that relocation would work smoothly and was confident it would be approved and implemented by member states. The reality on the ground showed that this was not the case, with relocation falling well short of its initial target by 2017 when it ended (see figure 3).
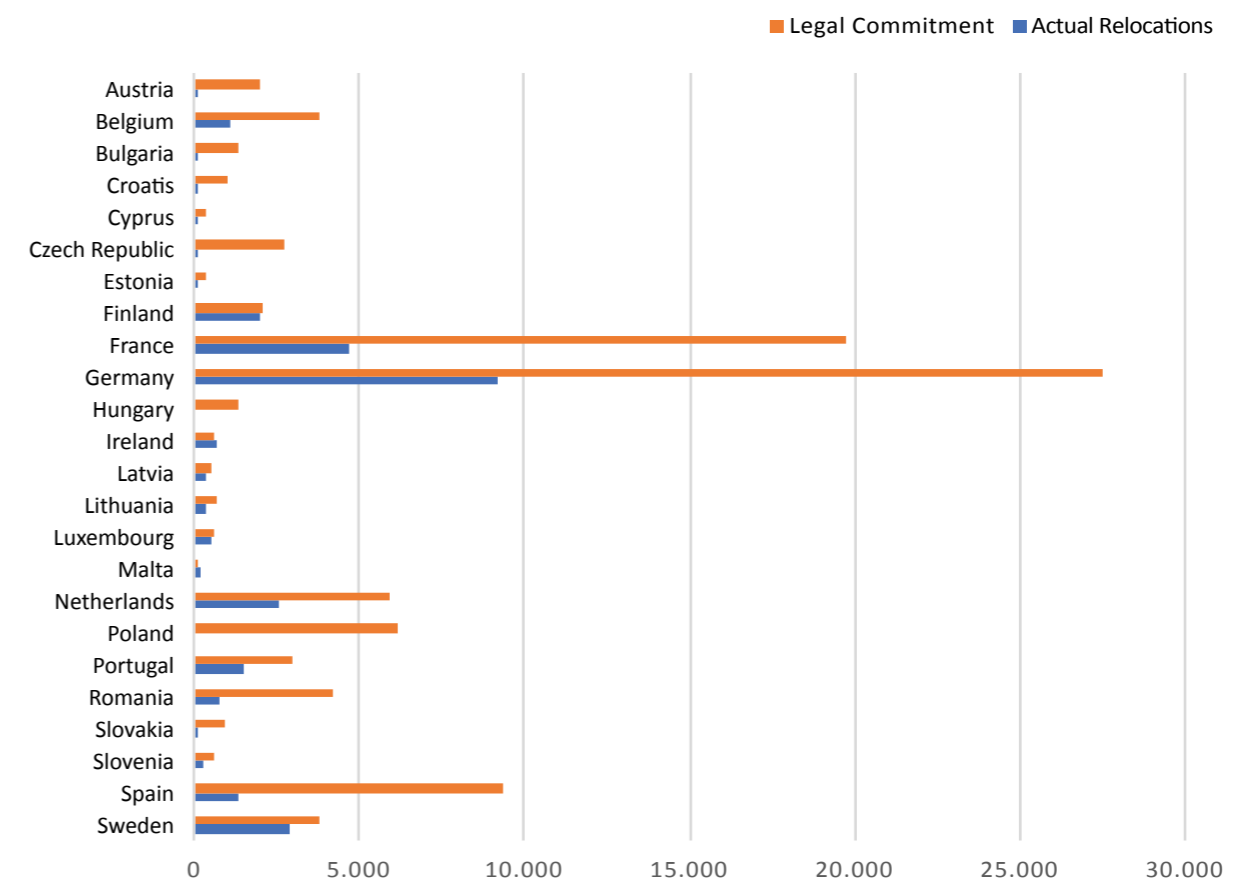

Figure 3. Relocations of asylum seekers from Greece and Italy under art. 78 (3) TFEU, 25 Sep 2015 – 14 Nov 2017.
Source: European Commission (2017)

The failure of relocation in terms of numbers and the delays in implementing the scheme indicate unwillingness and hesitation by member states to partake in a responsibility-sharing mechanism that was meant to function as a pilot to a permanent mechanism. According to the Commission, member states had pledged the relocation of 63,302 persons from Greece and 34,953 from Italy. However, by 2017, when the relocation scheme ended, 31,503 had been relocated from both countries, with another some 4,000 awaiting transfer.

This raises the question of how solidarity is understood in this context. The European Commission framed the value of solidarity as which is a crucial component of European identity. This was reflected in the statement by President Jean-Claude Juncker, who referenced the European past and the need to protect the right to asylum:

> *"We Europeans should know and should never forget why giving refuge and complying with the fundamental right to asylum is so important. […] If ever European solidarity needed to manifest itself, it is on the question of the refugee crisis. It is time to show collective courage and deliver this European response now" (European Commission 2015c, 1).*

The reference to the "fundamental right to asylum" is a direct reference to solidarity as inscribed in the Refugee Convention of 1951, which also forms the basis of the Common European Asylum System (CEAS). After all, European identity is not constructed only on the basis of the values that apply within the EU but also endorses broader liberal ideals and international frameworks, such as the right to seek asylum (General Secretariat of the Council 2015a).

In September 2015, the Commission specified a set of actions that should be implemented with regard to the European Agenda on Migration and issued another communication to provide information on its ongoing progress. There, it noted that solidarity and the responsibility of member states are of great importance in managing the external Schengen borders: an important step to restoring confidence and enhance EU credibility (European Commission 2015b, 3). Successful examples of relocations were promoted as the necessary means for the EU to rebuild trust and attain its goals in strengthening the official migration channels. Additionally, swift returns and agreements on re-admission were also emphasised as a means for disrupting smugglers' networks.

If ever European solidarity needed to manifest itself, it is on the question of the refugee crisis.

Jean-Claude Juncker

Responsibility-sharing as conditional solidarity

When looking at the value of solidarity, a shift appears to take place in the policy narrative of EU institutions by the early autumn of 2015. Solidarity is increasingly bound to the responsibility of member states to implement the rule of law and projected as a condition necessary to achieve a certain goal.

The introduction of hotspots highlights this shift. Following the first session of the European Council meeting, President Tusk underlined that "I am also convinced that there will be no solidarity on relocation so long as migrants are not properly registered" (General Secretariat of the Council 2015b). By basing solidarity on migrants' registration, President Tusk adopted a conditional approach to values in which the latter (solidarity) derives from and is subject to the former (registration). This conditioning of solidarity is closely connected with the notion of security. Registration is the first step for the EU to distinguish those who "seek shelter from war and persecution" and those who "seek a better life" from those "few who seek to destroy our values" (ibid.*)*. This means that it is not just that solidarity is conditional but also that solidarity is conditional on the guarantee that the security dimension is addressed, which seems to be a running theme particularly in 2016. Solidarity is thus institutionalised and expressed in a specific practical form to grant specific provisions.

Along similar lines, the Commission also stressed that solidarity is bound by responsibility in the application of common EU rules. According to one of the interviewees at an EU institution, the Commission sought to reiterate that for solidarity to exist, responsibility must begin by getting one's own house in order first. Although the earlier example shows that migrants and refugees should be responsible for respecting the EU's security by registering themselves when they cross the border, responsibility always refers in the EU's discourse to the member states. To this end, the Commission initiated infringement procedures where necessary in order to enforce the rules and is implementing a "hotspot approach in frontline Member States to assist them in applying common EU asylum rules" (European Commission 2015d, 2). Similarly, the activation of the EU civil protection mechanism, providing *"material assistance, expertise, intervention teams and modules, and specific equipment for disaster-stricken countries"* (European Commission 2015a, 2) – a practical form of solidarity – presumes that the rule of law is applied by the member states in need of assistance.

The LIBE Committee differs from the Commission's approach by highlighting solidarity's unconditionality. For LIBE, solidarity is guaranteed by membership of the EU. Member states will be joined in solidarity and obligated to execute associated measures, such as relocation. LIBE rapporteur Ska Keller called for all member states to "fulfil their commitment to solidarity and responsibility sharing and, therefore, no Member State should be suspended from its obligation of relocation" (European Commission 2015e). Moreover, she noted that it is "regrettable that Council Decision (EU) 2015/1601 allows for the possibility for the Council to take implementing decisions on relocations without consulting the European Parliament, and that, consequently, the Council has decided unilaterally to suspend Austria from its obligation of relocation" (ibid). Here, the Council and the Commission to an extent (that it supported the decision) differ from the Committee in indirectly supporting conditionality in solidarity.

I am convinced that there will be no solidarity on relocation so long as migrants are not properly registered.

Donald Tusk

Nonetheless, the rapporteur agrees that despite some member states opting out, relocation remains the best example of what constitutes a practical expression not only of internal solidarity but also of responsibility-sharing, with EASO ensuring that asylum and reception systems are not abused (Metsola

and Kyenge 2015, 7). Relocation may be "a temporary derogation from the Dublin rules" (ibid., 12), but it is also an act of solidarity, "a tool for solidarity and responsibility sharing" (Metsola et al. 2015, 6). The LIBE Committee's narrative acknowledges that the relocation mechanism is an emergency measure during an emergency situation. In line with the Commission, the rapporteurs call for the establishment of a permanent relocation scheme for applicants and beneficiaries in need of international protection, which can result both in preventing irregular migration and in preventing "situations of violence, exploitation and abuse" (Metsola and Kyenge 2015, 5). This is an indirect nod to gains for member states. It suggests that irrespective of the value narrative, incentives (in this case reduction of arrivals) remain crucial in achieving physical manifestation of solidarity and responsibility-sharing.

LIBE references the concern over secondary movements and takes an innovative approach to relocation policies, suggesting that applicants' preferences should be taken into consideration (Metsola and Kyenge 2016a, 13). Similarly, it proposes a permanent and binding quota system, which should operate irrespectively of emergency situations. In this, the LIBE Committee concurs with the European Commission. Both institutions projected a pan-European solution based on a physical manifestation of solidarity. This is where they also differ in 2015 from the European Council and the JHA Council; both are bound more by national interests. Nonetheless, even in the LIBE Committee, the narrative gradually solidifies to a link between solidarity, responsibility and burden-sharing. The same view was also adopted by the Commission, which related burden-sharing with the EU's sustainability.

The Common European Asylum System and the value of fairness

The Common European Asylum System is grounded on the notion of solidarity and responsibility-sharing. It is, in that sense, a tangible example of how a specific value translates into a legislative framework and thus binds member states through the law. The two interlinked values are less a by-product of the Treaty on the Functioning of the European Union and more of the Geneva Convention of 1951, which forms the basis for the CEAS. All the instruments designed are structured around the notion that asylum is a right and non-refoulement an undeniable principle by which signatories must abide.

The system thus comprises two sets of obligations: asylum and burden-sharing. Asylum is an obligation that states undertake in solidarity with the refugees entering their territory. The legal framework is thus bound to the solidarity principle. Burden-sharing is also reflected in the obligation that states enter, again willingly, to assist those in the territory of states unable (or unwilling) to offer protection through resettlement.

When institutions discuss the CEAS, the differentiated approach to solidarity and responsibility-sharing becomes more evident. For the Commission and the LIBE Committee, the CEAS was in troubled waters even prior to the "refugee crisis", although 2015 revealed the full extent of the inadequacies of the system. For the JHA Council and the European Council, there is less willingness to reform the CEAS in a way that establishes a true responsibility-sharing mechanism. Rather, the failure of the CEAS is attributed to the unwillingness of some member states to fulfil their responsibilities (i.e. Greece in this case, with its failure to register arrivals and provide reception conditions). Following the European Agenda on Migration and the relocation discussions, the Commission initiated two rounds of proposals for the reform of the CEAS in May and July 2016.

In a communication issued in April 2016, the Commission clarified that "the EU needs a robust and effective system for sustainable migration management for the future that is fair for host societies and EU citizens as well as for third country nationals and countries of origin and transit" (European Commission 2016b, 2). In order to be successful "this system must be comprehensive, and grounded on the principles of responsibility and solidarity" (ibid., 2). The communication suggests that the shift which had already taken place in late 2015 in various member states (e.g. Hungary's fences, reintroduction of Schengen border controls) impacted the way the Commission formulated its proposals. A balance is seemingly struck. The values of responsibility and solidarity are maintained, but their sustainable application is linked to fairness for EU citizens and migration management. Both are indirect nods to Schengen and the external border controls, issues high on the agenda of member states at the time.

The LIBE Committee has long been in favour of revising the CEAS and particularly the Dublin Regulation. Rapporteurs noted that "the Dublin system was not designed to share asylum burdens and responsibility among Member States. Rather, its main purpose is to create a mechanism that swiftly assigns responsibility for processing an asylum application to a single Member State" (Metsola and Kyenge 2016b, 3–4, see Box 2). This is significant criticism levelled at the Dublin Regulation which strikes at the core of the value basis of the CEAS. Implicitly, the LIBE Committee stated that the central policy on asylum was not designed for responsibility-sharing, despite being portrayed as such in the official narratives. They suggested a reform of the Dublin Regulation, in which asylum seekers would apply to Europe as a whole and subsequently be allocated to each member state until the latter reached its respective threshold. LIBE's rapporteurs favour a more centralised system compared to the current system of the individual responsibility of member states for relocation (ibid., 7). Such a system would also facilitate the eventual establishment of a European asylum status, based on shared recognition of the international protection awarded. It would be a significant step forward compared to today's practice, where only rejected asylum applications are jointly recognised, but no European asylum status exists that is common and valid for all member states.

The Commission's communication issued in April 2016 (2016c) set the basis for reforming the CEAS, including the introduction of the fairness mechanism, which was further extended in the July 2017 reforms. The fairness mechanism reflected a corrective action by allocating asylum applications from frontline countries to the rest of the member states when these exceed a specific number in proportion to the country's size and wealth. The mechanism reflected the principle of fairness, which was often put forth by the Commission as a guiding principle for responsibility-sharing and

> **BOX 2:** *LIBE's criticism of the Dublin Regulation, 2016*
>
> "In fact, since its creation, the Dublin system was not designed to share asylum burdens and responsibility among Member States. Rather, its main purpose is to create a mechanism that swiftly assigns responsibility for processing an asylum application to a single Member State. The huge disparity among Member States dealing with asylum application – in 2014 five Member States dealt with more than 70% of all asylum applications EU-wide – clearly shows that the Dublin system was never intend to be a responsibility-sharing mechanism."
>
> *Working Document on Effective implementation of the CEAS, Including the Role of EASO, 26 February 2016*

solidarity. Thus, solidarity, responsibility and fairness become bound together, creating an interlinked conditionality for the application of each value.

The fairness mechanism provides a balance between internal solidarity of member states and equal distribution of responsibility. In this respect, it is quite interesting that in the event a country does not participate in the fairness mechanism then "it would have to make a solidarity contribution of €250,000 for each applicant for whom it would otherwise have been responsible under the fairness mechanism, to the Member State that is reallocated the person instead" (ibid., 2).

The imposition of sanctions is useful as regards the application of the value narrative. Instead of a penalty fee, the Commission calls the sanction "solidarity contribution", a framework used to describe the economic contributions and EU funding to member states for covering the needs triggered by the increased influx of refugees. As such, we can see that solidarity is used both as a value for encouragement but also as a forewarning in the Commission's discourse. Fairness does not seem to form a value on its own, but instead is used as a bridge for connecting the values of solidarity and responsibility. However, both values seem to apply only in those cases when the rule of law is respected and migration is not only considered legitimate but authentic (i.e. in contrast to "bogus asylum seekers").

The fairness mechanism fell short with the reintroduction of border controls. This act not only indicated a rupture in the Dublin Regulation but also in trust between member states. A flexible approach to solidarity would allow some member states to contribute financially and others to participate in relocation schemes. However, such an approach is fraught with problems, as there is little guarantee that the member states will continue to pay and/or receive refugees. In other words, solidarity is neither guaranteed nor necessarily enforceable, and this is evident in the initial proposal package.

2.3 External Solidarity

Internal solidarity is one crucial aspect of EU migration and asylum governance. External solidarity is the second element. Solidarity is almost always conditional in relation to third countries and bound by another fundamental value/principle of the EU: respect of the rule of law (which in turns links with respect of human rights).

By 2015, the external dimension of solidarity has acquired prominence in the EU's discourse. External solidarity is referenced in the Joint Communication of 9 September 2015 "Protecting people in need", which states that "deploying urgent humanitarian assistance, securing access to asylum, and addressing root causes, in particular conflict, political violence, abuse of human rights and poverty, is essential" (European Commission and High Representative of the Union for Foreign Affairs and Security Policy 2015, 3). Two months later, Commission President Jean-Claude Juncker stated that migration and displacement of populations "is a global problem and this global problem is inviting us to give a global and common answer" (Juncker 2015). This cooperation should, nevertheless, be based on "a rights-based approach encompassing human rights" (European Commission and High Representative of the Union for Foreign Affairs and Security Policy 2015, 3).
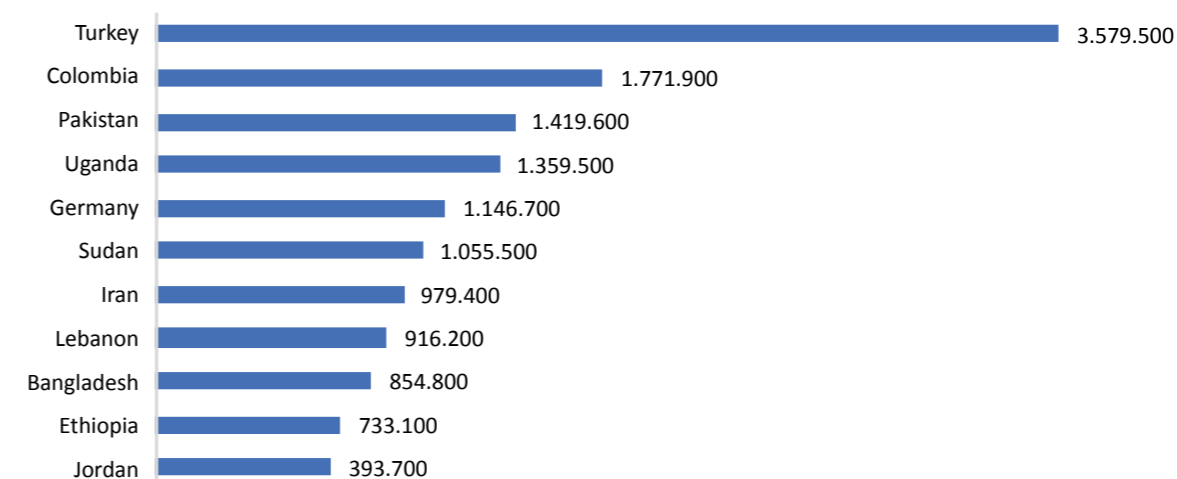
Figure 4. Top refugee host countries by number of refugees, 2019.
Source: UNHCR
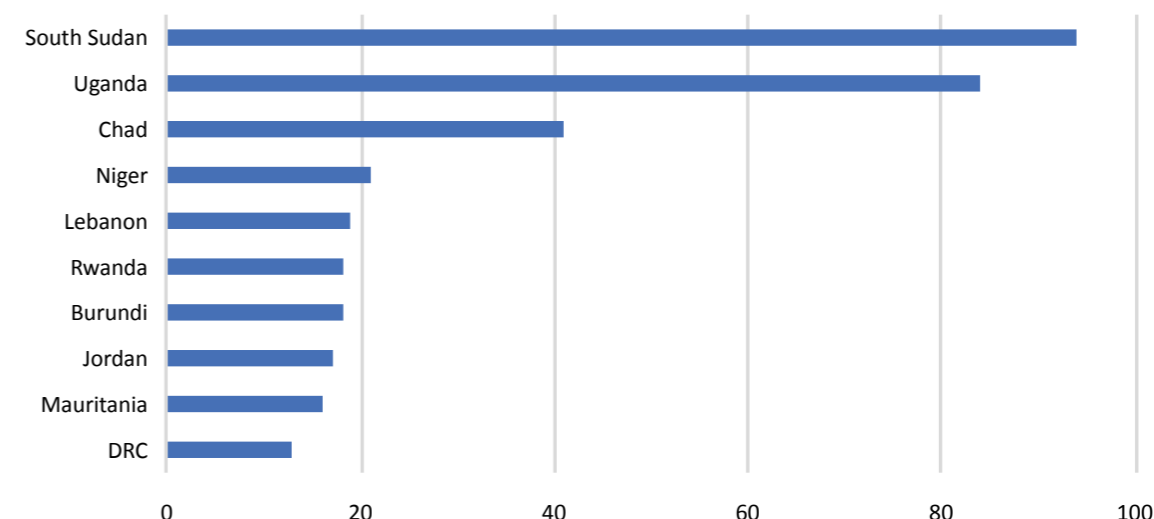
Figure 5. Top refugee host countries by GDP, 2017.
Diagramme shows number of refugees per million USD in GDP. Source: UNHCR

In 2016, external solidarity assumes an unusual form through the EU-Turkey cooperation that begins in the autumn of 2015 and peaks with the EU-Turkey Statement of March 2016. The first meeting of heads of states with Turkey in November 2015 signals a shift from the internal notion of solidarity among the countries of the EU to an external approach regarding third countries. Turkey is portrayed as a respectful partner that has shown "solidarity to more than 2 million refugees" (General Secretariat of the Council 2015c, see Box 3).

The value of solidarity stands central both in EU-Turkey cooperation and its surrounding narrative. The statement is largely grounded on the notion that the EU should show solidarity towards Turkey, which hosts a disproportionate number of Syrians on its territory. Nevertheless, it seems also to embody a conditional approach to solidarity, which directs the countries in a result-oriented action to stem "the influx of irregular migrants" (ibid.). Although burden-sharing is again an important component in this equation, control over the borders seems to be more important, with solidarity instrumentalised.

The Commission, in its April progress report to the Parliament on the EU-Turkey Statement, stated that no "blanket" return policy of undocumented migrants and asylum seekers will be applied, since "it is a fundamental requirement flowing from the European Convention on Human Rights and the Charter of Fundamental Rights that every case needs to be treated individually" (European Commission 2016d, 3). From a value perspective, the reference to the Convention and Charter is crucial in reaffirming that the European "value" framework remains intact when applicable to third countries. Referring to the 1:1 policy, the Commission stated that "resettlement and humanitarian admission are equivalent to relocation, as all are concrete expressions of solidarity with other Member States or third countries" (ibid., 5). Nevertheless, solidarity seems to serve a *quid pro quo* logic, since "on the understanding that Turkey takes the necessary measures to fulfil the remaining requirements, the Commission will make a legislative proposal to lift the visa requirements for Turkish citizens at the end of April 2016" (ibid., 7). Similar to the European Council (General Secretariat of the Council 2016b), the Commission also expects Turkey to fully respect the fundamental rights, the implementation of democracy and the rule of law in order "to prepare for the decisions on the opening of the new chapters in the accession negotiations as soon as possible" (European Commission 2016d, 8).

BOX 3: *Introductory remarks by European Council President Donald Tusk at the meeting of EU heads of state or government with Turkey, 29 November 2015 (Excerpt)*

"Approximately 1.5 million people have illegally entered the EU in 2015. Most have come through Turkey. Some seek shelter from war and persecution. Others seek a better life. And a few seek to destroy our values.

But this is not about the EU outsourcing its security and migration policy to Turkey. Nor is it about adding a burden on Turkey; a country that has demonstrated its solidarity to more than 2 million refugees and is itself experiencing the strains from dealing with this situation. But it is addressing these challenges together.

We, the European Union, will strengthen our support to refugees in Turkey and the region, stem irregular migration, work on returns, increase our support to visa liberalisation and crack down, together, on the criminal smugglers' networks. Beyond that, we commit to play our part in intensifying our bilateral relationship.

In return, we expect to see an immediate and substantial reduction of irregular migrants arriving to Europe. And we expect Turkey under the new government to assist us in realising the common objective of coming closer together, through reforms, the upholding of the highest standards of human rights and media freedom, and the implementation of agreed roadmaps and benchmarks."

Although the European Council implemented the more-for-more principle before the crisis, its implementation marks a change in discourse once the EU-Turkey Joint Action Plan overshadows it. As discussions move beyond resettlement and returns to address physical patrolling of the border, there is a shift from unilateral migration management to an emphasis of the idea of shared responsibility. Responsibility acquires a greater role following the EU-NATO agreement in February 2016 to stem the arrival of migrants from Turkey. Following the second meeting of heads of state or government with Turkey, the global level of responsibility in humanitarian support to Syrian refugees is scaled down to the collective EU responsibility for assisting Greece. This change targets the operation of hotspots, protection of borders, full implementation of the relocation process, provision of reception facilities and obstruction of secondary flows of irregular migrants and asylum seekers (General Secretariat of the Council 2016b).

The narrative of the European Council seems to follow a value-based approach, where the introduction of the relevant policies is subjected to the (global and European) basis of collective responsibility. However, there is a shift towards a rights-based approach when the European Council addresses Turkey's domestic affairs. There is an expectation from the EU that Turkey, "respect the highest standards when it comes to democracy, rule of law, respect of fundamental freedoms, including freedom of expression" (General Secretariat of the Council 2016a). External solidarity is also bounded by conditions – in this case respect and application of the rule of law. The rights-based approach is also the driving logic of the Malta Declaration in February 2017, in which the heads of states or governments do not clarify which are the European values they refer to, but human rights and international law are the instruments that will indicate the way to act.

In the context discussed, solidarity is firstly used as a policy directive to further strengthen collaboration among the member states or between the EU and a third country (here Turkey) and to a lesser extent as a value of political altruism towards a suffering population (here the refugees).

CONCLUSION

Our research shows not only that values have remained the same but, in some cases, acquired prominence – solidarity is a case in point. On the one hand, this is to be expected. The EU did not have to face a question of solidarity prior to the Eurozone crisis and the "refugee crisis". Recent crises have tested both the understanding and influence of values, with the latter gradually becoming conditional on other values and/or rights and a convoluted relationship emerging. For example, all institutions agree on the value of solidarity. In principle, all member states agree on this by virtue of their membership of the EU. In practice, however, the value of solidarity is understood differently between member states and some institutions. The European Commission assumed that solidarity would be shown unconditionally to a member in crisis. Some member states (e.g. Germany, Sweden) initially adopted this perspective, with others understanding that solidarity can be flexible and variable. By 2017, it is less clear whether solidarity should be presumed.

While the LIBE Committee sought to utilise the "refugee crisis" to drive forth an unconditional form of solidarity, based on the redistribution of asylum seekers, the European Commission adopted a more pragmatic approach and sought to make solidarity conditional on some form of assistance, including financial assistance. Less divergence exists as far as the external dimension is concerned: Here, solidarity is generally regarded as conditional and dependent on reciprocity. This remains a critical shortcoming of the European Union as regards asylum and migration policy, which is being repeated once more with the New Pact on Migration and Asylum (see Section 4.3 in this report).[1]

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[1] For NOVAMIGRA researchers' discussion of the New Pact on Migration and Asylum, see Herrmann 2020, Deleixhe 2020 and Dimitriadi 2020 on NOVAMIGRA's blog.

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3. Identity Populism in Europe: Responses to the UN Global Compacts on Refugees and Migration

François Boucher and Johanna Gördemann

At a Glance

Most kinds of populism in Europe can be described as "identity populism" that strives for a culturalist and ethnic reconfiguration of the value of sovereignty.

Across Europe, far-right populist parties have campaigned and called for preserving national cultural identity that – according to their claims – is under attack by migrants. This became particularly clear during the negotiations of the Global Compacts on Refugees and Migration in late 2018, when populists were effectively projecting an image of weakened EU states in need of regaining control and reaffirming the importance of borders and national self-determination.

In this case, international populist narratives led to a severe lack of support for the Compacts in Europe. EU institutions and populist parties in various EU countries used a similar set of values to fundamentally reduce international responsibilities for refugee protection.

In the era of Fortress Europe, this creates a political situation where European cosmopolitanism is reduced to a form of "enlarged particularism" in which post-national solidarity is understood as shared efforts to strengthen the borders of the European Union.

Introduction

Across Europe, far-right populist parties have campaigned and called for preserving national and/or European cultural identity that – according to their claims – is under attack by migrants.[1] This project is not only reinforced by a redefinition of the nation in cultural terms with strongly ethnic connotations; it is also strengthened by a shift in populist EU criticism towards emphasising cultural sovereignty over economic sovereignty. The "threat to national sovereignty" that the EU allegedly poses is no longer understood primarily in economic terms but in cultural and ethnic terms. Immigration and the EU have become interchangeable enemies in that regard (Göbel 2020; Jaksa and Nagy 2020).

This section analyses the European debate surrounding the Global Compacts on Refugees and Migration (hereafter GCR and GCM) in 2018. This case is particularly interesting because it sheds light on the different layers of populist discourse and the underlying values in the context of migration. The Compacts attracted widescale media attention in late 2018, when several European states and political parties, as well as many citizens, expressed worries that the Compacts might threaten national sovereignty by recognising a human right to migration and by imposing migration policies developed by international institutions. Central to those debates were the voices of far-right organisations projecting an image of weakened EU states in need of regaining control and reaffirming the importance of borders and national self-determination. Even though EU institutions participated in international negotiations on the content of the Compacts, they engaged in a similar kind of sovereigntist critique to avoid all forms of legally binding obligations for the EU and its member states. On both levels, values such as sovereignty, solidarity and human rights were extensively used, but not to argue for international cooperation or in favour of refugee protection.

In the following, we want to demonstrate how EU institutions and populist parties in various EU countries used a similar set of values to reduce international responsibilities for burden-sharing and asylum. Our analysis leads to a particular understanding of populism that seems to be crucial for the European context.

First, we introduce our working definition of populism. We show how this definition corresponds, in some cases, with a theory of populism that qualifies the ethnic reinterpretation of popular sovereignty as the main instrument of identitarian forms of populism (hereafter "identity populism") for changing political and legal systems.

Second, we reconstruct different norms and values mobilised in narratives put forth on two levels: firstly by the European External Action Service (EEAS) with respect to its official statements and documents to shape the Global Compacts and secondly by the European Parliament (EP) in the context of plenary debates and resolutions. The dominant view among EU institutions was that the Global Compacts should remain purely voluntary and not create new legally binding international obligations. We also highlight that, in the EU's official discourse, this voluntarist conception of protection mostly applies to destination countries of the Global North, while states of the Global South are required to observe legally binding obligations. Both

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[1]   This section is based on Boucher and Gördemann (2020). See also Göbel (2020) as well as Jaska and Nagy (2020) for a more detailed discussion of NovaMigra's research on values in populist discourses.

official positions can be linked to a restrictive understanding of the principle of sovereignty. Even though this understanding of sovereignty is not explicitly part of a populist project, it mirrors the policy of "Fortress Europe" and therefore constantly stands in an opposing relationship to international law and cooperation.

Third, we analyse how EU member states opposed the signing of the Compacts. These national decisions can be linked to the claims of populist parties and movements that organised themselves in international networks to shape und influence the political landscape surrounding the negotiation and potential implementation of the Compacts. As we show, the populist rejection can be summarised as an international populist formation against European institutions in particular and international agreements and contracts in general.

3.1 Theorising Populism: Core Elements in a Contested field

Unsurprisingly, academic disciplines working with theories of populism fundamentally disagree on the precise definition of populism and its specific field of application. Putting aside the discrepancies, there seems to be convergence on three core elements shared by most theories of populism. These theories revolve around the interplay between three terms: the people, the elites and strong democracy understood as the expression of the general will of the people. For instance, Cas Mudde defines populism as a thin-centred ideology that can be combined with various other ideologies, such as neoliberalism, socialism, nationalism, etc., and that considers society to be ultimately separated into two homogeneous and antagonistic camps: the "pure people" and the "corrupted elites" (Mudde 2004, 543). Similarly, Ernesto Laclau famously defined populism as a discursive strategy of constructing a political divide splitting society into two camps and calling for the democratic mobilisation of the underdog camp (the people) against the camp in power (the elites) (Laclau 2005; see also Mouffe 2018). In sum, populism is often understood as a certain rhetorical and discursive style of taking politically extreme positions (Zorn 2017) to dismantle the assumed undemocratic power gap between "the people" and "the elites".

In practice, the emergence of the 2015 "refugee crisis" revealed a particular phenomenon that seems to be crucial for populist thinking in Europe: first, the restrictive consolidation of the principle of sovereignty at the level of EU institutions; second, the ethnic or culturalist redefinition of the principle of popular sovereignty at member state level. Besides this tendency, political arguments and actions were, and still are, diverse and cannot easily be summarised or categorised within a specific normative framework. Identifying corresponding theories of populism to demonstrate how this political situation could be analysed and described with theoretical principles was another of our research tasks.

Defending an ethnic demos

Populism is neither intrinsically left-wing nor right-wing. Some variants of populism have had a progressivist orientation. Although recent developments across the world would prompt us to associate the term with the right-wing backlash against immigration and multiculturalism, the term originated in the US in the

nineteenth century with the "People's Party", often then called the "Populist Party", a party that arose out of the mobilisation of mid-Western farmers' discontent with the power of big banks and industrialists in the east of the country (Judis 2016).

One neat way to capture the difference between right-wing and left-wing populism is to distinguish the dyadic political dynamic of "protestatory populism" (left-wing) from the triadic political dynamic of "identity populism" (right-wing) (see figure 1). Contemporary right-wing populism has espoused what Pierre-André Taguieff, studying the politics of the *Front National* ("National Front") in France, has called a form of "identity populism" (*populisme identitaire*) or of "national-populism" (Taguieff 1984, 9). Identity populism incorporates many elements of "protestatory populism" (*populisme protestataire*), a form of populism characterised by a style of political rhetoric that, firstly, opposes the ordinary people at the "bottom" to the corrupt political, financial, intellectual or cultural elites at the "top" and, secondly, relies on a strong conception of direct democracy that is allegedly threatened by the institutions of representative democracy keeping elites in place.

Yet identity populism differs from protestatory populism because it defines the people in ethnic terms. In this form of populism, the people is not merely a *demos*, as is the case with protestatory populism, it is an *ethnos*, a group of people defined by a common ancestry and a shared culture. Moreover, identity populism asserts that it is not only the material interests of the people that are threatened by the elites, but in addition its core ethnocultural identity, homogeneity and authenticity are jeopardised by these elites, who are accused of favouring elements that are stranger to the true values and identity of the ethnic people: culturally and racially different immigrants, modernist ideas, non-traditional, new and inclusive ways of life seen as degenerate by the "true" *ethnos*. Whereas protestatory populism roots anti-elitism exclusively in the economic interest of ordinary people, for identity populism, anti-elitism is mostly a consequence of xenophobia and identity anxiety. Protestatory populism thus refers to a dyadic struggle of a people against corrupt elites, whereas identity populism refers to a triadic political dynamic in which the people struggles against elites who are backing immigrants and "deviant" marginalised people.
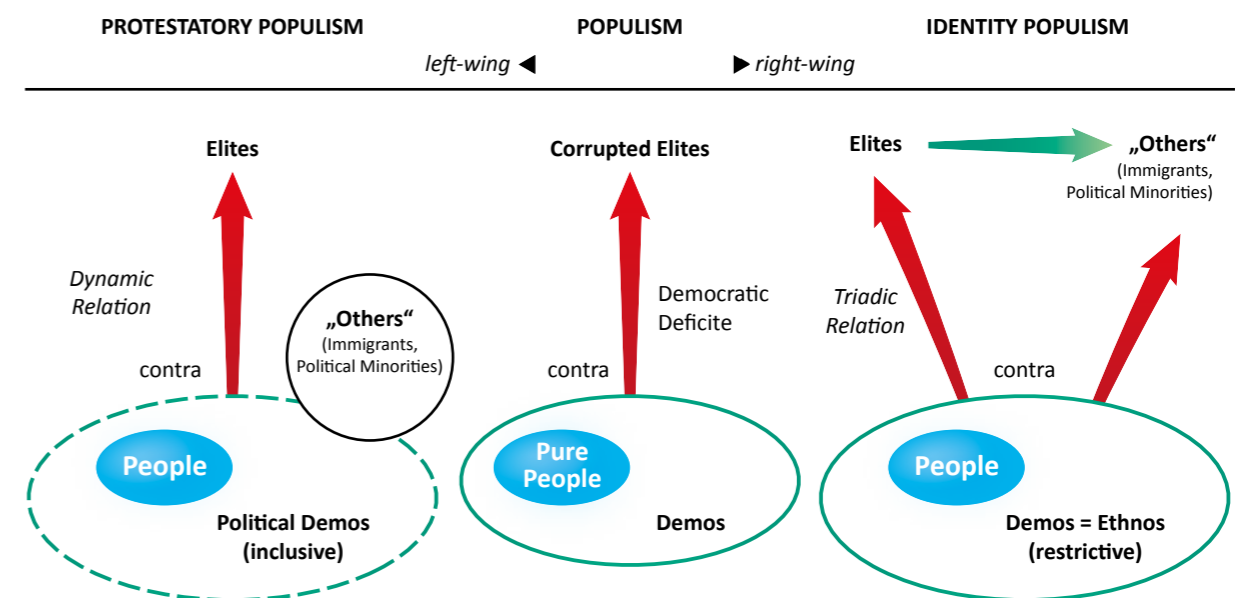

Figure 1. Varieties of populism.
Source: own elaboration

Identity populism in context:
a threat to democracy from within the democratic system

Looking at the political situation in the EU, we can observe an "identitarian turn" that affects the public and political discourse and is a determining factor for almost all populist parties in Europe. Identity populism varies regarding the specific context and its actual political reach, but it cannot only be found in Hungary and other states of the Viségrad Group. It is also rapidly growing and consolidating in further EU countries, such as the Netherlands, Germany, Austria or France, and was arguably present since at least the early 1980s in the last two.

What makes the situation challenging is the fact that almost all forms of identity populism in Europe are operating from within the democratic system by using the democratic system's procedures and veto options. There are continuous efforts from populist parties to make claims towards constitutional courts. In general, appeals to the courts are extensively used strategies for populist parties to realise their alleged political project of strengthening, rather than weakening, national constitutions. These actions are framed as further necessary steps to overcome the assumed power gap and undemocratic relationship between "the people" and "the elites".

However, praising populist parties in Europe for being the guardians of the constitutions is deeply mistaken. Identity populism in Europe is directed against various political and religious minorities, and it defends obviously sexist and exclusionary models of society. Besides their openly racist attitudes towards migrants, these parties voice demands in their electoral programmes e.g. to ban the building of mosques and minarets, to qualify the traditional understanding of the "family" as being the only legitimate constellation or to argue for the preventive detention of mentally ill criminals (Alternative for Germany 2017). None of these demands can be brought in line with the constitutional requirements that can be found in all democratic systems in Europe. The implementation of any of these claims would therefore affect and undermine the necessarily unchangeable normative core of the democratic constitution itself.

The value of popular sovereignty turns out to be a crucial component for the populist revolt within and, at the same time, against the democratic system in Europe. Democratic practice comprises the interplay and political confrontation between government and opposition, and it is complemented and bound by the legal system that provides the necessary framework for all kinds of political structures and actions. In this environment, populism, as a specific type of politics, enters the stage with the explicit aim of confronting not only the relationship between government and opposition but "the foundational dimension of the polity" (Möller 2020). Populism questions the legitimacy of the democratic system itself and calls for renegotiations of the political structure. It is the populist revolt that brings back the principle of sovereignty to the level of political, parliamentary and legal debate: The constituent power of the people (re-)enters the regular political sphere as a counter-power to foster fundamental change (Möller 2018) – but in the case of identity populism, this (re-)entry of the principle of sovereignty becomes deeply problematic because the principle itself is reinterpreted in favour of an ethnic understanding. In the following, we demonstrate how this identitarian shift has the potential to pose a severe threat to the constitutional core and the correlating democratic

values. It is not only turned against "the elites" but, first and foremost, against political and religious minorities, potential immigrants and all those persons that disturb the populist's racist, culturalist and traditionalist view of society.

The conceptual shift in the application and understanding of the principle of sovereignty becomes particularly clear in the context of the heated European debate surrounding the United Nations Global Compacts on Refugees and Migration in 2018. In the era of Fortress Europe, the discussion reaffirmed an image of Europe where European cosmopolitanism is reduced to a form of "enlarged particularism" in which post-national solidarity is understood as shared efforts to strengthen the borders of the European Union.

3.2 Representing the EU:
Negotiations on the UN Global Compacts
on Refugees and Migration

Until recently, there was no formal UN organisation dealing with all aspects of international migration. However, the 2015 "refugee crisis" prompted a new era of global governance of international migration. Indeed, in September 2016, in response to the crisis, the UN General Assembly adopted the New York Declaration for Refugees and Migrants. The Declaration expresses solidarity towards all migrants, recognises their special vulnerability and carries the promise of strengthened international cooperation for the protection of the rights of all migrants and asylum seekers. It claims that contemporary large migration fluxes "call for global approaches and global solutions. No one State can manage such movements on its own" (United Nations 2016, par. 2).

To materialise this call for greater international cooperation on all aspects of migration, the Declaration committed UN member states to work towards the adoption of two Global Compacts: the Global Compact on Refugees (GCR) and the Global Compact for Safe, Orderly and Regular Migration (GCM). The former was adopted by the UN General Assembly on 17 December 2018, while the latter was adopted by UN member states at an intergovernmental conference in Marrakesh, Morocco, on 11 December 2018 and formally endorsed by the UN General Assembly on 19 December 2018.

After the New York Declaration, the UN embarked on an extensive negotiation and stocktaking mission to elaborate the draft of the GCM. Numerous regional conferences were organised with representatives of UN member states as well as conferences on specific themes, gathering together numerous stakeholders, including NGOs, state actors, scholars, corporations and sub-state actors.

Within the UN, the European External Action Service represented the EU in the negotiations leading to the GCM (see figure 2). It delivered "EU coordinated statements through the EU delegations in the consultative and stocktaking phase" and commented on early draft versions of the GCM; an input that the European Commission deemed satisfactory, as it claimed that the GCM "largely reflects EU *acquis* and policy and reflects the Union's objective to promote multilateral solutions to common problems" (European Commission 2018).

As a legal framework for international refugee law already exists and since the drafting of the GCR was mostly in the hands of UNHCR, the EU was less involved in the process leading to the GCR, but it nonetheless had the chance to express its views regarding its content. Generally speaking, two visions of migrant and refugee protection underlay the position of EU institutions during the drafting of the Global Compacts: one, represented by the European Parliament, based on a discourse of human rights, and the other, brought forward by the EEAS, based on voluntary assistance (see figure 3 below). These two visions often reflect dissonances between the Parliament and the EEAS. Ultimately, as the EEAS was the body responsible for providing input on behalf of the EU during the drafting phases of the GCM, its vision prevailed over that of the Parliament.

