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“MAKE SURE YOU BELONG!”: A CRITICAL ASSESSMENT OF INTEGRATION REQUIREMENTS FOR RESIDENTIAL AND CITIZENSHIP RIGHTS IN EUROPE

Tamar De Waal[†]

ABSTRACT

This article argues that civic integration requirements demanded for residency and citizenship rights in EU Member States are currently prone to have counterproductive societal outcomes, because their focus shifted from their impact on societal goals to judgments of individual desert. The notion of “integration” was originally perceived as a property of the whole society and described its functioning and social cohesion. However, this article shows how this concept has instead progressively become a property of individuals with non-EU, non-Western immigrant backgrounds and used to describe their compatibility with, and belonging to, society. This development has created confusion about how to evaluate integration strategies. Integration policies in EU countries increasingly focus on selecting migrants who “deserve” to belong. However, the pursuit of this goal – limiting belonging to those who earn it – often conflicts with upholding broader societal goals. Representative of these goals, for instance, is when integration requirements become burdensome and exclusionary, not least because those who fail to integrate are not expelled but remain in society, albeit with precarious legal rights.

INTRODUCTION

Over the last twenty years, many EU Member States have increasingly required third-country nationals¹ (hereinafter “TCNs”) to undergo integra-

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1. Individuals who are neither citizens of the EU Member States in which they are currently living or staying, nor of other Member States of the EU.

tion courses, language and citizenship tests, and oaths. Such integration requirements are imposed as requirements at different stages of the immigration process: initial entry through obtaining permanent residency and/or naturalization.² In the scholarship, the proliferation of these integration requirements has been described as “among the most visible if not the most significant . . . policy change[]”³ in the context of accommodating migration in the recent history of Europe.

The aim of this article is twofold. On one hand, it aims to explain that the burgeoning growth of integration requirements for TCNs as conditions for attaining residential and citizenship rights is underpinned by, and testifies to, a broader conceptual shift regarding the notion of “integration” in European societies.⁴ On the other, it demonstrates that this conceptual shift has the pernicious effect of integration requirements for newcomers having counterproductive societal outcomes.⁵ Amongst other things, integration

2. ELSPETH GUILD ET AL., *ILLIBERAL LIBERAL STATES: IMMIGRATION, CITIZENSHIP AND INTEGRATION IN THE EU* (2009); RICKY VAN OERS, *DESERVING CITIZENSHIP: CITIZENSHIP TESTS IN GERMANY, THE NETHERLANDS AND THE UNITED KINGDOM* (2014); YVES PASCOU, *EUROPEAN POLICY CENTRE, MEASURES AND RULES DEVELOPED IN THE EU MEMBER STATES REGARDING INTEGRATION OF THIRD COUNTRY NATIONALS - COMPARATIVE REPORT* (2014), available at <http://www.epc.eu/documents/uploads/pub_6519_reportingintegrationschemesfinalversionpdf-en.pdf>; Rainer Bauböck & Christian Joppke, *How Liberal are Citizenship Tests?* (Robert Schuman Centre for Advanced Studies, EUI Working Paper No. 41, 2010); Christian Joppke, *Beyond National Models: Civic Integration Policies for Immigrants in Western Europe*, 30 W. EUR. POL. 1, 1-5 (2007); Triadafilos Triadafilopoulos, *Illiberal Means to Liberal Ends? Understanding Recent Immigrant Integration Policies in Europe*, 37 J. ETHNIC & MIGRATION STUD. 861, 861-62 (2011); see generally Karin Borevi et al., *The Civic Turn of Immigrant Integration Policies in the Scandinavian Welfare States*, 5 COMP. MIGRATION STUD. 9 (2017). Most of these studies stress the potential of integration requirements to become illiberal (e.g. prescribe that immigrants must renounce certain cultural or religious identities as a condition for obtaining permanent residency or citizenship) or mechanisms of exclusion. In particular, it is often argued that integration requirements function as hidden tools of exclusion or are used to curtail the rights of immigrants. However, in this article I aim to show, *inter alia*, that more attention should be paid to the full puzzle of exclusionary discourses, constitutional limits, and empirical outcomes of these integration requirements to reveal and assess their broader societal effects.

3. Sara Wallace Goodman, *Fortifying Citizenship: Policy Strategies for Civic Integration in Western Europe*, 64 WORLD POL. 659, 659 (2012). See also Tamar de Waal, *Is the Post-multicultural Era Pro-Diversity?*, 6 COMP. MIGRATION STUD. 15 (2018).

4. This article does not reflect on whether this shift is *exclusively* European, or whether it may have also occurred in similar ways in other parts of the world, such as North America, New Zealand, or Australia.

5. See generally Montserrat Gonzáles Garibay & Peter de Cuyper, *Is there an Evidence Basis for Immigrant Integration Policies?*, 8 NORDIC J. MIGRATORY RES. 15

strategies tend to preserve a subclass of vulnerable TCNs (e.g. traumatized refugees, illiterates) in society without equal rights and the public supervision that could adequately ameliorate their positions of disadvantage.

The main contribution of this article is to elucidate how several EU Member States installed integration requirements over the last three decades that are prone to invest *less*, rather than *more*, in the integration of TCNs, while immigrant integration has been one of the most significant debated features of political life in European countries. In essence, this paradoxical outcome is the result of discussions of “individualized” integration conceptualizations, which often occur in European countries as potential public problems arise when newcomers arrive in society. This involves the idea that persons with (non-EU, non-Western) immigrant backgrounds must be “personally integrated” to be seen as meriting (full) public concern. This development connects societal challenges related to immigration to national identity and personal belonging (e.g. “Has Farid succeeded in becoming a *real* Dane or not?”). However, the most effective integration strategies recognize integration as an ongoing set of shared issues that require proactive public attention (e.g. equal participation, enhanced language levels in society, shared senses of belonging, democratic socialization, etc.).