European Consensus on Development (Council), European Commission, European Parliament
affirmed the EU's willingness to actively support the elaboration of the Compacts called for in the NY Declaration

Various European committees
discussed a list of themes related to the content of the Global Compacts

European External Action Service
represented the EU in the negotiations leading to the GCM within the UN

Figure 2. EU representation and input regarding the adoption of the GCM and GCR

Sovereignty and double standards: Europe's response to the Global Compact on Migration

The EEAS commented on the initial draft of the Migration Compact and made demands for revisions. Those revisions insisted on two points. First, the EEAS demanded that the Compact refers explicitly to the distinction between regular and irregular migrants. It requested that the draft be revised to better enshrine this distinction, insisting on the negative effects of irregular migration and claiming that the text "should avoid any language that might be interpreted as justification or even an incentive for irregular migration" (European External Action Service 2018a). Second, the EEAS demanded a stronger recognition of the responsibility of states to address the root causes of migration and to respect the unconditional duty to readmit their nationals and to facilitate returns and readmissions (European External Action Service 2018a).

Both demands were incorporated in the revised draft of the Compact (Draft Rev 1, see UN 2018b). Ultimately, those changes were kept in the final draft (UN 2018c). Whereas the zero draft already included a reference to "national sovereignty" and asserted it as a guiding principle (UN 2018a), the revised and final versions specify that national sovereignty includes the right of states to distinguish between irregular and regular migrants: "Within their sovereign jurisdiction, States may distinguish

between regular and irregular migration status, including as they determine their legislative and policy measures for the implementation of the Global Compact, taking into account different national realities, policies, priorities and requirements for entry, residence and work" (UN 2018c, par. 15). In addition, whereas the zero draft already contained a commitment to the goal of facilitating returns and readmissions, the revised and final versions insist that return and readmission is a legal obligation under international law (UN 2018c, par. 37). Commenting on the role of the EU in the negotiation of the Compact, Guild and Weatherhead highlight the irony of the EU's position: While the EU's official position insists on the non-binding general nature of the Compact, it asks for the recognition of an international legal obligation to readmit nationals (Guild and Weatherhead 2018).

When we consider these two amendments together, it is hard to avoid concluding that the EU's position is that international initiatives and policies aimed at managing global migratory flows should be voluntary for some states and legally binding for others. The upshot is indeed that while the rich destination countries of the Global North should be free to decide who is a regular migrant and who is an irregular migrant and to take measures to prevent irregular migrants from entering and staying within their territory, departure countries of the Global South are obliged to comply with strict duties to readmit those who have been denied entry in a destination country. It therefore seems to give unequal weight to the principle of national sovereignty, depending on where states stand with regard to the direction of migration flows. While the sovereignty of receiving states enables them to decide which migrants are regular or irregular, sending states must accept that their sovereignty is limited by the duty to readmit those who are labelled as irregular by other states.

Shifting legal responsibilities to the Global South: the Global Compact on Refugees and the EU

The EU was also interested in expressing its position regarding the content of the Global Compact on Refugees. In a resolution, the European Parliament argued for a Compact based on human rights norms and called for EU member states to take their share of responsibility to protect refugees:

"[The EP] welcomes the draft Compact on Refugees and its human rights- and people-centred approach; [...] calls on all countries to make commitments to a more equitable sharing of responsibility for hosting and supporting refugees globally and urges the EU and its Member States to recognise and honour their own share of responsibility; calls for the adoption of a global responsibility-sharing mechanism, supporting a human rights-based approach for the proposed Compact" (European Parliament 2018).

Whereas the Parliament opted for a strong human rights language inciting member states to take their share of responsibility, the EEAS, in its communications with UNHCR, put forth a much weaker vision of solidarity towards refugees and states disproportionately affected by recent inflows of refugees. In a statement at a UNHCR briefing, the EEAS voiced its support for the process leading to the Compact, but insisted that the document needed to be considered in the light of humanitarianism and voluntary action:

"As the New York Declaration, the Global Compact on Refugees is, and requires to be, grounded in a strong multilateral and political will to address collectively and globally refugee issues with a renewed commitment. The programme of action itself is a non-legally binding document meant for humanitarian and non-partisan purposes: protecting and assisting refugees and their hosts [...]. The Global Compact on Refugees is not about imposing additional standards or burdens" (European External Action Service 2018b).

The EEAS's position was careful to avoid language that could be interpreted as a call for strengthening existing legal obligations.

Ultimately, this was the view that came to be reflected in the final draft of the GCR. The Compact does reassert the importance of the Geneva Refugee Convention and the legally binding principle of non-refoulement. Of course, the Compact does, in addition, lay out the details of an international arrangement for the sharing of responsibilities to protect refugees (UNHCR 2018, par. 14–48). However, the core of this arrangement is the creation of a global forum for the coordination of the voluntary efforts to resettle refugees through discretionary pledges and the sharing of financial resources through discretionary contributions. Just as EU countries with a small refugee population have resisted intra-EU responsibility-sharing programmes that would have led them to accept more refugees, the EU, taken as a whole, seems to resist international responsibility-sharing attempts that could lead it to welcoming more refugees. Indeed, with currently only six per cent of the world's refugee population and the highest GDP per capita, any mandatory mechanism for the fair sharing of refugees would likely require the EU to admit more refugees than it currently does (Bhambra 2017, 396).

European Parliament	European External Action Service
"[The Parliament] calls for the adoption of a global responsibility-sharing mechanism, supporting a **human rights-based approach** for the proposed Compact." (European Parliament 2018)	"[...] **non-legally binding** document meant for **humanitarian** and non-partisan purposes. [The] Global Compact on Refugees is not about imposing additional standards or burdens." (European External Action Service 2018b).
• human-rights approach to the ethics of international relations • human rights: **limiting the legitimate policies** that states can implement in the pursuit of whatever goals they deem desirable • **mandatory and legally binding duty**	• humanitarian approach to the ethics of international relations • obligations of a state towards foreigners based on a **duty to assist those in dire need** • sets a **desirable** (but not a mandatory) goal to be pursued through various policies

Figure 3. EU approaches to the Global Compact for Refugees: European Parliament v. European External Action Service

This arrangement reproduces the same kind of double standard as observed in the GCM: a regime of voluntary cooperation for rich states of the Global North and legally binding international obligations for countries of the Global South. Indeed, the logic of the status quo, rooted in the binding non-refoulement principle combined with voluntary responsibility-sharing arrangements, has an asymmetrical impact on states, depending on their geographical location. States have binding obligations to those refugees who arrive at or within their territorial boundaries. Given that there are very few safe and legal pathways to enter Europe or other rich countries, many refugees stay in countries neighbouring conflict zones.

This could, of course, be corrected by a legally binding international mechanism of responsibility-sharing, but this is precisely what the EU wanted to exclude from the GCR. The current mixture of voluntary responsibility-sharing and mandatory observance of non-refoulement duties offloads most legal obligations to protect refugees onto countries neighbouring conflict zones.

3.3 The Global Compacts and EU Member States: "Our house of democracy is not located in Marrakesh"

Although neither the New York Declaration nor the two Compacts attracted a lot of attention from the media during the consultation phases leading to their adoption, the GCM, especially, appeared on the radar of international and national media, at first timidly, following the US withdrawal (Aljazeera 2017) from the negotiations of both Compacts, in December 2017. The Compacts attracted much more media attention in late 2018, when several EU member states criticised the Compacts for being a threat to national sovereignty and cultural identity.

■ In Favour of GCM   ■ Against GCM   ■ Uncertain
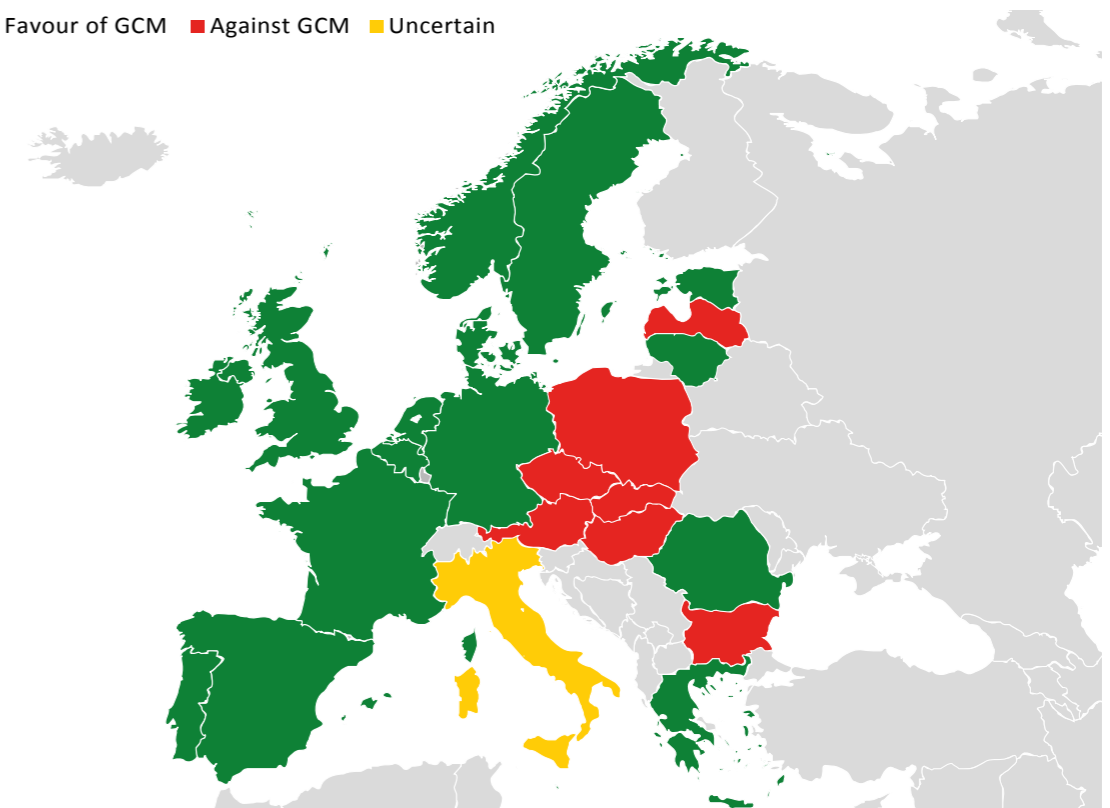
Figure 4. Reactions towards the GCM in 2018 in EU member states

At member state level, the sovereigntist critique of the GCM fits the general framework of identity populism and ethno-nationalist opposition to international law and transnational governance. It claims that the more international institutions and networks are empowered, the less meaningful the nation-states' right to self-determination becomes. As the US Ambassador to the UN said when rejecting the Compact: "Our decisions on immigration policies must always be made by Americans and Americans alone [...]. We will decide how best to control our borders and who will be allowed to enter our country" (Aljazeera 2017).

Preserving sovereignty was the core reason given by the US to withdraw from the negotiations of the Compact and was central in the justifications given by European countries that voted against it (Hungary Today 2018), such as Hungary, Austria, Czech Republic and Poland (see figure 4). But it was also central in the opposition to the Compact that emerged in countries that signed the GCM, even ones generally sympathetic towards migrants, such as Belgium, France and Germany. In Belgium, for instance, members of the Flemish nationalist party "New Flemish Alliance" (*Nieuw-Vlaamse Alliantie*) stated that their "house of democracy is located in Brussels and not in Marrakesh" (New Flemish Alliance 2018) and claimed that signing the GCM would lead to a juridical jungle where the very vague objectives of the Compact would be misused by activist judges at the expense of national sovereignty and border control.

Hungary already pulled out during the negotiation process of the Compact in 2017, as Prime Minister Victor Órban questioned the EU's mandate to negotiate it on behalf of all 28 member states (Melin 2018), but it was Austrian Chancellor Sebastian Kurz who triggered the wave of withdrawals with his announcement to reject the GCM at the end of October 2018 (Gotev 2018). On the basis of a misguided interpretation of the 1951 Geneva Refugee Convention as being a purely humanitarian tool to protect some vulnerable individuals from political persecution that has been instrumentalised by EU directives to broaden refugee status and foster illegal migration, some Austrian politicians expressed concerns that the GCM might have the same potential for being turned from soft law into hard law – as the European Court of Justice, in their view, often pursues an ideological expansion of human rights (Werner 2018).

Another way to proceed with the redefinition of popular sovereignty within identity populism can be seen in the culturalist application of the term, as is often done by the German right-wing party AfD ("Alternative for Germany" (*Alternative für Deutschland*)). Following Austria's example, they argued against trusting the alleged legally non-binding nature of the GCM. The AfD highlighted the effect of soft international law and the risk of seeing the GCM becoming a normative point of reference slowly incorporated into national legal practice. While trying to argue for a rejection of the Global Compact on Migration, the party even appealed to the collective right to cultural self-determination of peoples (German Bundestag 2018) to argue for the necessity of protecting German culture, which they claim is, due to mass immigration, particularly vulnerable and worthy of protection. In fact, this right is exclusively intended for indigenous populations and sub-state ethnocultural minorities in order to protect their traditional ways of life and therefore not applicable to the German population as a whole. This right is of relevance for states in which "ethnic, religious or linguistic minorities exist. [P]ersons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language" (OHCHR 1992). Furthermore, the argument put forward itself builds upon a human right, that is, obviously, part of a transnational and global system of rights that the AfD, in other respects, consistently denies because of the system's presumed potential to weaken national sovereignty.

International formations and strategic figures

All these reactions present themselves as local (national) answers to a cosmopolitan project pioneered by transnational elites coordinating their efforts to undemocratically set up coercive international institutions which threaten to do away with the sovereignty of democratically elected national governments. Yet this depiction of the opposition to the Global Compacts is misleading in several ways.

Firstly, those individual national reactions are all part of the current right-wing nativist "Populist Zeitgeist" (Mudde 2004). All those apparently separate individual reactions in fact share the same language and rhetorical strategies. They all appeal to the interest of true, ordinary and hard-working people in preserving the integrity of their national culture, and they all claim that this interest is threatened by globalist elites who do not understand ordinary citizens' legitimate cultural anxieties: These elites allegedly only want more immigration because they want to drive wages down or they do not care about it because they live in wealthy neighbourhoods unaffected by immigration. For example, Marine Le Pen, leader of France's far-right populist party "National Rally" (*Rassemblement National*), claimed that the Compacts were the work of "contemptuous oligarchs" (Radio France Internationale 2018).

Moreover, in an effort to avoid opposing the Global Compacts on overtly racist grounds, many proponents of the sovereignty argument, especially in France, Austria and Germany, claimed that closing borders would actually protect diversity at a global scale (see Identitäre Bewegung, Ministry of the Interior of the State of North Rhine Westphalia 2016), on the alleged ground that immigration and multiculturalism in every country would reproduce everywhere the same kind of cosmopolitan melting-pot culture.
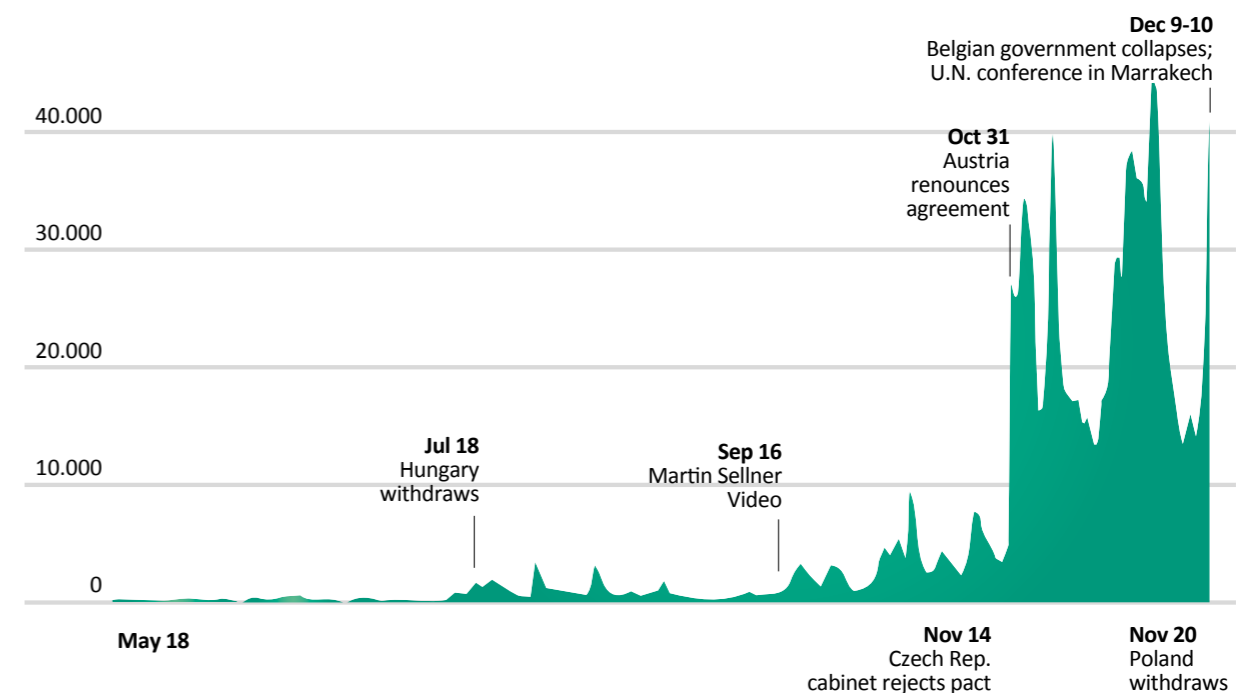

Figure 5. Twitter communication on the Global Compact for Migration, May–10 Dec 2018.
Data shows tweets gathered worldwide mentioning one of 10 most used keywords in the online discussion around the GCM. Source: Institute for Strategic Dialogue 2018

The similarity in the rhetorical manoeuvres adopted by the various protagonists of the current wave of anti-immigration right-wing populism is not a mere coincidence. It now appears that far-right groups launched a coordinated campaign throughout Europe to oppose the GCM starting in October 2018. Indeed, researchers have observed a sudden burst of social media activity (Cerulus and Schaart 2019) related to the Global Compacts on far-right activists' accounts in October 2018 (see figure 5). This burst, including tweets, videos and online petitions, spread the view that the Global Compacts would impede national sovereignty and institutionalise a right to immigrate. It was spearheaded by right-wing social media political influencers and YouTubers such as Austrian Martin Sellner.

What is striking about this campaign is that it shows a great level of international coordination between various far-right nationalist organisations and activists. This is not an isolated case. In recent years, researchers have already documented the global dimension of the new generation of far-right nativist nationalists and the extent of cross-border collaboration between local far-right nationalistic organisations in the digital era (Davey and Ebner 2017; Zúquete 2018). Such international cooperation includes convergence on shared online platforms, funding of activities, joint participation in various stunt operations (such as the "Defend Europe" operation, which included several social media activists from North America and Europe), information sharing, best practices sharing, coordination of social media raids, strategic planning, meme factoring, disinformation campaigns (Davey and Ebner 2017), mass trolling, automated communication on social media and various other techniques. This large-scale mobilisation suddenly put the Global Compact in the headlines in the autumn of 2018, while it was mostly uncontroversial and unheard of in mainstream media prior to that.

Sovereignty and international law

The campaign helped to create the misguided perception that the Global Compacts were legally binding international treaties that would consecrate an entirely new era in migration policy in which states would no longer be able to control their borders. Because the protagonists of this new populist far-right present themselves as the champions of national sovereignty engaged in a struggle against global elites depriving nations of the means to control their fate, it is important to stress how their discourse misrepresents international law and the Global Compacts, while concealing its very own nature in a vicious way.

First, fears of loss of sovereignty and capacity to manage borders seem to be at odds with the spirit and the letter of the GCM. Indeed, it was clear from the start that the Compact was to be a legally non-binding document. This means that the Compact is not a binding international treaty backed by enforcement mechanisms; it is not a "hard international law" instrument such as the 1951 Refugee Convention or the 1966 International Covenant on Civil and Political Rights. For instance, all the provisions for the funding of international initiatives in the field of migration included in the GCM refer to voluntary donations (GCM 2018, par. 43).

Similarly, while the GCR reasserts the already recognised obligation of *non-refoulement*, it creates no further obligation to share the burdens of refugee protection among states. The Compact does lay out the details of an international arrangement for the sharing of responsibilities to protect refugees (GCR 2018, par. 14–48). Yet the key to this arrangement is the creation of a global forum for the coordination of the voluntary efforts to resettle refugees (through discretionary pledges – not mandatory quotas) and the sharing of financial resources (through discretionary contributions).

Second, the GCM lists "national sovereignty" as one of its guiding principles and reasserts

> *"the sovereign right of States to determine their national migration policy and their prerogative to govern migration within their jurisdiction, in conformity with international law […]. Within their sovereign jurisdiction, States may distinguish between regular and irregular migration status, including as they determine their legislative and policy measures for the implementation of the Global Compact, taking into account different national realities, policies, priorities and requirements for entry, residence and work" (GCM 2018, par. 7 and 15).*

The inclusion of the notion of sovereignty in the GCM does not merely pay lip service to those nationalists sceptical about the intrinsic benefits of migration. In fact, at the heart of the Global Compacts' rationale is the view that greater cooperation in the field of migration enables individual states to better manage migratory flows and better control their own destiny. For instance, implementing institutional mechanisms for resettlement and the sharing of resources can significantly help states neighbouring countries sending refugees to deal with sudden increases in asylum seekers crossing their borders. Just as the existence of the state does not reduce individual freedom but rather expands it by providing individuals with stable and secure living conditions, so do international law and international cooperation provide states with more stable and predictable conditions that facilitate the pursuit of their own development. Furthermore, it is rather unwise when nationalists invoke national self-determination and sovereignty to oppose international law and UN system, as sovereignty itself is a product of this very international order.

Lastly, one must appreciate the great irony and paradoxical nature of the nationalist backlash against the Global Compacts. Much of the new generation of far-right nationalists and online activists embrace the large narrative of identitarianism, claiming that European nations (and other Western countries) are threatened by the ethnic, cultural and religious diversification of their populations and that global liberal and left-leaning elites are preventing them from doing anything to counter this. While this new generation of nationalists complains about the influence of a transnational network of liberal elites, it conceals its very own nature as a large transnational network coordinating its actions and activism to influence the fate of various societies. Given the rise of right-wing populist parties all over the world in the last few years, it is hard to ignore the success of this global effort to steer politics at local level. Moreover, while the protagonists of this transnational network present themselves as the champions of international cultural diversity, which they claim is undermined by the uniform multiculturalisation of all societies, they conceal the very homogeneity of their own anti-immigration and anti-multiculturalism discourse and ideology (Davey and Ebner 2017).

CONCLUSION

The adoption of the New York Declaration and the Global Compacts on Refugees and Migration demonstrates that EU institutions stand in a paradoxical relationship vis-à-vis the Global Compacts and, more broadly, with the ethics of immigration. On the one hand, the Compacts were clearly propelled by a feeling of emergency fuelled, at least largely, by the 2015 EU "refugee crisis" and originally supposed to offer potential legal, political and humanitarian pathways out of the distinctive situation of conflict in Europe – as Europe is still substantially divided with respect to its own asylum and migration policies.

On the other hand, of all the world's regions Europe seems to be the one where opposition to the Compacts was the strongest. Indeed, it is home to the largest number of countries which did not vote for the GCM. The European Union sees itself as an important actor in promoting fundamental values such as human rights and rule of law, but there is a tendency that EU diplomacy and foreign relations are not coherently matched by domestic policies (Gatti 2016). Whereas the EU is substantially divided when it comes to the adoption of a working Common European Asylum System, it is surprisingly united in making migration deals with states outside the EU aimed at preventing entry to the EU and influencing the governance of refugee and migrant movements abroad. The EU's stance on the GCR and the GCM mirrors the exclusionary and restrictive understanding of sovereignty and reflects the discrepancy between diplomacy and domestic policy. While the EU is keen to remind its neighbours about the obligation of non-refoulement and respect for human rights, it only offered to participate in a scheme of non-mandatory responsibility-sharing.

At member state level, political debates about the Global Compacts were initiated and later dominated by populist parties and organisations that rejected the signing of this international agreement and aimed to form, in the long run, a populist opposition beyond the nation-state aimed at coordinating strategic actions and fostering common political claims in the international sphere by "pitting the sovereignty of their respective national 'peoples' against 'the elites'" (Möller 2020).

Regarding the European discussion surrounding the Global Compacts, as summarised above, two consistent features are noticeable: first, the reconfiguration of the principle of sovereignty and, second, the implicit aim of populist parties and organisations to change not only public discourse, parliamentary discussions and decisions or the composition of parliaments but also to fundamentally change the political and constitutional system itself. Furthermore, the populist responses to the Global Compacts in Europe demonstrate that populist strategies are capable of undermining the ability of supranational bodies such as the EU to act in the global political arena. In late 2018, populist narratives and campaigns in Europe led to a lack of support for international agreements and deliberation at member state level. This not only threatens the unity of the European Union. It questions the role of the EU as a reliable global actor in international politics and cooperation and proves that populist politics and strategies are no longer only done within national borders.

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4. Quality Newspapers v. Populism: Shaping Pro-Immigration Attitudes in EU Member States

Volker Heins and François Boucher

At a Glance

NOVAMIGRA's search for pro-immigration arguments in European quality newspapers testifies to the massive rise of "value talk" in the context of the "refugee crisis" in 2015 and afterwards. As a result of the crisis, values have been activated and are more fiercely invoked today than before the crisis.

None of the newspapers in our sample argues in favour of immigration exclusively from a utilitarian perspective, even though demographic trends and labour shortages play a role in many media discourses. However, the overt invocation of values has also led to serious conflicts both within and between EU member states over their meanings and implications.

Quality newspapers identify and interpret "European norms and values", even when they do not refer explicitly to them. They are translators between national and European normative vocabularies. Throughout the EU, they reflect and shape the transition from a de-politicised consensus for or against immigration to a more polarised public debate. At the same time, they are a moderating force in national debates. All the newspapers are adamantly against the project of imposing ethnic and cultural "super-homogeneity" on European societies.

Introduction

Much of the current debate about immigration, far-right populism and the future of the EU centres on the increasingly complex relationships between media and political attitudes.[1] Political attitudes, including the norms and values held by the public, are to some extent shaped by news media. Normative attitudes can be transformed through media, but equally important is the reinforcement of already existing attitudes in society (Hoewe and Peacock 2020).

Research on populism is mostly about the sources and development of negative attitudes towards Europe, immigration or the "elites". By contrast, this section focuses on news media that presumably strengthen pro-immigration attitudes among the European public which are typically connected with pro-European attitudes. We show that quality newspapers constitute a "media membrane" (Alexander 2006, 304) which is often impervious to the demonising rhetoric and alarmist narratives of far-right populists.

Against the backdrop of large and growing differences within the EU with regard to civil liberties, NOVAMIGRA aimed to identify, compare and contrast media discourses on refugee and immigration policies across a range of EU member states (France, Germany, Hungary, Poland and Sweden). We conducted quantitative and qualitative research to examine if and how the media can be an effective tool in shaping public opinion. These discourses have to be understood in the context of specific national histories and imaginaries. All member states are part of what has been described by EU officials as a "continent of immigration" (Frattini 2007). This does not necessarily imply that individual countries are willing to accept this reality or that they formulate and execute adequate policies regulating the flow of migrants and accommodating their needs in the light of the European Charter of Fundamental Rights and its ideals: the universal values of human dignity, freedom, equality and solidarity, among others.

In the following, we summarise the key findings of our discourse analysis in France and Germany. First, we introduce our framework of analysis, which mainly refers to four different dimensions that figure centrally in the debate on immigration. These dimensions can be specified as different notions of prosperity, dignity, cultural anxiety and affirmative diversity.

Second, we show how quality newspapers have shaped political communication about migration and the EU's migration policies. Note that our analysis only looks at the public rhetoric of national pro-immigration positions and how this rhetoric relates to European norms and values. The basic assumption is that media both reflect and shape attitudes towards immigration which are in turn predictors of attitudes towards the European Union (Brosius 2019).

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[1] This section is based on NOVAMIGRA's publication "Quality Newspapers vs. Populism: Shaping Pro-Immigration Attitudes in Five EU Member States" (Heins 2020).

4.1 THE FRAMEWORK OF ANALYSIS:
NEWS MEDIA AND ATTITUDES TOWARDS
THE IMMIGRATION SOCIETY

The media coverage of immigration and refugee policies is dominated by four frames: the *prosperity frame* and the *dignity frame*. In many EU member states, quality newspapers welcome immigration to the extent that migrants contribute to economic prosperity. An equally powerful media frame focuses on the human dignity of immigrants and asylum seekers. Two other frames are also important: *the cultural anxiety frame*, which highlights the perceived threats posed by immigrants and refugees to national or European values, and the *affirmative diversity frame*, which emphasises and celebrates the positive effects of immigration on growing cultural diversity.

Several instances of pro-immigration discourses are difficult to fit within these frames because they do not explicitly claim that migrants and migration are economically beneficial and do not explicitly use a precise moral language. We thus classify some elements of the discourses within four additional frames: the *critical frame*, the *empathy frame*, the *integration frame* and the *identity frame*.

The critical frame includes discourses that "take the side" or speak on behalf of migrants' and refugees' interests by criticising official policies or discourses from anti-migration agents (politicians, political parties, other media, civil associations, intellectuals, etc.). In this category, we only include criticisms of asylum and migration policies that reflect or promote positive attitudes towards migrants and migration.
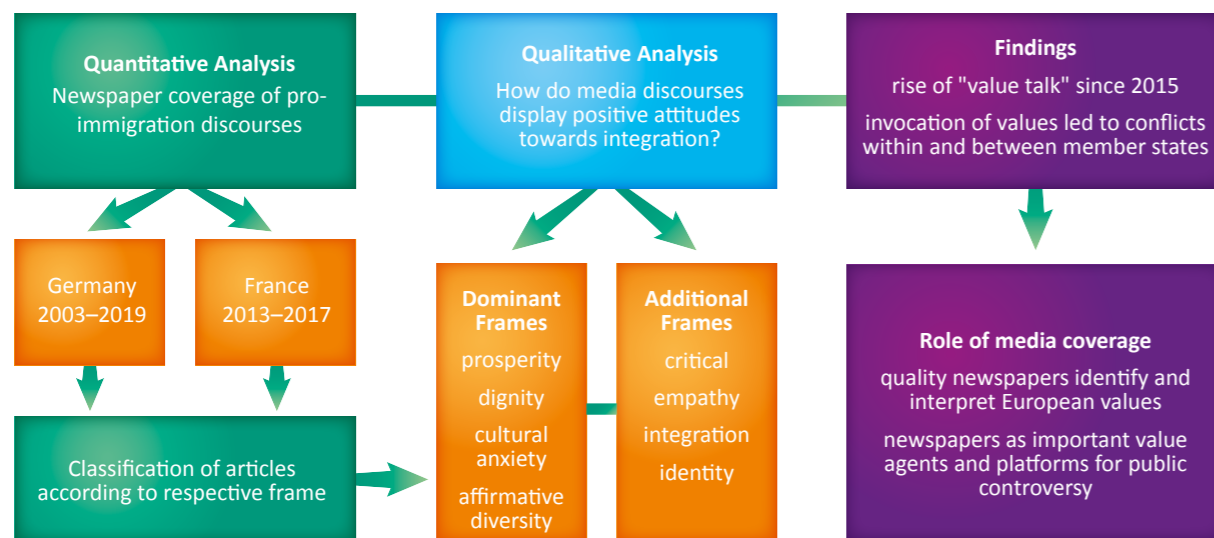

Figure 1. Attitudes towards the immigration society: frameworks and findings of in-depth discourse analysis

The empathy frame includes articles that provide in-depth analyses of the conditions in which migrants and refugees live, travel and are integrated in the host society or of the situation of people helping migrants and refugees. Although such discourses may be seen as objective news reports that do not carry any editorial stance or positioning, many of the articles we place in this category do not report on any specific news. We are inclined to believe that such articles reflect a pro-migration attitude and can shape readers' attitudes by making them understand the difficult and complex situations of migrants and their

helpers. The number of such portraits or sociological analyses is quite large compared to other frames.

The integration frame of pro-immigration discourse contains articles that assert or highlight the possibility of integration and the success stories of integration. The integration framework of pro-migration discourse, implicitly or explicitly, endorses a liberal, multiculturalist and migrant-friendly understanding of integration, that is, one that links integration to full participation in economic, social, cultural and political life, the development of a subjective feeling of belonging and of acceptance on the part of migrants (Kymlicka 2010; Bilodeau 2018).

Finally, the (national) identity framework contains articles that assert the view that a particular country (or the EU) is one of immigration or asylum, that it is part of its collective identity to welcome immigrants, tolerate their difference, assist them, and so on. This framework includes articles appealing to fundamental societal commitments and elements of collective self-representation.

4.2 FRANCE

Immigration has played a key role in the making of contemporary France, but its presence and role remained mostly invisible in the French national imaginary until the Second World War (and it has not yet been fully acknowledged as a crucial component of national identity). This paradox can be explained by the assimilationist logic that inspired the public philosophy of France. Citizenship depends not only on the acquisition of a legal status but also on the incorporation of a common culture based on the ancestral history of the French people. French republican intellectuals have typically insisted on the need to base the civic project on the sharing of a national narrative, grounded on the memories of great ancestors (Vercingétorix, Jeanne d'Arc, etc.) and of founding political events.

Historian Gérard Noiriel (1996) has shown that this conservative component of French republicanism is at the root of immigrants' invisibility in the national imaginary. Despite their major role in the making of contemporary France, their presence and contributions have been erased from the urban landscape, national monuments or school curricula, the republican elites assuming that immigrants had just melted into French society and conformed to its cultural norms, without having any impact on them.

History and Conception of Nationhood and Citizenship in France	
Nation	political unity, not shared culture revolutionary and republican militantly unitarist, universalist and secular state-centred and assimilationist > assimilatory workings of school, army and centralized administration
Citizenship	defined expansively, as a territorial community birth and residence automatically transform second-generation immigrants into citizens

Figure 2. Immigration, Citizenship, and the Nation-State in France and Germany: A Comparative Historical Analysis (Brubaker 1990)

This media analysis focuses on pro-immigration arguments expressed in two of the largest selling quality newspapers in France – *Le Monde* (LM) and *Libération* (Lb) – during the period 2013-2017. It asks how pro-immigration rhetoric is framed and how it relates to European norms and values. LM and Lb both have a centre-left editorial line. LM is second only to *Le Figaro*, a right-wing paper we assumed unlikely to feature a large number of pro-immigration articles. LM claims to be unaligned and have no political editorial line. Nonetheless, most of its readers (63 per cent) are identified as being "leftist". LM is the most read French newspaper abroad.

Quantitative analysis

We used the *Europresse* database at the National Library of France to look for articles from LM and Lb published between 1 January 2013 and 31 December 2017. We undertook a first selection on the basis of the following combination of keywords: *immigration* OR *migrant+* OR *réfugié+* OR *demandeurs d'asile.* At this first stage, the search resulted in around 3,000 articles. 785 were then selected on the basis of their title (in 2013: 110 articles; 2014: 109; 2015: 225; 2016: 183; 2017: 158). We identified 391 articles as instances of a pro-immigration discourse.[2] There is a clear peak in the production of pro-immigration discourse in 2015 and 2016. The yearly distribution of these articles is as follows (with numbers for Lb/LM in parentheses):

2013: 41	(20/21)
2014: 59	(26/33)
2015: 123	(51/72)
2016: 99	(42/57)
2017: 69	(26/43)
Total: **391**	**(165/226)**

We classified these articles according to the frames explained in the previous section. Some articles were attributed to two categories (for instance, an article criticising EU migration policy by appealing to human rights was attributed to both the critical and the dignity frames).

	Prosperity	Dignity	Diversity	Critical	Empathy	Integration	Identity
2013	6	9	0	26	8	1	8
2014	6	10	1	19	22	3	12
2015	13	28	2	63	27	1	9
2016	6	16	2	39	30	7	11
2017	7	17	1	24	19	3	5
Total	38	80	6	171	106	15	45
(Lb)	(7)	(33)	(2)	(73)	(49)	(6)	(19)
(LM)	(31)	(47)	(4)	(98)	(57)	(9)	(26)

Figure 3. Number of articles in each frame per year 2013–2017

[2] In the analysis, we refer to a few articles that are not counted in these numbers. These articles are relevant for reasons other than for displaying a pro-immigration position – for instance, we were inclined to mention a few articles criticising or answering pro-immigration discourses.

Qualitative analysis

Discourses in each framework contain important differences. In this section, we give our analysis more depth by explaining how French media discourse displaying positive attitudes towards immigration fills each framework and by providing examples. The prosperity and dignity frameworks are largely represented in both LM and Lb. The affirmative diversity framework is quite marginal, although not entirely absent.

Identity (national and European) – The land of immigration and asylum

We found no article mentioning that France is an "immigrant society" (*société d'immigration* or *société d'immigrants*). Nonetheless, many articles use the expression "land of immigration" or "land of asylum"' (*terre d'immigration*[3] or *terre d'asile*[4] or *terre d'accueil*[5] or *terre de refuge*[6] or *terre d'immigration et d'asile*[7]). Some use the phrase "land of human rights" (*terre des droits de l'homme*)[8] or assert that France is a "pluricultural country"[9] or make the point that the presence of migrants in France is now a reality.[10]

44 articles adopting the identity framework might seem to suggest that the "immigrant society" type of discourse is alive and well in France. However, 22 articles are not about France, but rather about the EU (16), Germany (3), Paris (2) or the US (1). Moreover, discourses linking the idea of a "land of migration and asylum" to the identity and history of France or the EU are often critical. Many articles claim that although France presents itself as the land of human rights, it is, as a matter of fact, neither a land of immigration[11] nor "a great country of refuge" ("*la France n'est pas un grand pays d'asile!*").[12] Others adopt the view that France used to be a land of asylum or migration, but has meanwhile ceased to be.[13] Discourses on Europe as a land of migration and asylum are slightly more positive. Many indeed claim that it is part of European identity to welcome refugees fleeing totalitarianism. Yet many adopt the position that the EU should *become* a land of immigration and asylum.[14] We found that only 4 articles clearly assert that France is a land of immigration and/or asylum. The same number applies for the EU.

[3] "Pour une Europe ouverte", Lb, 8 September 2015.

[4] "L'asile, un naufrage européen", Lb, 16 September 2014.

[5] "Redevenir une terre d'accueil", LM, 12 October 2015.

[6] "Les migrants sont une chance pour l'Europe", LM, 11 September 2015.

[7] "Rester une terre d'immigration", Lb, 23 July 2014.

[8] "La stratégie du déminage sur l'immigration et l'asile», LM, 16 July 2013.

[9] "Mgr Poitier: 'Notre société est devenue pluriculturelle'", LM, 14 October 2016.

[10] "Vivre avec l'immigration", LM, 9 July 2016.

[11] "Benjamin Stora: 'Les Français ont du mal à se voir comme les descendants d'une immigration'", 16 September 2014; "Immigration: l'Hexagone loin derrière l'Allemagne", Lb, 2 December 2014.

[12] "Les migrants ou la faillite des politiques", LM, 9 May 2016.

[13] "Immigration: des droits à petits pas", Lb, 20 July 2015; "L'impasse du communautarisme", Lb, 31 March 2016.

[14] "L'asile, un naufrage européen", Lb, 16 September 2014; "Europe, terre d'asiles", Lb, 30 March 2016; "Pour une Europe ouverte", Lb, 8 November 2015.

Prosperity

Discourses in the prosperity framework usually take the form of "myth-debunking" articles. They react to anti-immigration discourses appealing to the allegedly negative impacts of immigration on the economy. Articles in this framework typically claim that immigration does not have a negative impact on the wages of native workers,[15] does not impose a fiscal burden on host societies,[16] that it has a positive impact on employment,[17] that it fills a labour gap linked to demographic decline[18] or that it stimulates innovation.[19]

Affirmative diversity

The affirmative diversity framework is largely absent from the media discourses analysed in this study. Articles highlighting the positive benefits of diversity within France show that many famous writers, singers and actors have a migrant background.[20]

Dignity

Although articles in LM and Lb appeal to the notion of dignity only rarely,[21] many appeal more broadly to various moral concepts and intuitions. Several articles appeal to the value of human life and/or establish a causal connection between French or European migration and asylum policy and the death of migrants in the Mediterranean Sea.[22] Such discourses were already present in 2013. Another strand in this framework makes the case that helping migrants is a matter of moral obligation. Articles in this vein talk about a "moral obligation to help refugees",[23] the "duty to assist migrants" and the "rejection of egoism",[24] call to "end the suffering of migrants"[25] or for compassion: "finding some compassion for the wretched of the sea".[26] Several articles draw on the notion of "humanity" (*humanité*), saying that the EU-Turkey deal "lacks humanity"[27] and that "there needs to be more humanity in the treatment of migrants".[28]

Starting in 2015, a discourse on hospitality also emerges. Some depict hospitality as a Christian value to be honoured alongside republican fraternity, while others claim that there is a strict duty of hospitality[29] or that certain policies are inhospitable to migrants and refugees or mark the "end of hospitality".[30] Finally, some articles frame their moral discourse on migrants and refugees in terms of human rights. Habermas speaks of a fundamental right to asylum; others assert that there is an "essential right to migrate" and that France should remember that "it is the country of the Declaration of Human Rights".[31]

Criticisms of anti-immigrant discourse and migration and asylum policies

The critical framework contains articles denouncing policies and discourses that harm or disrespect migrants. This framework is the most important in terms of number of articles, but it is also quite heterogeneous. Critical discourses have different targets: the policies and official discourse of the French government and of the EU; the policies and official discourses of other countries and the discourses of public intellectuals, political parties, other newspapers and media. Figure 2 distinguishes distinct categories.

Articles criticising the French government adopt many different stances. Some denounce the inaction of the French government during the refugee and migrant crisis.[32] The mayors of seven major cities signed a letter condemning the central government for its lack of initiative, while they (the municipalities) were mobilised to welcome migrants and refugees.[33] Several articles also condemn the French government (Hollande's as much as Macron's) for being too strict regarding detention and return of asylum seekers.[34] Many denounce the brutality of the expulsion of migrants from camps in Paris, Calais and Lyon.[35] Critical articles also voice allegations that the discourse of the Holland and Macron governments are vague because they try to satisfy both pro- and anti-immigration segments of the population.[36]

	2013	2014	2015	2016	2017	Total (Lb/LM)
France	15	3	18	10	9	**55 (22/33)**
EU	4	4	16	12	4	**40 (17/23)**
Other discourses	6	7	25	7	7	**52 (29/23)**
Other countries	1	5	4	10	4	**24 (5/19)**
Total	26	19	63	39	24	**171 (73/98)**

Figure 4. Targets of the articles in the critical framework 2013–2017

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[15] "Utilisons les chiffres disponibles sur les migrants pour dissiper les fantasmes", LM, 10 September 2015.

[16] "L'OCDE met en avant les vertus fiscales de l'immigration", LM, 14 June 2013; "Les comptes de l'immigration", LM, 13 October 2015; "Les migrants pain béni pour les pays d'accueil", LM, 20 April 2017.