To demonstrate this, the article will first turn to the EU Directives that enable Member States to implement integration measures and explore domestic rules pertaining to integration requirements as conditions for attaining increased rights. Then, the conceptual shift in Europe vis-à-vis the concept of “integration”—moving from a “collective” to an “individualized” notion—will be discussed. Following that, its parallels with and connections to the legal integration requirements in force in various EU Member States are examined. Finally, in Europe, integration requirements for residency and citizenship that have counterproductive societal effects have increasingly become accepted.

Before proceeding, three brief clarifications must be made. First, the ambition of this article is not to academically support the “collective” perspective on integration: it remains largely agnostic as to whether, all things considered, it offers the best sociological explanation or normative metaphor to describe the functioning of a society. Instead, it aims to document certain effects of the *trend* towards individualized integration conceptualizations in Europe on integration policies.

(2018). So far, there is no full-fledged evidence basis for the effectiveness of integration policies. Accordingly, this article is a valuable contribution to the academic literature, as it engages with the potential risks and discusses the most salient ramifications of the relatively novel integration policies in EU countries.

Second, this article does *not* claim that this shift has manifested itself with equal force, or in exactly the same way, in all European countries. For example, Anita Böcker and Tineke Strik, observe that (what I call) “individualized” conceptions of integration have been invoked most explicitly in the Netherlands, Austria, and Denmark.⁶ However, as will be demonstrated, policy tendencies towards individualized integration are definitely not limited to these countries. On that account, the main ambition of this article is not to give detailed descriptions of all policy changes in Member States. Instead, it aims to highlight the risks of this broader development. This is relevant for Member States that have already enacted (excessively) individualized integration requirements as well as for Member States that have not (yet).

Third, the analysis of this article broadly confirms the observation of several commentators who have noted that the changes in integration and citizenship policies in Europe included a departure from the idea of naturalization as a *tool* for integration to the idea of naturalization as a *reward* for integration.⁷ It also *extends* it by highlighting the underlying conceptual shift that has reinforced this legal development. This, I contend, is a valuable contribution, as it allows us to reflect in more detail on the outcomes of such integration measures.

I. THE EXPANSION OF INTEGRATION REQUIREMENTS IN MULTIPLE EU MEMBER STATES

This Part discusses the EU directives and national laws that govern the integration requirements in Member States and TCNs and, where necessary, summarizes the relevant case law.

In relation to integration policies and naturalization laws for non-EU immigrants residing in Member States, there is no wide-ranging European harmonization regime in force, but there are several non-binding soft regu-

6. Anita Böcker & Tineke Strik, *Language and Knowledge Tests for Permanent Residence Rights: Help Or Hindrance for Integration?*, 13 EUR. J. MIGRATION & L. 157, 167 (2011). Böcker and Strik clearly demonstrate how electoral shifts towards populist, anti-immigrant parties have put mainstream parties under pressure to adopt discourses and positions that aim to limit access to permanent residence for “well-integrated” immigrants. In other words, in public discourse in these countries, “integration” is increasingly not a societal property, but an individual property that assesses the belonging of these individuals to society.

7. Sara Wallace Goodman, *Integration Requirements for Integration’s Sake? Identifying, Categorising and Comparing Civic Integration Policies*, 36 J. ETHNIC & MIGRATION STUD. 753, 765 (2010); see, e.g., VAN OERS, *supra* note 2, at 51.

latory tools.⁸ The two pieces of binding supranational legislation that explicitly grant Member States the competence to enact (mandatory) integration requirements are the Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification⁹ (hereinafter “Family Directive”) and the Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents¹⁰ (hereinafter “LTR Directive”). These directives give Member States the option to condition family reunification and the acquisition of a long-term resident status after five years of uninterrupted residence for TCNs, respectively, on integration requirements. It is left to individual Member States to decide whether to implement such measures. The European Commission and European Court of Justice (hereinafter “CJEU”) see to it that national policies respect the rules set by these directives.¹¹

Since the enactment of these directives, there has been a clear trend towards formalized testing of language skills, national civic knowledge, and value commitments as prerequisites for family migration, obtaining permanent residency, and gaining access to naturalization procedures.¹² These measures have been predominately¹³ aimed at family migrants and refugees;

8. See *Commission Communication on Immigration, Integration and Employment*, COM (2003) 336 final (May 5, 2003); see also Press Release, Council of the European Union, Justice and Home Affairs (Nov. 19, 2004).

9. Council Directive (EC) No. 2003/86 of 22 September 2003, art. 7, 2003 O.J. (L 251/12) 1; see also GUILD ET AL., *supra* note 2, at 14.

10. Council Directive (EC) No. 2003/109 of 25 November 2003, art. 5, 2004 O.J. (L 16/44) 1. Denmark is also not bound by this Directive.

11. Saskia Bonjour, *The Transfer of Pre-Departure Integration Requirements for Family Migrants Among Member States of the European Union*, 2 COMP. MIGRATION STUD. 203, 211 (2014).

12. See Goodman, *supra* note 7; see also Kees Groenendijk, *Pre-Departure Integration Strategies in the European Union: Integration or Immigration Policy?*, 13 EUR. J. MIGRATION & L. 1 (2011); see also Christian Joppke & Tobias Eule, *Civic Integration in Europe: Continuity versus Discontinuity*, in HANDBOOK OF MIGRATION AND SOCIAL POLICY 343 (Gary F. Freeman & Nikola Mirilovic eds., 2016).

13. There are virtually no legal venues for non-high skilled labour to EU countries anymore, and high-skilled labour migrants are often exempted from integration requirements. Furthermore, internal EU immigrants cannot be obliged to satisfy integration requirements, given their EU citizenship. However, in the case that migrants of these groups volitionally seek the nationality of the EU Member State in which they reside, they must also complete the integration requirements for naturalization. See, e.g., Julia Mourão Permoser, *Civic Integration as Symbolic Politics: Insights from Austria*, 14 EUR. J. MIGRATION & L. 173, 186 (2012).

Member States are required to admit non-EU migrants based on EU and international laws.¹⁴

A. *Family Directive*

If we unpack the different types of integration requirements further, we see first that in response to the Family Directive, five EU countries installed “integration abroad” requirements.¹⁵ These measures require family members or spouses of TCNs to pass an integration and/or language test in their country of origin at the local embassy of the receiving Member State.¹⁶ Mostly, these requirements test minimal levels of language acquisition and/or knowledge of their receiving societies. The arguments used in political debates on these pre-departure integration requirements and their conditions vary in the several EU countries that have installed them and altered them over time. During national parliamentary debates, they have generally been defended as facilitating the successful integration of those to be included. Muslim migrant women in particular were mentioned relatively often as a specific target group. The pre-departure tests were expected to ensure that fewer of them would eventually become a burden on the receiving welfare state.¹⁷

Importantly, from a legal perspective, the integration measures abroad for family migrants allowed by the Family Directive are *not* supposed to function as a tool for selecting migrants, but for promoting family migration.¹⁸ For example, in 2014, the Commission explained that the Family Directive does not permit integration requirements that constitute a measure

14. Family migrants are admitted based on their right to family life. *See, e.g.*, European Convention for the Protection of Human Rights and Fundamental Rights, Nov. 4, 1950, 213 U.N.T.S. 137, at Art. 8; Council Directive, *supra* note 9. Residency rights are protected by the *non-refoulement* principle enshrined in Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137, at Art. 33.

15. The Netherlands, Germany, the UK, Austria, and France.

16. KARIN DE VRIES, *INTEGRATION AT THE BORDER: THE DUTCH ACT ON INTEGRATION ABROAD AND INTERNATIONAL IMMIGRATION LAW* (2013).

17. *See, e.g.*, Tineke Strik et al., *The INTEC Project: Synthesis Report, in WHICH INTEGRATION POLICIES FOR MIGRANTS? INTERACTION BETWEEN THE EU AND ITS MEMBER STATES* 285, 401 (Yves Pascouau & Tineke Strik eds., 2010); P.W.A. SCHOLTEN ET AL., *PROSINT Comparative Reports, Integration from Abroad? Perception and Impacts of Pre-Entry Tests for Third-Country Nationals* (Mar 25, 2015), available at http://research.icmpd.org/fileadmin/Research-Website/Project_material/PROSINT/Reports/WP4_CompRep_Final_submitted.pdf.

18. VAN OERS, *supra* note 2, at 132.

“that limits the possibility of family reunification.”¹⁹ In addition, the CJEU criticized the Dutch integration requirements in 2015 in its judgment in *K and A* and ruled that integration requirements should not undermine the objective of the Family Directive, which is to promote family migration.²⁰

B. *Long Term Residency (LTR) Directive*

Turning to the LTR Directive, we see that it gives Member States the discretion to make permanent residency after five years of uninterrupted residence contingent on integration requirements stipulated by national laws. However, the Commission is clear that these requirements do not serve to *select* TCNs who are eligible for permanent residency but to facilitate integration processes, and that, in principle, TCNs should be able to obtain permanent residency after five years of uninterrupted residence.²¹ In particular, the Commission clarified in a 2003 report on the application of the Directive for the European Parliament and the Council that Member States should ensure that the requirements are “in line with the purpose of the Directive,” which is “fostering the integration of [long-term residents],” and to “take due account of the general principles of EU law, such as the principle of preserving its effectiveness (“effet utile”) and the proportionality principle.”²² Similarly, the CJEU ruled in 2015 in the *P and S* case that the obligation to pass civic integration examination is compliant with the LTR Directive as long as it does not “jeopardize the objectives pursued by the Directive” of which the principal objective is “the integration of TCNs who are settled on a long-term basis in the Member State.”²³

19. *Communication from the Commission to the European Parliament and the Council on Guidance for Application of Directive 2003/86/EC on the Right to Family Reunification* (Apr. 3, 2014), available at <[http://www.europarl.europa.eu/meetdocs/2014_2019/documents/com/com_com\(2014\)0210_com_com\(2014\)0210_en.pdf](http://www.europarl.europa.eu/meetdocs/2014_2019/documents/com/com_com(2014)0210_com_com(2014)0210_en.pdf)>

20. RvS 9 juli 2015, C-153/14, at § 51 (Minister van Buitenlandse zaken/K and A) (Neth.).

21. The key rule of the LTR Directive can be found in Article 4, paragraph 1, which provides that “Member States shall grant long-term resident status to third-country nationals who have resided legally and continuously within its territory for five years immediately prior to the submission of the relevant application.” Council Directive 2003/109 Art. 4, 2004 O.J. (L 16/44) 1 (EC).