[17] "L'immigration favorise l'emploi", LM, 2 May 2015.

[18] "Immigration: la funeste myopie européenne", LM, 14 May 2014.

[19] "Non, les migrants ne sont pas un fardeau!", Lb, 14 July 2015.

[20] "Les écrivains européens: tous migrants", LM, 30 October 2015; "De la diversité dans la variété", Lb, 26 January 2016.

[21] One of the only (if not the only one) instances of a discourse on dignity is a piece in LM by Jean-Claude Juncker and Martin Schultz: "Le Pape François, symbole d'une Europe unie", LM, 6 May 2016.

[22] "Pour une autre politique migratoire", LM, 9 October 2013; "Immigration: l'Europe au péril de la vie", LM, 7 May 2014; "L'Europe, insensible aux migrants? L'UE doit cesser d'être hostile à l'accueil des réfugiés", LM 26 April 2015.

[23] "Aider les réfugiés syriens est une obligation morale", LM, 6 January 2015.

[24] "L'Europe, insensible aux migrants? Non à l'égoïsme face à l'exil", LM, 28 April 2015.

[25] "Pour que cessent les souffrances des migrants", Lb, 5 November 2014.

[26] "L'Europe, insensible aux migrants? Retrouvons de la compassion pour les damnés de la mer", LM, 28 April 2015.

[27] "L'Europe va-t-elle trier les réfugiés?", Lb, 25 March 2016.

[28] "Qu'on les renvoie chez eux défendre leurs terres ", Lb, 3 October 2016; "Trois France face à l'accueil des migrants", LM, 21 January 2017; "L'humanitaire est (enfin) une politique", Lb, 11 September 2015; "Migrants. Où est passée notre humanité?", LM, 2 May 2016; "Nous, Calaisiens, ne nous reconnaissons pas dans ce discours de rejet", Lb, 19 July 2017.

[29] "La 'crise des migrants' est aussi une crise des mots", LM, 16 September 2015.

[30] "Fabienne Brugère et Guillaume Le Blanc: 'Cette politique de la peur marque la fin de l'hospitalité envers les migrants'", Lb, 14 January 2017.

[31] "La France et l'Allemagne doivent rester à l'avant-poste", LM, 10 September 2015; "Le droit de migrer est essentiel dans un monde indépendant", Lb, 26 October 2013; "Comment la France décourage la demande d'asile", LM, 12 April 2017; "Le rendez-vous manqué avec l'asile et l'immigration", LM, 13 May 2017.

[32] "La gauche n'a pas le courage de celle des années 1980", LM, 18 December 2014; "À Paris on sait défendre les salariés, mais pas les réfugiés", LM, 29 August 2015; "Migrants: Nous sommes exaspérés par l'inertie de nos décideurs politiques", Lb, 7 September 2015.

[33] "Face aux flux migratoires, nous, les maires, sommes au pied du mur", LM, 18 December 2017.

[34] "Immigration illégale, le grand écart de Manuel Valls", LM, 14 March 2013; "Immigration, sécurité: les deux visages de Manuel Valls", LM, 18 November 2013; "Michel Agier: We have a dream", 3 December 2016.

[35] "Les migrants sont otages de la campagne électorale", Lb, 28 October 2016; "Paris: les migrants chassés sans relâche", Lb, 10 August 2016; "Une crise humanitaire délibérément fabriquée", LM, 3 December 2016.

[36] "La stratégie du déminage sur l'immigration et l'asile", LM, 16 July 2013; "Plan sur l'asile: ferme et flou", Lb, 13 July 2017; "La France se montre réticente à accueillir des réfugiés syriens sur son territoire", LM, 4 September 2013; "Réfugiés: les arguties déplorables du gouvernement", LM, 22 May 2015.

After 2015, some articles attack the French government for lacking solidarity with other EU countries and for leaving Germany and Merkel alone.[37] Despite such a stark critical stance, both LM and Lb have praised the French government on certain occasions, and they have let its protagonists and supporters answer to their critiques.[38] With regard to the EU, the strongest criticism links migration and asylum policies directly with the loss of human lives in the Mediterranean Sea. Some criticisms bluntly assert that the EU kills migrants.[39] Another recurrent line of critique is that the EU is unable to coordinate a sound and common asylum plan to face the crisis.[40] After 2015, many highlight this lack of solidarity among EU member states.[41]

Criticisms in LM and Lb of the discourses of politicians who are not in power usually target right-wing politicians, mostly Marine Le Pen and the "National Front"/ "National Rally" (*Front National/ Rassemblement National*) or Sarkozy and the "Union for a Popular Movement" (*Union pour un mouvement populaire*)/ "The Republicans" (*Les Républicains*). Marine Le Pen, for instance, is said to lie about the dangers linked to migration and to monger fear by using a language connecting migration to an "invasion" or a "submersion",[42] to be "brutal" and insensitive to the plight of migrants and to hold views that are incompatible with the rule of law.[43] Similarly, Sarkozy is criticised for lying about migration, for comparing the arrival of migrants in France and Europe to a "water leak" and for promoting irrational fears of migration.[44] Criticisms addressed to Le Pen are harsher and more numerous.[45]

In addition, a strand of articles worries about the radicalisation of the right and targets the drifting (*dérive*) of right-wing discourse from public intellectuals.[46] Several articles take the form of fact-checking articles confronting various affirmations made by politicians or well received ideas in the population to facts, statistics and research results.[47] Le Pen and Sarkozy are the most recurring targets of such fact-checking missions.

Empathy

The empathy framework is the second largest in terms of number of articles. It is more homogeneous than the critical framework. Most articles in this category focus on describing the dangers that migrants face on their journey.[48] Articles describing such conditions either take the form of close-up portraits of individual migrants or they adopt a more sociological point of view describing the general conditions of migrants in sending countries, on the road, in camps or in their host society.

Over a third of the articles in this framework discuss the difficulties of citizens and NGOs helping migrants. Illustrating such "narratives of solidarity", several articles discuss famous figures such as Damien Carême, mayor of Grande-Synthe,[49] Cédric Herrou, a citizen accused of the "crime of solidarity"[50] or the captains of boats rescuing people in the Mediterranean, such as Klaus Vogel and Philippe Martinez.[51] Several articles also talk about ordinary citizens, activists and NGOs working in the camps in Paris and Calais.[52] These articles present migrants and the people who help them in a sympathetic light. By contrast, very few articles present the work of Frontex agents or national coast guards in a neutral or sympathetic light.[53]

Successful and possible integration

Articles in this category present the process of migrant integration in a positive light by documenting cases of successful integration where migrants were able to find employment, make friends in their new neighbourhood and contribute to the cultural, social and political life in their host society. Other articles in this framework highlight the conditions facilitating integration as well as the role of various actors from the host society in helping migrants and refugees to integrate.[54]

4.3 GERMANY

Unlike neighbouring France, Germany was for most of its history primarily a country of emigration. If we discount the Nazi period and the coercive importation of labourers from abroad, this changed only in the late 1950s when net migration showed a clear upward trend. Since then, the total number of foreign citizens emigrating to Germany has tended to be higher than the number of Germans leaving the country. Initially, however, this new trend did not change what James Hollifield called the "premise of immigration policies in Germany" (Hollifield 1992, 50), which was to prevent foreigners from settling permanently in the country and obtaining citizenship rights.

[37] "Le souverainisme haineux équivaut au djihadisme", LM, 23 October 2015; "Le couple franco-allemand en panne sur les réfugiés", LM, 7 March 2016.

[38] "Le jour où Hollande s'est souvenu des immigrés", Lb, 15 December 2014; "Immigration: la contre-offensive de Hollande", LM, 16 December 2014; "La France a une politique de l'asile ambitieuse", Lb, 9 March 2016.

[39] "Si l'Europe refuse l'asile aux migrants, elle le noie", LM, 10 September 2015; "Pour une autre politique migratoire", LM, 9 October 2013; "L'Europe choisit de laisser les migrants mourir en Méditerranée", LM, 4 November 2014.

[40] "UE: le minimum pour sauver les migrants", LM, 4 November 2014; "L'Europe en fait trop peu, trop tard", Lb, 10 September 2015.

[41] "Migrants: l'échec des Européens, pas de l'Europe", LM, 25 April 2015; "Migrants: l'égoïsme dangereux des membres de l'UE", Lb, 27 February 2016; "Réfugiés: la mort clinique de l'Europe", LM, 27 February 2016.

[42] "Réfugiés: la bataille de l'opinion", Lb, 17 November 2015; "Le modèle français rebute les réfugiés", Lb, 28 September 2015; " "Le Front national se déchaîne sur les migrants", LM, 5 October 2015.

[43] "À Marseille, Mme Le Pen fulmine contre le 'fardeau' de l'immigration", LM, 8 September 2015; "Marien Le Pen, première décliniste de France, par Alain Duhamel", Lb, 10 September 2015; "Immigrations: les vraies-fausses solutions", LM, 3 April 2017.

[44] "Sarkozy, de la fuite dans les idées", Lb, 20 June 2015; "L'imaginaire des migrants", Lb, 3 July 2015.

[45] "À Marseille, Mme Le Pen fulmine contre le 'fardeau' de l'immigration", LM, 8 September 2015.

[46] "Surenchère à l'UMP contre l'Immigration", Lb, 14 November 2014; "On peut encore distinguer un électeur UMP d'un électeur FN", Lb, 14 November 2014.

[47] "L'immigration, une machine à fantasmes", Lb, 16 December 2014; "Les migrants, au-delà des clichés", LM, 31 August 2016.

[48] "Rester ou s'exiler, le dilemme des réfugiés chrétiens», LM, 12 August 2014; "La tentation de l'exil", LM, 13 December 2014; "A Ceuta, les lames tranchantes n'arrêtent pas les migrants tentés par l'Europe", LM, 24 March 2014; "Vogue la galère", LM, 8 February 2015; "Des migrants abandonnés à la nuit", Lb, 16 June 2015; "Les difficile intégration des réfugiés sur le marché du travail", LM, 17 November 2016.

[49] "Damien Carême, le 'héros' des migrants", LM, 14 March 2016.

[50] "Défi de solidarité", LM, 10 February 2017.

[51] "Klaus Vogel, cœur en stock", Lb, 6 June 2017; "Ces ombres étrangères qui effraient nos politiques", Lb, 29 June 2015.

[52] "Les engagés, de Paris à Calais", Lb, 21 August 2015; "Migrants: les bénévoles en première ligne", LM, 24 August 2016.

[53] "Surveiller ou sauver, le dilemme Frontex", LM, 17 January 2015; "Sauveteurs amers", LM, 15 October 2015.

[54] "Réfugiés, le bon exemple américain", LM, 22 November 2016; "L'immigration, au-delà de l'histoire coloniale", Lb, 13 October 2017.

At the same time, the Federal Republic of Germany (West Germany) committed itself to a policy of recruiting foreign workers in order to sustain the economy's high growth. The result of this strategy of attracting foreign workers without allowing them to become Germans were "guest worker" (*Gastarbeiter*) programmes implemented by recruitment offices in major sending countries such as Italy, Greece, Turkey and Yugoslavia. Until around 1970, there was very little public criticism or even debate about the growing numbers of guest workers, who were seen as helping to reconstruct the German economy. However, once it dawned on everyone that the guest workers were not a dispensable commodity but de facto immigrants, public opinion began to diversify and change.

History and Conception of Nationhood and Citizenship in Germany	
Nation	particularist and differentialist
	constituted by ethnocultural unity and expressed in political unity
	Volk-centred (*Volksgemeinschaft*)
Citizenship	defined restrictively, as a community of descent
	birth and residence have no bearing on citizenship

Figure 5. Immigration, Citizenship, and the Nation-State in France and Germany: A Comparative Historical Analysis (Brubaker 1990)

Around the year 2000, Germany finally and officially accepted being an immigration society. This was the year when the federal government, led by a Social Democratic-Green coalition, set up an "Independent Commission on Immigration" (*Unabhängige Kommission Zuwanderung*), known as the "Süssmuth Commission". In 2001, the Commission presented a report which acknowledged not only the reality of immigration but called for systematically attracting immigrants. Rita Süssmuth, who convened the Commission, mentioned the minimum figure of 50,000 immigrants needed every year to sustain the economy and the welfare state. She also called Canada a role model for Germany (FAZ 2001). The report presented by the Commission called for comprehensive new legislation and in fact became the basis for the 2005 Immigration Law, which replaced the Citizenship and Nationality Law of 1913.

Apart from undertaking a few meta-analyses and opinion polls, we searched through the archives of the two largest selling quality newspapers in Germany: *Süddeutsche Zeitung* (SZ) and *Frankfurter Allgemeine Zeitung* (FAZ). SZ is the number one in terms of circulation and readership among daily quality newspapers and also boasts a relatively high circulation abroad. The editorial stance of the newspaper is liberal or centre-left.

FAZ is the second largest selling quality newspaper in Germany. Its outlook is liberal-conservative or centre-right. It is the German newspaper with the widest circulation abroad, with its editors claiming the newspaper is delivered to 148 countries.

Quantitative analysis

We collected editorial articles and opinion pieces covering the period from 1 January 2003 to 30 April 2019 from the archives of these two daily newspapers. To identify relevant texts, we searched for the following keywords (the numbers in parentheses refer to the results for SZ and FAZ respectively):

Immigration society (*Einwanderungsgesellschaft*) (32 and 26)
Immigration country AND Germany (*Einwanderungsland*) (75 and 83)
Immigration AND economy (80 and 129)
Immigration AND Europe (148 and 206)
Refugees AND human dignity (35 and 9)
Refugees AND human rights (113 and 93)

Qualitative analysis

In the German case, two of the frameworks are particularly relevant: the *prosperity frame* and the *dignity frame*. We can show that the most influential centre-left and centre-right quality newspapers in Germany welcome immigration to the extent that it contributes to the economic prosperity of Germany and the European Union in general. An equally powerful media framework focuses on the human dignity of immigrants and asylum seekers. Two other frameworks are of lesser importance: the *cultural anxiety frame* which highlights the perceived threats posed by immigrants and refugees to established German or European values, and the *affirmative diversity frame* which emphasises and celebrates the positive effects of immigration on the growing cultural diversity of the German population.

A key result of our analysis suggests that there is broad consensus across both newspapers that, in principle, Germany and the EU should be open to immigration both from within and outside Europe. Not a single article in our sample denies the reality and desirability of immigration to Germany. Only against this backdrop of a shared premise do differences emerge. Unsurprisingly, these ideological differences largely reflect the general differences between the editorial stances of the two papers.

The moderate conservative mainstream (FAZ)

Sovereignty and the fear of loss of control
Unlike the more left-leaning SZ, the FAZ insists in numerous articles (a) on the distinction between refugees and other migrants or between irregular and regular migration, (b) on the sovereign right of nation-states to control their borders and select migrants according to their economic needs, and (c) on a sustained critique of the privatisation of migration as exemplified by human smuggling or search and rescue operations in the Mediterranean launched by NGOs such as Sea Watch, *Médecins Sans Frontières* or *Jugend Rettet*.

A good example is the article "Singing the Praises for Immigration Society" which criticises current laws and asylum practices for blurring the line between asylum and immigration. Seeking asylum has become "a new and quite substantial form of immigration".[55] The same article praises "traditional" immigration countries such as Canada, the United States and Australia for their longstanding policies of "flexible isolation" (*flexible Abschottung*) and of picking and choosing their immigrants. In other pieces, Switzerland is also praised as a role model. Immigration is welcome as long as immigrants are skilled and the receiving state is in control. If things go well, migrants contribute to the prosperity of the country and make sure that Germany does not become a rapidly ageing "republic of retirees" (*Rentenrepublik*).[56] If things go awry and the sovereign state or the European community of states is unable to manage and control immigration, Europe is threatened by an intractable new "migration of peoples" (*Völkerwanderung*).[57] Without becoming populist and anti-European, the discourse of the FAZ is articulating and reinforcing precisely this fear of a general loss of control.

If we look for who is blamed and who is seen as responsible for seemingly negative developments connected to migration, it is not migrants themselves, but two other groups: on the one hand, "nationalists and preachers of hatred",[58] in particular the governing political parties in Italy and Hungary; on the other hand, "self-righteous moralists",[59] who advocate unconditional hospitality, and nongovernmental "Samaritans"[60] running search and rescue operations in the Mediterranean, who are alleged to be more or less in cahoots with international human smugglers. Whereas nationalists are criticised for jeopardising the very existence of the EU, pro-refugee forces in German civil society are represented as closing their eyes to the reality of irregular migration and its consequences.

It is worth emphasising, however, that the conservative polemic against pro-migrant NGOs and activists is tempered by the dignity frame and an emphasis on the moral importance of humanitarianism. For example, a commentator defended a ruling by the European Court of Human Rights (ECHR) in January 2019 against the Italian government, whose interior minister had unlawfully blocked the rescue ship Sea Watch 3 from entering the port of Syracuse, Italy, and from disembarking the refugees: "The ignoble wrangling over the fate of migrants on board of the Sea Watch 3 reveals another danger for the idea of Europe: that humanitarian behaviour is becoming of secondary importance".[61] Interestingly, after the arrest of the captain of Sea Watch 3 in June 2019 by the Italian coast guard, the newspaper modified its sceptical attitude towards private rescue missions in the Mediterranean, declaring that for Europe the protection of human rights should be "more important"[62] than the fight against illegal immigration.

Dignity

Over the last 15 years or so, the FAZ has consistently invoked "human dignity" and art. 1 of the Charter of Fundamental Rights of the European Union as a benchmark for any German or European immigration policy. As one commentator argues, it indeed befits Germany, in particular, to protect the human dignity of refugees, regardless of whether others make similar commitments.[63] Again, after the ECHR ruled in February 2012 that Italy's decision to send fleeing refugees and African migrants crossing the Mediterranean back to Libya was a violation of fundamental human rights (see Section 1.2. in this report), the newspaper declared that "Europe" as a "Community of values" must not be sacrificed to the demands of *Realpolitik*.[64]

Still, what is striking is the carefully calculated ambiguity of the overall message of moderate conservatism in Germany. Human dignity is the supreme value of the German Constitution and the EU Charter, but it should not be used by civil society actors as an "all-purpose glue" to apply to every human misery on Earth.[65] The EU must not seal itself off from the rest of the world, but there is also something to say in favour of Fortress Europe: "The image of a fortress [Europe] is not entirely wrong".[66] If mentioned at all, the German word *Überfremdung*, or foreign infiltration by immigrants, is only used in rare quotes or referred to as an outdated term.[67] Nevertheless, editorial comments occasionally express deep concern about Germany becoming not only an immigration country but also a "multi-ethnic state" (*Vielvölkerstaat*).[68]

Left-liberal (and green) voices (SZ)

Opinion makers at both the FAZ and the SZ share the view that Germany is an immigration country and that Europe as a whole is a continent of immigration, even though many think it lacks a proper policy to regulate immigration. The SZ also agrees that Germany "needs" immigrants and should welcome them as future citizens. "Farewell to the *Gastarbeiter*"[69] is a typical older headline summarising this editorial stance. To a large extent, immigration policy is seen as part of an "industrial policy" aimed at "strengthening the core" of the German economy.[70] Unlike the liberal-conservative FAZ, the left-leaning SZ has a lot more to say about (a) legal and non-legal barriers to a more inclusive policy towards migrants, (b) the ideal of a more open, cosmopolitan European Union, and (c) the shortcomings and disappointments of current EU policies in the area of migration.

With regard to Germany, the SZ has insisted over the years that growing cultural diversity in the wake of mass immigration has not only to be accepted and encouraged but also dealt with and

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55 "Loblied auf das Einwanderungsland", FAZ, 16 October 2014.
56 "Flüchtlinge und Rente", FAZ, 31 January 2016.
57 "Afrika und die Fluchtursachen", FAZ, 27 December 2017.
58 "Lagerbildung", FAZ, 30 August 2018.
59 "Loblied auf das Einwanderungsland", FAZ, 16 October 2014.
60 "Nichtregierungen", FAZ, 15 August 2017.
61 "Humanitäres Europa", FAZ, 31 January 2019.
62 "Die Sea Watch hat die Moral auf ihrer Seite", FAZ, 30 June 2019.

63 "Risiken der Einwanderung", FAZ, 31 January 2019.
64 "Opfer", FAZ, 24 February 2012.
65 "Menschenwürde als Alleskleber", FAZ, 26 October 2018.
66 "Festung Europa", FAZ, 8 July 2008.
67 See, e.g., "Der Schweizer Ausländer-Filter", FAZ, 1 November 2006.
68 "Der verspätete Vielvölkerstaat", FAZ, 3 September 2015.
69 "Abschied vom Gastarbeiter", SZ, 16 July 2008.
70 "Den Kern stärken", SZ, 25 September 2010.

actively accommodated in everyday life.[71] The paper has also raised its voice for a more transparent and generous immigration legislation which would make it easier, for example, to recognise foreign vocational training certificates.[72] Germany should not only welcome immigrants; it should also send out the *signal* to prospective immigrants that they are welcome.[73] This can only be done by changing both the law and moral attitudes among the population.

Dignity

What is more important is the paper's consistent reference to European norms and values in advocating a European Union open to immigrants and refugees from all over the world. Already in 2011, after the Arab Spring, an editorial argued that an important "yardstick for the legitimacy of Europe" is how the Union deals with refugees. The EU cannot be a "role model" for the countries on the southern shores of the Mediterranean if it continues to brush off the hopes and expectations of non-Europeans looking up to the Union as a special place of hope.[74] In calling for an open arms policy towards refugees, the paper has repeatedly invoked "human dignity" but also, more specifically, the EU Charter and the general provisions of Title V of the Treaty of Lisbon, which stipulates that the EU constitutes an "area of freedom, security and justice" not only for its own citizens but also for migrants and refugees.[75] The EU is called upon to honour these commitments and fiercely criticised for failing to do so. When the "refugee crisis" reached its peak in the autumn of 2015, the EU was lambasted as a "Europe of hypocrites".[76] Specifically, the Union and its member states were called "polluted" by the death of thousands of migrants who drowned in the Mediterranean.[77] They were charged with the failure to give assistance to persons in grave danger and for proving unable to impose European norms and values on non-cooperative governments such as Hungary.[78] Overall, the SZ enthusiastically embraces the promises laid down in the principal treaties of the EU and expresses frustration with the shortcomings of the Union in the area of migration and refugee policies.

CONCLUSION

Our search for pro-immigration arguments in European quality newspapers testifies to the massive rise of "value talk" in the context of the "refugee crisis" in 2015 and afterwards. As a result of the crisis, values have been activated and are more fiercely invoked today than before the crisis. None of the newspapers in our sample argues in favour of immigration exclusively from a utilitarian perspective, even though demographic trends and labour shortages play a role in media discourses both in Germany and in Poland, to name just these two countries.

However, the overt invocation of values has also led to serious conflicts both within and between EU member states over their meanings and implications. Quality newspapers identify and interpret "European norms and values", even when they do not refer explicitly to them. They are crucially important value agents as well as platforms for public controversy. The critical role of some of the newspapers covered by our research consists in insistently reminding European politicians and policymakers of the normative promises on which Europe rests.

Newspapers are translators between national and European normative vocabularies. They are indispensable sites and sources of self-reflection for national publics coming to terms with the realities of their own societies.

References to European values are strong in countries where those values resonate with national values such as, for example, "dignity" in Germany or "solidarity" in France. Newspapers are translators between national and European normative vocabularies. In addition, they are indispensable sites and sources of self-reflection for national publics coming to terms with the reality of their own societies. Throughout the EU, they reflect and shape the transition from a de-politicised consensus for or against immigration to a more polarised public debate. At the same time, they are a moderating force in national debates. All the newspapers are adamantly against the project of imposing ethnic and cultural "super-homogeneity" (Buchowski 2016) on European societies.

Despite their diversity, quality newspapers in Europe are a bulwark against far-right populism, Islamophobia and radical anti-immigration attitudes. Even if the European Charter of Fundamental Rights or, for example, art. 67 of the Treaty of Lisbon is rarely invoked explicitly, quality newspapers defend the spirit of the Treaties and the Charter both against the governments of member states and against individual EU policies.

Public opinion as reflected and shaped by quality newspapers varies across EU member states. This variation arises from fundamentally different attitudes towards the benefits and the morality of admitting immigrants and refugees. However, our analysis also shows that not even the most conservative papers are strictly against any kind of immigration or against the core values of the EU. Hungary is the only exception.

All EU member states have in common that at least at some point in their history they were open to immigrants and the home of national minorities, even if today some of them are critical of immigration and culturally more homogeneous than in the past (Poland, Hungary). Others have been immigration countries for a long time without, however, acknowledging this fact (France, Germany). Sweden is one of the few countries where openness to immigration is itself a traditional value.

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[71] See, e.g., "Unterhaken allein reicht nicht", SZ, 14 January 2015.

[72] See, e.g., "Ein Meilensteinchen", SZ, 3 April 2013.

[73] "Ohne Zuwanderer wird es nicht gehen", SZ, 4 November 2010.

[74] "Die selbstzufriedene Kälte der Flüchtlingspolitik", SZ, 20 June 2011.

[75] See, e.g., "Kein Platz im Boot", 7 October 2013.

[76] "Das Europa der Heuchler", SZ, 6 September 2015.

[77] "Tod am Kanal", SZ, 31 July 2015.

[78] "Orbáns Trojanisches Pferd", SZ, 9 March 2017.

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Values in Integration and Civil Society

Chapter III

The EU's stronger emphasis on promoting and protecting its values – or, sometimes, "ways of life" – in the wake of the 2015 "refugee crisis" often plays out in the area of integration. It is here, after all, that the claim that the large-scale arrival of newcomers may strain the cultural continuity of European societies is translated into applicable norms of conduct and negotiated on the ground. Ensuing political polarisation in the course of Europe's "refugee crisis" has added tension to this scenario.

Right-wing parties and groups have framed immigrants' cultural orientation as a threat to "European values", including liberal values. Gender equality, for example, has been prominently invoked as a value in need of defence from immigrants of certain cultural backgrounds. These debates have taken place against the backdrop of a general politicisation of gender equality, but also other values and principles, in the age of #metoo and intensifying cultural cleavages *within* societies (see Norris and Inglehart 2019).

Member states' governments, both centre-right and centre-left, have often tried to present themselves as bulwarks against the rise of right-wing extremism, citing civic values and principles – rule of law, democracy, commitment to human rights – as a way to distance themselves from right-wing nationalists. At the same time, as we discuss below, values have also played a larger role in regulating states' encounters with immigrants in integration policy.

Beyond the exclusive use of values by right-wing nationalists and governments' mediating use of them, we also find a plethora of nongovernmental actors who cite value commitments to advocate for more inclusive immigration and integration policies. On the ground, these actors often play a decisive role in facilitating immigrants' inclusion, especially in member states that have not adopted national integration programmes. NovaMigra provides case studies of some of these actors and their use of values in the edited volume *Europe and the Refugee Response: A Crisis of Values?* (Goździak, Main and Suter).

In this chapter, we focus on how actors invoke values to manage ethnic and cultural diversity across member states. **Section 1**, **"Value Agents in Public and Civil Society Institutions"**, surveys the variety of value agents in integration and immigration contexts. We explore which values are considered core and fundamental to various agents, how they are justified and how they are transmitted in immigration contexts at various – local, regional and national – levels.

Section 2, "Values in Civic Orientation for Immigrants: Evidence from Five Member States", compares values in state-issued integration materials across selected member states. We find that there has indeed been a markedly stronger emphasis on value transmission in integration policy after 2015. Moreover, our findings show that, on the whole, the values emphasised in integration courses across member states concur – and match those of the EU's value framework as specified in art. 2 of the Treaty on European Union. However, the rights and duties which integration materials associate with specific values differ strongly across member states.

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The two articles in section 3 study the dynamics on the ground around specific values in more depth. We focus on two values often held to be particularly important in the context of Europe's "refugee crisis": gender equality and religious tolerance.

Section 3.1, "Valuing Gender Equality: Ideas, Practices and Actors in Integration Courses", discusses the experience of integration course teachers in conveying the value of gender equality, focusing on Germany and Sweden. We find that teachers expressed ambiguity about transmitting this value to course participants, citing a political climate where it has been instrumentalised in political discourse to justify restrictive approaches to immigration. At the same time, they remained adamant about the general importance of gender equality and insisted on teaching it in a neutral and inclusive way, often by referring to national and international legislation and rights documents.

Section 3.2, "The 'Refugee Crisis' and Religious Tolerance", emphasizes the contestation of values. While, for some, religious values provided a motivation to assist and solidarize with asylum seekers, others read them as identity markers under threat by demographic change und cultural pluralization. In contexts like this, we find that it was often NGOs and civil society activists who defended the normative content of Europe's foundational values. Their engagement in aid of refugees and to promote diversity in Europe can be understood as an implicit practice of religious tolerance. Building on their experiences, the sections provides policy recommendations for how the EU can support actors on the ground in promoting religious tolerance in local settings.

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1. Value Agents in Public and Civil Society Institutions

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At a Glance

Integration – economic, social and cultural – is the most relevant durable solution for many refugees and migrants in the European Union. Many EU member states have placed integration high on the policy and political agenda since the mid-1990s. The 2015 "refugee crisis" has given integration even more importance.

Many EU member states have invested in programmes aimed at teaching newcomers about Europe's core values and the necessity to share these values in order to maintain social cohesion.

In this section, we map central value agents in public and civil society organisations that facilitate refugee and immigrant integration and examine the values that motivate and guide programmes and staff assisting refugees in their integration processes.

Introduction

Integration – economic, social and cultural – is the most relevant durable solution for many refugees and migrants in the European Union. Many EU member states have placed integration high on the policy and political agenda since the mid-1990s, several decades before the current "refugee crisis".

The term "integration" gained currency in the community of policymakers relatively recently. It represents an evolution in migration scholarship more than any other change in the immigrant experience. Most of the terms used by migration scholars (and consequently policy-makers) over the past century to describe the construction of new lives related to an outsider-insider dichotomy, conjuring a process that does not necessarily end with inclusion. The vocabulary used to describe the process of incorporating newcomers into new settlements included terms such as assimilation, acculturation, incorporation and socio-economic adjustment. These concepts seemed "wedded to a normative vision of societies as culturally homogenous, in which residents born in other places are exceptional rather than customary participants in economic, social, and cultural life." With increased international migration from the Global South to the Global North, the growth of South-South migration and the proliferation of transnational migratory patterns, the dichotomic concepts do not fit the reality of mobile populations.

In this section, we consider immigrant integration as a dynamic, multi-pronged process, in which different cohorts of refugees and immigrants as well as representatives of already diverse receiving societies work together to build secure, vibrant and cohesive communities. We recognise that newly arriving refugees are entering countries which might already have sizable immigrant and refugee communities that came years before the current "crisis" as well as communities that remain fairly homogeneous. In these scenarios, we emphasise the need for integration among and between different groups of residents. We also recognise that scholars are slowly replacing the concept of integration by the notion of belonging.

Many EU countries have made significant investments in programmes facilitating refugee and migrant integration, including programmes aimed at teaching newcomers about "European values" and the necessity to share them in order to maintain social cohesion. In the NoVaMigra project, we create a comprehensive picture of value-related programmes in eight countries of the European Union, namely France, Germany, Greece, Hungary, Italy, Netherlands, Poland and Sweden. We also identify the groups – civil servants, civil society leaders, educators, social workers, language teachers – involved in transmitting different values to refugees and migrants.

This section represents an abridged excerpt from NoVaMigra's *Summary report on value agents in public and civil society institutions*, co-authored by Elżbieta M. Goździak and Izabella Main, which contributions by François Boucher, Marie Göbel, Therese Herrmann, Izabela Kujawa, Haris Malamidis and Brigitte Suter. It focuses on notable examples for value transmission practices by a variety of government and civil society agents.

1.1 Which Values are Prioritised?

There are multiple interpretations of "European values". The expression is often subject to different uses and misuses by individuals and institutions (Woollard 2018). The European Union refers to the EU Treaties, with the clearest expression of values in art. 2 of the Treaty on European Union (TEU), which states: "The EU is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law, and respect for human rights, including the rights of persons belonging to minorities."

However, different countries follow different paths and focus on different "European values" in designing value transmission programs for refugees and migrants as well as for the general public.

In **Italy**, in addition to the values promoted by the Italian Constitution, values enshrined in the European treaties are lauded as values underpinning integration activities (see Box 1).

Italy seems to be the exception among the eight countries we studied. Most countries focus on *national* values. These values might overlap with some of the "European values", but they are nevertheless presented as national values. In some countries, such as **France**, the Constitution and the values enshrined in it serve as a springboard for transmission of the most important values, including secularism, democracy and equality of all citizens regardless of creed, race and origin. These are called the "values of the Republic" and are part and parcel of the "civic turn" (Mouritsen and Jørgensen 2008) in immigration and integration policies implemented in a variety of European countries from the late 1990s onwards (Hachimi Alaoui and Pélabay 2020). The emphasis on "shared values" is consistent with the directives of the European Commission and the Council of Europe (Pélabay 2011) as well as with various civic education policies dedicated to the inculcation of the values shared by "good citizens" (Kostakopoulou 2010). The French government considers adherence to the "values of the Republic" a prerequisite for successful integration into French society.

> **BOX 1:** *How do states present values to immigrants?*
>
> **Italy's "Charter of Values of Citizenship and Integration" (2012) - Excerpt**
>
> "ITALY AS A COMMUNITY OF PERSONS AND VALUES
>
> Italy is one of the most ancient Countries in Europe, deeply rooted in the classical culture of Greece and Rome. Italy has developed in the perspective of Christianity that has permeated its history and, together with Judaism, has paved the way to modernity and to the acquiring of the principles of freedom and justice.
>
> The values on which the Italian society is based are the result of the commitment of generations of men and women with different secular and religious orientations. These values are enshrined in the Italian democratic Constitution of 1947, which is the watershed after the totalitarian regimes and anti-Semitism that poisoned Europe in the Twentieth Century and persecuted the Jews and their culture.
>
> The Italian Constitution is based upon the respect of human dignity and inspired by the principles of freedom and equality for anyone living in the Italian territory. Starting from its Constitution, Italy contributed to create a united Europe and the European institutions. The European Treaties and Conventions are contributing to the realisation of an international order based on the respect of human rights, equality and solidarity among peoples."

In **Germany**, the government's fairly recent emphasis on integration has come with a range of public debates on the conditions and limits of social and political cohesion. This has intensified as a result of heightened public sensibility towards Islamic extremism since the terror attacks of 2001. The term around which these debates were conducted, especially in conservative circles, was *Leitkultur* ("defining culture"). It was originally adopted from an essay by the Syrian-born German academic Bassam Tibi (1996), who argued that Europe should define itself around core Enlightenment values vis-à-vis incoming migrants. Taken up by Christian conservative politicians, *Leitkultur* was reconceptualised in a more particular and culturalist way in the German public debate, becoming associated with the demand for assimilation into German mainstream culture.

With the recent arrival of refugees in Germany, some Christian conservative politicians have rekindled the debate on *Leitkultur* (De Maizière 2017), while others have argued that "shared values" (Zimmermann 2017) or – as Robert Habeck (2017), co-leader of the Green Party suggested – *Heimat* ("homeland") would be more neutral terms around which to conduct debates on the aims of integration. Yet others have held that integration should not be understood in terms of shared values or cultural traits at all, but should instead focus exclusively on social, economic and political participation (see Kipping 2017; Özoğuz 2017).

Most countries focus on national values. These overlap with some of the "European values", but they are nevertheless presented as national values.

In **Sweden**, the constitution, consisting of four different legislative acts – the Instrument of Government, the Act of Succession, the Freedom of the Press Act and the Fundamental Law on Freedom of Expression – is used to define what constitutes fundamental values that ought to be shared by all people residing in the country. These values include: equality of all, freedom and dignity, democracy, participation, protection against discrimination, right to private and family life, rights of the child and ecological sustainability. These values are built on international conventions, including the European Convention on Human Rights, the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Rights of the Child (CRC).

In the **Netherlands**, "Dutch core values" (*Nederlandse kernwaarden*) include freedom, equality, solidarity and participation. These values are part of a "Declaration of Participation" (*participatieverklaring*) immigrants are required to sign upon admission to the Netherlands (see below for more discussion).

Poland and Hungary are true outliers among the countries studied. The Polish Constitution guarantees asylum seekers a right to asylum, but this right has been severely curtailed by the current government. Both Poland and Hungary, under the respective rule of the "Law and Justice" (*Prawo i Sprawiedliwość*) and "Hungarian Civic Alliance" (*Fidesz – Magyar Polgári Szövetség*) parties, have criminalised (Nagy 2016) migration and presented refugees and asylum seekers as a threat to Europe's security. Both countries emphasise that in order to preserve and protect "European values", admission of refugees, particularly Muslim refugees, is undesirable, as values enshrined in Islam are not compatible with Christian European values (Nagy 2016). Additionally, both countries feel threatened by liberal values promoted by the European Union, such as gender equality and respect for diversity. In Poland, both the Catholic Church and

the government invoke the need to protect "traditional family values" and see gender equality and respect for LGBTQI+ communities as an imminent threat to the country's national identity rooted in Catholicism.

1.2 Who Transmits Values?

Many different actors and entities engage in value transmission (see figure 2 below). The most prominent value agents are the states. In some instances, they distribute information about "national values" and provide education and training to newcomers, in other cases they fund local governments and civil society organisations to explicitly transmit particular values and/or facilitate integration of refugees and immigrants.

Public institutions	Civil society organizations	Others
National and regional governments	Humanitarian NGOs	Mainstream media outlets
City councils	Refugee-led organizations	Migrant media
Schools	Faith-based organizations	
Language schools	Youth organizations	
Citizenship test providers	Sports clubs	

Figure 1. Value agents facilitating immigrant integration

In **Sweden**, the "Establishment Programme" (*Etableringsprogrammet*) is organised by the state and implemented by state actors at national, regional and local level. The national Employment Services play a crucial role, as they draft the individual "establishment plan" together with each migrant and pay a monthly sum of approximately 800 euro to each programme participant. Non-participation results in reduction of the monthly stipend. The "establishment plan" includes Swedish language courses, "civic orientation" (*Samhällsorientering*) and preparation for labour marketparticipation (internships, CV writing courses, etc.). Language courses are arranged by the municipalities, often through "adult education schools" (*Komvux*). Civic orientation is organised by municipalities and supported by the regional County Administrative Board (CAB), while activities focused on labour market participation are arranged by the Employment Services themselves and offered by various contracted or collaborating actors (private sector, public sector, civil society). It is noteworthy that in Sweden integration measures for newly arrived immigrants were developed as early as the 1970s. Since 1991, all municipalities receive financial compensation from the national government for every newly arrived migrant to cover the cost of language training, civic orientation and labour market participation.

As indicated above, in the **Netherlands**, Dutch immigration and asylum policy is implemented by three organisations, called the "asylum chain": (1) The "Immigration and Naturalisation Service" (*Immigratie- en Naturalisatiedienst*, *IND*), which decides about admission; (2) the "Central Agency for the Reception of Asylum Seekers" (*Centraal Orgaan opvang asielzoekers*, *COA*), which is responsible for accommodating asylum seekers; and (3) the "Repatriation and Departure Service" (*Dienst Terugkeer en Vertrek*, *DT&V*), which "is responsible for expediting the voluntary and forced departure of foreign nationals who are not allowed to stay in the Netherlands." It seems that the state's involvement is mainly related to the refugee and immigrant status adjudication process.

As we describe later in this section, some states — such as **Italy and France** – instituted **"integration contracts"** that refugees and immigrants must sign. In so doing, they undertake to participate in programmes and activities aimed at understanding shared values and facilitating social cohesion. Many of these programmes are funded by national governments.

Values in the public school system

Public schools are probably the most important value agents of the state. Public schools play an extremely important role in transmitting values to refugee children and indirectly to their families. In all the countries studied, refugee and migrant children have guaranteed access to public education. Moreover, primary and secondary education is mandatory. For parents of refugee and migrant children, schools are one of the first places where they encounter representatives of the host society.

In **France**, the public school system is a very important value agent. It actively and explicitly seeks to transmit the values of the Republic. The programme *Éducation morale et civique (ECM)* ("Civic and moral education") was launched in 2015 with the explicit aim of reinforcing the transmission of the values of the Republic. It is a secular programme offering non-confessional ethical and civic training and frames the values transmitted to all school students as being "French" (the values of the Republic) and secular. The programme is mandatory in both public and private schools at primary (one hour per week) and secondary (one hour per two weeks) levels.

National values form the core of the educational system in **Poland**. While national values had been emphasised by the communist regime in the past (Zaremba 2001), they became even more prominent in the public school curriculum after 1989. Polish language and literature, history, geography and civic knowledge classes (*wiedza o społeczeństwie*) and corresponding textbooks focus on Poland and Polish values, such as the Catholic faith, honour, fatherland (*Bóg, honor, ojczyzna*) and patriotism, and social competences, such as cooperation, solidarity and responsibility.[1] Furthermore, annual themes for educational activities are devised, taking these values into account. In 2018, the centennial anniversary of Polish independence was observed in schools with programmes focused on "patriotic attitudes".[2] Teachers and school directors were obliged to organise activities – gatherings, art and music competitions, and marches – aimed at transmitting values of patriotism.

Civil society organisations in Poland often try to expand the officially promoted values by organising training programmes and activities focused on democracy, human rights, tolerance, pluralism, equality: values that correspond with their mission and their founders' and sponsors' priorities. As a result, value transmission in Poland is very heterogeneous as well as place- and process-dependent. In 2015, the Ministry of the Interior and Public Administration controlled by the "Law and Justice" party decided to limit NGOs' access to EU funds. As a result, assistance to migrants and training on migration for the wider

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[1] See (in Polish): https://podstawaprogramowa.pl/Szkola-podstawowa-I-III.

[2] See Polish Ministry of Education, "100 rocznica odzyskania niepodległości – wychowanie do wartości i kształtowanie patriotycznych postaw uczniów", https://www.gov.pl/web/edukacja/godnosc-wolnosc-niepodleglosc.