22. *Report from the Commission to the European Parliament and the Council on the application of Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents*, COM, at (2011) 585 final (Sept. 28, 2011), available at https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/policies/legal-migration/pdf/long-term-residents/1_en_act_part1_v62.pdf.

23. CRvB 28 januari 2015, C-579/13, at § 45-46 (P and S/Commissie Sociale Zekerheid Breda and College van Burgermeester en Wethouders van de gemeente Am-

Notwithstanding, after the LTR Directive came into force, a vast majority of Member States made the acquisition of long-term residency for TCNs strictly dependent on integration requirements such as language tests, civic tests, and loyalty oaths.²⁴ In turn, if TCNs fail to meet these conditions, the established sanctions by national laws are the imposition of fines, the lowering or withdrawal of social benefits, or the non-renewal or withdrawal of residence permits.

Of these sanctions, the refusal to grant or even the withdrawal of residence rights and expulsion are obviously most far-reaching. Yet, if we assess these punitive measures, we see that in Member States that installed them, such as Austria in 2003 and the Netherlands in 2013, no TCNs to date have been forced to leave these countries on the sole ground of not satisfying all integration requirements.²⁵ The reason for this is that the novel mandatory integration requirements based on the LTR Directive mainly affect family migrants and refugees, immigrant groups that are strongly protected against deportation based on EU laws and international human right norms. In other words, the most drastic result for TCNs who fail to meet integration requirements for permanent residency is in fact *not* expulsion. Rather, TCNs are, as Sarah Goodman and Matthew Wright put it, “placed

stelveen [Committee on Social Security Breda and Mayor and Executive Board Amstelveen]) (Neth.).

24. YVES PASCOU, EUROPEAN POLICY CENTRE, MEASURES AND RULES DEVELOPED IN THE EU MEMBER STATES REGARDING INTEGRATION OF THIRD COUNTRY NATIONALS – COMPARATIVE REPORT 92 (2014), available at <http://www.epc.eu/documents/uploads/pub_6519_reportintegrationschemesfinalversionpdf-en.pdf>; Böcker & Strik, *supra* note 6. According to a report by the International Organization for Migration, in the limited period between 2003 and 2007 no less than thirteen Member States of the European Union introduced new mandatory integration requirements for permanent residency in response to the LTR Directive. INTERNATIONAL ORGANIZATION OF MIGRATION, LAWS FOR LEGAL IMMIGRATION IN THE 27 EU MEMBER STATES (2009), available at http://publications.iom.int/system/files/pdf/i_ml_16.pdf. See also Mourão Permoser, *supra* note 13, at 174. Today, the EU Member States that have obligatory integration requirements for permanent residency are Austria, Croatia, Cyprus, the Czech Republic, Germany, Denmark, Estonia, France, Greece, Italy, Lithuania, Latvia, Luxembourg, the Netherlands, Portugal, the United Kingdom, and Belgium.

25. ELLES BESSELSSEN & BETTY DE HART, VERBLIJFSRECHTELIJKE CONSEQUENTIES VAN DE WET INBURGERING. EEN ONDERZOEK NAAR DE ERVARINGEN VAN MIGRANTEN IN AMSTERDAM [THE CONSEQUENCES OF THE INTEGRATION ACT ON THE RIGHT OF RESIDENCE. A RESEARCH ON THE EXPERIENCES OF MIGRANTS IN AMSTERDAM] 3 (2014); Mourão Permoser, *supra* note 13, at 193-98.

in a feedback loop of conditionality.”²⁶ These TCNs often receive fines and must reside in provisional legal statuses with temporary residency rights for longer periods of time. Integration requirements for permanent residency thus mainly affect the types of legal residency status (often connected to packages of social rights) that parts of the residing population possess, but do not change the physical composition of the residing population—that is, who lives within society at large.²⁷

C. *Naturalization*

There is no overarching set of EU regulations for citizenship that applies to all European Member States. As a result, understanding who can become a national within a Member State requires analysis and case studies of specific national laws.²⁸ Nevertheless, the explanatory report of the European Convention on Nationality stresses that its provision stipulating that the permissible period of ten years of lawful and habitual residence before naturalization reflects a common European standard, as most European countries already require a period between five and ten years of residence.²⁹

For TCNs in EU states it is never obligatory to naturalize, as they can choose to (merely) obtain or retain permanent residency. It is not attractive for persons to naturalize if, for example, they want to keep the citizenship of their country of birth and the receiving state does not tolerate dual citizenship, or if integration requirements for naturalization are deemed to be too onerous.

II. INTEGRATION: OLD AND NEW

In the following Part, I expand upon the shift that has supported the legal changes described above concerning the very idea of how integration is understood in public policy, public debate, and daily speech in Europe.

26. Sara Wallace Goodman & Matthew Wright, *Does Mandatory Integration Matter? Effects of Civic Requirements on Immigrant Socio-Economic and Political Outcomes*, 41 J. ETHNIC & MIGRATION STUD. 1885, 1903 (2015).

27. Sune Lægaard, *Immigration, Social Cohesion, and Naturalization*, 10 ETHNICITIES 452, 459 (2010). Lægaard demonstrates that arguments related to social cohesion and integration function to justify restrictive naturalization requirements, but that standards concerned with generalized social trust are not connected to issues of naturalization at all (because the composition of society remains the same with or without such requirements).

28. *See, e.g.*, 2 ACQUISITION AND LOSS OF NATIONALITY: POLICIES AND TRENDS IN 15 EUROPEAN STATES, 11-18 (Rainer Bauböck et al. eds., 2006).