Polish society, such as educational and training programmes, advocacy, legal counselling, integration events, has been drastically limited or stopped altogether (Klaus, Ostaszewska and Szczepanik 2017; Pachoka and Sobczak Szelc 2020; see figure 2).
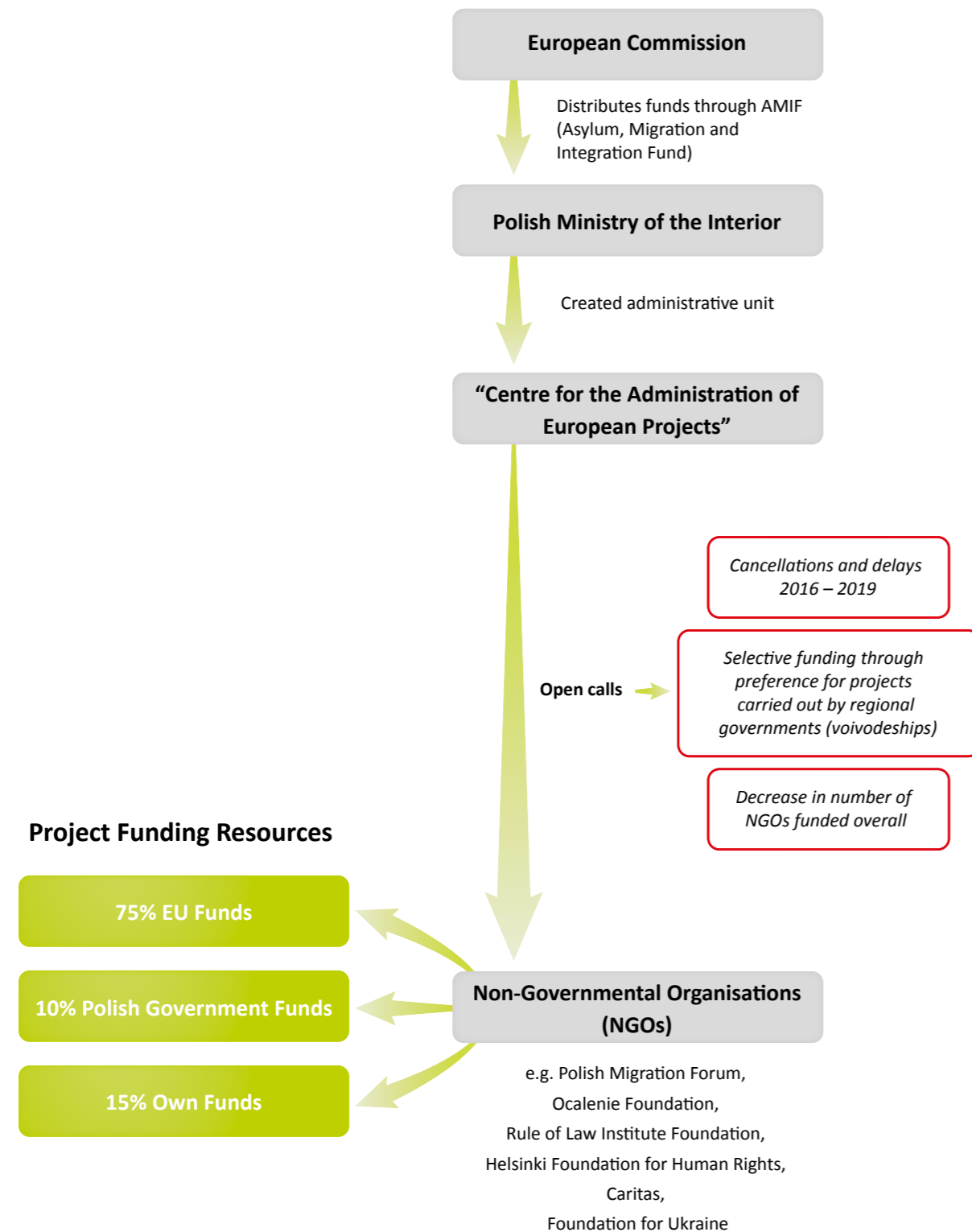
While the Hungarian curriculum sets aside one hour of instruction per week for promotion of diversity, our field research in **Hungary** suggests that these classes are devoted mainly to discussions of disability and accommodation for disabled children. Interviews with several teachers working in public schools in Budapest indicate that any attempt to include discussion of solidarity with migrants or religious tolerance, especially related to Islam, is thwarted by school administrators. Some teachers also admitted that it is unclear what effect the newly passed legislation that criminalises assistance to migrants might have on educators if they want to include any migration-related content in the curriculum. Some admitted that they are scared to even mention migration in social science or geography classes. Teachers in private schools have a lot more freedom and take advantage of it to promote values of religious tolerance, acceptance and appreciation of diversity, not only in terms of diversity stemming from migration but also diversity related to gender identity.

The role of civil society organisations

In addition to public schools, civil society organisations, funded both from public and private sources, play an important role in value transmission. Here, we focus on mainstream civil society organisations; refugee- and migrant-led programmes are featured later in this report in order to highlight their particular importance.

Swedish civil society organisations (CSOs) were actively involved in the reception of newly arrived refugees during the "refugee crisis" of 2015 and able to mobilise funds and volunteers both independently and in cooperation with public authorities (Turunen and Weinryb 2017). For example, Save the Children (*Rädda barnen*) engages both in advocacy – through the legislative consultation process – and the direct provision of services to vulnerable migrant children in difficult situations by offering material and psychological support. Their activities in the refugee reception system and asylum adjudication process are guided by the principle of the "best interest of the child". This value stems directly from the human rights enshrined in the UN Universal Declaration of Human Rights and the Convention on the Rights of the Child (Scaramuzzino and Suter 2020).

In **Poland**, there are several organisations working with migrants and refugees. Among them is the "Rescue Foundation" (*Fundacja Ocalenie*). Since 2000, the Foundation has helped refugees, migrants and repatriates to build a new life in Poland and supported their integration and individual development. It campaigns for intercultural dialogue and a strengthening of the civil society. It strives to make every human being able to live with dignity and respect. The Foundation is part of the international organisation Refugees Welcome. The Foundation is run by some 30 people, half of them immigrants from various countries. They support the integration of foreigners in Warsaw because they believe that immigrants are part of the Warsaw community.[3]

In Poznań, the Centre for Migration Studies and the Migrant Info Point play a similar role. They organise activities and campaigns to change social attitudes towards migrants and refugees. The Adopt a Life Jacket campaign aimed to draw attention to the political decisions barring refugees from entering Poland. Its goal was to raise awareness, trigger emotions, induce public discussions and make Polish society think about refugees. The organisers realised that anti-refugee discourse was prevalent in the mass media, which referred

Figure 2. Distribution of EU funds to migrant support NGOs in Poland: Government obstruction.
Based on Klaus, Ostaszewska and Szczepanik 2017; Pachocka and Sobczak Szelc 2020

3   See https://ocalenie.org.pl/o-nas.

to anonymous "waves", "threats" and "problems", while people still risked their lives to cross the sea. The goal of the campaign was to strengthen the language of compassion and to empower people who did not agree with the dominant anti-refugee discourse in the public sphere in Poland. The life jackets in cafés, cinemas, restaurants, schools and offices represented people who would like to sit in these places and drink coffee, watch a film, study and live in a safe place. Absent refugees were represented as people with the same needs as the inhabitants of Poznań (Main 2020).

Religious organisations

Since religion is such a big part of the public discourse on the "refugee crisis", it is important to emphasise the role of faith-based organisations in refugee and immigrant integration, both Christian and Muslim. In **France**, *Secours Islamique France* (SIF) is an association promoting international solidarity and humanitarian assistance. It organises direct relief actions and public advocacy campaigns. It is inspired by the values of solidarity and respect for human rights and dignity, which are framed as core Muslim values. With regard to asylum seekers in France, *Secours Islamique France* seeks to provide better living conditions for those who have been forcibly displaced and are now on French territory. It sets up shelters and accommodation for asylum seekers and provides logistical assistance. It also engages in public advocacy activities aimed at promoting solidarity towards refugees.

Although not an organisation which directly addresses migration-related issues, the *Conseil français du culte musulman* (CFCM) indirectly addresses value transmission to immigrant populations and the larger French society by providing an official interlocutor representing Muslims. The CFCM was established in 2003 by the Ministry of the Interior, when Nicolas Sarkozy was its minister. The CFCM's goal is to form an authoritative body representing Islam in France and able to regulate several aspects of religious practice, such as the religious calendar (better coordination of Ramadan), the production and distribution of halal meat, the construction of mosques and the training of Imams. The CFCM is also responsible for a better representation of Muslim interests and acts as an official communication channel with the French government. The motivation for establishing the CFCM was two-fold: the will to promote a moderate version of Islam, compatible with Republican values, and a will to remedy the discrimination affecting Muslims in France.

There are also Christian organisations working with migrants in France. *La Pastorale des Migrants et des Personnes Itinérantes* is one such example. This Catholic organisation is composed of a large network of actors throughout the country who work with migrants as well as other mobile populations such as Roma, sailors and festival artisans. Its mission is coordinated at national level and defined by the French Bishops' Conference. *La Pastorale des Migrants* welcomes all migrants, regardless of religious or cultural affiliation, and supports people by taking care of their material as well as their human and spiritual needs.

These organisations stand in sharp contrast with Catholic and other Christian churches in Hungary and Poland, for example, which oppose the admission of Muslim refugees. Our field research in Hungary identified only a few examples of faith-based organisations' involvement in helping refugees during the summer of 2015. One example includes the Catholic Bishop of Vac, Miklós Beer, and a Lutheran bishop, Tamas Fabiny, who at the invitation of UNHCR recorded a video to welcome refugees (see Section 3.3.2 in this report).

1.3 How Do Countries Ensure that Refugees and Migrants Adhere to the Promoted Values?

Many European countries have implemented integration courses and contracts and set up civic and citizenship tests. In our sample, France, Italy and the Netherlands have implemented not only language and integration courses but also mechanisms (tests, point systems) to ensure that immigrants fulfil their duties and do not pose a burden on the welfare state. This is an explicit way to make sure that refugees and immigrants share the national values of the country where they have settled (see also Section 3.2 in this report).

The notion of "contract" suggests that integration is a "two-way process". The contract approach that focuses on an individual is different from multicultural approaches that focus on communities and seek to recognise cultural diversity (Guiraudon 2008). Some scholars, Rogers Brubaker (2001) and Christian Joppke (2007), among others, see these developments as the demise of multiculturalism and the "return of assimilation". In NovaMigra's edited volume *Europe and the Refugee Response: A Crisis of Values?*, Hatchimi and Pélabay posit that in the European context national integration policies are developed with two main objectives: to condition the process of integration itself, notably through these contracts, and to pave the way for state promotion of the "values" of the host society. "Taken together, these two objectives lead to a conception of integration where respect for 'values' placed at the heart of the 'us' are imposed on 'others' as a constraint included in a contract between foreigners and the State"(Hachimi Alaoui and Pélabay 2020).

France	Netherlands
Contract of Republican Integration (last revised 2016)	*Participation Statement* (2017)
"The Republican integration contract [...] is concluded between yourself and the French State, represented by the Prefect. It is based upon various reciprocal undertakings. [...] You hereby undertake to: • adhere to the essential values of French society and the Republic; • take part diligently and seriously in both of the modules of the civic training course and the language training course; • to complete any formalities you may be ordered to carry out at the interview at the OFII; • to notify the OFII by post of any change of circumstances."	"Welcome to the Netherlands! The Netherlands is a democracy and a constitutional state. This means that everyone has the same rights and that everyone must abide by the same rules. In the Netherlands, freedom, equality and solidarity play a central role. These values correspond to rights that you may call upon. These values can only be maintained if everyone actively contributes towards society. Participation in the Netherlands is very important. [...] I hereby state that I have read, understood and will respect the above information about values in Dutch society. I also state that I will make an active contribution towards Dutch society and will be given the space to do so by my fellow citizens."

Figure 3. Obligatory value contracts in France and the Netherlands (excerpts)

In **France**, such contractual value-based integration has been implemented through a series of programmes, such as the *Contrat d'Accueil et d'Intégration* (CAI), drafted in 2003, its family reunification counterpart, the *Contrat d'Intégration pour la Famille* (CAIF), developed in 2007, and the more recent *Contrat d'Intégration Républicaine* (CIR), which replaced both the former in 2016.[4] Hatchimi and Pélabay argue that there is good reason, in relation to the political theory of European integration, to give priority, in theory and in practice, to a rights-based – instead of a value-based – conception of integration. Nothing, they argue, prevents the discourse and practice of common values, be they national or European, from transmuting into a homogenising and exclusionary identity politics focused on the survival of an ethical-cum-cultural version of the "us" at the expense of the search for a truly pluralistic type of integration (ibid.).

In the **Netherlands,** immigrants are obliged to sign a "Declaration of Participation" (*participatieverklaring)* after they have been granted admission to stay in the country. The Declaration is part of the Regulation of Integration. Through their signature, the immigrants commit themselves to certain "Dutch core values" (*Nederlandse kernwaarden*): freedom, equality, solidarity and participation. These "core values" are explained in the Declaration of Participation. However, their meaning is not explained in any depth. Rather, these values are mainly transmitted to immigrants in an obligatory workshop that all municipalities must offer. Municipalities may themselves decide how exactly they explain and transmit these values. Additionally, the Ministry of Social Affairs and Employment (2014) has published a brochure entitled "Core Values of the Netherlands" (*Kernwaarden van Nederland*).

After immigrants sign the Declaration of Participation, they have to pass the "integration exam" (*Inburgeringsexamen*). The integration exam consists of speaking, reading, listening and writing sections (in Dutch, obviously). Moreover, immigrants have to prove knowledge of Dutch society and show that they are able to navigate the Dutch employment market. Arguably, the idea of participation implies that refugees are responsible for their own integration process. They are required to become independent citizens in society. They need to learn the language and are encouraged to contribute to society.

Italy has developed a very detailed integration agreement to be signed by all foreigners over the age of 16 who enter the country for the first time and request a residence permit of not less than one year.[5] Adopted in 2012, Italy's integration agreement contains mutual commitments. The state is obliged to ensure the enjoyment of fundamental rights and provide the means to acquire knowledge of Italian language and culture, and understanding of the principles of the Italian Constitution. The foreigner has to commit to respect the legal and civic rules of the country in order to follow a smooth path to integration. The agreement is divided into credits. It lasts two years and can be extended by one year. It is signed by the prefect or her delegate.

The foreigner undertakes to acquire an adequate level of spoken Italian language (equivalent to at least Level A2 of the Common European Framework of Reference for Languages) and sufficient knowledge of the fundamental principles of the Constitution of the Republic as well as of civic culture and civil life in Italy (with particular reference to the areas of health, school, social services, work and tax obligations) and to guarantee fulfilment of the obligation of education for minor children. To consider the agreement fulfilled, at the time of verification, the foreigner must achieve at least 30 credits that obligatorily include the afore-mentioned minimum levels of knowledge of the Italian language and of civil and social life.[6]

1.4 "Nothing About Us Without Us": Refugee and Migrant Participation in Integration Efforts

Last but not least, we come to the important issue of refugee and migrant participation in policymaking and programme design. The Global Compact on Refugees (GCR) calls for refugees to be directly involved in the pursuit of the GCR's objectives. It also calls for UNHCR to co-host, along with one or more member states, a Global Refugee Forum every four years. As early as 1987, Robert Mazur (1987) wrote about the need to involve refugees in assistance and development projects. In a similar vein, Lance Clark (1987) wrote a paper for the Refugee Policy Group entitled "Promoting Refugee Participation in Assistance Projects", in which he wrote: "Despite pronouncements of support from UNHCR and many nongovernmental organizations (NGOs), refugee participation remains more talk than action. What can be done to improve this situation?"

In the course of our research, we found a few promising attempts to involve refugees and migrants in multilevel governance processes. The European Migrant Advisory Board, an initiative of the Partnership on Inclusion of Migrants and Refugees, financially supported by the Open Society Foundation, is one example of an attempt to include refugees' and migrants' voices in European policymaking (Larruina and Berg 2018). In NoVaMigra's edited volume *Europe and the Refugee Response: A Crisis of Values?*, Robert Larruina and Halleh Ghorashi (2020) write about the possibilities and constraints the board members encountered in their efforts to bring their perspectives and experiences to the partnership. They concluded that the EMAB is at risk of falling into "the danger of a single story" (ibid., 143), arguing that accounts of success are no good alternative to the negative discourse on migrants, since both are essentialising and homogenising (Ghorashi 2016). In the authors' opinion, the EMAB members are

> *"caught between providing success stories and carrying the burden of representation, which prevents them from being considered important enough for who they are, for having perspectives and narratives that come from their specific life worlds and their different networks, both of which are quite different than those of policymakers from the dominant group" (Larruina and Ghorashi 2020, 143–144).*

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[4]   For the CIR's full text, see https://www.ofii.fr/procedure/accueil-integration/.

[5]   See here for a description of the Integration Agreement: http://www.integrazionemigranti.gov.it/en/latest-news/highlights/Pages/Integration-agreement.aspx.

[6]   The full list of the Credits can be found here (in Italian): http://www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/crediti_riconosciuti.pdf.

BOX 2: *Sample Organisation: DaMigra (Germany)*

DaMigra, an umbrella and advocacy network that incorporates 71 migrant women organisations working on migrant women's rights and self-organisation. It was founded in 2014 within the context of a programme initiated by the Federal Office for Migrants and Refugees and the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth to encourage national networking among migrant organisations.

One of its main projects, MUT ("courage"), combines a focus on recently arrived refugee women with the aim of fostering self-advocacy among migrant women who have been in Germany for longer. It trains migrant women to act as "bridgebuilders" for newly arrived refugee women in Germany and to take on leading roles in migrant self-organisation in the process. It encourages migrant women to think of their own experiences of exclusion and marginalisation in German society as politicising experiences that have raised their self-awareness and led them to advocate their own interests. In turn, it encourages refugee women to think of migrant women as role models precisely for their experience of overcoming adversity and defining their own place in German society.

In Sweden, the umbrella organisation *Samarbetsorgan för etniska organisationer i Sverige* (*SIOS*, "Cooperation Body for Ethnic Organizations in Sweden") is the nationwide umbrella organisation for ethnic associations, consisting of about 350 local ethnic organisations with some 50,000 members in total. It is recognised and partially funded by the government for its promotion of ethnic and cultural identity, representation of ethnic groups' interests and promotion of their participation in society. The organisation is a collaborative body for ethnic associations independent of party politics and religion. It consists of voluntary collaboration between various ethnic associations for the purpose of working for cultural diversity in society in a democratic manner. Its main purpose is to promote language, culture, education and other issues related to minority politics. SIOS' activities aimed at achieving these goals include opinion-making, writing position papers and making claims through statements as well as through educational, information and project activities. In the area of integration, SIOS plays an active role in influencing policy. It does this through lobbying and other means of participation in the political process (consultation). Its vision of integration is based on a two-way process with ethnic organisations as equal partners. As such, it is against assimilationism. SIOS advocates for an open, democratic and culturally diverse society that recognises ethnic and cultural diversity. Its vision spells out the values of dialogue, equality, freedom of choice and justice as guiding principles in this process.

One of many German organisations providing support for migrants is DaMigra, an umbrella and advocacy network that incorporates 71 migrant women organisations working on migrant women's rights and self-organisation (see Box 2). One of its main projects is called MUT ("courage") trains migrant women to act as "bridgebuilders" for newly arrived refugee women in Germany and to take on leading roles in migrant self-organisation in the process.

In a workshop on "Value education in the immigration society" organised by Germany's Federal Office for Migration and Refugees (*Bundesamt für Migration und Flüchtlinge, BAMF*) and the *Bertelsmann Stiftung* in 2016, DaMigra's director, Delal Atmaca, explained that DaMigra understood integration in terms of women's "political, cultural, professional and cultural participation on an equal rights basis" rather than advocating a particular value content (Bertelsmann Stiftung 2016). Its

method of involving migrant women as counsellors and teachers for newly arrived refugee women is key to the project's overall aim. It encourages migrant women to think of their own experiences of exclusion and marginalisation in German society as politicising experiences that have raised their self-awareness and led them to advocate their own interests. It also encourages refugee women to think of migrant women as role models precisely for their experience of overcoming adversity and defining their own place in Germany.

Poland has a few programmes focused on immigrant integration. In Gdańsk, there is the "Council of Migrants" (*Rada Imigrantów i Imigrantek*), which has been operating since 2016. In Warsaw, there is the "Commission for Social Dialogue with Migrants" (*Komisja Dialogu Społecznego ds. Cudzoziemców przy UM Warszawa*), which has existed since 2012. Both are supported by the municipal governments. The Migrant Info Point in Poznań was established in 2013 and is mainly financed from grants.

The City of Gdańsk developed an exceptional model for the integration of immigrants. In May 2015, the Mayor of Gdańsk established Poland's first cross-sectoral and interdisciplinary taskforce on immigrant integration. The team's task was to assess the resources and capabilities available for supporting immigrant residents of Gdańsk and to identify key needs and problems. The model was developed as a joint effort by more than 150 people representing 70 different public institutions and nongovernmental organisations. The model consisted of identifying key values and principles, formulating the vision and goals of the initiative and conducting work in the areas of education, local communities, culture, violence and discrimination, health, employment, social assistance and housing (Gdańsk City Hall 2017). It has been gradually implemented with the extensive support of the Council of Immigrants, which was established in September 2016. Twelve Gdańsk residents of foreign origin started at that time to advise the mayor and other local authorities on migrant and refugee integration issues and policies.[7]

In many major Polish cities, NGOs have been providing support for migrants for years. "We have over 20 visitors and about 40 phone calls a day asking for assistance with documents needed for temporary/permanent residence permits as well as procedures on how to set up a business in Poland," explains Yulia Szavlovkaya from the Immigrants Support Centre (*Centrum Wsparcia Imigrantów i Imigrantek w Trójmieście*), an NGO providing assistance to migrants in the Tri-City area. They support newcomers in various ways: show them how to apply for temporary residence and work permits using the electronic system, what documents companies should prepare to employ non-EU citizens, what to do when an employer does not pay the wages, and whom to refer to in case of discrimination (Fedas 2017).

The Migrant Info Point in Poznań, which is engaged in support for and integration of migrants, involves migrants as employees and volunteers in various programmes: as mentors, cultural advisors, coordinators of activities.[8] In this way, migrants share their cultural and language competences and migratory experiences and are also given help on the labour market. Agnieszka Kosowicz from the

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[7] See https://www.gdansk.pl/wiadomosci/12-imigrantow-bedzie-doradzac-prezydentowi-gdanska-kim-sa,a,61460

[8] See http://migrant.poznan.pl/en/.

"Polish Migration Forum" (*Polskie Forum Migracyjne*) in Warsaw stresses that involving migrants in various organisations working in the area of integration is essential. PFM strives for Poland to become a country where people of different races, religions and cultures want to cooperate and understand each other. Its mission statement reads:

"We believe that people are equal regardless of their race, nationality, ethnicity, views, religion or other factors. We wish humans to enjoy human rights, and people to be treated with respect, regardless of where they come from. This is why we support and develop initiatives that lead to dialogue of people representing various cultures, mainly in Poland. We also work with Polish migrants abroad, and support families affected in some way by migration".[9]

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[9] See https://forummigracyjne.org/.

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2. Values in Civic Integration for Immigrants: Evidence from Five EU Member States

Therese Herrmann

At a Glance

As evidence from five member states shows, the transmission of values has played a bigger role in member states' integration agendas since 2015. Member states have expanded civic orientation lessons and, in some cases, made them obligatory for newcomers.

A qualitative survey of civic orientation materials across member states shows that the values they highlight largely concur – and match those stressed in the EU's principal treaties. Yet the rights and duties associated with specific values differ significantly across states. The same goes for the justifications the materials offer for the values they cite.

Where the materials associate values with specific duties, there is variation in how the duties oblige. Specifically, it is often unclear to what extent the documents seek to persuade their addressees to commit to the norms and values they invoke, and what such a commitment would imply. Some documents largely restrict themselves to informing about applicable norms and conventions. Others make it explicit that they seek a normative commitment from their readers. While some documents suggest a commitment to legal norms is sufficient, others go further and indicate that addressees should arrange their way of life in line with specific values.

Introduction

What role has value transmission played in member states' civic integration agendas since Europe's "refugee crisis"? Surveying state-issued civic orientation materials and the discourses surrounding them in five member states, we make two observations. First, values have become more salient in member states' integration agendas. In nearly all the states we examined, value transmission has played a markedly bigger role in civic integration programmes since 2015. Most states significantly increased the lessons allocated to civic orientation for newcomers. Some also moved to make participation in civic integration obligatory, while it was voluntary before.

Secondly, the content of the values taught as part of civic orientation largely concurs across member states, concentrating on a set of core liberal values. These match the EU's value framework as laid out in art. 2 of the Treaty on European Union (TEU). However, as we discuss in the second part of this section, the duties associated with the values in question vary significantly across member states.

The five member states from which we provide evidence are France, Germany, Italy, the Netherlands and Sweden. Data were collected as part of NovaMigra's research on value agents and value discourses in integration practices. While this section of the final report focuses only on state-designed civic orientation schemes, NovaMigra's research on value agents in integration takes a wider range of settings and actors into account, including local settings and nongovernmental actors (see Section 3.1. in this report).[1] It also surveys a wider range of member states, adding Greece, Hungary and Poland to the list of states indicated above. However, since these states do not offer civic orientation lessons to newcomers (see figure 2 below) and have issued no written material in this regard, no data were coded from them for the survey presented here.

We present all the results from our survey on the content of values in state-issued civic orientation materials in NovaMigra's Interactive Value Landscape, which is available online.[2] The Interactive Value Landscape makes all coded value claims assessable and comparable and also provides additional information on how member states frame and justify values (see also Herrmann 2019).

A note on terminology: In line with the core literature in the discussion (see, among others, Goodman 2014; Joppke 2017), we use the term "civic integration" – originally a translation of the Dutch term *inburgering* – to denote the whole range of integration activities that states have obliged newcomers to take part in since the Netherlands first introduced such obligations in 1998. These may include language learning, labour market integration and civics lessons, often in combination. Civics lessons usually comprise units on a country's history, its constitutional principles and other important norms, values and cultural particularities. Often, they also include more practical information on access to basic services and the functioning of administrative agencies within a given country.

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[1] For studies of more specific topics and settings in integration work, see also Suter (2019) on the role on value transmission in on-the-ground integration work in Sweden and Goździak (2019a) on challenges to multicultural education in Poland.

[2] See https://novamigra.eu/index.php?c=value-landscape.

When we speak of "civic orientation" below, we refer only to the civics part of civic integration agendas. This is concurrent with usage in Germany and Sweden.[3]

2.1 Greater Salience of Values in Integration Policy: Evidence from Selected EU Member States

Among the countries studied, Germany and Sweden feature the most extensive civic orientation requirements for newcomers (see figure 2 below). Moreover, both countries have substantially increased the share of civic orientation lessons in their integration agendas since 2015 (see figure 1 below) – and linked these changes to the arrival of large numbers of asylum seekers in 2015 and 2016. These developments can be understood as indicative of a trend to begin civic integration earlier. Across the member states surveyed, civic integration is now not only relevant for acquiring citizenship but also for acquiring permanent residence permits – and sometimes even earlier than that.

In Germany, integration courses were redesigned in 2017 to substantially extend their emphasis on civic orientation, with a specific focus on values. While civic orientation was allocated less than five per cent of course time when integration courses were first introduced in 2004, its share had more than tripled by 2017, making up 100 of 700 total course lessons (see figure 1). The German government explicitly connected the heightened emphasis on value education in integration courses to the country's large-scale intake of refugees in 2015 and 2016 (Federal Government of Germany 2016). In 2016, it opened integration courses for asylum seekers who are still in the asylum procedure, given that they come from countries with high acceptance rates (*gute Bleibeperspektive*) (EMN 2018b).

In Sweden, the arrival of more than 160,000 asylum seekers in 2015 and the subsequent public discussion about the country's capacity and willingness to absorb immigrants prompted a review of integration policy and an increased emphasis on the early integration of asylum seekers (Swedish Migration Agency 2020; see also Fernández 2020 and Hernes 2018). While the policies' focus was mainly on language skills and labour market integration, they eventually came to include the revision and extension of civic orientation policies.

	France	Germany	Italy	Netherlands	Sweden
Civic orientation lessons, 2020	Four-day training course upon signing integration contract	100 hours as part of integration course	10 hours, upon signing integration contract, mostly videos	One-day workshop upon signing "Declaration of Participation"; more in (non-obligatory) preparation courses for integration exam	100 hours, as part of "Establishment Programme"
Civic orientation lessons, 2014	Two-day training course upon signing integration contract	60 hours as part of integration course	See above	Civic orientation content taught in (non-obligatory) preparation courses for integration exam exclusively	60 hours as part of "Establishment Programme", not obligatory

Figure 1. Civic orientation lessons in selected EU member states, 2014 v. 2020.
Source: own compilation

Among other policies, parts of Sweden's "Establishment Programme" (*Etableringsprogrammet*) for newcomers were made obligatory – for individuals deemed in need of it – in 2018. The programme provides full-time language courses, civic orientation lessons and vocational training for a period of two years, offering a financial allowance for the duration of participation. In addition, in 2019, the Swedish government decided to increase the number of civic orientation lessons taught as part of its "Establishment Programme" from 60 to 100 (Swedish Migration Agency 2020; see figure 1). This makes the German and Swedish civic orientation courses jointly the most extensive civic orientation measures among the member states studied (see figure 2).

This seems especially noteworthy since neither Sweden nor Germany has traditionally had an assimilationist integration agenda. Germany followed a "segregationist" course in immigration policy up until the early 2000s (Joppke 2007), adopting a national integration policy only when it started to liberalise its immigration policy in 2005. Although their introduction initially sparked debate, Germany's citizenship tests are today widely held to be relatively liberal, as they concentrate on a small set of questions on core constitutional principles and national history (Michalowski 2009).

Sweden consistently scored lowest on indexes measuring the restrictiveness of civic integration policies in Western Europe (see, among others, the CIVEX index in Goodman 2014 and the MIPEX index by Solano and Huddleston (2020)). It continued to defend a voluntary and service-oriented model of integration even when most other Western European countries moved to adopt obligatory policies after the Netherlands introduced obligatory integration courses in 1998 (Joppke 2007). As indicated above, this has begun to change recently. Restructuring its "Establishment Programme" in 2018, Sweden made participation in adult education and vocational training obligatory for individuals who have not finished upper secondary school or are otherwise deemed in need of it (EMN 2018a). Previously, participation was regulated through financial incentives exclusively, as participants in the Establishment Programme receive a monthly allowance (Righard, Emilsson and Öberg 2020, 38).

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[3] Compare https://www.informationsverige.se/en/jag-har-fatt-uppehallstillstand/samhallsorientering/ and https://www.bamf.de/EN/Themen/Integration/ZugewanderteTeilnehmende/Integrationskurse/InhaltAblauf/inhaltablauf-node.html.

However, civic orientation measures for newcomers have also seen notable increases in other member states in the past few years. This indicates a convergence in member states' integration policy after the "refugee crisis", at least for the aspect of value transmission.[4] In 2017, the Netherlands made it mandatory for immigrants to sign a "Participation Statement" (*participatieverklaring*) within a year of arrival. The one-page declaration serves as both an integration contract and a value contract, asking signatories to commit themselves to contributing to Dutch society and to respect a set of core values, which are briefly described in the text.

Italy adopted a national integration plan specifically for international protection holders in 2017, which affirms the centrality of shared constitutional values and principles for an inclusion-based understanding of integration. Although the practical measures foreseen in the plan focus on language learning and employment opportunities, they also include provisions for fostering interreligious and intercultural dialogue on the basis of Italy's value contract, the "Charter of Values of Citizenship and Integration" (*Carta dei valori cittadinanza e integrazione*) (Italian Ministry of the Interior 2017).

In line with this trend, in 2019, France doubled the time allocated for an obligatory training course on civic orientation for newly arrived immigrants from two to four days. However, given its strong emphasis on civic republicanism, the limited scope of France's civic orientation requirements for newcomers is notable (see figure 2 for comparison).

Before going into detail about the content of the values taught, it is important to mention that not all member states under study have adopted integration programmes for newcomers (see figure 2) or foresee civic orientation lessons as a part of them (see figure 1). Among the eight countries in the focus of NovaMigra's research on value agents, three – Greece, Poland and Hungary – do not currently have national integration strategies. Greece and Hungary have no specific integration schemes for newcomers. Poland offers an "Individual Integration Programme" exclusively for holders of international protection status. However, the programme's scope is limited, and participation is not compulsory. It consists primarily of financial support for language courses and individual job counselling over a maximum period of one year.

Judging from our samples of Poland, Hungary and Greece, we observe that values work differently in member states where national integration schemes are absent. Here, integration initiatives are organised by NGOs and local governments, frequently in tension with restrictive national migration policies. In this constellation, actors at work in integration emphasise immigrants' participation rights and often target educational programmes centred around promoting anti-racism in the local population, rather than immigrants only. Cultural values, on the other hand, tend to be invoked by right-wing nationalist governments to justify restrictive approaches to immigration. Hence, in Poland and Hungary, discussion of values centres on how to preserve and protect "European values" from the adverse effects of values enshrined in Islam that are depicted as incompatible with Christian European values in the discussion (see Sections 3.1 and 3.3.2 in this report).

	France	Germany	Greece	Hungary	Italy	Netherlands	Poland	Sweden
National integration strategy?	x	x	x	-	x	x	-	x
Integration programme for newcomers?	x	x	-	- *	x	x	x	x
Integration requirements for newcomers	"Contract of Republican Integration": language skills**, civic orientation	Integration Course**: language skills, civic orientation	-	-	Integration contract, assessed through credits system: language skills, civic orientation obligatory	"Declaration of Participation"; passing integration exam: language skills, civic orientation, labour market orientation	Non-obligatory integration programme for recipients of international protection: financial support for language courses, labour market counselling	"Establishment Programme": language skills, civic orientation, vocational training**
Obligatory value contract?	x***	-	-	-	x	x	-	-
Exemptions for international protection holders?	Yes	No	-	-	Yes	No	-	No

Figure 2. Civic integration policies in selected EU member states.
Source: own compilation, based on data provided by the European Council

*   Hungary introduced a limited scheme for international protection holders in 2014, which was terminated in 2016.
**   Requirement assessed individually.
*** There is no separate value contract, but the "Contract of Republican Integration" specifies that the signatory must "adhere to the essential values of French society and the Republic".

2.2 Civic Orientation Materials: Which Values are Cited?

Observing a greater salience of values in member states' integration agendas, NovaMigra went on to compare integration course materials across member states in order to find out more about the content of the values taught. Specifically, we wanted to know which values were cited, how these values were justified and if and how the materials associate specific rights and duties with the values in question.

We collected data from state-issued civic orientation materials in five member states: France, Germany, Italy, the Netherlands and Sweden.[5] These included "value charters" that were part of a mandatory integration agreement, preparation brochures for integration and citizenship tests, state-issued integration course textbooks, state-issued integration course curricula and state-issued civic orientation brochures targeted to immigrants more generally.[6]

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[4] On the extensive debate on convergence in Western European states' integration policies, see Joppke 2007; Goodman 2012; Goodman 2014; Mouritson 2013.

[5] Although some countries distinguish between civic orientation requirements for newly arrived immigrants and the requirements of civic integration for obtaining citizenship, the majority of member states under study require no additional civic integration lessons for citizenship aspirants beyond what is taught in orientation courses for newly arrived immigrants. Germany and France are the only countries featuring additional civic integration requirements for citizenship applicants. However, only France issues an extra preparation brochure for this purpose. In Germany, citizenship test preparation materials are largely limited to the publication of sample test questions.

[6] For a more detailed list of the sources used, see Herrmann (2019).

To arrive at the value claims on which our content analysis is based, we coded sentences that fulfil two criteria: first, they suggest that a particular normative commitment is universally held or at least dominant within the society in question and, second, they imply that the immigrants addressed should share these commitments.[7]

In the discussion on civic integration, it is disputed whether civic orientation seeks – and should seek – to merely inform newcomers about a country's norms and values or if its aim is to persuade newcomers to commit to these norms and values. Goodman (2014, 33) argues that it is conceptually impossible for a state to test anything other than newcomers' *knowledge* about applicable normative commitments: "Knowing national values and believing in them are two different things […]. The state can mandate knowledge and the professing of loyalty, but not morality or belief".

Nevertheless, almost all texts in our sample were clearly aimed at eliciting their addressees' support for the norms and values they discuss. See, for example, this claim about the importance of the values of Germany's Basic Law from a brochure for immigrants published by Germany's Federal Office for Migration and Refugees (*Bundesamt für Migration und Flüchtlinge*) in 2017:

> "The Basic Law lives, if we all respect it. Its values are not only the basis for our state, they are also the basis for our co-existence. Only because the rights and duties laid out below are also anchored in people's hearts and minds, there have been peace, freedom and prosperity in Germany for decades" (German Federal Office for Migration and Refugees 2017).[8]

In this passage, the object of the value commitment invoked is clearly liberal: the German Basic Law and its values, which are not specified further, but presumably refer to values associated with liberal constitutionalism. But the statement is explicitly aimed at eliciting affective support – not only minds but also "hearts" – and includes the immigrants addressed among those whose support it seeks.

The aim to elicit affective support when discussing norms and values with integration course participants is made explicit by *Goethe Institut*, a language-learning and cultural association founded by the German government, which devises the curriculum for the language-learning part of integration courses. In 2016, it summarised the course's mission as follows:

> "Instead of merely instructing about democracy, basic rights and individual duties […] there should be a focus on informing people and on winning their affective support for these values, by making their significance for an autonomous life and constructive social cooperation visible and comprehensible" (Goethe Institut 2016, 9).[9]

Still, there is considerable variation in how materials seek to elicit their readers' support and what that implies for the rights and duties they associate with specific values.

Of the texts studied, the Swedish textbook *About Sweden* was the most reluctant to imply that readers should lend their support to the norms and values discussed. Among others, it placed statements about secularism in Sweden in a section on Swedish culture, which – after an introduction asserting that defining Swedish culture is a matter of dispute – also discusses the Swedish affinity to nature, alcohol, trusting state authorities and being punctual. The text passage in question begins by stating that Swedish society had long been strongly influenced by Lutheranism and that many Swedish holidays are still based on the Lutheran faith, but that recently, "Sweden has become one of the most secular countries in the world", meaning that "its laws are not based on a particular religion or doctrine of faith" (City of Gothenburg and County Administrative Board of Västra Götaland 2018, 28).

Here, secularism is presented as a convention, not as something that is good or right in itself. If it is suggested at all that the immigrants targeted by the textbook should agree with Sweden being a secular country, this is only because it is implied that secularism is practised almost universally in today's Swedish society, while the other cultural conventions listed – trusting state authorities, being interested in nature, drinking alcohol and being on time – are described as practised by "many" Swedes only. We therefore included the text passage on secularism in our data set but not the passages on the other cultural conventions.

2.3 The Content of Values: Which values are cited?

Our analysis on the content of values shows that, on the whole, the values emphasised in integration courses across member states concur – and match those referred to in the EU's value framework as laid down in art. 2 of the Treaty on European Union. However, the emphasis is clearly on some values over others. While, perhaps unsurprisingly, references to freedom and equality feature most prominently in the documents, gender equality is specifically mentioned almost as often – with the exception of the Netherlands, where instead LGBTQI+ equality is emphasised as a specific form of equality (see figure 4). References to other values featured in the EU's principal treaties – rule of law, democracy, human and minority rights, among others – occur slightly less often. Despite their concurrence with the values emphasised in the EU's principal treaties, values were framed as national values, rather than European or European Union values, in nearly all documents.

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[7] The text of all value claims coded can be accessed online in NOVAMIGRA's Interactive Value Landscape, https://novamigra.eu/index.php?c=value-landscape.

[8] The original text reads: "Das Grundgesetz lebt, indem wir es alle achten. Seine Werte sind nicht nur die Grundlage unseres Staates, sie sind auch die Basis unseres Zusammenlebens. Nur weil die im Folgenden beschriebenen Rechte und Pflichten auch in den Herzen und Köpfen der Menschen verankert sind, herrschen in Deutschland seit Jahrzehnten Frieden, Freiheit und Wohlstand".

[9] The original text reads: "Statt einer Belehrung über Demokratie, Grundrechte und individuelle Pflichten sollte […] im Vordergrund stehen, die Menschen zu informieren und für eine affektive Unterstützung dieser Werte zu gewinnen, indem man ihre Bedeutung für ein selbstbestimmtes Leben und ein konstruktives gesellschaftliches Miteinander sichtbar und nachvollziehbar macht".
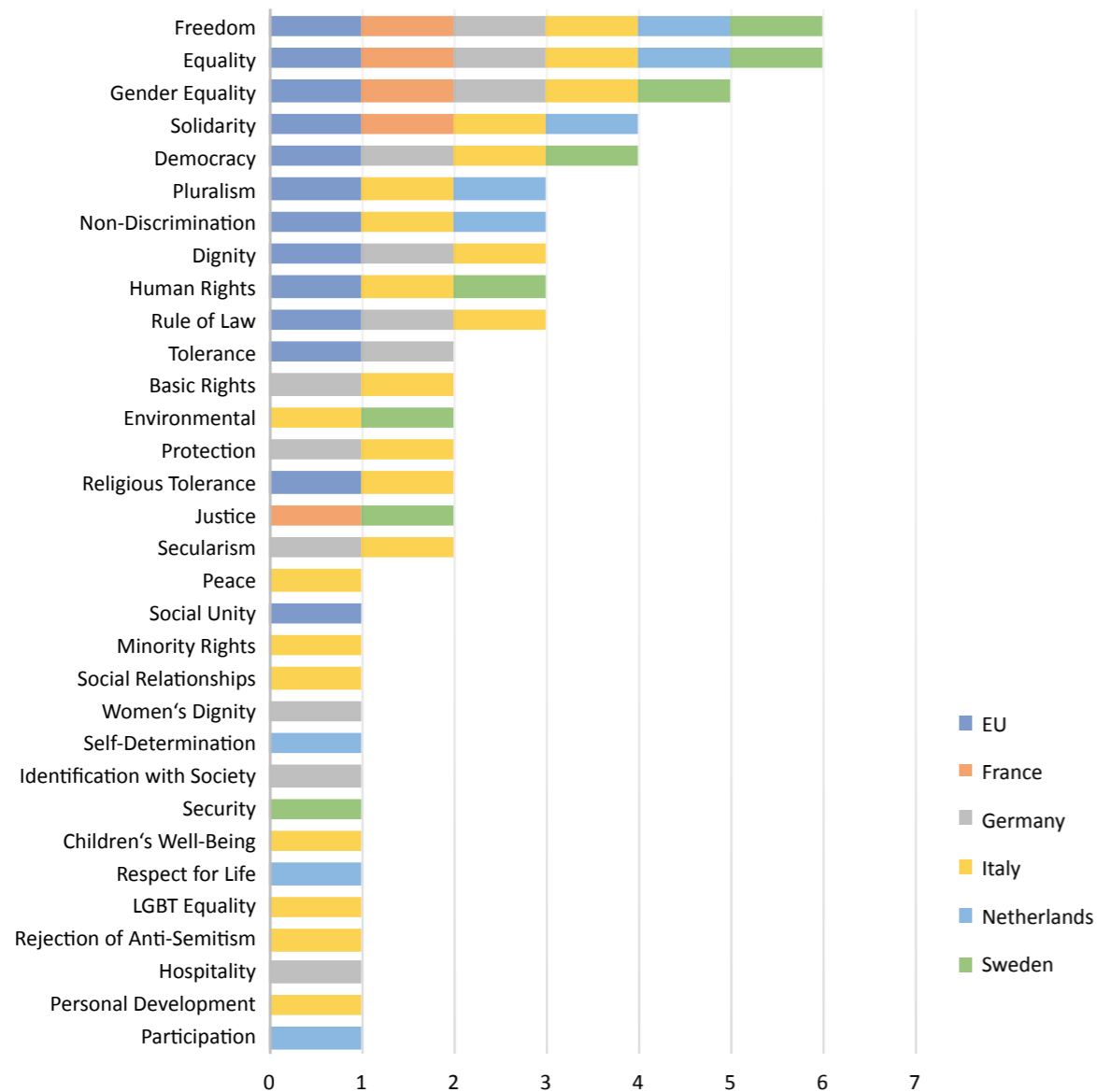
Figure 3. Values cited in civic orientation materials in five member states, compared to EU values as laid out in art. 2 TEU

How are values justified?

While the content of the values cited largely concurs across member states, we find that the reference points alluded to in the course materials to justify values vary significantly (see figure 5 below). Thus, the discussion of values in Germany alludes to the German Basic Law as a constitutional text in the majority of cases, while Sweden is the only country to base a number of its value claims on the UN's Universal Declaration of Human Rights. France mostly cites national history and its universal implications for the development of modern republicanism as a reference point for values. Italy is more prone to refer to long-term cultural and religious developments to justify its value set, but it is also the only country among those studied to cite European law and politics as reference points for value commitments. The Netherlands, finally, mostly cites no reference points at all to explain or justify the values in question. We understood a value's reference points to refer to all context the texts gave to explain or justify the

value in question. For example, when a publication by Germany's Federal Agency for Civic Education (*Bundeszentrale für politische Bildung*) targeted at immigrants claims that "in the Basic Law, you can also find values that are important in Germany: Freedom, Equality and Human Dignity" (German Federal Agency for Civic Education 2016, 14), we coded the German Basic Law as a reference point for these three values. For the European Union's value framework laid out in art. 2 of the Treaty on European Union (TEU), we encountered reference points in the Treaty's preamble, which specifies that it draws on "inspiration from the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law".
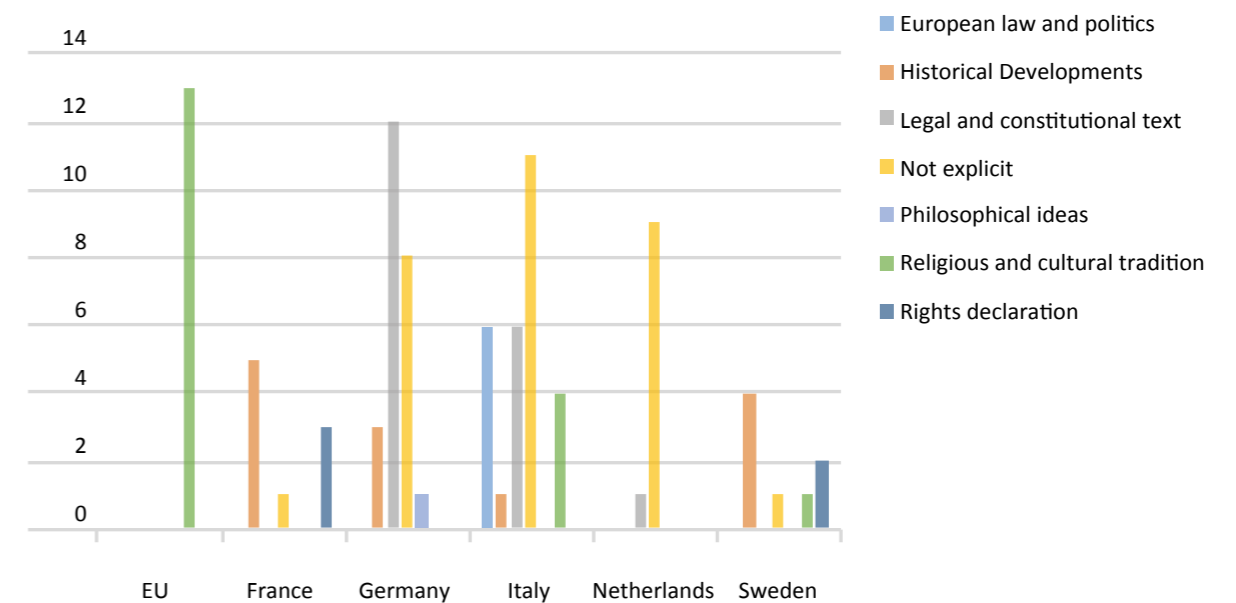

Figure 4. Reference points cited for value claims, by country

2.4 Values Concur, but Duties Diverge

Beyond differences in emphasis and justification, our survey suggests that there is considerable variation across member states in how values are evoked and what rights and duties they imply. On the one hand, some documents embed statements on a society's value commitments in a wider account of its conventions and specific historical developments, making it difficult to distinguish between when they are simply informing course participants about the cultural particularities of their new home and when they are asking participants to make normative commitments of their own. As discussed above, this tendency was strongest in Sweden. Brainstorming sessions that NOVAMIGRA conducted with practitioners in immigrant integration in Sweden confirmed an uncertainty about how to evoke normative commitments in everyday integration work (Suter 2019).

In other member states, by contrast, integration materials explicitly require newcomers to commit to specific values. However, they often fail to specify what a commitment to values would mean beyond abiding by the legal norms in place and understanding the motivations behind them. Of the five countries where materials were studied, France was most prone to this approach.

How liberal is civic orientation?
Distinguishing between the "right" and the "good"

These findings link in with wider debates on how liberal the practice of conveying norms and values in civic integration really is. Some have held that requiring newcomers to commit to a destination country's specific norms and values via integration and citizenship tests is *per se* an illiberal exercise, even if the norms and values in question are themselves liberal (Carrera and Guild 2010; Kostakopoulou 2010). Others argue that teaching and testing a state's core norms and values is compatible with liberalism, since all that states test is newcomers' knowledge of and outward commitment to the norms and values in question. On this take, provided that a state retains liberal law enforcement practices, it will not be able to find out if a newcomer commits to these norms and values as a matter of inner disposition (Goodman 2014, 33–34).

However, most theorists argue that assessing whether civic integration is compatible with liberalism depends on the contents taught and tested. Orgad (2010) holds that civic integration content often essentialises national culture and thereby acquires assimilationist undertones, even when the aim of civic orientation lessons is only to inform newcomers about a nation's specific history or cultural particularities. Both Joppke (2017) and Michalowski (2010) argue that civic integration turns illiberal when integration and citizenship tests ask addressees what Joppke (2017, 1167) calls "morality questions". This refers to questions that seek to test a newcomer's inner disposition regarding specific moral issues rather than her knowledge of and adherence to external norms. Prominent examples include questions about a newcomer's reaction when a family member reveals that she is living in a homosexual relationship. Some citizenship tests criticised by Joppke not only sought to check whether a newcomer was ready to adhere to applicable laws in this situation but also whether she would approve of the relationship as a matter of personal attitude. For Joppke, questions like this suggest that a liberal state must be populated by people with liberal predispositions, which, he argues, marks "the ethical inflation of liberalism into a 'liberal way of life' itself" (ibid., 1168).

Michalowski (2010) suggests that the line between permissible content about civic commitment and impermissible morality inquisition may be drawn in terms of the difference between teaching and testing "what is right" as opposed to "what is good". This is in line with NOVAMIGRA's conceptual analysis of the difference between norms and values and our suggestions on how the distinction may be fruitful for the context of migration and integration (see Section 1.1 and Section 4.2 in this report).

We suggest that for analysing the content of civic integration materials it is helpful to distinguish a broad sense of the term "value" from a stricter sense. Loosely speaking, "value" might refer to all types of normative statements as opposed to factual ones, that is, statements on how the world *should* be or agents *should* act as opposed to how it is or how they in fact act. This is the definition of "value" we worked with to arrive at our initial selection of value statements. However, when the idea of a "value" is read in a stricter sense and contrasted to other normative concepts, such as a "norm" or a "principle", references to values can be understood as describing a more substantive commitment than references to norms or principles. Generally speaking, while norms describe what is right, values refer to what is good. This means that values, read in the strict sense, describe someone's long-term beliefs about the goals she takes to be important in life and orients her action towards. By contrast, a norm tells someone what prescriptions she ought to abide by when she acts to pursue these goals.

This distinction becomes relevant when seeking to determine what precisely, if anything, value statements in civic orientation materials imply for immigrants' rights and duties. For example, the French brochure *Livret du Citoyen* intended as preparation for the citizenship test states that French citizenship may be denied to a person who does not respect gender equality, since gender equality is a fundamental French value to which prospective French citizens should adhere (General Directorate for Foreign Nationals in France 2015, 5). It is unclear what it would mean to adhere to a value in this context. It might mean only that a prospective citizen should intend to abide by the laws that proscribe gender-based discrimination and that she should understand valuing gender equality as an important motivation behind those laws. However, it might also imply a much deeper commitment, namely that prospective citizens are required to actively share this motivation. This would mean that they are asked to make fostering gender equality a general aim in their own lives, which, all other things being equal, they intend to pursue both in public and as a personal aim.

We found that the use of the terms "value" or "principle" in the texts was often too unspecific to yield robust conclusions about their intended meanings (Herrmann 2019).[10] However, read in context and coupled with a wider assessment of a state's civic integration requirements for newcomers, it is possible to make some inferences about the restrictiveness of a member state's civic integration policies from the contents of civic orientation materials. The fact that France tests citizenship applicants in the form of an informal interview with a government agent (French Ministry of the Interior 2021), rather than a written test with predetermined questions, confirms the impression that it indeed seeks to test an applicant's deeper-level value commitments – or at least leave open that it may do so.

Member states have taken to making the transmission of norms and values a bigger part of their integration agendas and seem on course to making civic orientation obligatory in increasingly early stages of the integration process. In this context, comparing statements about norms and values in civic orientation materials and discussing what rights and duties they do and do not imply becomes all the more significant.

To ensure that civic integration remains compatible with a member state's commitment to liberalism, it is important that civic orientation and integration materials make explicit what kinds of commitments are expected from newcomers in the integration process. From a perspective that takes the difference between norms and values as a starting point to measure the restrictiveness of civic integration requirements, a discussion about certain social conventions practised in a state or region may be unproblematic, provided that materials make clear that their aim is merely to inform addressees about these practices and make clear that, as conventions, they have limited reach.

What is more important, however, is that a state's core commitments – for example, to gender equality – are depicted not only as values but also as legal norms and constitutional principles. Civic orientation materials should state clearly what this implies with respect to their addressees' rights and duties. Where the intention is to discuss deeper-level value commitments as part of a civic orientation course,

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[10] For an overview over the materials' use of the term "value" v. "principle", see Layer 4 in NOVAMIGRA's online Value Landscape, available at: https://novamigra.eu/index.php?c=value-landscape.

course schedules should make room for discussing value conflicts at both individual and group level, accounting for diversity among course participants and in society as a whole. Section 3.3.1 of this report provides recommendations as to how this might look for the value of gender equality, based on interviews with course teachers in Germany and Sweden.

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3. Values on the Ground: In-Depth Studies on Value Practices

After surveying the use of values in civic integration materials across member states, NoVaMigra went on to examine the on-the-ground dynamics around specific values more closely. We conducted fieldwork with migration and integration practitioners, including over 120 in-depth ethnographic interviews and focus group discussions, in five EU member states: Germany, Greece, Hungary, Poland and Sweden.[1] The aim was to analyse how actors have understood, acted on and conveyed values often deemed to be central to the dynamics of Europe's "refugee crisis". Here, we present results from two selected studies on values that have been particularly salient: **gender equality** and **religious tolerance.**[2]

The following sections are adapted excerpts from the published reports resulting from this research. In *Valuing Gender Equality: Ideas, Practices and Actors in Everyday Integration Work – Integration and the Value of Gender Equality in Germany, Hungary, Poland and Sweden,* Brigitte Suter, Ingrid Jerve Ramsøy and Franziska Böhm analyse how actors convey and enact gender equality in integration work. The excerpt below focuses on the setting of integration courses and discusses teachers' experiences of the tensions and negotiations involved in transmitting gender equality as a value. The published report approaches the theme more broadly. It contains additional material, including a discussion on redefining masculinities and on issues related to LGBTQI+ in integration work.

The briefing paper *The 'Refugee Crisis' and Religious Tolerance in Europe: Plurality of Perspectives*, co-authored and edited by Elżbieta M. Goździak, Izabella Main and Izabela Kujawa, examines practices and debates on religious tolerance in immigration contexts. The excerpt below discusses religious leaders' attitudes towards refugees in various member states and the role of religious tolerance in civil society activism in local communities. In addition, the original study also focuses on political regulations concerning religious tolerance in the European Union, refugees' lived experiences and interfaith dialogue.

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[1] For a more detailed discussion, see the studies' methodology sections in Suter, Ramsøy and Böhm (2020); Goździak, Main and Kujawa (2020). All data have been anonymised to guarantee the privacy of the interviewees, and all interviewees have given their informed consent to take part in the publication of our research.

[2] Apart from the two values discussed in this report, NoVaMigra's research also focused on dynamics around the value of hospitality. For results, see Dimitriadi, Angeliki and Haris Malamidis, "Hospitality in Civil Society: Practices During the European 'Refugee Crisis'", *NoVaMigra Deliverable 3a*. https://doi.org/10.17185/duepublico/728.

3.1 Valuing Gender Equality: Ideas, Practices and Actors in Integration Courses

Brigitte Suter, Ingrid Jerve Ramsøy and Franziska Böhm

At a Glance

Gender equality as a core value of European societies has been an ambiguous project. While at national level gender equality is valued differently throughout the Union, in the area of migration, many actors across the political spectrum have instrumentalised gender equality to make it a divisive line separating "Europeans" from "non-Europeans".

Gender equality as a value has a central place in integration courses in various member states. Our research shows that most teachers are as adamant about the importance of this value as they are about presenting it in both a neutral and an inclusive way. Examples include referring to national and international legislation or highlighting the universal bearings of gender equality by emphasising our common humanity. Generally, it was emphasised that value transformation needs time, experience and trustful encounters, and that the courses were seen as a starting point for this process.

While many teachers see themselves as representatives of the nation, they showed great reflexivity concerning how to represent the nation, or any other community they felt part of. Europe – or the EU – seldom figured as a frame of reference.

The report also points to issues that transcend refugeehood or migranthood. Childcare arrangements, for example, not only result in a higher participation of refugee women in integration courses but also supports women's access to the labour market in general.

3.1.1 The Refugee Reception Crisis, Gender Equality and Values

In the course of the refugee reception crisis, the visibility of gender equality as a European value has been reinforced.[3] At the same time, the normative power of gender equality in the EU has changed: Gender equality has been instrumentalised to, for example, justify the quasi closure of borders or by European politicians to argue for the difference between Europeans and non-Europeans.

Values commonly denote what a community or an individual deem desirable. Hence values provide a personal or a socially, culturally or politically shared orientation, not only regarding what is worth striving for but also what one *is*, that is, one's identity (see Section 1.1 in this report). Norms and values are crucial components of the self-image of both people and nation-states. However, this self-image does not develop in a vacuum, rather it is reinforced in reaction to what is identified as *Other*. Put differently, the national self-image provides an idea of an "us" versus "them".

When it comes to gender equality as a European value, the European Union has a long history of promoting gender equality. Nevertheless, while gender equality is a fundamental concept in EU and national law, its scope, meaning and the strategies to achieve it remain highly contested. Gender equality has several dimensions, each of which is the product of historical struggles and reinterpretations. Among these are women's fight for access to the labour market, equal pay for equal work and the struggle to level the imbalance between paid and unpaid work – such as housework or caring for children, the elderly and the sick. Other central struggles have been, and continue to be, accessing the right to vote and political representation, sexual and reproductive rights and ending gender-based violence.

Gender equality in integration work: A bottom-up perspective

Our analysis on how gender equality is conveyed in integration courses comprises two parts. The first part, *Promoting Gender Equality as a Value in Integration Courses,* looks at the transmission of gender equality as a value in integration courses in Sweden and Germany. It focuses on course teachers' experiences and reflections and highlights how gender equality is taught and negotiated in the courses. The second part, *Practising Gender Equality in Integration Courses,* adds considerations on gendered obstacles to access integration courses.

The section presents an abridged version of NOVAMIGRA's study *Valuing Gender Equality: Ideas, Practices and Actors in Everyday Integration Work – Integration and the Value of Gender Equality in Germany, Hungary, Poland and Sweden* (Suter, Ramsøy and Böhm 2020). The study focuses on gender equality in integration work more broadly and contains additional material, also on redefining masculinities, and on the impact of integration workers' identities on how gender equality is dealt with.

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[3] It is important to keep in mind that the refugee reception crisis is only one of several crises that the European continent faced in the past two decades. Europe experienced a financial crisis, a security crisis, a refugee reception crisis and is currently in the midst of yet two other crises – the COVID-19 pandemic and the climate crisis. These crises further exacerbate existing inequalities, including those based on gender.

3.1.2 Conveying Gender Equality in Integration Courses

Many Western European countries include issues regarding norms and values in their integration courses – and sometimes even make the granting of residence permits subject to individuals' agreement with the country's alleged norms and values. Integration courses can be understood as "symbolic politics" (Mourão Permoser 2012), but they also provide opportunities for encounters between newcomers and the state (Goodman and Wright 2015). The large arrival of asylum seekers in 2015 intensified this development. In many countries, reference to national values in political and public debates became more explicit after 2015 (see Section 3.2 in this report).

Germany and Sweden have a long-standing policy focus on integration. Both countries engaged early in civic education, albeit in different forms and with different conditions (Joppke 2007; Borevi, Jensen and Mouritsen 2017). Most researchers agree that the content of integration courses often reproduces the national identity of the receiving society and that such programmes generally run the danger of "reimagin(ing) a progressive, modern, and always superior community in contrast to the 'backwards' and 'static' non-European cultures" (Edenborg 2020). The value of gender equality with its associated discussion on sexual rights is one of the core values in such courses. In the aftermath of the events in Cologne and various festivals in Sweden where "foreign/Muslim men have molested/sexually harassed native women", political and public calls for increased gender equality education for (male) immigrants became more prominent (ibid.).

	Germany	Sweden
Integration Requirements	Integration Course: language skills, civic orientation ("Orientierungskurs") Since 2005	"Establishment Programme": language skills ("Swedish for Immigrants, SFI"), civic orientation, vocational training Since 2010, revised 2018
Rights and obligations for newcomers	First-time adult recipients of a residence permit are **entitled** to course participation. Municipal immigration authorities can **oblige** specific individuals to take part in integration courses, based on a skills assessment.	First-time adult recipients of a residence permit are **entitled** to participation in the Establishment Programme. Since 2018, the Swedish Employment Service can **oblige** specific individuals to take part in Establishment measures, based on a skills assessment ("utbildningsplikt").
Financing	Lessons are subsidized by the Federal Office for Migration and Refugees. Successful participants are eligible for a refund of half of their course fees. Fees are waived if participants receive social security support.	Lessons are free of charge to participants. The municipalities finance adult education, but receive state compensation for measures that are part of the Establishment Programme. Participants in the Establishment Programme receive a monthly financial allowance, managed by the Swedish National Insurance Agency.
Civic orientation lessons, 2020	100 hours as part of integration course, in German	100 hours, in Swedish or native languages
Civic orientation lessons, 2014	60 hours as part of integration course, in German	60 hours, in Swedish or native languages, not obligatory

Figure 1. Main features of civic integration programmes in Germany and Sweden.
Source: own compilation, based on data provided by the German Federal Office for Migration and Refugees (BAMF) and Righard, Emilsson and Öberg (2020).

The role gender equality plays in representing the nation in these countries cannot be overstated. Consequently, the image of successfully integrated migrants depends on how a country defines and values gender equality – and how this value is positioned in relation to other values, such as freedom of religion or individualism/collectivism. In both Germany and Sweden, immigrant women living self-determined and gender-equal lives is seen as a sign of successful integration, since both countries weigh gender equality highly (Wunn 2011; Johansson Heinö 2009). Other research also points out that gender equality is used as an indicator of being able to live democratically (Rommelspacher 2013).

Both Sweden and Germany understand their self-image to lie partly in their strong efforts towards becoming a gender-equal society. The state has multiple ways of transmitting gender equality to its citizens, residents and newly arrived immigrants. One way is integration courses specifically designed for newly arrived immigrants. Curricula and textbooks include gender equality to varying degrees as legal norm (legislation) and social norm (as something that "normal" people do) or even as a value (described as something that is worth striving for). Importantly, the research material shows that teachers have substantial leeway as to how they want to present gender equality. This is most pronounced in the courses offered by "study associations" (*Folkbildningsrådet*) and "folk high schools" (*Folkhögskolan*) in Sweden, which belong to civil society but receive funding from the state to run these courses. This is less pronounced in the case of German integration courses because a test that must be passed at the end of the course leads to a higher level of standardisation.[4] However, in the interviews, all teachers placed in the foreground their *own* assessments – based to a large extent on their *own* experiences – of how to present gender equality.[5]

The narratives gathered on how gender equality is dealt with in everyday practices of integration work show that the self-image of the nation presented to newcomers in the courses takes a variety of forms and is far from homogeneous. What is more, the image of what defines the nation is also negotiated in the interaction with the newcomers and thus takes different forms depending on the situation.

Conveying gender equality as a legal norm

All our material univocally identifies gender equality to be one of the topics that gives rise to controversies and discussions in the classroom.

One of the municipality employees we interviewed works in a small town in mid-west Sweden. She had been central in designing the civic education course and hiring appropriate staff (civic educators in different languages) and has been continuously involved in monitoring and evaluating this course. She maintained that gender equality is one of the most difficult topics for civic educators to teach:

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4   Upon successful completion of the test, consisting of a language part and a civic orientation part, participants receive the integration course certificate which can positively influence their residence permit decision and allows them to apply for citizenship one year earlier than without the certificate.

5   This is generally the case in Swedish value education (also in primary schools), see Thonberg (2008).

"The question of gender equality is highlighted in every lecture, it's so all-permeating. You cannot just treat it as a theme, no, the gender equality perspective has to permeate and be there all the time. Because it is a challenging question."

One way that teachers deal with the topic of gender equality in integration courses is to present it as a legal norm by referring to legislation. Here, teachers usually point out the national legislation that addresses gender equality. According to the teachers, this approach informs newcomers about the law so that they can avoid breaching it or facing legal consequences. Furthermore, it avoids stigmatisation of newcomers, who at the same time are taught their rights with regard to these same pieces of legislation. A dean at a folk high school in the Swedish city of Malmö referred to the anti-discrimination law, especially when gender equality becomes a question of the equality of all genders:

"We refer to the law. Like … we have a law that says that trans people cannot be discriminated against. So, there we can always simply say: it is against the law. […] So, with the legislation you have the possibility to steer which values are good, and it's the same for us. We have the education act and we have the discrimination law which is really important for us."

A teacher and coordinator of the general integration course at a language school in Cologne, Germany, held a similar view. When talking about gender equality, she describes same-sex partnerships as a value, since these partnerships are anchored in law:

"So, I usually tell my students that you have the freedom to have your opinion about things and do not have to like it [same-sex relationships], but it is allowed by law."

Discussing gender equality as a social norm

In Sweden, and to a slightly lesser extent Germany, gender equality (between women and men) is indeed deemed a social norm. On account of this, integration teachers often engage in discussions on gender equality with the course participants by referring to their own personal practices in their daily life as a way of representing the national mindset. A language teacher in a small municipality in southern Sweden said: "I usually tell them that my husband cooks and I do the dishes, and that we share all the housework", while her colleague added: "I talk about my teenage daughter having a boyfriend and how we discuss contraceptives".

The civic educators represent the nation to newcomers, and their interpretations of the nation vary widely.

Some aspects of gender equality are thus "personalised" – such as equality between women and men, equal rights and opportunities, equal division of household chores, raising children and sexuality between men and women – while others are not. This is commonly the case for rights issues related to LGBTQI+ that usually only go beyond references to legislation when LGBTQI+ people in the classroom share their stories. Teachers who are homosexual, however, stated that they feel reluctant to disclose

their sexual orientation in class.[6] This mirrors the official presentation of gender equality by the state and in public discourse in both Germany and Sweden, which emphasises the relationship between women and men. Interestingly, gender equality is often presented with a direct or indirect link to the nation, as national legislation or in the form of a personalised story representing the perceived typical Swede/German.

However, as our material shows, it would be wrong to assume an overall homogeneous view of the nation. Many educators have diverse images of what the nation is and how they see their own and the newcomers' position in it. One of the teachers in Sweden reflected:

"I don't see myself as the average Swede, so when the course participants ask me how something is done in Sweden, I usually say that 'many Swedes would do like this, but I would do like that'."

Teachers also differ in their understanding of how the nation relates to Europe as a political or cultural community or to some bigger universal global community. Overall, they vary in their understanding of the role of gender equality in society.

None of the teachers spontaneously referred to the values they presented and discussed as "Swedish values" or "German values", although they recognised that the general meanings attached to these values were sometimes specific to their countries. Instead, rather than talking about values, they referred to them as "important aspects of life in the Swedish or German society" or "Swedish and German culture". The dean of the folk high school in Malmö mentioned above reflected on to what extent a piece of legislation on discrimination based on gender or gender expression can be said to be a "Swedish value":

"Well, obviously it is about Sweden [as it is a national law]. Then again, it's really about the law and not about Sweden: The law is a way to steer people's values, because Swedes don't automatically think that homosexuals or trans persons have the same rights."

Interestingly, while many teachers perceive the values to be typically Swedish or German, they experience that for many of the pupils in their classroom (and also for many of their fellow teachers) these values come to represent European values. A Swedish language teacher at a municipal school for adult education in Malmö pointed to the very diverse composition of language classes in terms of the participants' geographical origin. As the language classes are open to everyone who does not master a Scandinavian language, the classes are composed of refugees as well as labour, family and student migrants, and the nationalities include Turks, Iraqis, Pakistanis, Indians, Thais, Americans, and nationals of various European countries.

This teacher thus points at the way in which values – such as gender equality – may appear as Swedish, German or European, depending on the situation and depending on the composition of the group she teaches:

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[6] For a similar finding, see Fornoff (2018).

"Sometimes you can feel that the non-European pupils expect that those coming from Europe have exactly the same values. […] the teachers as well – they have the same assumption that those from non-European countries [have different values], but the pupils too: 'Ah, you're from France, so it is the same' while 'I am from Pakistan, so it is totally different'. Those thoughts exist. The further away, the more difference."

Discussing gender equality as a social norm

While Europe – or the EU – is thus seldom evoked as a point of reference, some teachers present gender equality as a universal or a global issue. According to them, framing gender equality as universal rather than national offers, at least in theory, a more inclusive understanding of the value.

The teacher and coordinator of the self-organised integration association in North Rhine-Westphalia said that she feels uncomfortable presenting gender equality solely as a German trait. This way of presenting it carries an underlying assumption of a superiority of the West that does not correspond with how she sees the world. Further, it makes it difficult to convey the content in a way that does not stigmatise the course participants.

Gender equality is a very difficult topic to convey because I feel so stupid talking about it, in the books it is so obvious what they want to say: 'We in the West are so gender-equal'.

German integration course teacher

Another teacher at a folk high school in Malmö explained that framing gender equality as a national value and struggle can invoke an image of "us" and "them" that separates rather than unites people. The school where she works received money from the government in 2016 to offer a language and civic education course for newly arrived refugees, and together with a colleague she was tasked with designing and later teaching such a course. From her experience, values – such as gender equality – touched on in the course should be presented as universal values rather than Swedish. If participants feel excluded from this "imagined community" (Sweden), it allows them to think that it is not applicable to them. The teacher explained:

"I have many friends from Syria, and they often say 'Yes, you, you Swedes do like this, but we would never be able to do so, even when living in Sweden'… and because I am a teacher, I am Swedish, I am seen as belonging to a different [social] rule, so it doesn't make a difference if I say 'We are gender-equal, we are this and that', because it doesn't exist [for them] … it becomes like a 'Yes, but we are not'."

Framing gender equality as a universal value (independent of a national context) instead makes it accessible to course participants in a different, more inclusive way. Furthermore, it does justice to the struggle for gender equality that many women and men all over the world engage in, as the same interviewee above reasoned. She recalled a previous colleague of hers, who was from Lebanon and who, when they discussed the rights of homosexuals, burst out:

"'But this is nothing specific for Sweden, this is not why we should be for the right to marry, this should be in the whole world, not only in Sweden', so this was food for thought for my colleague and me. You often end up saying to the course participants 'In this country these rules apply', and by framing it as something national I am afraid it also gets reproduced as such [which is contrary to what we want to achieve]."

Notwithstanding, this teacher realised that the national framing often occurs as the "easier way" and that a discussion on the universality of gender equality and various other values would require a course budget that is not realistic for an introductory course.

Value transformations through time, trust and encounters

Despite the strong focus on legal norms discussed above, familiarity with the law does not automatically lead to the value transformation that is often the stated intention of politicians and the public when it comes to integration courses. This was reiterated by all the teachers, deans and other stakeholders who contributed to this report.

A teacher and coordinator of integration courses at a self-organised integration association in North Rhine-Westphalia, Germany, who has a background in adult education and herself came to Germany as a refugee, expressed the conviction of many:

"[…] value transfer in a course doesn't work, you have to experience it. We therefore organise a lot of excursions and of course we transmit values or how we deal with each other every day in the German course. So, every day, every hour, every minute."

Other integration workers point at encounters that create trust between newcomers and the receiving society as a precondition for value adaptation.[7] Such encounters and trust-building are enabled and shaped over time. One interviewee, who had been a language teacher at a municipal school for adult education in Malmö for several years, reflected on her long-term involvement in teacher training and the implementation and evaluation of her school's equality policy. She reported:

"You have to consider that things take time. If you let these things come naturally and you have time to process them, then you can change your way of thinking. […] When you just get rules of how to behave or not, you will not change your way of thinking. Instead, transformation comes through the encounters with others, in discussion. So [as a teacher] you have to balance a bit. With reprimands you don't change somebody's prejudices."

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[7] The NOVAMIGRA Policy Research Alert No. 3 (Suter 2019) already points out the need to establish spaces for encounters for the purpose of forging trust between migrant and resident individuals in society, https://doi.org/10.17185/duepublico/70361.

BOX 1: *Sample Project – "Daddy, Come Home" (Sweden)*

The project "Daddy, come home" (*Pappa kom hem*) has been arranging discussion rounds for newly arrived refugees since 2017. It is usually held in Swedish and accompanied by an interpreter. In an interview the course developer states that "all dads want to be 'nice dads'.", Sweden-born and immigrant fathers alike. The course takes up raising a child (including setting boundaries, violence, children's rights), household work, spousal relations, as well as honour-related aspects and domestic violence. Apart from these themes, each group is free to decide what to discuss.

"So, the courses can have a different shape every time, depending on the group and the participants' interests, questions and problems," the course developer explains. The aim of the course is to allow for increased awareness of the participants' gender roles and to change attitudes. The methodology is a reflective conversation technique that builds on mutual respect and avoids judgments or instructions.

"There is a dire need for men to talk about emotions, so once we get the conversation started, the group usually opens up very quickly, even the ones who are a bit sceptical in the beginning."

In the course leader's experience, the most difficult part is to make the men attend the courses, not the conversations in themselves. Many municipalities now organise this type of course within the framework of the obligatory introduction programme for newly arrived migrants (refugees and their family members).

Time also matters in a different way in that taking a historical perspective into account is important. In many of the newer methods of value education, gender equality as a value is not presented just as an abstract concept without embeddedness in a particular society's history but as the result of historical events, political conflicts and social struggles. A researcher at a Swedish university has been centrally involved in the government's strategy on civic education and developed a module on gender equality. He maintains that civic education needs to be based on the fundamental laws and Sweden's commitment in international and European conventions and treaties as well as how gender equality as a value has emerged over time and through political struggle. He contended that "presenting such things in a historical context is in stark contrast to how this has been presented in other textbooks before".

Incorporating a historical perspective in integration courses not only helps course participants to understand the background of the values taught, it also enables reflection among educators – that value transmission and value change have an important temporal dimension – and encourages them to think about the expectations they bring into their courses. In the words of a Swedish language teacher:

> *"We demand of them that they should live like us, while they are [like we were in the 1960's]. And so immediately also (snaps her fingers) they should be like us."*

Embracing gender equality as a value through experience, encounters and time does not happen in a vacuum. It requires that the surrounding society treats it as something more than a legal norm, that gender equality is adhered to, lived, discussed and treated as a social norm because one sees the moral implication of doing so. It is then considerably more likely that migrants will adhere to gender equality, not only because of legal norms but also because they experience it as a value important in social life in Sweden. The teachers generally agreed that teaching values as part of an introduction course cannot do more than "plant a seed" – true value transformation is an inner journey that goes

beyond just acting in accordance with the law. However, integration courses are a first step to ensuring familiarity with the law and societal expectations regarding gender equality.

The course providers agree on the importance of daring to address conflicts and problems – provided that it is done in a respectful way.

In addition, the course providers generally agree on the importance of daring to address conflicts and problems – provided that it is done in a respectful way. For instance, Swedish parenting courses offered by study associations and other actors emphasise the space for reflection and conversations at eye level between course providers and participants as key to their pedagogical methods.[8] Another example of an integration project that works on facilitating encounters and building trust to discuss questions of gender equality is Sweden's "Daddy, Come Home" (*Pappa kom hem*, see Box 1 above), which is specifically targeted at men.

The practice of reflection is used as a cognitive means of becoming more aware of one's own values and behaviour, from which then crucial, transformative insights can emerge. This pedagogical tool is seen by some teachers as important in order to avoid the impression that gender equality is a national (Swedish, German) or Western value, as this understanding would reinforce (social) boundaries between Europeans and refugees. Indeed, course leaders pointed to respect, democratic participation and a feeling of safety and trust as core aspects of the "good conversation" in which everybody is listened to and gets to speak. Furthermore, all teachers agreed that respect plays a key role in communication, as this is key to fostering trust in the classroom and beyond.

3.1.3 Practicing Gender Equality in Integration Courses

Administrative adjustments

One of the central measures taken by public authorities has been the continuous adjustment of state integration programmes aimed at newcomers in terms of access and target group.

In 2010, Sweden introduced a change that effectively tied the integration allowance to the individual instead of to the household. This economic incentive aimed to increase women's entry to the labour market by reducing the family's impact on their lives (Suter and Qvist 2011), while refraining from stigmatising specific (immigrant) groups. Furthermore, in 2012, Sweden decided to opt for an "extended target group" (*utvidgat målgrupp*) for its integration courses, which came to include all third-country nationals with a residence permit instead of only those who had protection status. Above all, this came to include many of the women that arrive in Sweden as a family migrant (either through family reunification or family formation). The idea behind this expansion, as one person in a managerial capacity revealed, has been to be able to "inform women directly instead of through their husbands". This aim was based on the fundamental assumption that access to information allows a person to develop skills and acquire a more empowered position in society.

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[8] The courses provided by the municipalities tend to convey more information and are less conversation-based.

In some places in Germany, integration courses are offered which are specifically targeted at women. These courses have the same curriculum as the regular integration courses but provide more room for discussion of topics of particular interest for the participants. One teacher explained that she understands the rationale behind these courses as a way for the government to ensure support for women, irrespective of their family context, because she argues that:

> "Women coming from some countries may not know as much about the authorities and municipal offices and which work opportunities there are for them. That's why we have these courses to focus on this specifically."

The courses aim to provide a space in which women can learn and discuss freely among themselves. Several interviewees saw this as a way of supporting women who feel uncomfortable speaking openly in the presence of men. Moreover, these courses provide space for more "women-related" content, that is, topics mentioned in the former section, such as women's education or labour market integration, children's education and women's rights. While women-only courses are available in Germany, in Sweden many interviewees expressed a strict principle of maintaining co-gendered education as a basis for democracy.

Creating welcoming spaces

The material gathered throughout the fieldwork imparts an understanding that empowerment measures are often also about fostering environments in which women feel comfortable engaging in discussions and stating their opinions as a means of developing their (citizenship) skills. As indicated above, in order to create such an environment, course organisers engage in different practices of creating spaces separated according to gender. In the experience of many teachers and coordinators, a woman will often refrain from participating in general discussions if her husband is present and would rather let him speak. One integration worker in Dresden, Germany, reported that:

> "When I have married couples on the course, I always see that the woman is looking at her husband. They don't really dare to speak up. Especially the women that are less educated. They always sit next to their husband. I always try to separate them, for example in group work."

In both Germany and Sweden, informal strategies are sometimes adopted in order to produce spaces in which newly arrived women can fully engage in their education. One such practice is to separate married couples so that husbands and wives attend different classes. This becomes a way to "allow the women to speak", as one Swedish interviewee expressed it. This was discussed at length at a national stakeholder meeting in Stockholm in the autumn of 2019.

Civil society organisations also work to facilitate separate spaces in which women can interact and discuss without the presence of men. In the Swedish context, such initiatives are often overtly gender-separated (in contrast to those organised by state actors). Several congregations in the Church of Sweden, the country's largest civil society organisations, coordinate interethnic "women's groups", which are spaces in which refugee women can meet with female church volunteers. These spaces

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BOX 2: *Sample Project – "Come in! A mentorship programme for foreign-born women" (Skåne Region, Sweden)*

The mentoring programme for foreign-born women with a university degree is a European Social Fund-financed project run by the Region Skåne office for regional development between 2019 until 2022. Its aim is to facilitate labour market access for these women through the mentor as a "door opener". The mentor is somebody with a large professional network that can act as a "door opener" for the participants. The project also sees a positive reward for the role of the mentor: "It is fundamental for the role as the mentor to have a significant network, engagement for society as well as the willingness to get involved in someone's integration journey in our country, which is also developing for the mentor", the project coordinator explains. In the first round of the project (in 2020), the project managed to gather mentors from the public and the private sector. The 18 participants of Middle Eastern and Central American nationalities had their educational backgrounds in chemistry, IT, economics, literature or law with bachelor, master and doctoral degrees. The mentorship-programme started in February 2020 and some of the participants have already received an internship as a result of the relationship with the mentor.

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are sometimes organised together with other organisations, such as Save the Children, or with the municipalities. Church volunteers explained that the aim of these spaces is to provide a context in which women can relax, discuss among themselves and meet across sociocultural and linguistic boundaries. These groups have also organised events specifically aimed at women, such as potluck dinners and celebration of International Women's Day on 8 March. In addition, the Association of Unaccompanied Minors in Malmö, Sweden, implements gender-separated activities aimed at providing "an environment in which girls would more easily dare to raise their voices", as a long-standing representative of the association stated.[9]

Such activities are also part of refugee women's empowerment work in Poland. In Warsaw, one informal group of women, *Smaczne mamy*, organises cooking workshops in co-operation with the NGO *Kuchnia Konfliktu*. These informal initiatives give refugee women an opportunity to socialise, but also to earn money. As noted by one activist, they learn to communicate not only with Poles but also with other refugees and migrants representing different cultures:

> "Not everyone speaks Polish well, [...] sometimes there are misunderstandings hindering the activity. All cultural and linguistic differences as well as gender issues are inherent in the nature of this initiative. However, this can also be inspiring and – as evidenced by two years of activity – all these types of problems are resolved."

Remedying gendered obstacles to access integration provisions

Various obstacles to people making use of integration provisions were identified in the material. From a gender perspective, the most frequently named obstacle by far, when it comes to attending and making use of other integration provisions, is to what extent childcare is made available to course attendees.

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9   Male refugees are heavily overrepresented among the unaccompanied minors that arrive in Sweden and among those that frequent the meeting place run by the association.

While such services are important to families as a whole, in practice, it is often women whose access to education is hindered when such services are not provided.

In Germany, several integration course coordinators reported positive results from organising childcare services as part of their programmes. Finding a day-care place for a young child can be difficult in Germany due to long waiting lists in some regions. One interviewee, a teacher who is also the manager of a self-organised integration organisation and active in local networks of integration workers in North Rhine-Westphalia, explained that they are fortunate to be able to offer childcare during the courses:

> *"The participants are very happy about the childcare opportunity. Some even come to our institution even though they live on the other side of town just because we are one of the few institutions that offer childcare."*

In Sweden, children have the right to attend publicly funded preschools from the age of one year, and, as such, the need for childcare is largely covered in this context, also for newly arrived families. In addition, language cafés intended for new mothers on parental leave are also a popular civil society initiative. Municipal authorities also support open nursery schools where parents on parental leave can spend time with others in similar situations and practise their Swedish. While such venues have existed for a long time, since 2018 the employer organisation of "Swedish Municipalities and Regions" (SKR) has actively promoted them as a means to aid the integration process of foreign-born women (Sveriges Kommuner och Regioner 2020).

Conveying Gender Equality in Integration Courses: Policy Recommendations

Based on our field research on integration and gender equality in Germany, Hungary, Poland and Sweden, we provide some policy-relevant recommendations, drawing on findings from the interviews with integration workers.

Present gender equality as a value which is universally fought for rather than dependent on a national, European or Western context.
Gender equality is often presented as a national trait, as a Swedish or German (European) value (national culture, national value or national norm). This risks rejection and may exclude individuals who might not feel part of the nation. Gender equality should be presented as a value independent of national cultures. Conveying gender equality should allow for varying interpretations of the value itself.

Offer conditions for integration work which foster trust and provide space for mutual communication and reflexivity among newcomers and society at large.
Value transformation at adult age is an inner journey that cannot be imposed from the outside. It engenders a process that allows for the making conscious of one's own values through reflections on the topic in conversation with others. Conversations should be based on mutual respect and an openness towards different opinions, and their aim should be to build trust rather than to impose certain values.

Safeguard all women's rights, including those of migrant and refugee women.
National governments should continue and increase their efforts in safeguarding women's rights and in enabling gender equality for all women, including refugee and migrant women. This includes enforcing the legal norms enshrined in European and national legislation and working towards implementing gender equality as a social norm.

Empower migrant and refugee women by facilitating access to integration activities.
Migrant and refugee women are among the most vulnerable groups in society. Empowering migrant and refugee women, in particular through information on society, rights and obligations, is very important in facilitating their fair access to opportunities. It is essential to have access to integration courses, the labour market, health care, legal representation, etc. To ensure this access, knowledge about one's rights and opportunities is of utmost importance.

One practical aspect is to **provide childcare opportunities** in integration work where women receive information, learn the language and are empowered to build networks in their new surroundings. Providers of civic orientation courses, language courses and other integration activities should consider childcare opportunities in order to enable more women to participate in these courses. While such services are important to families as a whole, childcare arrangements result especially in higher participation by refugee women in education and labour opportunities in the country where they live.

Be attentive to the needs of all different target groups, such as the LGBTQI+ community, parents, women and men.

Migrants and refugees are a heterogeneous group. Their social markers (age, ethnicity, race, class, religion, sexual orientation and gender identities), their experiences and their struggles differ. Integration work should be sensitive to the needs of all genders by being attentive to context, situation, people's identities and social positions. Providing opportunities, for example, for men to share experiences and voice vulnerabilities, including LGBTQI+ issues in the discussion on gender equality in general and providing gender-separate spaces are three ways to develop tools for gender-equal value transmission through integration work which recognises individuals' needs for safe spaces and facilitates cultural sensitivity.