29. Explanatory Report to the European Convention on Nationality ¶ 51, May 31, 2017, E.T.S. No. 166.

The contemporary individualized conceptualization of integration will be elaborated upon more extensively, given its current ramifications on public integration policy. This Part thus focuses on the *contours* of the shift, and the next Part highlights and discusses several real-world examples that demonstrate its reality and consequences in several EU Member States.

A. *Integration as a Condition of Society*

The notion of “integration” traditionally began with how the concept was coined and employed in the functionalist tradition in sociology by scholars such as Émile Durkheim or Talcott Parsons.³⁰ This does not mean that public commentators or policy makers referred to specific thinkers, nor that these thinkers themselves agreed on what integration entails,³¹ but that they discussed integration as a notion applicable to collectives. More specifically, “integration” was used to discuss how *societies* maintain their social cohesion and keep individuals and groups connected in networks of social relations. It rested on the assumption that modern societies form a unity, a collective ensemble composed of a combination of individuals and subgroups that are in constant reciprocal processes of communal socialization. Within these processes, the state was often seen as the center of coordination.³² Concerning this perspective on integration, Michel Wieviorka writes:

This sociology . . . regards social integration and subscription to shared values and the density of interaction between members of the groups or society as far more important than the analysis of individuals as such. . . . Durkheimian or functionalist sociology . . . aims at the integration of individuals in society and the integration of society as a whole.³³

30. See, e.g., Jonathan H. Turner, *Emile Durkheim's Theory of Integration in Differentiated Social Systems*, 24 PAC. SOC. REV. 379 (1981).

31. Durkheim, for example, searched extensively for shared *normative* values such as a common will to live together, while others (such as Parsons) searched more empirically how subgroups systematically interacted in various spheres of society. See KENNETH ALLAN, *EXPLORATIONS IN CLASSICAL SOCIOLOGICAL THEORY: SEEING THE SOCIAL WORLD* 136 (2005); see also UTA GERHARDT, *THE SOCIAL THOUGHT OF TALCOTT PARSONS: METHODOLOGY AND AMERICAN ETHOS* 33-34 (2016). For another example, see David Lockwood, *Social Integration and System Integration*, in *EXPLORATIONS IN SOCIAL CHANGE* 244 (G. K. Zollschan & H. W. Hirsch eds., 1964).

32. Veit Bader, *Cohesion, Unity and Stability in Modern Societies*, in *THE MANY FACES OF INDIVIDUALISM* 107, 132 (Anton van Harskamp & Albert W. Musschenga eds., 2001).

33. Michel Wieviorka, *A Critique of Integration*, 21 IDENTITIES 633, 635 (2014).

Theoretically, the term "integration" was opposed to social distances, group segregations, or forms of personal alienation and anomie. Note that this implies that from this holistic perspective, both groups and individuals would surely be relevant to debates on integration. However, crucially, it discussed them as potentially participating in societal systems in such a way that society is perceived as functioning as an organic holistic entity.³⁴ Put differently, integration concerns individuals and subgroups and their position in societal networks, but not in the sense that only *they* should be influenced separately or "individually integrated." Integration describes the social mechanisms that keep all individuals and groups interacting as a whole, which is always more than the sum of its parts.

On that account, the political ideal of "integration" initially had two crucial elements. First, the notion entailed a process of *communal socialization of all its members*. Second, the notion was applied to and was a property of *society as a whole*.

B. *Integration as a Condition of Individuals*

These two elements of integration have gradually moved to the background in policy documents, public debates, and daily speech. Today, it has become uncommon and even strange to discuss whether, say, the "Dutch society" or "Austrian society" is integrated or not, while it has become rather common to discuss the personal integration of, for example, Hussein or Fatima. Put differently, if integration is discussed nowadays, it is most likely that the conversation is about non-Western, non-EU immigrants and their descendants and focuses on their *compatibility* with a created image of "society."

On a more abstract level, the concept of "integration" within contemporary Europe became an umbrella term for the idea that non-EU and non-Western immigrants and their descendants must be integrated, perceived as a personal condition for deserving a rightful place "inside" society.³⁵ This

34. INGER FURSETH & PAL REPSTAD, AN INTRODUCTION TO THE SOCIOLOGY OF RELIGION: CLASSICAL AND CONTEMPORARY PERSPECTIVES 34 (2006).

35. *Id.* My analysis here leans heavily on the terminology developed by Willem Schinkel, who describes the current-day perspective on integration as an "extra-legal normative concept." For this reason, he argues that we should abandon the term "integration" because it has become an illegitimate term, at least in Europe, as it involves a stigmatizing double standard for immigrants. As will become clear, I share this concern in part because "integration" is indeed often interpreted in prejudiced ways (that assume that nonimmigrant citizens are always already integrated, whereas immigrants are at best conditionally integrated into society). However, I do not believe that changing a word automatically solves the problem of structural biases against certain groups. Therefore, I continue using the term in the hope that through discussion we can clarify

development has multiple effects,³⁶ but three interconnected implications are most relevant for understanding the relationship between the redefinition of integration and the proliferation of legal integration requirements as conditions for obtaining expanded rights in a large number of Member States.