Enable reflection among educators and integration workers to take into account that value transformations are long-term processes.

Facilitate space for reflection among educators and other integration workers involved in value transmission in order to promote an understanding of the significance of time and sensitivity to historical trajectories when discussing and promoting value transmission and changes. Educators should therefore be encouraged to reflect on the expectations they themselves bring into their courses and how these might influence their pedagogy and encounter with course participants.

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3.2. The "Refugee Crisis" and Religious Tolerance in Europe

Lead Authors: Elżbieta M. Goździak, Izabella Main and Izabela Kujawa

At a Glance

Religious pluralism has existed in Europe for centuries. Comprehensive legal frameworks at European and national levels have been created and put in place to prevent any form of discrimination on the basis of one's beliefs. Yet the increasing religious and ethnic diversity resulting from the 2015 "refugee crisis" became a source of challenges to religious freedom and tolerance. In the context of the recent "refugee crisis", religion has gained even more significance and become the subject of many public debates.

On the one hand, politicians, religious leaders and other public figures openly expressed their opposition to refugee reception by framing Islam as a threat to the identity of the European continent, reducing refugees' complex identities to their religious affiliation. These debates antagonised many people against those seeking safe haven in Europe.

On the other hand, our research identifies a plethora of voices and activities undertaken to "welcome the stranger". Many civil society representatives interviewed in Germany, Greece, Hungary, Poland and Sweden explained their motivation for assisting and solidarising with asylum seekers by referring to religious values. Their engagement in aiding refugees was an implicit practice of religious tolerance. Other actors and communities had a very explicit mission to foster and promote the value of religious tolerance through ecumenical and interfaith dialogue.

3.2.1 Religion in Politics, Politics in Religion

The "refugee crisis" resulted in a range of ideological responses to the arrival of refugees and asylum seekers in Europe in the summer of 2015. German Chancellor Angela Merkel famously declared "*Wir haben so vieles geschafft – wir schaffen das*" (We have managed so many things – we can do this) and opened the doors to a million asylum seekers regardless of their religion (A. Merkel cited in Delcker 2016).

Other politicians and religious leaders saw the predominantly Muslim refugees as a threat to the continent's Christian identity. Anti-refugee debates were especially fervent in the new accession countries in Central Europe. Hungarian and Polish political actors vehemently rejected the idea of accepting non-Christian refugees. The Islamophobia without Muslims (see figure 1 and figure 2) was palpable in both countries and reminiscent of anti-Semitism without Jews (Górak-Sosnowska 2016; Darnton 1981).
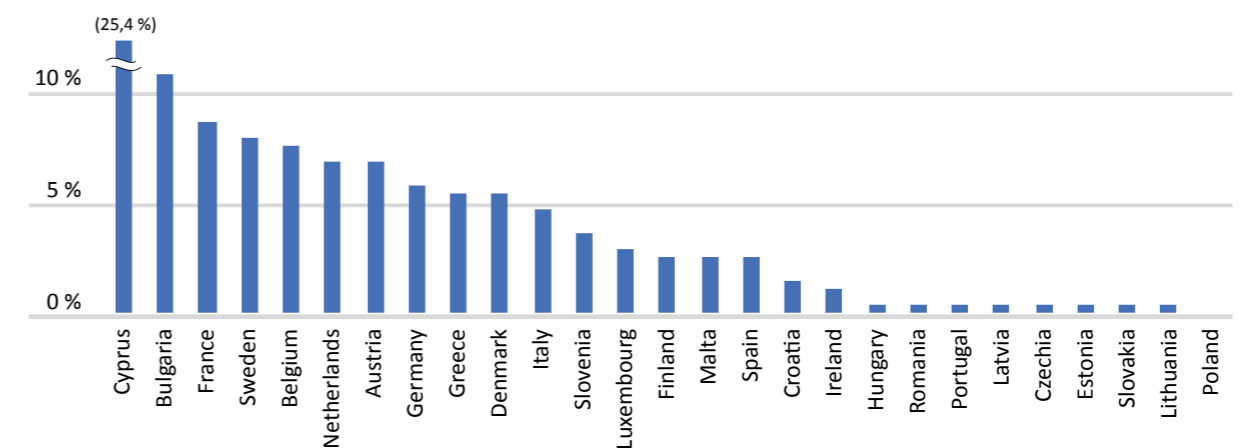

Figure 1. Share of Muslim population in EU member states, 2016.
Source: Pew Research Center

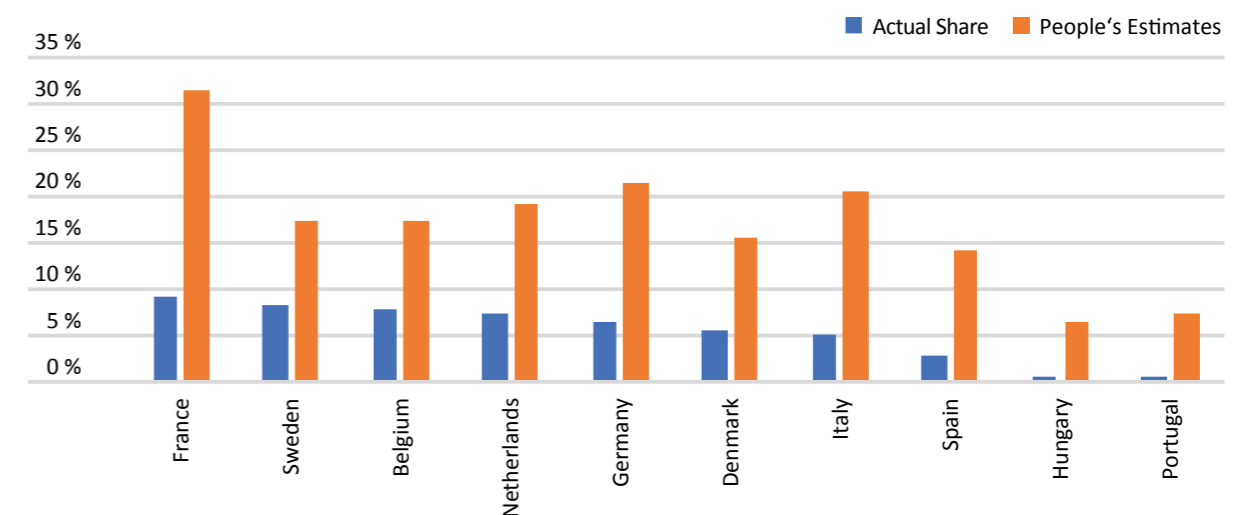**Figure 2**. Actual share of Muslim population v. people's estimates in selected EU member states, 2016.
Source: Ipsos, Perils of Perception Project (https://perils.ipsos.com/); Pew Research Center

In this section of the report, we examine practices of and debates on religious tolerance in immigration contexts in five European countries – Germany, Greece, Hungary, Poland and Sweden. We begin with a discussion of different religious leaders' attitudes and responses to the "refugee crisis", highlighting the polarisation of reactions across member states. We then focus on practices that have facilitated religious tolerance in local communities.

The section is based on the briefing paper *The 'Refugee Crisis' and Religious Tolerance in Europe: Plurality of Perspectives*, co-authored by Elżbieta M. Goździak, Izabella Main and Izabela Kujawa, with contributions by Franziska Böhm, Angeliki Dimitriadi, Haris Malamidis, Ingrid Jerve Ramsøy and Brigitte Suter. The briefing paper comprises the following parts: introduction on links between religion and forced migration, religion and the "refugee crisis", presence of Muslims in Europe; data and methodology; and ethical considerations. These sections are followed by the study of European culture of religious tolerance, in particular religious tolerance in the European Union, and religious tolerance in the nation-state: national traditions and Christianity. Next, two parts, entitled "Religion in politics, politics in religion" and "Religious tolerance: Lived experiences of refugees settled in Europe" are re-published in this final report. The original report also discusses such aspects as facilitating religious tolerance in local communities and interfaith dialogue. Furthermore, due to space constraints, the section below abridges some examples and arguments.

3.2.2 Welcome the Stranger

Most Europeans declare an attachment – spiritual or cultural – to Christianity. As a result, churches and their adherents have some influence over European affairs. People expect them to react when the continent is faced with great moral challenges, such as the arrival of refugees and asylum seekers by land and sea. Many religious and spiritual leaders have spoken about Europe's religious and moral obligations towards forced migrants.

> *Every parish, every religious community, every monastery, every shrine in Europe [should] welcome one [refugee] family.*
>
> *Pope Francis*

Pope Francis, pontiff of the Catholic Church, appealed to the faithful several times to "Welcome the Stranger". Shortly after his election in March 2013, he travelled to Lampedusa, one of the main reception centres for asylum seekers reaching Europe by boats. During his visit, he condemned the "globalisation of indifference" and criticised a lack of empathy and solidarity towards refugees and migrants. In his encyclicals and homilies, he repeatedly stressed the importance of welcoming, protecting, supporting and integrating refugees and migrants. He denounced acts of hostility and encouraged people to remain open towards foreigners of different faiths. He called for "every parish, every religious community, every monastery, every shrine in Europe [to] welcome one [refugee] family" (McElwee 2015). He led by example to demonstrate his commitment to refugees. Visiting Lesbos in 2016, he brought three Muslim refugee families to the Vatican and offered them safe haven. In the same year, during Holy Week, Pope Francis visited a refugee shelter in Castelnuovo di Porto, outside Rome, to wash and kiss the feet of Muslim, Orthodox, Hindu and Catholic refugees. It was an important symbolic gesture of welcome at a time when anti-Muslim and anti-immigrant sentiment

had risen after the Brussels and Paris terrorist attacks. Such symbols were powerful. In 2016, Cardinal Rainer Maria Woelki celebrated mass at Cologne Cathedral with a refugee boat recovered from Malta as the altar. The symbolism carried a potent message: Cardinal Woelki criticised Europeans for turning a blind eye to suffering.

Some religious leaders answered the Pope's call, but others did not. In September 2015, when a large number of refugees was allowed to leave Hungary to enter Germany, **Cardinal Reinhard Marx**, a Catholic, and **Bishop Heinrich Bedford-Strohm**, a Protestant, went to Munich to welcome them in person (Hien 2019). In response to Pope Francis' statement about the "globalisation of indifference", the German Catholic Bishops' Conference stressed the need to follow the call "to love thy neighbour" (*Nächstenliebe*). The bishops suggested that Christians should face new challenges not with fear or resignation, but with true confidence and active engagement.[1] **Archbishop Heße** (2015), the chairman of the Migration Commission of the Bishops' Conference, further indicated that Christians are called on to give hope to those in need and not placate them with empty words. A similar message was issued by the Evangelical Church in Germany (2016), which reminded the faithful of the importance of empathy that should not disappear in the face of challenges. Abandoning empathy would mean losing humanity. Sealing off Europe would mean betraying our own values.

Despite the mostly hostile political climate in Poland and Hungary (Goździak and Márton 2018), where Catholics constitute the majority of the population, some Catholic clergy voiced their support for refugees. In Hungary, **Miklós Beer, the Catholic Bishop of Vác**, attempted to set an example by housing refugees in his rectory. Referring to Pope Francis, he said: "Pope Francis said that refugees are our brothers. (…) In the Bible, Jesus said: when I was a refugee myself, you took me in. You cannot understand this message in any other way".[2] He was disappointed at the apathy of other clergy and members of his congregation and their reluctance to follow in his footsteps. They chose to believe the hateful and intimidating messages broadcast by state media. He commented on people's irresponsiveness and hostility saying: "What makes me sad is that they want to protect Christianity and yet they reject refugees. So, what is it that makes us Christians then?" he asked. While most of the Hungarian Catholic clergy ignored Bishop Beer, his friend, **Lutheran Bishop Tamas Fabiny**, joined him to record a video message about the importance of "Welcoming the Stranger".

There were also several other members of the Hungarian clergy who responded positively to Pope Francis' call. **Péter Mustó**, a Jesuit priest, and **Csaba Böjte**, a Franciscan monk, responded positively to the message of humanitarian responsibility towards refugees. **István Bogárdi Szabó, Bishop of the Hungarian Reformed Church's Synod**, called for the expansion of the Refugee Mission. **Péter Ganec, a Lutheran Bishop**, visited one of the refugee camps and called for compassion towards and assistance for refugees. Others, however, felt that it was not their responsibility. The Hungarian Baptists believed that it was more important to invest in helping refugees in their countries of origin than providing assistance in Hungary. Leaders of several Hungarian Jewish communities publicly empathised with the persecution faced by Muslim refugees, but called on governments of rich Arab

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[1]   Flüchtlingshilfe der katholischen Kirche, https://www.dbk.de/themen/fluechtlingshilfe.

[2]   Unless otherwise noted, all citations come from our interviews.

countries to step up and help. They also emphasised the need for strict control of immigration, but maintained that the decision should lie in the hands of the Hungarian government (Barcsa and Máté-Tóth 2016).

In Poland, **Bishop Krzysztof Zadarko** advocated for the introduction of humanitarian corridors, emphasised that meeting with refugees reveals our humanity or immaturity (Zadarko 2019) and stressed that "today Jesus has a face of a refugee" (Zadarko 2016). Addressing the "refugee crisis", **Archbishop Wojciech Polak** stressed that the Catholic Church should strive for openness and solidarise with people who need help (Polak and Strzelczyk 2016). **Bishop Tadeusz Pieronek** strongly criticised the lack of action by comparing it to a sin of omission. He argued that supporting refugees is a moral matter which should be a priority for the Church (Gądek 2017).

Christian Orthodox bishops also expressed support for refugees. **Bartholomew I, Archbishop of Constantinople**, and **Ieronymus II, Archbishop of Athens and All Greece**, accompanied Pope Francis on his visit to Lesbos. Bartholomew I (2016), an ecumenical patriarch, used this opportunity to address refugees directly: "We have traveled here to tell you that we care. We have traveled here because the world has not forgotten you. (...) And we assure you that we will do everything to open the eyes and hearts of the world". During the same visit, Ieronymus II (2016) stressed their joint goal to "bring forward before the whole world, Christian and beyond, the current tragedy of the refugee crisis". Other bishops answered their calls. In Greece, **Apostolos Nikolaidis** (2016) talked about the country facing a humanitarian crisis that deserves immediate attention in the face of which the Church has no other choice but to help with love and solidarity. **Ignatius, Archbishop of Dimitriados**, openly denounced the idea that Islam was a security threat. He emphasised that fanaticism can be found in any religion, therefore extremism cannot be equated with Islam as it is a marginal element within a whole spectrum of Islamic thought (Chatzipanagiotou and Zarikos 2019).

In a letter dated 4 September 2015 and addressed to the European member churches of the Lutheran World Federation, **Rev. Dr Martin Junge** (2015), General Secretary of the

Federation, wrote that the current "refugee crisis" in Europe is a pivotal moment, in which churches can demonstrate the values of solidarity and human dignity. Lutheran **Archbishop Antje Jackelén**, head of the Church of Sweden (*Svenska kyrkan*), was especially vocal in her support of refugees. She asserted that aiding refugees was an obvious thing to do. "This kind of work is actually natural for any Christian congregation," she said." [...] to extend a hand to a fellow human who needs help; to show hospitality to a stranger is a Christian value" (Sveriges Radio 2017). The Swedish Christian Council, an umbrella organisation of all Christian denominations in the country, made it clear in their common statement that refuge and exile have played pivotal roles in the Christian faith and committed itself to support "the poor, the powerless, and the discriminated" (Scaramuzzino and Suter 2020).

These examples illustrate positive attitudes of European religious leadership towards refugees and asylum seekers amid otherwise fervent anti-refugee debates opposed to religious pluralism in Europe and fearful of the Other, the non-Christian.

3.2.3 FEAR OF THE OTHER

Blatantly disregarding the call issued by Pope Francis to "Welcome the Stranger", many Hungarian and Polish clergy launched anti-Muslim refugee campaigns. **Gyula Marfi, Archbishop of Veszprem**, called the refugees "invaders" and "Islamists" (Németh 2015) and asserted that the main reason for the migration of Muslim refugees is jihad (Barcsa and Máté-Tóth 2016). **Bishop Laszlo Kiss-Riggo** joined in and declared that the Pope was wrong to call for compassion and ignorant of the Muslim threat to Hungary's Christian character (Witte 2015). **Bela Balas, Bishop of Koposvar**, published an apocalyptic letter in the *Heti Válasz* magazine entitled "Evening news from the European caliphate in the first century after Christianity", where he evoked destruction of churches, persecution of Christian believers and priests, banning of pork and wine, censorship and emigration of European citizens. According to him, refugees "present a grave threat to the continent's Christian universal values" (ibid.). These attitudes resonate with the legacy of **Ottokár Prohászka, Bishop of Székesfehérvár** between 1905 and 1927 and prominent anti-Semite ideologue, calling for the extermination of Jews, whom he characterised as a disease festering in the body of Christian Hungary. The Hungarian Catholic Bishops' Conference admitted the seriousness of the situation and assured the public that Caritas Hungarica was looking for effective ways to help refugees. At the same time, however, the Conference stressed that countries have both a right and a duty to protect their citizens. The bishops also indicated their serious concern for the situation of Christians in the Middle East (Barcsa and Máté-Tóth 2016).

In Poland, the Pope's request to welcome refugees was met with scepticism and diplomatic reluctance. In an official response, the **Polish Episcopate** failed to indicate whether the Pontiff's call to action would be implemented or not. Instead, it offloaded the responsibility to help asylum seekers onto the Polish government. "When it comes to a specific assistance to refugees in Poland, there is no doubt that the major initiative rests on the shoulders of secular power", stated the bishops' communique, issued in September 2015.

The duty to protect refugees is not only a moral obligation.

Rev. Dr. Martin Junge
LWF General Secretary

BOX 1: *Letter to the Lutheran World Federation Member Churches in Europe, General Secretary Rev. Dr. Martin Junge*

Geneva, 4 September 2015

Dear Sisters and Brothers in Christ:

Let mutual love continue. Do not neglect to show hospitality to strangers, for by doing that some have entertained angels without knowing it. (Hebrews 13:1-2)

Each day's news bring new stories of the desperate–and all too often deadly–plight of refugees coming to Europe. Shocking images convey to us that the current stalemate among European countries to jointly address the rights of refugees translates in human lives being lost every day, including children. The inability of the international community of States to work together to effectively address the root-causes that force people to flee –the four years of conflict in Syria being among the most dramatic examples –expresses itself in the current inability of the international community, both in Europe and globally, to work together to address the predictable consequences of their failure to address these root causes.

Together with precious human lives that are being lost, the current situation reveals the crossroads at which the human family finds itself in view of the values that will undergird relationships in this one world we are called to share: will solidarity, mutuality and human dignity still matter? Will the notion of human beings –including refugees –as right holders still matter? It is decisive to get the answers right!

[...]

Some clergy were more direct in their opposition to refugee admissions. **Archbishop Henryk Hoser**, for example, stressed that Muslim refugees would face insurmountable challenges in understanding and accepting Christian values and therefore would not be able to integrate into Polish society. Archbishop Hoser clearly represented a conservative stance and thought that isolating both religions was a preferred alternative to finding creative solutions to ensure the peaceful coexistence of Islam and Catholicism. **Deacon Jacek Jan Pawłowicz** went even further. On his Facebook page, he posted hostile, often vulgar, sentiments insulting Islam and Arab refugees. He claimed that Syrians would turn aggressive as soon as they were granted refugee status. While some Polish media outlets criticised Deacon Pawłowicz, the Episcopate did not initiate any investigation into his hate speech (Kruczek 2018).

Calls to protect religion and national culture also emerged in Greece, despite the fact that amid the 2015 "crisis" the head of the Orthodox Church of Greece, **Ieronymos II**, promoted a rather tolerant and open stance. He claimed that every refugee who needs assistance ought to be helped without discrimination. Many Greek organisations and individuals offered support to arriving refugees, nevertheless, xenophobic attitudes were not uncommon. Some clergy, including popular priests, actively participated in the organisation of anti-refugee protests. **Bishop Anthimos of Thessaloniki**, who was repeatedly invited to appear on talk shows and news programmes, did not refrain from expressing hostilities towards refugees, calling on them to go back (RED Early Warning System 2010) and claiming that Muslims constitute a threat to Greeks' religious beliefs (Koukoumakas 2015). In order to support his convictions, he relied on his own interpretation of the Gospel. For example, he stated that even the Good Samaritan did not invite to his home the wounded stranger whom he helped (ibid.).

3.2.4 Facilitating Religious Tolerance in Local Communities

"UNHCR recently embarked on a 'journey of mutual discovery' with faith-based organizations by exploring the role of faith in humanitarian responses. In December 2012, the fifth High Commissioner's Dialogue on Protection Challenges was held on the theme of Faith and Protection. The Dialogue assembled over 400 representatives of faith-based organizations, faith leaders and other partners for a two-day discussion in Geneva on partnership with faith-based actors. This was the first formal multi-faith dialogue UNHCR ever engaged in and explored the common values underpinning the notion of refugee protection in all of the world's major religions. It also fostered deeper appreciation for and understanding of the role religion and spirituality plays in the lives of those UNHCR serves."

UNHCR 2014. Partnership Note on Faith-Based Organizations,
Local Faith Communities and Faith Leaders

The "refugee crisis" resulted in many responses at global, European, national and local level. In this part of the report, we focus on initiatives undertaken by civil society actors, including faith-based organisations, secular programmes and refugee-led initiatives, to facilitate religious tolerance and enhance religious pluralism. We conceptualise community very broadly and include faith (parishes, congregations, al-ummah) and secular communities, host society and refugee communities. Many of the actors we mention here have been motivated by religious convictions, but equally many actions stemmed from secular values. Some actors have a very explicit mission of fostering religious tolerance, but the vast majority practise religious tolerance implicitly.

Our interlocutors interpreted activities facilitating religious tolerance and religious pluralism quite broadly and engaged in a wide range of activities. Generally speaking, those with a more explicit goal to promote religious tolerance focused on interfaith dialogue or education about religious diversity. On the other hand, those who practise religious tolerance more implicitly considered providing food and shelter and offering language courses and cultural orientation training to refugees of different faiths to be an important step in appreciating religious diversity and respecting other religions, but did not explicitly invoke religious tolerance.

Some of the actors had considerable financial resources at their disposal, others relied heavily on volunteers. National churches with significant resources at their disposal were able to finance large-scale initiatives. In 2018 alone, the German Catholic Church spent around 125.5 million euro on providing short- and long-term assistance to refugees. The Church used the money to support both domestic and overseas projects. In 2015, the Church Assembly of the Church of Sweden earmarked 60 million SEK for work with refugees to be used during the following three years in various dioceses and congregations. At the beginning, the focus was on humanitarian aid and reception, including psycho-social support, but this has changed over time. Currently, the Assembly supports integration programmes. While the Swedish government has been assisting refugees and asylum seekers for a long time, the "refugee crisis" has definitely contributed to increased engagement with migrant integration efforts by different actors affiliated with the Church.

Financially sound national faith-based organisations and their local affiliates became quite active during the "refugee crisis", displaying a range of positions towards refugees and religious pluralism. Many faith-based organisations are international and have a long tradition of supporting people in need. Caritas is one such organisation. Caritas has been active in almost all the contexts studied, yet its activity was often defined nationally or locally. In Greece, Caritas Athens is a member of Caritas Hellas, part of Caritas Europa and Caritas Internationalis, member of the Philanthropic Organisation of the Catholic Church. Caritas Athens launched a daily help programme for refugees, organising soup kitchens, providing shower facilities, distributing clothing, household items, toys, and school supplies as well as primary health care, mental health counselling and art activities for children. The organisation follows Catholic social teachings, including the values of charity, solidarity, social responsibility, human dignity and human rights.[3] In Hungary, Caritas joined support groups at Keleti train station when refugees arrived in 2015, responding to the immediate needs of arriving refugees. In Germany, many local Caritas organisations offered various types of support for refugees: housing, language courses, integration activities, etc.

Financial resources were important, but volunteer efforts were equally vital. The large-scale assistance to refugees in Hungary in the summer and fall of 2015 relied almost exclusively on volunteers, as the Hungarian government did not provide any support to asylum seekers. One of the volunteers recalled the atmosphere in the first days:

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[3] Caritas Athens, http://caritasathens.gr/en/.

"First, we paid for water, for something to eat, small things. And then we posted on Facebook that we need help, so some people just came to the train station. We started making and posting lists of what is needed. And these were more and more diverse things, baby things, diapers for example, underwear. Because they needed everything, everything. And some people here were very sympathetic... Some of them."

The vast majority of the volunteers organised themselves using Facebook to communicate and assign tasks and GPS navigation and tracking to monitor train routes to Austria. In chaotic or even hostile circumstances, they organised help in the form of basic reception: They provided food, clothes and medical support as well as translation services in order to give refugees reliable information. Our interviewees reported that the organisers of such activities were exclusively female.

Figure 3. Medical volunteers supporting refugees in a Caritas tent in Hungary, 2015.
Credit: UNHCR.

Several community activists we interviewed in Hungary indicated that, while volunteerism continues to be strong, most volunteer efforts focus now on Roma and the homeless. This shift occurred after the Orbán administration criminalised assistance to refugees and undocumented migrants.

In Hungary, many volunteers were laypeople not affiliated with any religion or religious organisation. However, many of the volunteers we spoke with in other countries were members of local parishes and congregations. In the aftermath of the mass arrival of refugees at Malmö Central Station in the fall of 2015, members of a Lutheran congregation started spontaneously organising clothing donations. These efforts continued in the spring of 2016 when the clothing drive expanded, the number of volunteers increased and the parish hall turned into a café and meeting place where refugees could practise Swedish with volunteers. A local deacon commented:

"We treat people of different faith with respect. If someone is interested and curious about what the Christian faith is about, then we tell them. Tell them, but just as fellow humans, not for the purpose of proselytizing. We are here as fellow humans [in compassion], the same way, I hope, Christian people in Muslim countries meet fellow humans who give a helping hand. It is the same God. The same God. [...] The purpose [of our work] is humanity and compassion."

Between the fall of 2015 and the fall of 2016, according to surveys, eight out of ten parishes organised pastoral activities for and with asylum seekers and newly arrived immigrants. More than 20,000 asylum seekers are estimated to have participated in the parishes' social gatherings per month, and 8,000 volunteers contributed to the implementation of wide-ranging activities (Hellqvist and Sandberg 2017 cited in Linde and Scaramuzzino 2018).

Given the small number of refugees and asylum seekers in Poland, parishes were mainly involved in organising events such as the World Migrant and Refugee Day, which is celebrated in mid-January every year. In 2018, the materials prepared by the organisers of this event encouraged people to hold masses with migrants and refugees in mind, learn about activities undertaken by Caritas Poland, make donations to support refugees residing in the Middle East, get to know immigrants from the Ukraine, offer sympathy and open their hearts to those staying in the reception centres for foreigners. These activities took on a more symbolic character; civil society organisations, including those connected to the Catholic Church, such as Caritas or the Jesuit Social Centre, provided material and spiritual assistance.

Catholic parishes and organisations were not the only ones active in Poland. The Evangelical Church of the Augsburg Confession, for example, also organised prayer meetings and help for people fleeing war and violence "with understanding, awareness of the complexity of the issue and guided by a sense of responsibility and love for people in every life situation". The head of the Evangelical Church stressed that it is not always "a matter of spectacular and effort-intensive help", sometimes it is enough just to help someone to deal with administrative matters or simply spend time together. Together with the Ocalenie Foundation and the Evangelical Church of Westphalia, the Augsburg Confession Church organised an educational project "Crossing Borders, Understanding Refugees" (*Hoffnung für Osteuropa* campaign), with workshops across Poland.[4] It is interesting that some of these initiatives collaborated with each other not only in the same location but also across locations within the same country and across international borders.

In Hungary, there was a specific moment in time when refugees could cross the border. At the height of the refugee arrivals, both Catholic and Protestant clergy helped refugees, although the interviewed volunteers at the Keleti and Nyugati stations did not necessarily attest to this claim made by the clergy we interviewed. A Lutheran pastor we spoke with stressed:

"(...) the Church, on the theological basis, has a very clear message about loving the neighbour and about how to behave with the strangers and also with immigrants (...) We are all created in the image of God and we should love our neighbours as God loves us. (...) If you are a Christian you see God's image in people."

At the same time, she emphasised that, in the face of the current political climate and omnipresent propaganda, the only actions which can be undertaken are those at community level. According to her, this was clearly visible during the crisis when members of the congregation gathered to discuss

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[4] Przekraczając granice – zrozumieć uchodźców. Projekt warsztatów dotyczących sytuacji uchodźców w Polsce. Luteranie.pl April 25, 2018.

refugees' needs and proposed concrete ways to meet them. These activities continue to this day. In the neighbourhood where the congregation is based, members organise informal events, discussions and film screenings about migrants and refugees and how to support them.

Actors who were religiously motivated to engage in helping refugees invoked various passages from the Gospel, which inspired them to take action. Others stressed that, while religion remains an important incentive for them or constituted the environment in which they grew up, secular sources of values such as human dignity are equally significant. Religion plays a very different role in the societies analysed, and people working in NGOs supporting refugees and migrants also have very diverse political opinions. In Greece, most of the NGOs occupy either the liberal centre or the left of the political spectrum. This means that religion and religious values are kept separate from their activities or not publicly acknowledged. Many interlocutors stated that they try to inform both NGO staff and volunteers about their organisations' values without making any particular reference to religion. Some organisations mentioned religion mostly in relation to non-discrimination. They also stressed that they try to prevent religion-based conflicts and promote peaceful coexistence between different religions in everyday interactions.

Figure 4. Migrants, refugees and passengers on the "Migrating Tram" in Warsaw.
2016 World Refugee Day event organized by Refugee.pl and partner organizations. Source: UNHCR.

Similarly, in Poland, members of civil society organisations supporting migrants and refugees often come from liberal and left-wing positions. They stress human rights and humanitarianism as the basis for their activities, but some are also motivated by religion. One of the leaders of the Polish Migration Forum spoke about her staff being motivated by humanitarianism, a deep belief in the universality of human rights, desire to provide assistance to the needy, respect for all human beings and the necessity to protect the dignity of all refugees and migrants. She said:

"Personally, I am motivated by my religion. I believe that refugees and migrants deserve respect. I am convinced that every human being, no matter where they come from, has inborn dignity. My team includes young women who are atheists, but they share my convictions although mine are born out of my religious beliefs and theirs are rooted in their secular ideology. I also have a lawyer on my team, and he believes that under the law everybody is equal, migrants as well."[5]

Sweden is often portrayed as a highly secular society. This characterisation is reflected in the World Value Survey.[6] Representatives of community-based organisations interviewed in this study indicated a certain level of reluctance to talk about religion or even avoidance of religious debates. This was best illustrated by the Red Cross interviewee.

My team includes young women who are atheists, but they share my convictions although mine are born out of my religious beliefs and theirs are rooted in their secular ideology.

Activist at Polish Migration Forum

While the organisation bases its mission and self-image on impartiality and neutrality, our interlocutor stressed that staff aim solely to reduce human suffering and to help the neediest, and do not express their own political opinions and religious beliefs (Scaramuzzino and Suter 2020). The respective sections of the organisation identify areas where support is needed and arrange their activities accordingly. For instance, during the summer and fall of 2015, Malmö Red Cross was involved in many emergency actions and outreach work at Malmö train station. Activities undertaken after 2015 mainly focused on creating meeting places as well as providing civic orientation and language training, depending on participants' needs.

The Muslim Cultural and Educational Center in Poznań is an example of a faith-based organisation established and led by immigrants. Established in 2005, the centre is both a house of worship and an integration centre. It offers Arab language and culture lessons and workshops, organises an annual Days of Islamic Culture programme and stages thematic exhibitions. Its message is religious tolerance and openness. It provides spiritual support to Muslims living in the Wielkopolska region, both foreign-born residents and native-born converts. The Imam's mission is to facilitate intercultural dialogue with members of the Polish community. The Imam wants the residents of Poznań and other visitors to learn about the true values of Islam.[7] During an interview, the Imam assured us:

"The Center is open to everyone who wants to learn about Islam and our culture. The door is always open, even during our prayer. In fact, next Friday there will be some university students here, because they want to see how we pray. We have nothing against it. Christian, Jew, Buddhist, Atheist, it doesn't matter to us. Anyone is invited."

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[5] Polskie Forum Migracyjne, http://www.forummigracyjne.org/en/aktualnosci.php?news=201&wid=36.
[6] World Values Survey, Findings and Insights, http://www.worldvaluessurvey.org/WVSContents.jsp?CMSID=Findings.
[7] Muzułmańskie Centrum Kulturalno-Oświatowe w Poznaniu, http://www.islam.poznan.pl/o-nas/.

The Imam also joined public gatherings in support of refugees and migrants organised by Poznań activists in the summer of 2015 (Wloszczynska 2015). Together with representatives of other denominations, he participated in discussions about religious holidays and celebrations and took part in demonstrations condemning xenophobia and promoting openness and dialogue. He continuously advocates for religious tolerance in Poland.

Fostering Religious Tolerance in Europe: Policy Recommendations

The entry into force of the Treaty of Lisbon in January 2009 has renewed the **institutional and legal foundations upon which the relationship between religion and EU law and policy** might develop in the years to come (Carrera and Parkin 2010). Additionally, in 2013, the **EU Guidelines on the Promotion and Protection of Freedom of Religion or Belief** were issued. When first issued, the Guidelines were hailed as a landmark commitment. However, in subsequent years there has been much criticism of the lack of formal evaluation of the effects of the Guidelines (Portaru 2019). These criticisms predate the "refugee crisis", but it seems that there is even more reason now to evaluate the Guidelines as religious diversity related to migration is growing.

Considering the implications of the EU's own commitments to religious tolerance and religious plurality and contextualising them within our empirical research as well as existing writings on religious tolerance and religious pluralism, we recommend:

- Strengthening the powers of the European Commission in arenas relevant to religious pluralism, including forced migration and refugee integration;

- Expanding the competences of the EU Court of Justice in order to review the relationship between EU law and religion and the legally binding nature of the EU Charter of Fundamental Rights;

- Ensuring that religious freedom guaranteed by European and national laws and regulations does in fact allow everyone to choose and change their beliefs, freely express and practise their faith, access and establish communities and places of worship;

- Providing legal, easily accessible mechanisms for reporting acts of religious discrimination and religion-based violence; and

- Establishing legal and psychological support for victims of religiously motivated crimes.

There are already many good policies and practices aimed at trying to instill **religious tolerance**. However, these policies are not always enforced as rigorously as they should be. Furthermore, with the growing role religion plays in political debates as well as discussions about immigration, refugee support and integration, there is a need for innovative approaches. Below are some recommendations aimed at maintaining and enforcing the norms, policies and laws that facilitate religious tolerance.

Maintain the universalistic principle of freedom of religion, understood both as freedom of belief and freedom from belief. These are important distinctions for many refugees and immigrants as some might never have been able to choose not to be religious or to be agnostic. In patriarchal societies, religious beliefs and associated behaviours, dress codes and the ability to work outside the home are not available to women. These restrictions are often explained in terms of religious precepts. Children born to immigrants in Europe and attending secular schools might also need the freedom to abandon the religious beliefs of their parents. They should be accorded these rights.

Ensure that refugees, immigrants, religious minorities and refugee leaders have a voice in policy dialogues at all levels of governance. Islam is the second largest religion in Europe, and Muslim populations of immigrant descent face disproportionate socio-economic exclusion, discrimination and racism (Al-Hassani 2005).

Ensure adequate financial and institutional support for faith-based and non-confessional civil society organisations at EU, regional, national and local level. Resources provided at EU and regional level, in particular, would go a long way towards developing EU-wide and regional initiatives, including exchange of knowledge and best practices through meetings, conferences and online platforms; support initiatives that directly address the issue of religious pluralism but also undertakings which focus on tackling common concerns and problems and are therefore actual examples of conviviality and cooperation.

Support adult educational programmes and campaigns promoting religious pluralism and tolerance.

Include topics related to religious tolerance and religious pluralism in school curricula at all levels. In particular, include content on religious diversity, examples of historical conviviality and stress the variety of interpretations, beliefs, cultural aspects in various religions.

Train community leaders, educators, civil society and government representatives to become skilled in facilitating inter-religious dialogue.

Use social media platforms to facilitate innovative and interactive ways to discuss religious tolerance and religious pluralism. Furthermore, ensure participation of refugees and migrants of different faiths.

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A Cosmopolitan Perspective for Europe

Chapter IV

The "European migration and refugee crisis" is also a crisis of the idea(l) of a cosmopolitan EU. Some cosmopolitan thinkers have considered the European Union to foreshadow a global cosmopolitan polity or, at least, to offer an exemplary case of cosmopolitanism in the making. This idea gained popularity in the late 1990s and 2000s. However, the way the EU reacted to the "refugee crisis" wakened the suspicion that this appraisal of the EU was premature. It disappointed the high hopes many expressed for the EU as a herald of a truly cosmopolitan world order.

Others were less harsh in their criticism. They argue that too often the underlying cosmopolitan philosophical approaches fail to acknowledge the specificity of and maybe even ambivalences in the European case. Nor do these approaches reflect adequately the often problematic relationship of the EU to the world outside Europe. It is not the aim of this chapter to decide on this debate. Instead, we want to shift our focus to the future development of the EU and an important question to which this debate points: What does a cosmopolitan perspective for Europe look like?

This chapter aims to answer this question. In order to develop different perspectives of a future cosmopolitan development of Europe which address the specific historical and political situation in which it finds itself, some preparatory groundwork has to be done. Regarding the idea(l) of a cosmopolitan order, the following questions need to be answered: What are the existing conceptions of cosmopolitanism? Are they applicable to the European multilevel system and in line with the norms and values contained in the Charter? Which requirements for a new cosmopolitan idea(l) for Europe can be identified?

To ensure that we are not only talking about lofty ideals but about realistic cosmopolitan perspectives for Europe, it is important to identify reference points and constraints for a possible future cosmopolitan development within Europe's status quo. What do our previous findings tell us about Europe's cosmopolitan potential? What are best practices in civil society and at institutional level that could undermine or reinforce a cosmopolitan perspective for Europe? It is on this basis that we can return to the question of Europe's cosmopolitan future: What are possible cosmopolitan scenarios of Europe's future? What are the contours of a new cosmopolitan ideal for Europe?

It is the aim of this chapter to answer these questions. Building on the insights of the previous chapters, it does so in three steps.

In **Section 1, "Migration, Cosmopolitanism and the European Project",** we review and assess the specific conceptions of cosmopolitanism. Tracing back the origins of cosmopolitanism to ancient times, it identifies four different dimensions within contemporary theories of cosmopolitanism: moral, institutional, civic, and cultural cosmopolitanism. Each of the dimensions highlights a key aspect of what is required of a political order to qualify as cosmopolitan. Since those approaches challenge the national Westphalian Order and its division of the world into territorially bounded states, they tend to place a particular emphasis on the migration issue.

In **Section 2, "The European Union as a Cosmopolitan Structure: Reference Points and Constraints",** we identify reference points and constraints for a normatively defensible yet feasible cosmopolitan order for Europe. It finds that an important reference point for a cosmopolitan perspective for Europe is the explicit and continued commitment of the EU and its citizens to cosmopolitan values. The reach of this commitment is, however, constrained by a vast unclarity in the interpretation of these values and their outright rejection by right-wing populists. Dealing with these constraints concludes by setting out specific policy recommendations.

In **Section 3, "A New Idea(l) for Europe: Report on the Future of Cosmopolitan Europe",** we conclude with a detailed analysis about what the idea of European cosmopolitanism implies for current challenges facing the EU's migration and refugee policy. Discussing the European Commission's New Pact on Migration and Asylum, we contend that maintaining the status quo is untenable since it confronts the Union with contradictory expectations. We present two alternative scenarios for the future and conclude by debating three political innovations through which the Union could reassert its claim to represent cosmopolitan norms and values.

1. Migration, Cosmopolitanism and the European Project

François Boucher, Martin Deleixhe, Isabelle Aubert and Sophie Guérard de Latour

At a Glance

Cosmopolitanism is a political idea(l) whose origins go back as far as Ancient Greece. It rests on the basic idea that humans' political standing should not depend on their national membership but reflect their moral status as human beings. It also refers to the view that all human beings are, or should be, members of a single worldwide political community.

We identify four dimensions of contemporary cosmopolitanism:

1. Moral cosmopolitanism refers to the claim that every human being is a source of valid moral consideration of all other human beings.

2. Institutional cosmopolitanism refers to the political claim that there should be global political institutions.

3. Civic cosmopolitanism refers to transnational democratic practices and forms of citizenship.

4. Cultural cosmopolitanism refers to an understanding of identities as being shaped by contact with many cultures from all over the globe.

Since those approaches challenge the national Westphalian Order and its division of the world into territorially bounded states, they tend to pay close attention to the migration issue.

The idea that the EU is a cosmopolitan polity or, at least, that it is a cosmopolitan order in the making, gained in popularity in the late 1990s and 2000s. Authors generally celebrate the EU as a cosmopolitan polity, for it offers equal rights for EU citizens irrespective of nationality.

However, some commentators raise moderate criticisms in relation to the EU's foreign policy and its lack of consideration for the respect of human rights. Since the 2015 "refugee crisis", commentators also tend to be highly critical when it comes to the EU's treatment of migrants and asylum seekers which falls short, in their view, of cosmopolitan hospitality.

Introduction

Cosmopolitanism has been given several meanings since it first appeared in Ancient Greece. The term broadly refers to the view that all human beings are, or should be, members of a single worldwide political community.[1] And, since its origins, cosmopolitanism has been presented by its detractors as something harmful to the integrity and continuity of local communities. To make sense of it thus necessitates looking at its long history and taking into consideration its multiple meanings.

The term "cosmopolitanism" comes from ancient Greek. Diogenes the Cynic coined it, referring to himself as a "citizen of the world", creatively combining the terms *politès* (the citizen) and *kosmos* (the world or universe). Diogenes founded his philosophy on a distinction between what belongs to nature and is universally shared by all humans and what is a matter of convention and varies from one city to the other. According to him, a life worth living was a life lived in accordance with nature, not convention. By refusing to affiliate himself with his home city, Diogenes was asserting his will to live by a universal ideal grounded in reason (Nussbaum 1997, 5–6).

A few centuries later, at the height of the Roman Empire, Stoic philosophers such as Epictetus, Cicero, Seneca and Marcus Aurelius followed in the footsteps of Diogenes the Cynic (Kleingeld and Brown 2014). They all asserted that human beings were part of two

For Kant, cosmopolitanism implied that every human has a right "not to be treated with hostility when he arrives on someone else's territory".

communities: a local community of birth and a universal human community. They highlighted the utmost importance of belonging to this second community by the sheer virtue of being rational creatures. Because of this universal membership, all humans ought to care for one another, not only for their relatives or their neighbours. Cicero claimed that we should think of ourselves as beings incorporated in various expanding concentric circles of membership, ranging from our family to the whole of humanity. He further stated that being partial towards our close ones is in order, but that no one should be left outside the circle of our moral concern. Local partiality can sometimes be the form of social organisation best capable of efficiently promoting the good of humanity.