The first implication is that it creates an image of society in which certain persons may be perpetually *physically* present in society, but, even after decades, might nevertheless *symbolically* stand “outside of society” as non-integrated. In the terminology of Bridget Anderson, this symbolic exclusion suggests that within society, seen as the mere sum of all residing individuals, a “moral community” exists of persons who are naturally perceived as “the protectors of good citizenship,”³⁷ while others are only contingently recognized as equal members of society based on standards of worthiness selectively applied to them. Specifically, persons *without* non-EU, non-Western immigrant backgrounds are seen as automatically belonging to their society and unconditionally entitled to their citizenship status, while persons *with* these immigrant backgrounds are perpetually deemed inside or outside of society based on individualized standards of integration.³⁸ And if the latter group is seen as personally “integrated,” they are

the issues and develop a more adequate use of it. See WILLEM SCHINKEL, *IMAGINED SOCIETIES: A CRITIQUE OF IMMIGRANT INTEGRATION IN WESTERN EUROPE* (2017); see also Willem Schinkel, *The Virtualization of Citizenship*, 36 *CRITICAL SOC.* 265 (2010).

36. For example, an illegal immigrant in France, Mamoudou Gassame (“Spider-Man”), miraculously saved a small child that almost fell of a balcony, received or “earned” French citizenship because his act of immense bravery. His reception of citizenship was “faithful to the values of solidarity of our republic, [and] should open the door to him to our national community.” Kim Willsher, ‘Spider-Man’ of Paris to get French Citizenship After Child Rescue, *THE GUARDIAN* (May 29, 2018, 3:09 AM), <<https://www.theguardian.com/world/2018/may/28/spider-man-of-paris-to-get-french-citizenship-after-rescuing-child>>

37. BRIDGET ANDERSON, *US AND THEM? THE DANGEROUS POLITICS OF IMMIGRATION CONTROL* 6 (2013). Anderson shows that immigration status is not solely about legal technicalities, but it is also about status in the sense of value, worth and honor—that is, who is excluded or included in the “community of value.”

38. Within this modern conceptualization and discourse of integration, whether evaluated persons with non-EU, non-Western origins have citizenship rights or not is not the most relevant issue. In public discourses, *citizens* with such backgrounds also can be framed in terms of successful or unsuccessful integration; in other words, as standing inside or outside of society. If nonimmigrant and immigrant citizens are less successful, this has only a negative impact on their position in the fabric of belonging to the national community for the immigrant citizen. For example, if immigrant citizens are unemployed or criminals, they are looked upon as undeserving of their citizenship and condemned for unjustifiably burdening “our” national welfare state. It is suggested that they should “return to their own country.” However, citizens without immigrant

perceived as deserving to belong to society and to be worthy of their citizenship.

The second implication is the symbolic possibility that whole groups of individuals with non-EU, non-Western immigrant backgrounds can "stand outside of society" due to their personal lack of integration facilitates. This possibility is a trend in which negative societal outcomes or statistics regarding immigrants and their descendants are qualified as *integration* issues pertaining exclusively to (subgroups of) individuals rather than *societal* issues. This is a powerful mechanism. To explain, the contemporary conception of integration presumes that if persons with non-EU and non-Western backgrounds are, for instance, unemployed, homophobic, criminal, a school dropout, or a religious extremist, that they are insufficiently integrated and hence stand outside of the society they reside in.

Consequently, although obviously untrue, it is implicitly presupposed that "inside the real society," no unemployment, homophobia, crime, school dropouts, or religious extremism exists. Individualized integration conceptualizations that assume that persons with non-EU backgrounds may or may not "fit in" in society produce idealized images of "the real society" (e.g. as fully harmonious, democratic, secular,³⁹ and reinforced by a list of supposedly unchangeable national traditions, values, and customs). As a result, a public standard emerges that recognizes undesirable statistics—say, high percentages of crime, undemocratic attitudes or unemployment rates—if they concern non-EU, non-Western immigrants. These standards do not recognize these statistics as *societal* issues that deserve public concern, but as *individual integration* issues pertaining to certain persons who do not belong to society.

The third and last implication of perceiving integration as an individualized condition of immigrants and their descendants is that it attributes the responsibility for success or failure of integration one-sidedly to the behavior, attitudes, efforts, or qualities of these immigrants and their descendants. Given that integration is not a property of society, but a personal condition to be met by these immigrants, their potential successful participation in public and social life demonstrates only their *personal* degree of integra-

backgrounds who are unemployed or engage in criminal behavior may be regarded as a nuisance, unlucky, malignant, or lazy—but, crucially, *never* as less of a citizen for being so. See, e.g., Tamar De Waal, *Conditional Belonging: A Legal-Philosophical Inquiry into Integration Requirements for Immigrants in Europe* (2017) (unpublished Ph.D. dissertation, University of Amsterdam) (on file with author).

39. Or at least culturally, based on a (secularized) Western strand of Christianity. See, e.g., Per Mouritsen & Tore Vincents Olsen, *Denmark Between Liberalism and Nationalism*, 36 *ETHNIC & RACIAL STUD.* 691, 703 (2013).

tion. Therefore, the qualification of non-integration often leads to *less* rather than *more* public concern for improving the observed negative and undesirable statistics, as the qualification discursively establishes that the involved persons with a non-EU immigrant background are in fact alienated from the “real society.” More specifically, if in Denmark an immigrant turns out to be “non-integrated” because he or she does not speak the language well (or worse), he simultaneously becomes *less Danish* or a “not-quite-real” Dane.⁴⁰ For this reason, the “real Danish society” is not affected in terms of integration by these statistics, let alone held accountable or co-responsible for the social conditions that produced this kind of behavior. Integration is a condition of individual persons, so it cannot be a shared public problem.

On that account, the modern conceptual understanding of “integration” or “being integrated” also contains two crucial aspects. First, it is an *individualized* condition personally applicable to non-EU immigrants with non-Western origins and their descendants. Second, it is used to evaluate and express whether they deserve to belong to, or are worthy to receive the citizenship of, the European societies in which they live based on their compatibility with idealized societal standards attributed to the “real society.”

III. INDIVIDUALIZED INTEGRATION AND INTEGRATION REQUIREMENTS IN EUROPE: EXPLORING THE LINKS

This Part focuses on the relationship between the changing public perception and discourse of integration in Europe as described in Part III and the integration requirements in Member States as discussed in Part II. It begins with the case of the Netherlands, a country that has explicitly functioned as a model for other EU governments in the context of integration requirements for TCNs.⁴¹ Then it will highlight developments in other states that illustrate the relationship between the conceptual and legal shifts concerning integration in Europe.

The Netherlands was the first European country to implement a mandatory integration program with the introduction of the Newcomers Integration Act in 1998. The government provided this program at no cost to the participants and consisted of a 500-hour language education course and a 100-hour orientation course regarding the labor market and society.⁴² This bill was a response to a report by the Dutch Scientific Council of Govern-

40. MIKKEL RYTTER, FAMILY UPHEAVAL: GENERATION, MOBILITY AND RELATEDNESS AMONG PAKISTANI MIGRANTS IN DENMARK 116 (2013).

41. Ines Michalowski, *Integration Programmes for Newcomers – a Dutch Model for Europe?*, in 24 IMIS-BEITRÄGE (SPECIAL ISSUE) (Anita Böcker et al. eds., 2004).

42. VAN OERS, *supra* note 2, at 48-49.

ment Policy, the WRR,⁴³ which concluded in 1989 that “too many allochtonous live in a marginal position; their participation in society is insufficient. Therefore, it is unacceptable that this situation endures . . . based on reasons of social justice . . . for all residents.”⁴⁴ The mandatory integration demands were not tied to rights of entry, renewals of visas, or naturalization. The government defended the integration demands as emancipating and improving the too-long neglected position of certain immigrant groups in the *whole* of society. Moreover, support of integration processes was seen as a public responsibility, and the term “integration” was applied to all Dutch members of society.⁴⁵

This all changed rapidly. In 2003, the legal link was established between civic integration requirements and issues of citizenship with the introduction of a formalized naturalization test.⁴⁶ Soon after, the naturalization test was replaced by a series of civic integration exams, to be completed within three years. These exams are required to obtain permanent residency rights.⁴⁷ During the same period (in 2006), the Dutch government was the first to develop the “civic integration exam abroad” for family migrants.⁴⁸ In Parliament, the Dutch government explicitly described these requirements, as we have seen, as “selection criteria” with the purpose not to admit those who fail them, to restrict the immigration of “non-integratable” migrants.⁴⁹ In 2013, the Dutch state again heavily revised its integration trajectory.⁵⁰ Not only did it stop monitoring and publicly funding integration courses to prepare for the integration exams, but it also created the possibility that not completing the required integration demands would lead to losing residency rights and deportation from the territory.⁵¹

43. The WRR (Wetenschappelijke Raad voor het Regeringsbeleid [The Netherlands Scientific Council for Government Policy]) is an independent advisory body for the Dutch government and is concerned with the direction of government policy in the long term.

44. WRR, ALLOCHTONENBELEID [Immigrant Policy] 10 (1989).

45. VAN OERS, *supra* note 2, at 15.

46. *Id.* at 60.

47. Wet Inburgering, Stb. 2006, p. 625.

48. Wet Inburgering in het Buitenland [Integration Act Abroad], Stb. 2006, p. 28; DE VRIES, *supra* note 16; Groenendijk, *supra* note 12, at 11-13. The Netherlands decided to exempt “Western Countries,” meaning that non-EU citizens from EEA States, the United States, Australia, Canada, New Zealand, Japan, and South Korea are not required to pass an integration and language exam before departure.

49. SCHOLTEN ET AL., *supra* note 17, at 10.

50. Wijzigingswet Wet Inburgering [Amendment Act Integration Act], Stb. 2013, p. 226.

51. BESSELSSEN & DE HART, *supra* note 25.

Additionally, in 2017, the Dutch Government extended the “duty to integrate” with the signing of a Participation Declaration, requiring newcomers to become familiar with and commit themselves to the core values of the Netherlands, such as freedom, equality and solidarity.⁵² Not signing the declaration leads to fines (between €340 and €1250). In addition, today, TCNs have to find language and integration lessons at private companies and pay for this education. To be able to afford the integration trajectory, TCNs can apply for a social loan up to €10000.⁵³

The new integration laws were advertised with slogans such as “Make sure you belong!”⁵⁴ and “To stay is to participate.”⁵⁵ These slogans clearly conveyed that the new narrative behind Dutch integration strategies became: TCNs must, without much outside help or public financial support, prove *their* personal integration by fulfilling series of requirements prescribed by the receiving state in order to be deserving of belonging and (allegedly) staying in the Netherlands. “Integration” became increasingly framed as the sole responsibility and duty of the TCN, who should be “self-reliant;”⁵⁶ secure residency and full rights came to be regarded as a privilege for those who are deemed to be “well-integrated.”⁵⁷

52. See Rijksoverheid [The Government of the Netherlands], *First Chamber for participation declaration for newcomers*, (Jun. 20, 2017, 2:07 PM), <<https://www.rijksoverheid.nl/actueel/nieuws/2017/06/20/ook-eerste-kamer-voor-participatieverklaring-nieuwkomers>>

53. See De Waal, *supra* note 39, at 60-61: “If refugees pass all requirements within the given three years, their debts are cancelled. However, for family migrants, this is never the case: they always have to pay this integration loan.”