For Greek and Roman philosophers, cosmopolitanism was mostly an individual ethical ideal of living in accordance with nature and our shared humanity. However, when cosmopolitanism was rediscovered in the modern era by humanist thinkers, its meaning was enriched and pluralised. For many, cosmopolitanism was associated with a certain attitude of openness towards diversity characteristic of those who travel around the world. Such travellers, labelled "cosmopolitans", were depicted as people who were comfortable anywhere on the globe, but also as people who have no stable ties to any country. Some philosophers turned cosmopolitanism into a fully political and legal doctrine of international relations with implications reaching far beyond personal ethics. Erasmus

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[1] This section is based on NoVaMigra's publication "Approaches to Cosmopolitanism: Review Essay on Their History, Analysis and Application to the EU" (Boucher, Aubert and Guérard de Latour 2019).

of Rotterdam, in *Querela Pacis* (1517), defended an ideal of world peace based on toleration and respect for diversity.

However, the most influential and widely discussed account of cosmopolitanism that we inherited from the modern period is without any doubt that of Kant. He argued that the only way towards peace was the establishment of a universal federation of nations with their own republican constitution that respects cosmopolitan law. He did not conceive of such a polity as a federal state with coercive powers, but rather as a loose confederation of states that retain their sovereignty but accept allowing their conduct towards other states and individual strangers to be governed by law. For Kant, this notably implied that every human has a right to hospitality, that is, "the right of a stranger not to be treated with hostility when he arrives on someone else's territory" (Kant 1991, 105).
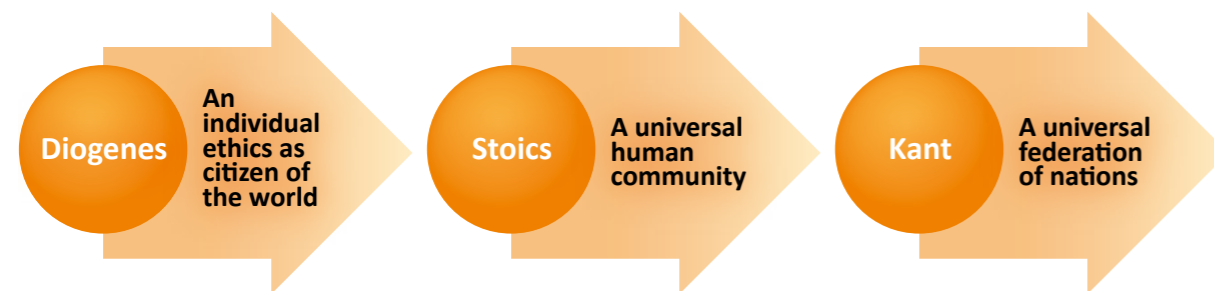

Figure 1. Models of cosmopolitanism, from Diogenes to Kant

Nowadays, cosmopolitanism still refers to the view that all human beings are part of the same global political and moral community. However, the various meanings of cosmopolitanism inherited from ancient and modern philosophers explain in part why several, sometimes competing, varieties of cosmopolitanism are developing today. We identify four dimensions of contemporary cosmopolitanism:

1. **Moral cosmopolitanism** refers to the moral claim that every human being is a source of valid moral consideration for all other human beings.

2. **Institutional cosmopolitanism** refers to the political claim that there should be transnational or global political institutions.

3. **Civic cosmopolitanism** refers to transnational democratic practices and transnational forms of citizenship.

4. **Cultural cosmopolitanism** refers to an understanding of cultures and identities as being hybrid and shaped by the contact with many cultures from all over the globe.

As diverse as these approaches may be, they all challenge the international order of states in two ways: They question national borders and highlight the issue of migration. In the following, we take a closer look at each of those models and highlight their implications with regard to migration policies.

1.1 MORAL COSMOPOLITANISM

Moral cosmopolitanism is a view about what people owe each other. It is a family of doctrines concerned with justice and what is the right thing to do. Thus, following an important distinction made in practical philosophy, moral cosmopolitanism is a conception of justice, or of what is right, and not a conception of the good life spelling out the role of humans in the universe and the meaning of life. As a conception of justice, it limits itself to asserting what limits humans ought to respect when pursuing their own conception of what is good.

Among all moral conceptions of what is right, what distinguishes moral cosmopolitanism is that it is a form of universal ethical individualism (Beitz 1999; Tan 2004; Pogge 2002). Ethical individualism claims that persons are the ultimate source of moral consideration. Individuals matter qua individuals, not as members of national, religious, ethnic or racial groups.

As an individualist doctrine, moral cosmopolitanism is the denial of methodological nationalism or state-centrism, which claims that nations or states should be the ultimate units of moral concern for the ethical assessment of international relations.

In addition, as a universalist doctrine, moral cosmopolitanism asserts a form of global impartiality and insists that the interests of foreigners and not only of fellow citizens be taken into account when determining what people owe each other. Thus, moral cosmopolitanism rejects defences of nationalism and patriotism which claim that the interests of outsiders can be disregarded when assessing the righteousness of people's actions.

Contemporary philosophers often distinguish between weak and strong forms of moral cosmopolitanism (Miller 2008). Weak moral cosmopolitanism claims that the view that people should treat all other human beings with equal consideration only means that they should make sure that all humans can live a decent life, the idea being that to be able to live such a decent life, one only needs to reach a certain minimal threshold in terms of resources, opportunities and basic freedoms. By contrast, strong moral cosmopolitanism requires a global equality of treatment. It demands, for instance, that socio-economic opportunities be equalised for all human beings. Strong moral cosmopolitanism is thus based on a notion of comparative equality, whereas weak moral cosmopolitanism is based on a notion of an absolute (non-comparative) threshold below which no one should fall.

Another important distinction intrinsic to moral cosmopolitanism concerns the value of local (national or state-wide) attachments. For extreme moral cosmopolitans, local attachments have only instrumental value: They are valuable only insofar as they help to strengthen the goals of moral cosmopolitanism, the idea being that a world of sovereign states may nonetheless provide the most effective division of labour for expressing equal concern for all human beings (Appiah 2005). By contrast, moderate cosmopolitans admit that local attachments can have value independently of their capacity to promote cosmopolitan goals and that we should balance the heterogeneous goals of sustaining particularistic special relationships based on partiality towards close ones and fellow citizens and of showing equal moral concern for all.

Cosmopolitans disagree about the nature and grounding of the obligations that humans owe each other as well as of the rights that all human beings should be granted. These disagreements focus on whether those rights and obligations are general or special. General rights are those that all humans possess solely by virtue of their humanity (as rational agents capable of making free and autonomous decisions), whereas special rights are those that arise out of certain special relationships between humans (created by promises, contracts, natural filiation or common membership in a group of some kind).
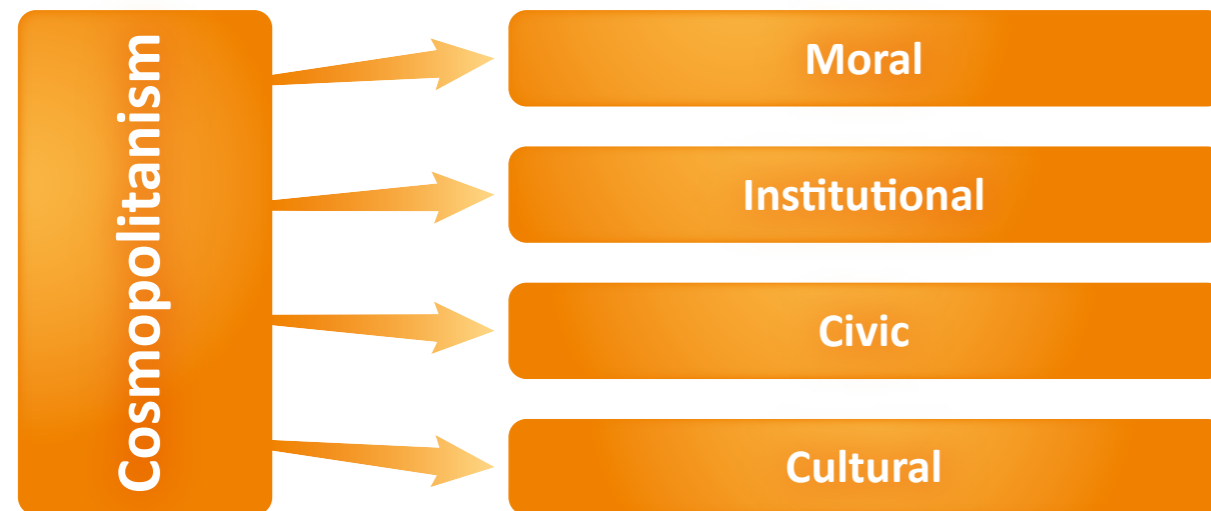

Figure 2. The four dimensions of contemporary cosmopolitanism

1.2 INSTITUTIONAL COSMOPOLITANISM

Institutional cosmopolitanism refers to a substantial political position favouring the creation or the reinforcement of transnational political institutions (Beitz 1999; Caney 2005). In this view, cosmopolitanism leads to the conclusion that there should be a set of transnational institutions regulating the interactions of individuals and corporations located in different parts of the world as well as the relations between states.

In its strongest form, political cosmopolitanism calls for the creation of a global government mimicking the structure of the modern nation-state on a global scale. In contemporary political philosophy, however, serious discussions on the idea of a world state are rather rare and tend to be rejected (Cabrera 2004).

Usually, proponents of institutional cosmopolitanism call for the creation of a new transnational level of governance and new transnational political institutions that do not completely obliterate the sovereignty of existing states. The strongest moderate varieties of institutional cosmopolitanism advocate the implementation of a multilevel system of government in which global political authoritative institutions are superposed over partly autonomous state institutions. For such institutional cosmopolitans, the ideal world order has a federal structure in which sovereignty is divided among several layers of government (Held 1995; Bohman 2007). In such a model, legislative competences are assigned to different layers of government (global, regional, national, local) on a functionalist or issue basis.

A still weaker position focuses instead on the idea of global governance. This tradition challenges the view that effective policymaking ultimately rests on the exclusivity of authoritative institutions that enjoy final authority and coercive powers with regard to specific domains of policymaking. They assert that institutionalised forms of cooperation can take the form of governance without (sovereign) government.

Certain authors do not focus so much on the notion of uncoerced global cooperation but on the view that universal or cosmopolitan goals can be agreed by various sovereign nations or states that are exclusively responsible for law enforcement and for interpreting those universal goals and translating them into their own binding national laws (Benhabib 2004).

Although they are often intertwined, it is important to bear in mind the significant conceptual distinction between moral and institutional cosmopolitanism. It is true that institutional cosmopolitanism is often justified by moral cosmopolitanism. However, moral cosmopolitanism can generate conclusions that do not support institutional cosmopolitanism. For instance, some authors discuss the view that partiality towards co-nationals or co-citizens is the most efficient way to promote the universalist moral aims of cosmopolitanism. Conversely, one may start with a premise grounded in methodological nationalism or state-centrism and reach the conclusion that there should be a stronger form of global government, since this is in the best interest of existing states or nations.

This distinction between moral and institutional cosmopolitanism is nowhere as apparent as when discussing the ethics of migration. Starting from the view that humans owe each other equal consideration, several moral cosmopolitans question the institution of borders and the limits they place on migration. In a very influential article entitled "Aliens and Citizens", Joseph Carens (1987) claimed that citizenship (in a rich and developed country) was the equivalent of a feudal privilege. People lucky enough to be born in a rich country enjoy tremendous advantages in terms of wealth and opportunities compared to those born on the wrong side of state boundaries. All this is simply a matter of luck. Moral cosmopolitans who believe that everyone is owed equal concern should therefore adopt an open-border policy in order to correct the injustices created by the birth lottery.

As we have seen, the topic of borders and migration was already present in Kant's cosmopolitanism. Kant's cosmopolitan law requires all states to treat foreigners on their soil with hospitality. This does not entail a policy of open borders, since Kant does not assert that migrants or travellers have the right to establish themselves wherever they want, although states should not deny entry and sojourn to those whose life would be threatened by such a denial. Kant's cosmopolitan law therefore seems to embrace what some have called the contemporary "conventional view on immigration" (Carens 2013, 10): States have binding obligations to welcome and protect refugees, but they enjoy great discretion in deciding who can immigrate and become a full member.

Yet some contemporary cosmopolitans reject both open borders for all and Kant's early version of the conventional view on immigration. Seyla Benhabib (2004), for instance, does not embrace the utopian notion of fully open borders, yet she is quite critical of Kant for placing too many restrictions on the rights of migrants. She claims that equal moral concern for all humans entails that migrants, once admitted on a state's territory, should not remain permanently excluded from having the same

political and social rights as full citizens (2004). In her words, (moral) cosmopolitanism requires the (institutional) "disaggregation of citizenship": political and social rights should be granted on the basis of residence, not cultural integration and membership. Benhabib's cosmopolitan law prescribes a low level of global institutionalisation; she does not recommend the creation of coercive international institutions, only that all states implement the same universal principles.

States can thus be cosmopolitan "from the inside" by treating non-citizens on their soil with equal moral concern. Yet whether "equal moral concern" for migrants requires granting exactly the same rights as citizens remains a subject of controversy for political philosophers. Migration policies focused on temporary labour programmes (enabling economic migrants to come to work in one's state without allowing them to stay permanently and become citizens) have sometimes been presented as forms of weak cosmopolitanism furthering global justice without making migrants fully equal to citizens (Miller 2008). Indeed, such programmes enable economic migrants to earn more than they would in their home country, thus favouring redistribution across national boundaries, yet they do not erase all distinctions between nationals and foreigners.
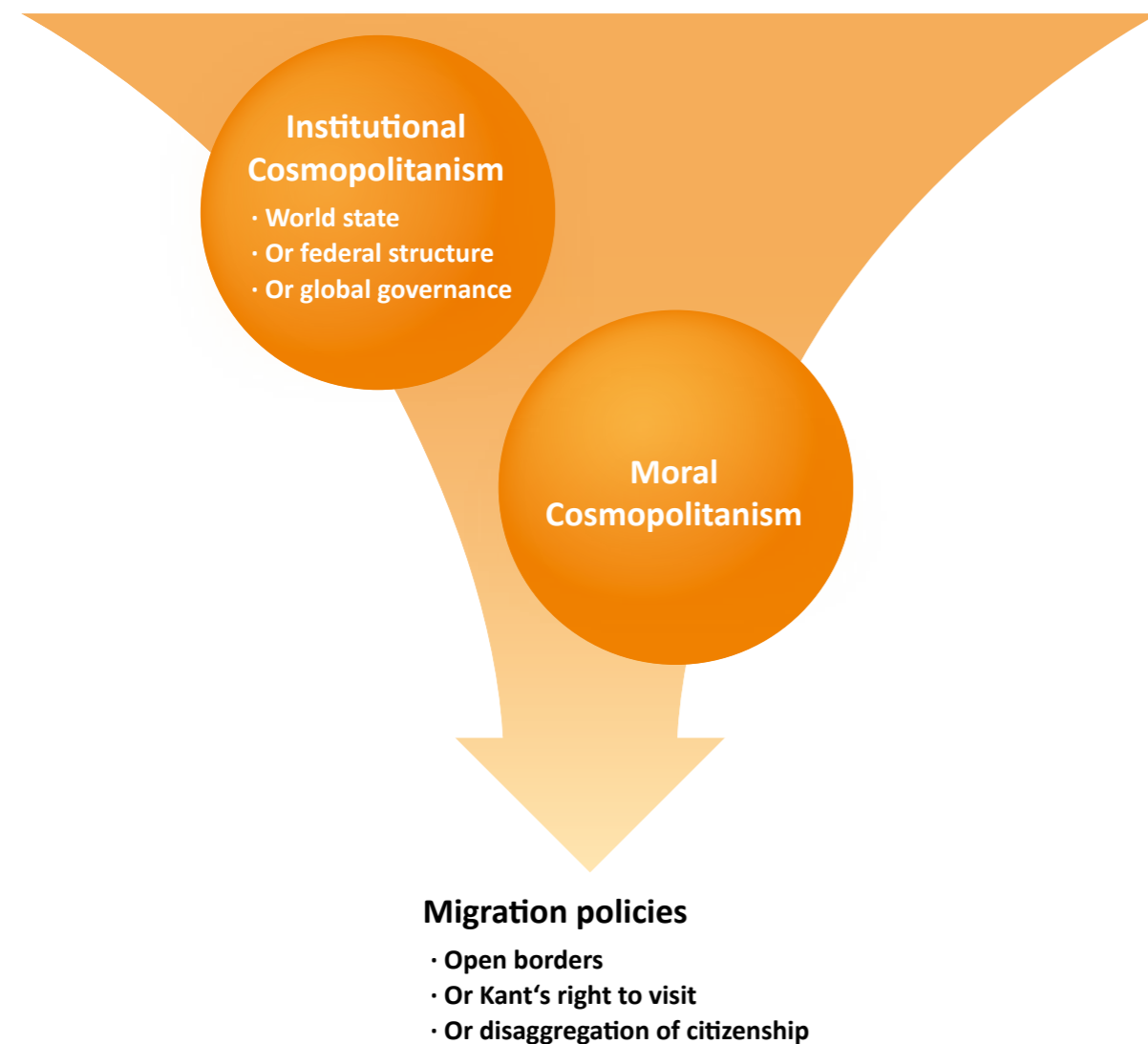

Institutional Cosmopolitanism
· World state
· Or federal structure
· Or global governance

Moral Cosmopolitanism

Migration policies
· Open borders
· Or Kant's right to visit
· Or disaggregation of citizenship

Figure 3. Range of cosmopolitan views on immigration

1.3 CIVIC COSMOPOLITANISM

Civic cosmopolitanism refers to transnational democratic practices and transnational forms of citizenship. More precisely, it refers to the normative position that calls for the emergence and dissemination of transnational forms of active citizenship and of transnational representative institutions.

Civic cosmopolitanism partly overlaps with political institutional cosmopolitanism. Indeed, several proponents of civic cosmopolitanism argue for the creation of democratic transnational institutions reproducing existing (national) forms of democratic representation on a larger scale (Held 1995; Habermas 1998a; Ferry 2012). Such representative institutions are superimposed on national ones, they do not obliterate existing nation-states but have jurisdiction over international matters, and individuals are directly represented among them so that membership in transnational parliaments is not mediated through membership in an existing nation-state.

Yet civic cosmopolitanism is not merely a subset of normative institutional cosmopolitanism. Indeed, some of its proponents make a distinction between formal representative institutions and informal practices of democratic citizenship based on processes of formation of public opinion in the larger public sphere and public deliberation and contestation (Habermas 1998b). They highlight the role of transnational civil society and transnational forms of political mobilisation and activism. They emphasise the role of discursive practices outside formal transnational representative forums (Dryzek 2000, 2012) and the idea that transnational democracy entails decision-making not merely among the members of a single *demos* (or people) but also deliberation and negotiation among multiple *demoi*, understood as a multiplicity of publics constituted by various identity or interest groups (Bohman 2007).

Civic cosmopolitanism can thus offer a programme that goes beyond the creation of new transnational institutions and includes new forms of global civic practices. In short, civic cosmopolitanism contains two different but not necessarily exclusive components: formal democratic representation and decision-making on the one hand and informal democratic engagement and deliberation on the other.

1.4 CULTURAL COSMOPOLITANISM

Cultural cosmopolitanism challenges the view that the world is or should be divided into bounded national communities. Sometimes, cultural cosmopolitanism presents itself as a descriptive or sociological claim denying that national identities play a central and unique role in people's lives. It then claims that there are no such things as separated and fixed national cultures understood as monolithic blocs with incommensurable values and worldviews. Sometimes, cultural cosmopolitanism is a normative claim that expresses suspicions regarding the value and desirability of national identities or that asserts the desirability of cosmopolitan feelings of attachment and identification with the whole of humanity.

First, cultural cosmopolitans reject the view that co-nationals share a single homogeneous national culture. They claim that the identity of individuals is shaped by many cultural traditions from around the world. In this first sense, cultural cosmopolitanism emphasises cultural hybridity to challenge the

relevance of national cultures and the arbitrariness of distinctions between us (co-nationals) and them (foreigners). Let us call this "post-nationalist cultural cosmopolitanism".

Second, cultural cosmopolitanism may embrace nationalism and the relevance of national identities. In this second sense, cultural cosmopolitanism can refer to the fact that the content of national identity is a source of motivation for promoting the ideals of moral cosmopolitanism. Some have called this form of cultural cosmopolitanism "rooted cosmopolitanism" (Appiah 2005) or "cosmopolitan nationalism" (Seymour 2005).

Third, cultural cosmopolitanism may also refer to processes of identity formation at global or transnational level. A cosmopolitan identity is here akin to the dual or nested identities of citizens of plurinational federations (De Schutter 2011). One may understand the emergence of a shared cosmopolitan identity through the lens of an overlapping consensus (Rawls 1993): A transnational identity is built from norms and values that are independent from all national cultures but can be reached and embraced from the multiple points of view of different nations.

It is worth pointing out that these dimensions of cosmopolitanism are not exclusive. Depending on different intellectual traditions and authors, they rather overlap and combine in distinct ways. They share some key features, while also offering some varying perspectives on the best way to materialise universalism. As such, these dimensions of cosmopolitanism should be regarded as a methodological toolbox rather than as a set of distinct models.
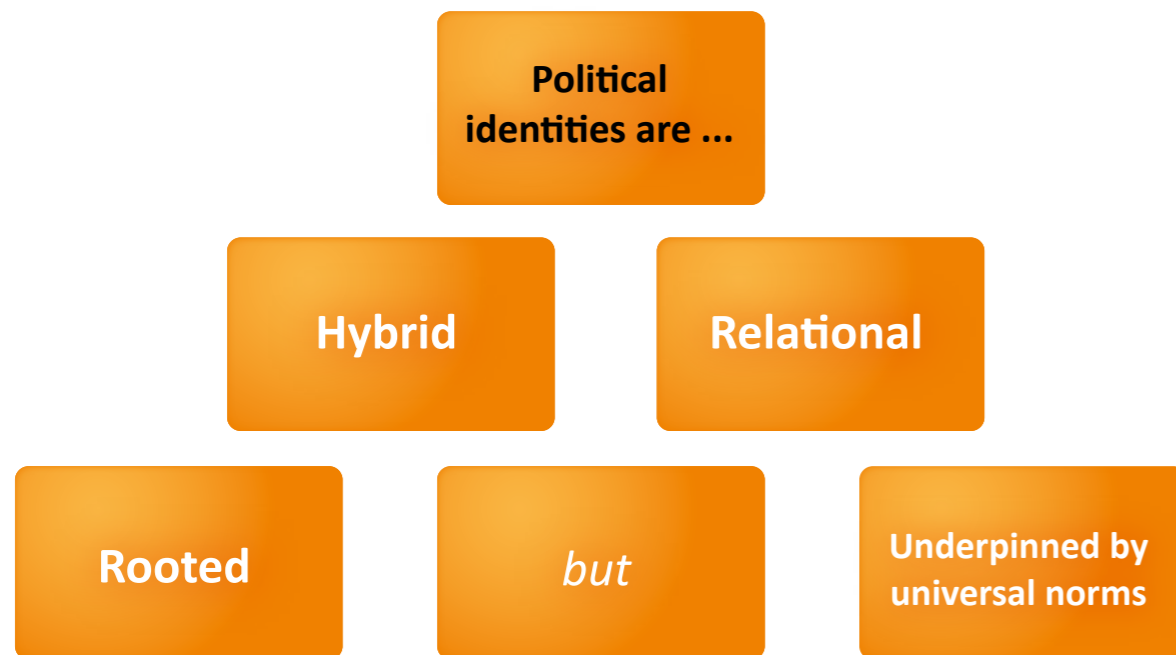

Figure 4. Cultural cosmopolitanism in a nutshell

1.5 A Cosmopolitan Europe?

The idea that the EU is a cosmopolitan polity or, at least, that it is a cosmopolitan order in the making, gained in popularity in the late 1990s and 2000s. Political philosophers favourable to the creation of transnational democratic institutions then hoped that European integration was the first step in the institutionalisation of democracy beyond the nation-state (Habermas 1998a; Benhabib 2004; Bohman 2007). Recent treatments of the notion of "European cosmopolitanism" tend to be more critical and pessimistic.

In a strict sense, it could appear that the notion of "European cosmopolitanism" is contradictory. The EU is not a global community in which all humans are members. There are indeed many ways in which the EU falls short of the cosmopolitan ideal of non-partiality and equal concern for all human beings. Highlighting the fact that the EU seems to give more weight to the interests of its citizens than to those of outsiders, talk about European cosmopolitanism is sometimes denounced as a form of "enlarged particularism" (Kaminga 2017).

However, this rejection of the notion that the EU embodies the aspiration of moral cosmopolitanism rests on the most demanding understanding of moral cosmopolitanism. This perspective omits to consider different ways in which the EU can foster weak moral cosmopolitanism: by promoting human rights in its foreign policy, by promoting human rights domestically and by following an ethics of cosmopolitan hospitality in its dealing with migrants and asylum seekers. Yet even if the EU goes down a path that favours weak moral cosmopolitanism, is still has efforts to make.

We will focus here on this third aspect. European cosmopolitanism promotes a EU that embraces Kant's cosmopolitan law and the principle of hospitality. Although the EU has been admirable in its efforts to implement cosmopolitan law internally, by making sure that citizens from EU member states are granted cosmopolitan rights and freedoms, it "has not consistently applied these basic cosmopolitan requirements to those beyond their borders and to all those who enter the territory of the EU" (Brown 2014, 686). Migrants are not granted the full protection that the EU Charter grants to EU citizens and, more generally, migrants are not granted legal protection equal to that granted to citizens (Bhambra and Narayan 2016). Asylum seekers entering the EU over the last two decades have come to be seen and treated as persons suspected of being criminals, as evidenced by poor conditions in detention centres, which have been criticised for seemingly pursuing goals that are more punitive than administrative.

By coining the notion of "Fortress Europe", some highlight that even if we embrace the minimalist version of Kantian hospitality, the EU falls short of respecting the very basic "right to visit", as the EU has not always refrained from denying entry to people whose life was threatened by such a refusal. Many have highlighted that a better mechanism for the sharing of burdens and responsibilities to protect refugees (through the sharing of resources and expertise and the resettlement of refugees) is much needed to protect the human rights of asylum seekers attempting to find refuge in the EU and to express solidarity between the EU member states (Bauböck 2018; Betts, Costello and Zaun 2017). Others have suggested directly granting refugees EU citizenship before they acquire citizenship in a member state (Owen 2019).

To summarise, when European cosmopolitanism is discussed, authors focus on three aspects of European politics: 1) how the EU grants citizenship rights independently of the nationality of its citizens; 2) to which extent the EU's foreign policy is guided by a human rights agenda, and 3) to which extent the EU guarantees a generous version of Kantian hospitality when dealing with foreigners on its territory or seeking to enter it. Authors generally celebrate the EU as a cosmopolitan polity in relation to the first aspect (equal rights for EU citizens irrespective of nationality). However, some commentators raise moderate criticisms in relation to the second aspect (the EU's foreign policy and human rights) and, especially since the 2015 "refugee crisis", commentators tend to be very critical in relation to the third aspect, with many asserting that the EU's treatment of migrants and asylum seekers falls short of cosmopolitan hospitality.

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2. The European Union as a Cosmopolitan Structure: Reference Points and Constraints

Marie Göbel

At a Glance

References to "European values" figure prominently in debates about the future of Europe's refugee policy. However, these "values" are interpreted in strongly diverging and even contradictory ways. This situation prompts the following question: What kind of cosmopolitan perspective "fits" the EU, i.e. is normatively defensible, feasible and in line with its own normative self-understanding?

With a view to this question, we start with a summary of the results of our normative analysis. The main conclusion of this analysis is that Europe's core normative commitments can and should be understood in an inclusive, rights-based way.

Systematising our empirical findings, we then identify reference points and constraints for a normatively defensible yet feasible cosmopolitan order for Europe. We find that an important

reference point for a cosmopolitan perspective for Europe is the explicit and continued commitment of the EU and its citizens to cosmopolitan values. The practical reach of this commitment is, however, constrained by, among other things, vast unclarity in the interpretation of these values and their outright rejection by right-wing populists.

To deal with these constraints in a constructive fashion – and tap into the normative resources identified before – we argue that a dialogue must be initiated that helps to clarify the meaning and the implications of Europe's cosmopolitan commitments. Here, it is especially important to avoid framing Europe's human rights commitments as "European values". Instead, the rights character, the universal scope, the moral character and the institutional implications of this commitment ought to be stressed.

Introduction

In the wake of the "refugee crisis" in 2015, the question about the future shape of Europe's immigration and refugee policy has become central to political discourse.[1] Since then, it has lost hardly any of its urgency or of its controversial nature, and a joint European answer still seems far away – let alone an answer that one might deem justifiable from a normative perspective. References to "European values" figure prominently in debates about this question. However, rather than providing more common ground for argument, these "values" are themselves interpreted in strongly diverging and even contradictory ways. This holds especially for the EU's cosmopolitan commitments, i.e. first and foremost the respect and protection of human dignity and human rights.

Some argue that these commitments imply strong duties toward refugees and demand a much more open immigration policy. Others stress the need to protect the European "value order" and argue for a restrictive immigration and integration policy on that basis. Yet others go one step further and claim that cosmopolitan norms are at odds with protecting Europe's cultural identity or should not count as European values in the first place. Hence not only which values should count as *European* values is disputed. It also seems almost arbitrary what they imply practically with regard to the treatment of refugees and migrants.

From a normative perspective, this situation is anything but satisfying. It prompts the following question: What kind of cosmopolitan perspective "fits" the EU, i.e. is normatively defensible, feasible and in line with its own normative self-understanding? This is the main question in this section.
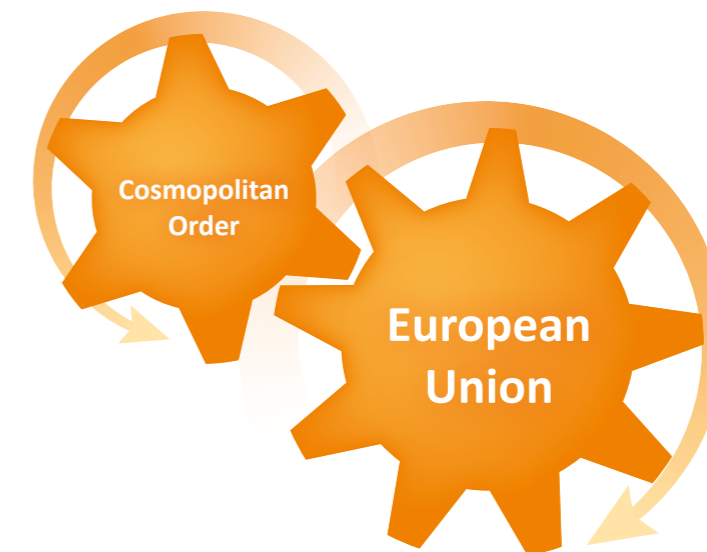

Figure 1. What kind of cosmopolitan order "fits" the EU?

In previous chapters, we have examined the meaning and normative implications of "European values" in different contexts, from a variety of perspectives and with the help of both normative reflection and empirical research. More specifically, we have *firstly* reconstructed the EU's fundamental norms and values on the basis of central documents such as the EU Charter of Fundamental Rights: How can the EU's normative commitments be interpreted in a normatively defensible way? (See Chapter 1 in this report.)

Secondly, we have investigated how European values are "at work" in practice: What role do European values play in various social practices as well as in political discourse, and how are European values interpreted by various policymakers and civil society agents? (See Chapters 2 and 3 in this report.)

To answer the main question set out above, in this section we summarise the normative conclusions on the one hand and some key empirical findings on the other, reflecting on the interconnections and tensions between them. We then identify reference points and constraints for a normatively defensible yet feasible cosmopolitan perspective for Europe and set out some recommendations on how to overcome the constraining factors that hold back Europe's cosmopolitan project.

2.1 Interpreting "European Values" in a Normatively Defensible Way

In current political debates, "European values" are often invoked to justify restrictive immigration and integration policies: These values, so the argument goes, define our cultural identity, our "value order", our "European way of life" – and hence need to be protected, also and especially against non-Europeans who allegedly embrace a different canon of values. In political discourse, references to "European values" thus often have a strong exclusive tendency: They seemingly justify "keeping people out".

This "exclusive" interpretation of European values is not only normatively problematic. At closer look, it is also at odds with those very norms, principles and rights that are frequently summarised as "European values" – and thus with the EU's own normative self-understanding. Human dignity and human rights in particular emphasise the equal moral status of all human beings as rights-holders and hence point in the direction of a much more "inclusive" approach to immigration and refugee policy. In addition, central documents that express the EU's core normative commitments, for instance the EU Charter of Fundamental Rights, clearly allow for such an inclusive interpretation of European values.

Europe's core normative commitments – whether one refers to them as "European values" or not – can and should be understood in a rights-based way.

Europe's core normative commitments – whether one refers to them as "European values" or otherwise – can and should be understood in an inclusive, rights-based way. This is the main conclusion of the normative part of our research.

More specifically, in the present context, these are our most important findings:

(1) From a normative perspective, it is crucial to distinguish between (i) the norms, principles and (human) rights themselves that are frequently presented as "European values" – human dignity, human rights, freedom, solidarity, the rule of law, and maybe others – and (ii) presenting these norms, principles and (human) rights as "European values". This distinction is important for two interrelated reasons (see Section 1.1 in this report; also Göbel 2020b):

o It makes us aware of the tension between the universal moral character of some of these norms (in particular human dignity and human rights) on the one hand and their (re)interpretation as something specifically European on the other.

o The moral and political duties that follow from (universal moral) values differ to a certain extent from the moral and political duties that follow from (universal moral) norms, principles and (human) rights – in a nutshell: Values might be interpreted so as to call for their protection, e.g. the protection of a European value order. Rights, by contrast (to continue with that example), require respect of the rights-holder, and in the case of human rights even unconditional respect. There is clearly tension here as well. It is therefore important to recognise that most, if not all, "European values" are not values, properly speaking, but norms, principles and (human) rights.

(2) To (mis)interpret human dignity and human rights as European values is strongly misleading: Among others things, it opens up the possibility to present them as conditions for admission ("immigrants need to respect and live European values"), as is reflected, for example, in the common charge that Muslim immigrants disrespect gender equality (human right to non-discrimination on grounds of gender) and hence pose a threat to the "European value" of human rights (see Section 3.2 and Section 3.3.1 in this report). Whether the EU's cultural identity ought to be protected, and with what means, is one question; what it takes for the EU to meet its human rights commitment is quite another.

(3) For these reasons, we favour a rights-based approach to European values over a value-based approach: Human rights should be taken seriously for what they are – rights, i.e. legitimate claims by all human beings, rather than merely or primarily by Europeans.

(4) Our reconstruction of the values and norms in the EU Charter of Fundamental Rights (see Section 1.2 in this report) shows that the EU's normative commitments clearly allow for a much more inclusive approach to immigration than is frequently maintained. Such an approach is therefore not only required from a moral perspective. Rather, the values and the corresponding rights as expressed in the Charter could and should represent a starting point for imagining a more inclusive Europe, capable of meeting its cosmopolitan responsibility.

(5) There are many different definitions and interpretations of "cosmopolitanism" (see Section 4.1 in this report). Here, we refer primarily to moral cosmopolitanism: By

moral cosmopolitanism we understand the idea that certain actions are morally owed to every human being, simply as a human being, i.e. independently of her ethnic or national origin, social position, individual lifestyle, etc. In other words, every human being has human dignity and inalienable human rights. A commitment to moral cosmopolitanism is clearly at the heart of the EU Charter of Fundamental Rights. This leaves many questions about the corresponding duties open for debate, but there are also some things that one cannot reasonably argue about. One of them is that moral cosmopolitanism necessarily implies political cosmopolitanism. By political cosmopolitanism we understand the idea that the policies and political institutions of a country (or here the EU) ought to reflect its moral cosmopolitan commitments. Hence, if the EU is serious about its cosmopolitan commitments, then it must also recognise a moral duty to shape European policies and institutions in such a way that they aim to respect and protect the human dignity and human rights not only of EU citizens but of non-Europeans as well. Without recognising this, the EU's commitment to human dignity and human rights would be a sham from the very start.

In this section, we have summarised the most important results of our normative analysis. In the following sections, we will reflect on some key results of our empirical analysis of how various agents interpret European values in practice.

Values might be interpreted so as to call for their protection. Rights, by contrast, require respect of their holder.

2.2 Summary of the Empirical Findings

NOVAMIGRA's empirical research, whose main results are presented in Chapters 2 and 3 of this report, concentrated on how various actors on the ground interpret Europe's core normative commitments and relate them to questions of immigration and integration. For the purpose of identifying reference points and constraints for a cosmopolitan Europe, we were particularly interested in contexts built around the assumption that immigration would create a challenge to social cohesion in member states. Hence, we focus on NOVAMIGRA's analysis of populist discourses, on the one hand (see Section 2.3 in this report and Jaksa/Nagy 2020), and discourses surrounding immigrant integration (see Chapter 3 in this report), on the other.[2]

Comparing the results of our analyses of populist discourse and immigrant integration practices, we are confronted with an almost paradoxical picture: In populist discourse, cosmopolitan norms are associated with the EU, yet in a negative sense: They allegedly threaten national sovereignty and the "true" European identity. By contrast, in the immigrant integration context, cosmopolitan norms are invoked affirmatively. However, here these norms are presented as national values rather than as European values. Overall, references to European values play a much less vital role in immigrant integration practices than one might expect or than they arguably should.

This observation raises two questions in particular: *Firstly*, it goes without saying that right-wing populism generally poses an obstacle to a cosmopolitan Europe. However, the question would be what lies behind right-wing populists' anti-cosmopolitanism, and how one might deal with it accordingly: Is it mainly about constructing an enemy, as comparable to anti-elitism? Or do right-wing populists actively propagate a policy which is, for example, decisively not built on the respect of human rights (think, for example, of the abolishment of developmental aid as demanded by the Dutch PVV)? We do not want to answer these questions here. We only want to make clear that addressing the question of how far right-wing populism poses a constraint to a cosmopolitan order in Europe would require thinking further along these lines. *Secondly,* with regard to the lack of references to European values in the immigrant integration context, we might still think of the invocation of cosmopolitan norms as a reference point rather than a constraint[3]. The question would then be why it is the case that these norms are conceived of as values, yet as national rather than as European ones. This should be the starting point for further reflection. This need is further corroborated by the next point.

In terms of content, there is partly convergence between European values and values that are invoked on a national level. However, in practice, national values are frequently brought into opposition with European values. They appear as two different sets of values, and sometimes even mutually exclusive sets, rather than one set of values that is formulated in different contexts and on different levels of abstraction. Here, the question would be whether the divergence is mainly about terms or reflects something deeper. Expressed differently: It might be the case that – for whatever reason – societal agents speak of "cosmopolitan norms" in one context and of "values" in another and of "European values" in yet another, but really mean the same. However, it might also be that there are substantive reasons for choosing one term over the other, e.g. an acknowledgment of human rights but a suspicion toward the European project.

Although states are the main actors in "transmitting" certain values to immigrants, our analysis shows that official, governmental integration activities aim largely at the protection of values and the assimilation of newcomers. By contrast, the importance of a genuine commitment to cosmopolitan norms (and the duties they imply), both generally and for the self-image of the EU, is mainly emphasised by NGOs (see Sections 3.1 and 3.2 in this report).

It is striking that, according to our analysis, NGOs would indeed be an important reference point for the cosmopolitan project, but governmental integration activities significantly less so. It seems crucial here to further clarify the relationship between national and European values. However, it seems that the focus on national values should only be regarded as a constraint where these contradict and supposedly constitute an alternative to European values (e.g. the national value of Catholicism as an alternative to the European value of freedom of religion).

In practice, hardly any difference is made between different normative concepts such as values, norms, principles and rights – neither implicitly nor explicitly (see Section 3.2 in this report). Nor does there seem to be an awareness of these differences and their practical implications. This is problematic first

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of all because it may lead to an implausible view of the normative implications of "European values". It would therefore be important to make clear that these "values" should be interpreted in an inclusive, rights-based way, as already stressed above.

2.2 REFERENCE POINTS AND CONSTRAINTS FOR A COSMOPOLITAN IDEA(L) FOR EUROPE

On the basis of the preceding reflections, we can now identify reference points and constraints for a future cosmopolitan ideal for the EU. However, first we shall add some clarifying remarks about our presuppositions and the general approach.

The reference points and constraints in question are meant to guide the development of a cosmopolitan ideal for Europe that is not only normatively defensible but also feasible and "fitting", i.e. in line with the EU's normative self-understanding. Why are fittingness and feasibility important? In other words, why is it not sufficient to formulate the ideal and to stress that EU policies morally ought to (strive to) conform to it?

This question arises because of the universally binding character of cosmopolitan norms, by which we here understand first of all respect of human dignity and human rights. "Universally binding" means, among others, that it is morally obligatory to follow these norms independently of whether one in fact recognises them or not. The EU therefore ought morally to respect and protect human dignity and human rights, independently of whether the EU as an institutional body or the majority of EU citizens are committed to these norms in some sense. It is therefore important to stress that, whatever the results of our empirical analyses might be, they cannot possibly change or relativise this moral obligation. The starting point of our analysis is non-neutral in this regard: Even if all European countries were governed by anti-cosmopolitan populists, this would not change the fact that the EU ought morally to become (more) cosmopolitan.

However, we should also stress that saying a moral norm is universally binding does *not* mean it is completely independent from empirical (e.g. anthropological) conditions. We cannot explore this in much detail here – suffice it to say that "value pluralism" is clearly one of these conditions, i.e. the empirical fact that there is inevitably a plurality of beliefs or "values" that human beings hold. It was therefore to be expected that our empirical analyses reveal different attitudes toward cosmopolitan norms – however, that does not speak against a cosmopolitan ideal but is, rather, one of its presuppositions.[4]

Having clarified this, the question arises of the ways in which the EU's normative self-understanding and the ways European values "work on the ground" have a bearing on the relevant cosmopolitan

ideal. The answer is that they allow us to better understand, firstly, what normative commitments there are already on which an attempt to make the EU "more cosmopolitan" can build. That is what we mean when we talk of *reference points*. Secondly, the empirical analyses allow us to see more clearly what stands in the way of establishing a cosmopolitan order and also to indicate ways how these obstacles may be overcome. It is those obstacles we mean when we talk of *constraints*.

In the following, we start by summarising four key findings from our empirical research. We then describe the reference points and constraints which these findings help to identify for thinking about a suitable cosmopolitan idea(l) for Europe. In the final part of this section, we then indicate how these constraints might be dealt with in a constructive fashion.

Reference points and constraints for a cosmopolitan Europe

If we consider how European values are currently "at work" in practice, there seem to be at least **two central reference points** that a cosmopolitan ideal for the EU may draw on:

- The EU's commitment to cosmopolitan norms in central EU documents, as well as the fact that this commitment clearly allows for an inclusive, rights-based interpretation (see the discussion in 2.1 of this section);

- The fact that a significant number of Europeans seem to regard cosmopolitan norms as important values, be it at national or European level, and whether expressed in value language or not.

One can also identify **three important constraints**:

- Our empirical findings show great unclarity about what European values are, what kinds of duties accompany them and how they ought to be interpreted.

- Similarly, the normative implications of cosmopolitan norms for the treatment of non-Europeans are interpreted in various, partly implausible, and sometimes contradictory ways.

- Unsurprisingly, the outright rejection of cosmopolitan norms by right-wing populists poses a constraint or at least an obstacle that such an ideal might want to consider.

These reference points and constraints should be the starting point for reflecting on the concrete steps that could be undertaken in the direction of a (more) cosmopolitan Europe.

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[4] This is another reason why regarding human rights and human dignity as values is a mistake: They are not values next to other values. Rather, they are the very precondition for people having and "living" different values – for instance because this presupposes living in a political order that respects the rights to freedom of opinion and freedom of religion.

Creating a reasonable dialogue about Europe's core values

The overall goal should be to create a deeper understanding of what European values mean and imply – not in order to set down one "correct" interpretation once and for all, but in order to facilitate a more reasonable societal dialogue about them. It is clear that populists in particular will hardly be impressed by rational argument. However, for a start, it is important to create greater awareness that one central populist argument against Europe's commitment to cosmopolitan norms is evidently wrong: Cosmopolitan norms are not imposed on European member states in a quasi-external fashion. Nor are they only stated in certain documents.

Any genuine commitment to human rights has some direct implications that should be clarified in public discourse.

Rather, they play a role in the actual practices of various agents and converge in terms of content with what many EU member states would call their national values. It seems clear therefore that various agents support the norms, principles and rights that underlie "European values" yet lack a clear understanding of their deeper meaning. Such a dialogue would therefore also be an important bulwark against populist (pseudo-)arguments.

This discourse, we want to suggest, should not be conducted in terms of "European values". "Value talk" has the merit of facilitating emotional commitment – which, however, may easily lead in the wrong direction without proper understanding. The dialogue should instead focus on the EU's commitment to human dignity and human rights. Many Europeans, it seems, deem it important that Europe is committed to these principles. The problem is then not so much that they disagree with this normative orientation on a fundamental level, but rather that cosmopolitan norms seem over-demanding. This is also reflected in our empirical analysis: The protection of national values as well as national and European self-interest is frequently presented as the antidote to following cosmopolitan norms. What is therefore needed is more clarity about the normative implications of human rights and their relationship to preserving cultural identity.

In this respect, it is also important to stress that what counts as a coherent, normatively defensible interpretation of human dignity and human rights is neither arbitrary nor completely open nor is it set down once and for all. On the one hand, there are limits to how human rights may be plausibly interpreted – for instance, making it a precondition for admission to Europe that one has "internalised" human rights in some sense is clearly *not* an immediate implication of the human rights idea. On the other hand, there can and should, of course, be a societal discourse about what follows from them, and they can also to some extent be interpreted in a context-specific fashion. It would therefore be important to explain that there is not necessarily a contrast between national values and cosmopolitan norms. This is one core element of the dialogue we want to suggest.
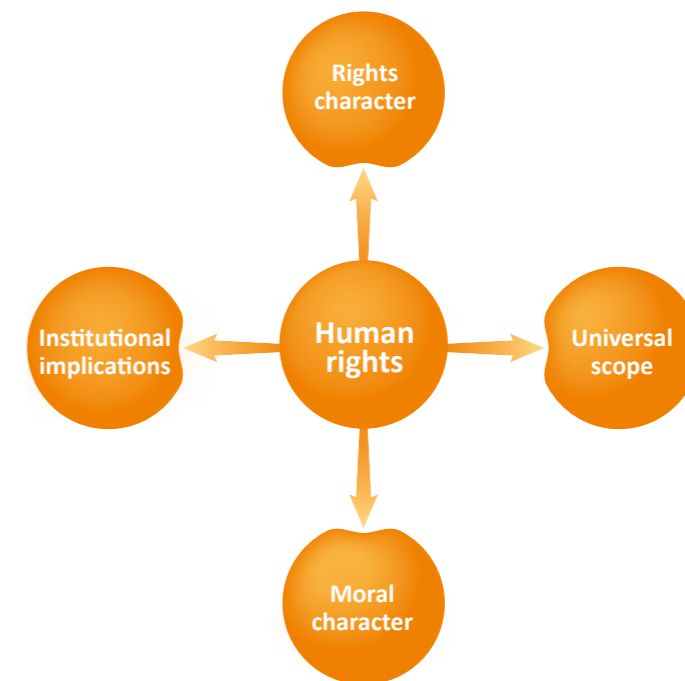

Figure 2. Four key characteristics of human rights

Finally, it is important to note that human rights raise many difficult questions about corresponding duties and duty bearers, questions that can and should only be addressed in societal dialogue. However, **any genuine commitment to human rights also has some direct implications that should be clarified and explained to EU citizens.** This concerns in particular:

(1) Their rights character: Human rights articulate standards that are owed to people. Accordingly, the protection of human rights is not some benevolent, supererogatory practice by Europeans – it is a moral, political and legal duty.

(2) Their universal scope: Human rights are not exclusively or even primarily the rights of Europeans. They are rights of all human beings, without qualification. Therefore, without a serious commitment to the protection of the human rights of non-Europeans, it cannot be maintained that the EU is committed to human rights.

(3) Their moral character: To say that the EU is committed to human rights is to say that it commits itself to a moral standard that it has neither invented nor is fully at its disposal. This does not mean that there is no room for interpretation. However, it does mean that it is not merely arbitrary what follows from this commitment.

(4) Their institutional implications: Human rights are not "merely" a moral idea. Rather, it is clear that the human rights idea implies a moral and political obligation to establish institutions that guarantee an effective protection of human rights. What kinds of institutions this requires in the case of the EU is and should be one of the central questions.

It is clear that creating more clarity about the underlying normative commitments would still leave many questions unanswered, e.g. how to deal with those who disagree on a more fundamental level, how a true "European identity" based on these norms can be built, what exactly this implies for various institutions, etc. And yet it seems to us that such a clarification would be an essential and indeed inevitable step in developing a new perspective for cosmopolitan Europe, while keeping in mind the reference points and constraints our empirical research helps identify.

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3. A New Idea(l) for Europe: Report on the Future of Cosmopolitanism in Europe

Martin Deleixhe

At a Glance

While designing its migration policy, the European Union must carefully weigh two conflicting considerations. On the one hand, the Union has explicitly set some normative standards for itself in its Charter of Fundamental Rights. On the other hand, after the influx of asylum seekers over the summer of 2015, several member states signalled their inability or reluctance to host newcomers.

We consider three possible scenarios for the future of the Union's migration policies. In the third scenario, the European Union could double down on the idea that what makes it stand out as a transnational polity is the fact that it is driven by a political cosmopolitanism. It would argue that the exact content of its norms and values is open to discussion but that it cannot allow their egalitarian and universalist core to be compromised. Consequently, it would adopt a more proactive stance in the management of migrations, emphasise the need for European solidarity and assert its authority over the issue.

A more centralized migration policy would spark some lively debates in several member states and should be handled cautiously to prevent it from backfiring politically. But the benefit of a clarified and internally coherent position could justify taking this risk. This leads to three possible political innovations:

- the proposal to grant a universal right to hospitality within the European Union, which would require revising the Union's foreign policy to roll back the outsourcing of its border controls to third countries;

- a revised flexible mandatory solidarity scheme that would scrap the possibility for member states to discharge their duties by sponsoring the return of migrants;

- the possibility of granting European citizenship to asylum seekers to empower migrant voices and fuel a critical form of cosmopolitanism.

Introduction

Virginie Guiraudon, a highly regarded scholar of European migration, provocatively titled a recent scientific article "The 2015 refugee crisis was not a turning point" (Guiraudon 2018).[1] She observes that the Dublin and the Schengen agreements have not undergone any significant change since 2015, while most of the new solutions put forward in the aftermath of the crisis amounted, in fact, to doing more of the same. Frontex's budget has tripled and the scope of its responsibilities expanded but its agenda and approach remain unchanged (Lavenex 2015).

In our view, 2015 *was* a turning point but for normative reasons. It shattered the perception that the European Union had of itself (Stierl 2020). More specifically, it challenged the idea that the European Union would be a political project fuelled by a cosmopolitan agenda (Beck and Grande 2007) and driven by its commitment to universal norms and fundamental values.

Schematically, two conflicting considerations needed to be carefully weighed. On the one hand, the European Union had explicitly set some normative standards for itself in its *Charter of Fundamental Rights*, including, notably, a commitment to guarantee the right to asylum in its Article 18. On the other hand, several member states signalled that they were unable or unwilling to host newcomers.

This chapter presents various solutions that would reconcile the Union's normative commitments with its migration practices. First, we present a thorough diagnostic of the current situation of the Union's migration policies, with a specific focus on the *New Pact on Migration and Asylum*. Second, we introduce three possible scenarios for the future of the Union's migration policies.

In our first scenario, we argue that the current *status quo* is unsustainable. We then sketch two viable alternatives. In the second scenario, the Union takes a step back in the management of its external borders, hands over most of the operational responsibilities to its member states and limits itself to a supervisory function. In the third scenario, the European Union adopts a more proactive stance in the management of migrations, emphasise the need for European solidarity and assert its authority over the issue.

To that end, we recommend three possible political innovations. We explore (1) the proposal to roll back the outsourcing of border controls to third countries, (2) a revised, flexible, mandatory scheme that would scrap the possibility for member states to discharge their duties by sponsoring the return of migrants and (3) the possibility of granting European citizenship to asylum seekers to empower migrant voices.

3.1 European Norms and Values and the European Charter of Fundamental Rights: Neither Policy Recommendations, Nor Empty Signifiers

The drafting of the the *EU Charter of Fundamental Rights* in 2000 was both a juridical and a *political* exercise. It allowed the European Union to clarify what it stood for – what sorts of norms and values provided the general orientation of its political action (Van Middelaar 2013).

The NovaMigra research project scrutinised closely the content of those norms, paying particular attention to their legal consequences for migrants' rights (Facchi, Parolari and Riva 2019; see also Section 1.2 in this report). We concluded that the Charter is, from a philosophical viewpoint, a rather ambiguous text. First, it appears to use the terms "values", "principles" and "norms" interchangeably. Second, the Charter draws its inspiration from a wide range of political traditions, themselves shaped by their commitments to distinct values. Four are particularly prominent. The influence of Christianity is palpable behind the emphasis on human dignity. The articles guaranteeing citizens' political participation owe their presence in the Charter to the long history of republican tradition in Europe. The Charter inherits from liberalism its attention to the impartiality of the law, private freedoms, and tolerance, while socialist tradition played an obvious role in the inclusion of equality and solidarity amongst the European values. As a result, the Charter presents itself more as a patchwork of those different traditions than as an internally consistent political statement, articulating cogently its norms and values (Facchi, Parolari and Riva 2019, 24–34).

But there is no reason to assume that a proclamation of basic rights should be unambiguous, that its meaning should be straightforward or that its purpose should be framed by a single political tradition. Human rights are an "essentially contested concepts" (Gallie 1956) in the sense that they cannot be provided with an ultimate definition, yet political actors feel that circumscribing their content is of crucial importance and compete to inject their own meaning into them. Human rights are thus not a recipe for full-fledged public policies. Their role is rather to act as normative resources that can be seized by political activists and reinterpreted to contest the legitimacy of the public authorities, hence their symbiotic relationship with the democratic regime. Their vague and imprecise wording sets the stage nicely for ceaseless reappraisal of a political community's relation to its founding values.

Human rights invite conflicting interpretations. As such, the question of how to translate them appropriately into laws and public policies is constitutive of a pluralistic democratic debate. But does it imply that human rights can mean virtually *anything*? In our view, the *EU Charter of Fundamental Rights* should be conflated neither with a set of policy recommendations, nor with empty signifiers. In the very act of proclaiming rights to each other, we establish right-bearers as *at the very least* individuals worthy of moral and political consideration. Thus we argue that some of their interpretations are more plausible than others or, at the very least, that some interpretations are wholly incompatible with the core principles enunciated in the basic rights.

The New Pact for Refugees and Migration and "European values"

Migration policy is a normatively loaded field (Lavenex 2018). Any political decision in this domain is liable to spark some passionate debates. The *New Pact on Migration and Asylum*, presented to the public in September 2020 by the commissioners Margaritis Schinas and Ylva Johansson, is no exception to this rule.
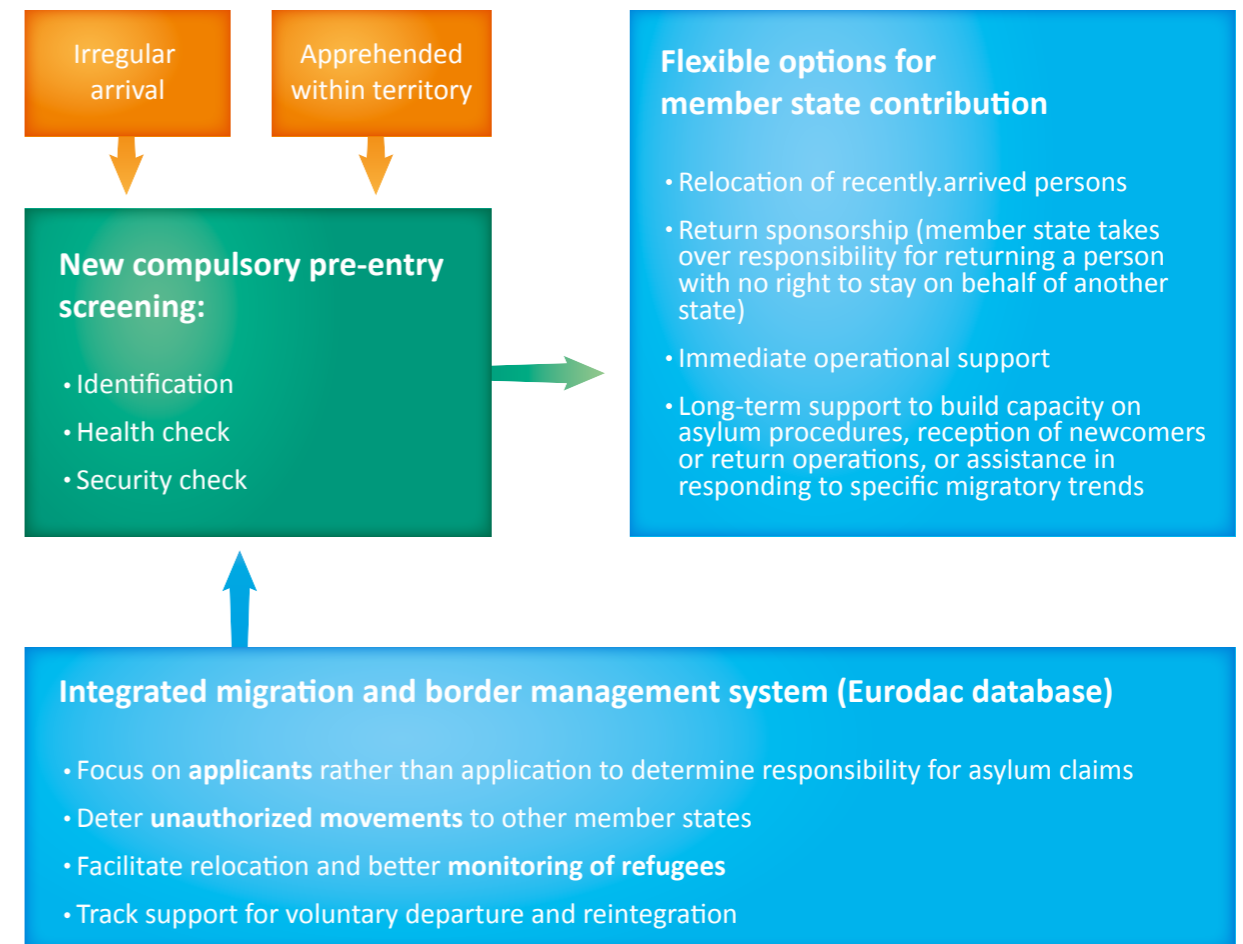

Figure 1. New Pact on Migration and Asylum: Proposals for pre-entry screening and options for member state contribution within a solidarity scheme.
Source: based on European Commission (2020).

Arguably, the Pact looks for a compromise between approaches to migrations that are difficult to square together. In the aftermath of the 2015 reception crisis, while Germany promoted a national "Welcome Culture" and the southern states bordering the Mediterranean Sea repeatedly called for help in the management of the crisis, the Visegrád bloc staunchly refused to partake in any asylum seeker relocation schemes. The two commissioners in charge of reforming the dysfunctional governance of European migration toured the different capitals to collect, document and look for possible compromises between the varied political preferences of the member states. The result is a Pact that acknowledges the complexity and the multi-faceted nature of migration while aiming to provide the European Union with a balanced and comprehensive approach to the issue (De Brouwer and Vignon 2020).

First, the Pact suggests that the Union could renew its diplomatic partnerships with sending and transit countries and foster mutually beneficial relations by stepping up their coordinated management of irregular migrant flows and of returns, as well as their struggle against migrant smuggling. Second, it urges the member states to adopt a mandatory but flexible solidarity scheme. In contrast to the 2015 relocation scheme, this new solidarity mechanism introduces the possibility for a member state to discharge its duties without having to admit migrants onto its soil. Third, it calls for the modernization of the pre-entry screening procedures at the borders of the Union, and for faster asylum procedures to prevent the dramatic overcrowding currently witnessed in the Greek reception facilities, for instance (see figure 1).

In our view, though innovative, many of the Pact's pragmatic solutions attempt to sidestep the root cause of the problem, rather than tackle it. The key problem at the heart of the European migration governance is not the lack of innovative and effective solutions available. The real problem is that member states hold views that are so diametrically opposed that there remains no middle ground on which to build even a minimalistic consensus. As a result, the Pact is driven by a search for technical solutions that would be palatable to all parties by virtue of their presumed effectiveness and problem-solving qualities. This depoliticised approach to the problem does not engage with the different national preferences in a substantive way.

Barring an effort to start a transnational political conversation on the question of migration in light of Europe's normative commitments, and a subsequent effort to invite national political actors to reconsider their preferences, one worries that all the efforts of the European Commission may have been in vain. And, indeed, the negative reactions upon the public release of the Pact highlighted the tremendous difficulties in trying to bridge fiercely opposed normative views on a divisive issue. The countries of the Visegrád group swiftly expressed their discontent with the Pact and reiterated their refusal to cooperate with any Europe-wide effort to tackle the issue (Brzozowski 2020). Human rights organizations and trade unions also condemned the Plan, but for its lack of concern for the fundamental rights of migrants (Amnesty International 2020; European Trade Union Confederation 2020).

Our analysis is that this political gridlock is the result of a widening gap in the interpretations of the European norms and values, and in particular of the duties they entail for the member states in their relationship to migrants. If this assumption is correct, there will be no pragmatic solution to this problem. No migration policy, regardless of how practical and efficient it may be, will be able to bridge this political and normative gap. The only way out of this dead end is to open a public deliberation in which political actors, in spite of their differences, acknowledge the need to restore some agreement as to what the European norms and values commit them to.

An implausible interpretation of European values

As we argued above, the European norms and values are ambiguous and thus open to contestation. But does this mean that they are infinitely malleable? We argue that some understandings of the European norms and values are normatively inconsistent and ought to be discarded. Though their meaning is undeniably vague, the European values *do* prohibit certain political actions and constrain the field of possibilities with regards to migration policies.

A self-proclaimed "illiberal democrat" (Tóth 2014), Viktor Orbán never disparaged the European values. He rather portrays himself as the last staunch defender of the "Christian values" at the core of European civilization (Enyedi 2020).

Regardless of how often Orbán pays homage to the European values, it seems highly unlikely that civic or political freedom is one of his main concerns. In Hungary, political competition has been stifled (Scheiring and Szombati 2020), media freedom has been systematically dismantled (Reports Without Borders 2020), and civil society is closely monitored by the regime (Buyse 2018). Though Orbán argues that he disregards the rule of law to better enhance democracy, there appears to be no such trade-off. On the contrary, when the rule of law is damaged beyond repair, democratic procedures are equally broken.

Broadly understood, "European values" refer to the normative commitments underlying the European Union as a supranational polity. Their abstract nature and open-ended wording call for further specifications. To be turned into practical principles, they need to be "contextualized" (Benhabib 2004), that is, they need to be reinterpreted in light of national and local norms and values. But this contextualization cannot be arbitrary. First, it must acknowledge that national and local norms and values are themselves subject to political contestation. Second, it cannot amount to the conclusion that national and local values trump general principles.

"European values" refer to the normative commitments underlying the European Union as a supranational polity. To be turned into practical principles, they need to be contextualized, that is, they need to be reinterpreted in light of national and local norms and values.

Orbán seized 2015 as an opportunity to put his rhetoric into practice and torpedoed the mandatory relocation scheme for asylum seekers. Soon after, Hungary stopped accepting migrants sent by other member states under the Dublin Regulation, thereby *de facto* suspending the regulation. Additionally, it started building a 175km-long fence at the border with Serbia (Szalai and Gőbl 2015). It accommodated asylum seekers in squalid conditions and severely restricted their civic rights. Furthermore, Hungary engaged in the large-scale, government-backed practice of pushbacks carried out by the national police. This practice is now so widespread that in January 2021 the Frontex agency withdrew its operational support in Hungary and has suspended its operations (Nielsen 2021).

A dehumanizing and degrading migration policy may be conducted under the pretence of protecting the values at the heart of European civilization, but it still strikes us as a highly implausible interpretation of those values, and one that ought to be discarded.

3.2. Scenario I:
The Impossibility of Maintaining the Status Quo

Even though there is talk of the European Union going through a major "migration and refugee crisis" since 2015, we opened our introduction by noting that little had actually changed in terms of European migration policies in the meantime. However, this *status quo* is detrimental to the European Union.

The continued integration process brought the Union to the brink of an identity crisis (Lavenex 2019). The Union has been variously described as a "normative power" (Manners 2002) or, according to a "statist" approach, as a supranational polity in the making (Eriksen 2014) (see Section 4.1 in this report). If the Union aspires to be a normative power, living up to the universal liberal ideals it claims to embody would be of the utmost importance. If, on the other hand, the Union regards itself as a super-state in the making, its key concerns are to build a Europe-wide community and to ensure its internal security.
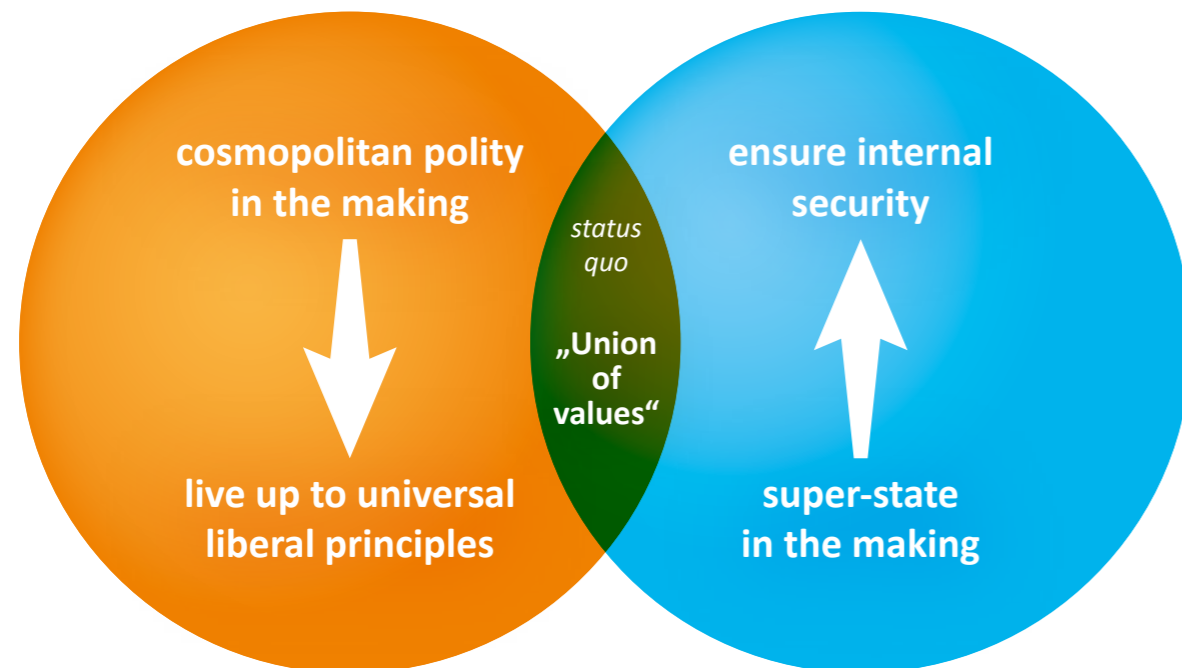

Figure 2. Conflicting scenarios of a "Union of values"

Given this mismatch between the normative commitments of a "Union of values" (see figure 2) and the functional requirements that confront its administration, Lavenex suggests describing the situation as a form of "organized hypocrisy" (2018), for distinct European institutions push in different political directions. While the European Parliament reminds the other European actors of their normative commitments, the member states sitting on the European Council insist on the very real practical problem it must urgently solve, leaving the Commission to iron out a compromise deal (see Section 2.1 in this report).

All this means that the European Union does not have the luxury of falling back on a pragmatic solution. The European Union is torn between incompatible normative visions promoted by member states with a distinct ideological agenda as well as conflicting interests in the matter. For that reason, the most likely scenario for the future of migration policies, that is the *status quo*, is also a political outcome that it would be best to avoid. If the European Union does not attempt to tackle this dilemma, its image abroad as a normative power will be tarnished irremediably. It will also further fuel the sort of nationalist discontent stemming from its unclear messaging regarding border controls.

3.3 SCENARIO II:
A MORALLY COSMOPOLITAN EUROPE

What could be a possible path forward for the European Union with regards to migration policies? One of the key reasons behind the current political gridlock is the deep discrepancy in the interpretation of the European values across various member states. Different nations, cultures and political traditions attach to them different moral obligations and political injunctions. However, a minimalistic overlapping consensus could be achieved. This consensus would be limited in scope, focusing exclusively on some foundational normative principles, while making room for a variety of contextualised interpretations of the European values in the distinct member states. It would nevertheless make clear that illiberalism is incompatible with the European values.

According to Habermas (2012), the concept of human dignity could be the cornerstone on which to build such a normative consensus. In traditional hierarchic societies, dignity was conflated with honour and therefore attached to some privileged social status in the higher societal ranks (Waldron 2012). Shed in this light, the concept of "human dignity" is an oxymoron, for it universalises a particularity. Yet this is precisely what makes the concept innovative: It turns a distinction into a unanimously shared feature, blunting its exclusiveness in the process. Human dignity entails that all human beings belong – unconditionally – to a high rank, worthy of social respect and moral consideration.

A normative consensus could start from this very minimalistic acknowledgement, namely that the concept of human dignity confronts Europe with a political question: "How should the European institutions and the member states transpose their moral commitment to defend and protect human dignity into democratic legislation?" This question invites a wide array of responses, but it nevertheless recognises that the principle of human dignity has a cosmopolitan dimension.

European institutions as well as the member states would be reminded of their commitment to treat any individual, including migrants, with due respect. This may appear to be a very low bar to clear. However, some European agencies (e.g. Frontex) as well as several member states are currently implementing migration policies that are demonstrably failing to meet this low moral threshold. The widespread practice of pushbacks in some member states, in which Frontex may have been complicit (Waters, Freudenthal and Williams 2020), the detention of asylum seekers in carceral conditions and the general erosion of the international regime of asylum law are cases in point (European Union Agency for Fundamental Rights 2019; European Committee for the Prevention of Torture and Inhuman or Degrading Treatment 2019).

But human dignity would amount – deliberately, within this scenario – to no more than a minimalistic moral consensus (see figure 3). As long as member states abide by this principle to treat migrants with due respect and process asylum demands fairly, their sovereignty in migration matters would be left untouched. They would be free to adapt their migration policies to their own contextualised understanding of the European values.

01

Human Dignity

- minimalistic overlapping consensus:
  all human beings are unconditionally worthy of social respect and moral consideration

- Principle has a clearly cosmopolitan dimension.

02

Implementation

- transposing human dignity into democratic legislation (EU and member state level)

- commitment to treat any individual, including migrants, with due respect

03

Guiding Principles: Fairness and Sovereignty

- If member states process asylum demands fairly, their sovereignty in migration issues would be left untouched.

- minimalistic approach would result in increasingly diverse migration policies

Figure 3. Scenario II: Human dignity as the cornerstone of a minimal moral cosmopolitanism

However, this approach would unavoidably result in increasingly diverse migration policies. The current shortcomings in the migration regime of Europe are often the consequences of a lack of European coordination that leads to imbalances in sharing the burden of hosting asylum seekers, or to vastly diverging rates of recognition of refugee status across the member states. Many of the migration issues that the European Union currently face are transnational in nature and continental in scale. A loose intergovernmental coordination may not be up to this task.

Our suggestion is that this moral cosmopolitanism could usefully be complemented by a more demanding scenario, in which cosmopolitanism also entails a set of political obligations.

As Ulrich Beck (2004) has convincingly argued, cosmopolitanism has long been a philosophical ideal but technological and social developments have rather abruptly turned cosmopolitanism into a concrete fact. However, because we still relegate cosmopolitanism to the category of daydreaming utopias, most political communities fail to grasp what is at stake. This creates a growing mismatch between social realities and political institutions. The current unease and political wrangling around the issue of asylum and migration is a case in point. The absolute number of migrants across the world slowly but steadily rose from 2.3% of the world population in 1970 to 3.5% in 2020 (McAuliffe and Khadria 2020, 21), but states have never been busier erecting walls and fences along their national borders (Foucher 2007).

This discrepancy has triggered some coordinated efforts to rise to this new cosmopolitan challenge. The European Union itself may be regarded as such an attempt (Beck 2004). Because the European Union has turned the principle of intertwined economic interests into its driving force, because it has reined in and ultimately pooled the national sovereignties of its member states, because it grants a uniform political status (European citizenship) as well as near total freedom of movement over its territory to its subjects, it is undoubtedly the best example of a "cosmopolitanised" polity large enough to deal with globalised risks and confront modern challenges on the right scale.

The European Union is avowedly a form of *political* cosmopolitanism, for it is an effort to construct a polity tailored to the new cosmopolitan reality. Beck claims that – since cosmopolitanism is about reforming political institutions and public policies to ensure that they mirror a cosmopolitanised social life – there is no contradiction in having a bounded cosmopolitanism. A 'cosmopolitan Europe' would not be an oxymoron (Beck and Grande 2007, 12), but would rather imply a horizontal redistribution of political authority across European institutions and member states.

But if Europe claims to be truly cosmopolitan, it cannot close its eyes to the problems and challenges that its boundaries create for non-Europeans (Balibar 2016a). Strictly monitored borders – be they the borders of a nation-state or a transnational polity – have real and damaging consequences for those who wish to cross them. In what follows, we explore a scenario in which the European Union considers cosmopolitanism as a full-fledged political project. This scenario is broken down into three possible policy reforms.

A European path towards a universal right to hospitality

How could the paradox of the "cosmopolitan boundaries" of the European Union be overcome? The first answer to that question is provided by a body of work that sees in the European integration process a Kantian political project (Habermas 2012; Ferry 2006).

Kant famously argued that for a cosmopolitan peace to be established, three conditions need to be met. First, the constitution of the various states must be republican, rather than despotic. Second, Kant suggests that these republican states should enter a permanent transnational association. Third,

states ought to grant to foreign individuals a universal right to hospitality. In Kant's view, this right of hospitality amounts to a right to visit, but not to a more substantial right to residence (see Section 4.1 in this report).

If Habermas and Ferry are to be believed, the European Union is in the process of fulfilling the three conditions set by Kant to achieve a cosmopolitan polity. First, the Copenhagen criteria state that access to the club of European member states is conditioned by the nature of a country's political regime and its willingness to conform itself to liberal democratic principles. Second, the Union rests on an idiosyncratic institutional architecture, mixing elements of intergovernmental and supranational governance.

As far as the third condition is concerned, the Union's internal borders have been largely dissolved by the creation of the Schengen area. The 1992 Maastricht Treaty materialised the shift from an *economic* to a *political* union by granting European citizenship to all nationals of the member states. This new kind of citizenship, which supplements but does not supersede their national citizenship, allows them not only to travel across the Union but also to settle, work, enjoy social benefits and even participate in local and European elections in another member state than their own (Delanty 2007). Both provisions would go further than Kant's limited right to hospitality.

However, this perspective fails to take third-country nationals into consideration (Brown 2014). The perspective of these individuals on mobility and access to the European territory offers a stark contrast. The limited requirement of a universal but temporary right to sojourn cannot be met if a battery of protectionist and exclusive policies, ranging from illegal pushbacks to diplomatic efforts aimed at the externalization of border controls and more demanding access to visas, continue to be applied at the European Union's external borders.

How could the European Union be consistently cosmopolitan in this perspective? It could not restrict the right to hospitality solely to European citizens but would have to apply it equally to third-country nationals. In policy terms, this would require an *unconditional* commitment to observe the norms of the international refugee regime enshrined in the Geneva convention. To reach this objective, Frontex should significantly improve its capacity to report on the fundamental rights violations committed by member states. The European Union would also need to roll back the externalization of European border controls and revise the migration control imperative which dominates its current foreign policy (Liguori 2019).

More generally, the European Union would need to acknowledge that, since its cosmopolitanism has boundaries, it must find a way to regulate its relationship to its surroundings. The adoption in 2018 by the United Nations of the Global Compact for Migration is a stepping stone towards a better global governance of migration. It expresses the view that all migrants are right holders and provides non-binding guidelines on how to regulate migration globally in a manner respectful of both state sovereignty and migrants' rights. One way to universalise the right to hospitality would be to move away from the conception that asylum provision relies on the logic of voluntary humanitarian assistance and turn the rights-based approach to migration contained in the EU's foundational treaties into binding legal obligations for the European states (Boucher and Gördemann 2020).

A realist cosmopolitan project for Europe

A school of thought labelled "cosmopolitanism realism" approaches the same issue from a different angle (Beck and Sznaider 2010). If indeed we have failed so far to grasp the full extent of the revolution in our social lives by the cosmopolitanisation of the world, it follows from that premise that the classic accusation of utopianism must be turned around. Cosmopolitanism is now our default social condition while nationalism is expected to fade into the background (though it has noticeably failed to vanish from the political stage so far). Cosmopolitans would thus offer a lucid and candid assessment of our current predicaments while nationalists would turn out to be the modern daydreamers. In contrast with the approach introduced above, the European Union is not depicted as struggling to conform itself to a philosophical model. Here, cosmopolitanism is rather a social reality that political institutions need to embrace, adapt and respond to.

Interestingly, two empirical investigations conducted within the NOVAMIGRA project concur with this line of argument. They document the fact that cosmopolitan values and practices are widespread amongst

Cosmopolitanism is a social reality that political institutions need to embrace, adapt and respond to.

social actors, and that their condemnation as utopian rather come from the European political institutions. One such investigation focused on the "value agents" (social actors who play a role in transmitting or conveying the European values), whose role is to promote the social integration of migrants and refugees (Goździak and Main 2019; see Section 3.1 in this report). Its findings show, firstly, that explicit invocations of European values are quite rare. The pushed values are usually construed as either national, Christian, or more abstractly universal/humanitarian. It showcases strong humanitarian mobilization from below in favour of refugee reception, especially in the initial stages of the "refugee crisis".

A second investigation focused on the social practices developed in the name of the value of hospitality (Dimitriadi and Malamidis 2020). This empirical investigation distinguished between two levels of hospitality. The first is administered by the state as a legal obligation (to grant asylum), while the second is offered by society as an ethical responsibility based on humanitarianism. With a focus on the latter, the researchers unearthed the meanings value agents attribute to hospitality. They found that many of them view hospitality as a national characteristic and source of collective pride – even when state policies run counter to it – that resonate with established (historical, mythical, Christian) narratives of "good Samaritanism". The findings also show that hospitality usually takes on very concrete and practical meanings such as the provision of food, shelter, health care and other basic needs. In many cases, social actors saw it as a moral imperative to pick up the slack and to remediate the lack of involvement from public authorities in providing hospitality.

Two further conclusions can be drawn from this global assessment. First, the European Union could tap into this existing trend to justify further migration reforms, enacting those cosmopolitan values. Second, and counter-intuitively perhaps, cosmopolitanism is not universal; or rather, materializing cosmopolitan values cannot be achieved through a uniform and standardised set of policies.

As far as migration policies are concerned, one instrument may strike precisely that sort of balance at the European level. The flexible and yet mandatory solidarity scheme envisioned by the European Commission in its *New Pact for Migration and Asylum* (see figure 1 above) had the merit of being driven by a moral concern for the migrants while also accommodating the national sensibilities of the member states. Properly implemented, such a solidarity scheme could lead to a more even distribution of migrants and asylum seekers across the Union while also enhancing the quality of the hosting facilities through financial and material support from other member states. However, the possibility for certain states to "sponsor" the return of migrants is bound to endanger the fundamental rights of migrants. Not only does this not provide any meaningful solution to the issue at stake – the provision of humanitarian support – but it also delegates the highly sensitive duty of returning them to the member states who, by definition, have shown the least interest in their welfare. Furthermore, if the flexible solidarity scheme wants to meet its goals, it needs to create stronger incentives for the member states to abide by their pledges. This could be done, for instance, by tying compliance with the scheme to the allocation of structural funds.

The necessary challenge of a critical cosmopolitanism

It would be tempting to dismiss cosmopolitanism as a towering worldview that proves upon closer inspection to be as ethically demanding as it is politically toothless. To avoid falling into this trap, more radical theories suggest a shift in our practical approach to cosmopolitanism. The latter should be redefined as *cosmopolitics*, that is, as a localised and contextualised political disruption aiming at overcoming the inherited and often arbitrary boundaries that limit the scope of our moral concern (Ingram 2013). Cosmopolitanism would thus prove to be first and foremost *civic*. It would be anchored in an activist practice of transnational citizenship that irrigates and challenges the existing European institutions and their embedded inequalities (Isin and Saward 2013) rather than a process of engineering integrated and supranational political institutions.

This radical cosmopolitanism is critical. It pins its hopes on social movements, activist citizens and actors in civil society to question the legitimacy of some of the political boundaries we have come to naturalise and internalise, such as state borders. The practice of providing hospitality can be regarded as an instance of this form of civic cosmopolitanism. By supplementing the state and coming to the help of asylum seekers in the name of a higher humanitarian duty, the social actors that took it upon themselves to host, feed and accommodate some foreigners in need also tacitly condemned the scope of the states' moral concerns. They proved true to the tenets of their European citizenship by enacting its transnational dimension (Bauböck 2007) while making a full use of their political rights.

This cosmopolitanism may be better suited to the European Union for at least two reasons. First, its horizon does not need to be global since its action is rooted in local contexts. Second, critical cosmopolitan thinkers have often pointed out that imperialism and colonialism were two political ideologies that expressed their very *raison d'être* through reference to a universal civilizing mission. Given the historical responsibilities of many European member states, these past experiences should make the European member states extremely wary of claiming to be the vanguard of cosmopolitanism (Bhambra 2017). When they pretend to embody universalism, they run the risk of turning a specific definition of the universal into a hegemonic one, marginalizing or downgrading other approaches to

the universal in the process (Balibar 2016b). Thus, the need to remind the European Union constantly that cosmopolitanism is the name of an open question, rather than the label of a political recipe.

This critical cosmopolitanism is driven by its ability to listen (and respond) to marginalised voices, shedding a different light on the dominant understanding of the universal. We contend that the European Union could grant European citizenship to holders of refugee status.

Refugeehood is sometimes regarded as a purely humanitarian provision. It would be a moral duty – discharged by states – to help a person in a situation of dire need. But refugeehood is also, by definition, a political status. It is an instrument meant to redress the harm caused to individuals unjustly deprived of their ability to be part of political community (Owen 2020). By granting European citizenship to its refugees, the European Union would not only recognise the political nature of refugeehood, it would also empower some of the most relevant stakeholders in European migration governance. The European citizenship had introduced a radical novelty, namely the ability to be politically active in a member state other than its own, thereby legitimizing a transnational form of civic activism (Balibar 2009). Granting European citizenship to refugees residing in Europe would undeniably push this logic one step further, but it would nevertheless be consistent with its underlying political principle.

CONCLUSION

The political choices the European Union makes with regards to its asylum and migration policies are not strictly practical. The *New Pact on Asylum and Migration*, we argued, fell prey to the pragmatic delusion that it would be possible to reach a compromise between wildly diverging political views on migration through clever engineering of flexible migration policies. We beg to differ. If the European Union is keen to achieve any breakthrough on this topic, it will need to propose a normative basis on which to build at least a minimalistic political consensus.

Cosmopolitanism is not one of the European values listed in the *EU Charter of Fundamental Rights*. Those values are, however, not cast in stone. They are rather a site for political conflict. Thus, we argued that cosmopolitanism, though only implicitly present in the "European values", is the key to a plausible and philosophically consistent reconstruction of their core normative content. Several European values, chiefly the concept of human dignity, commit the European Union to at least a form of moral cosmopolitanism. The European Union cannot restrict the scope of its concern solely to its citizens. Finally, the European Union is a unique political experiment, an attempt to bring member states ever closer into an innovative cosmopolitan association. Some policy revisions could go a long way towards allowing the European Union to live up to its cosmopolitan promise. A revision of the Union's foreign policy to roll back the externalization of its borders, a more robust solidarity amongst member states in the provision of humanitarian assistance to asylum seekers or the granting of European citizenship to refugees could be small but meaningful steps into this direction.

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About NoVaMigra

Several, partly interconnected crises have profoundly challenged the European project in recent years. In particular, reactions to the arrival of 1.25 million refugees in 2015 called into question the idea(l) of a unified Europe. What is the impact of the so-called migration and refugee crisis on the normative foundations and values of the European Union? And what will the EU stand for in the future? NoVaMigra studies these questions with a unique combination of social scientific analysis, legal and philosophical normative reconstruction and theory.

This project:

- Develops a precise descriptive and normative understanding of the current "value crisis";
- Assesses possible evolutions of European values; and
- Considers Europe's future in light of rights, norms and values that could contribute to overcoming the crises.

The project is funded with around 2.5 million Euros under the European Union's Horizon 2020 research and innovation programme for a period of three years.

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