54. Rijksoverheid, *Zorg dat je erbij hoort! [Make Sure You Fit In!]*, <http://rijksoverheid.archiefweb.eu/> (last visited May 31, 2017).

55. Rijksoverheid, *Kabinet: blijven is meedoen [Staying is Participating]* (Nov. 27, 2015, 3:30 PM), <http://rijksoverheid.archiefweb.eu/> (last visited May 31, 2017).

56. Saskia Bonjour & Jan Willem Duyvendak, *The “Migrant with Poor Prospects”*: *Racialized Intersections of Class and Culture in Dutch Civic Integration Debates*, 41 *ETHNIC & RACIAL STUD.* 882, 886 (2018).

57. De Waal, *supra* note 39, at 57-59. Being “well integrated” also means that newcomers increasingly are expected to abandon habits and traditions that are considered problematic from a majoritarian perspective. See Sohail Wahedi, *The Health Law Implications of Ritual Circumcisions*, 22 *QUINNIPIAC HEALTH L. J.* (forthcoming 2019) for a critical discussion of this implicit requirement. Cf. Amy Bartholomew, *Human Rights and Post-Imperialism: Arguing for a Deliberative Legitimation of Human Rights*, 9 *BUFF. HUM. RTS. L. REV.* 25, 37 (2003); Hope Lewis & Isabelle R. Gunning, *Cleaning Our Own House: Exotic and Familial Human Rights Violations*, 4 *BUFF. HUM. RTS. L. REV.* 123, 132 (1998); Obiajulu Nnamuchi, *Hands off My Pudendum: A Critique of the Human Rights Approach to Female Genital Ritual*, 15 *QUINNIPIAC HEALTH L. J.* 243, 253 (2011).

The individualized concept of integration in the Netherlands, both in discourse and actual policy, became highly visible. Integration policies were no longer aimed at upholding the public concern “social justice for all residents,” or public societal goals along those lines. Instead, the eligibility of newcomers for full legal membership rights became connected to a concept of individualized integration that must be personally achieved. To TCNs the message is: first demonstrate that *you* can personally integrate, that is, that you are compatible with “Us”— then you may belong.

As mentioned, this Dutch history regarding integration policies does not stand on its own; for example, we see a similar trend in Austria. Though originating from heated political debates, in 2002 the first version of the *Integrationsvereinbarung* stated that it aimed at offering TCNs sufficient knowledge of the German language in order to uphold collective societal goals, such as “to be able to participate in the social, economic and cultural life in Austria.”⁵⁸ The first bill required the attendance of a subsidized 100-hour integration course (fully-subsidized if completed within one and a half years). By 2011, however, Austria had three different language tests and requirements, and today immigrants must pass a pre-departure test, a test after two years of residence, and another after five years as conditions for the acquisition of a long-term residence permit. After entry, if the immigrant fails to pass the second test within two years, financial sanctions follow and eventually deportation (allegedly). Moreover, according to this integration law, the government no longer provides for subsidized courses or materials.⁵⁹

In France, in 1998, voluntary half-day classes for certain categories of newcomers (mostly non-Western family migrants) were introduced by the socialist Jospin government; these were later in 2003 by the *Contrats d'accueil et de l'intégration*, entailing 500 hours of French language instruction.⁶⁰ Today, passing the requirements of this “integration contract” is obligatory for the renewal of residence permits, including obtaining a 10-year card that establishes permanent residency rights. In the political debate, this policy was defended with the argument that a newcomer—partic-

58. FREMDENGESETZ [version of Dec. 31, 2002] BUNDESGESETZBLATT [BGBl] No. 75/1997 (Austria).

59. Mourão Permoser, *supra* note 13, at 187; Verordnung der Bundesministerin für Inneres, mit der die Verordnung über die Integrationsvereinbarung verändert wird. Bundesgesetzblatt [BGBl] No. 205/2011.

60. HAUT CONSEIL A L'INTÉGRATION, LES PARCOURS D'INTÉGRATION (2001); Joppke, *supra* note 2, at 9.

ularly if a family migrant—should be obliged to “insert herself in our society.”⁶¹

Paolo Cuttita writes that Italy “followed the example of other European countries” by shifting from “structural integration of immigrants” to policies concerning *their* cultural integration including “the acceptance of purported national and European values.”⁶² Today, Italy requires residents with temporary residency to sign an “integration contract,” and meet a certain level of integration within a period of two or three years. If TCNs do not succeed, they are allegedly sanctioned with expulsion.⁶³ The UK observes a comparable series of policy changes and academic commentators concur that Britain increasingly works with models of “earned” citizenship for integration.⁶⁴ In this context, Bridget Byrne observes that the integration tests in the UK became underpinned by the individualized conception of integration as they are meant to assess “a display of the suitability and propriety of potential citizens who have shown a commitment to learning and the potential to integrate” and “are often regarded in popular discourse as a test of Britishness.”

In 2016, after admitting over a million refugees, Germany altered its integration requirements in order to send the political message that obtaining permanent residency is not possible for refugees who do not integrate well. In this context, Minister Thomas Maizere (CDU) said “language, work and saying ‘yes’ to our system of values: those are the three crucial factors for integration.”⁶⁵ Again, integration was defined as an individual condition of immigration. A person’s characteristics, behaviour and outlook determined their legal entitlement to stay.

61. HAUT CONSEIL A L’INTEGRATION, LE CONTRAT ET L’INTÉGRATION (2003); Goodman, *supra* note 7, at 760.

62. Paolo Cuttita, *Mandatory Integration Measures and Differential Inclusion: The Italian Case*, 17 J. INT’L MIGRATION & INTEGRATION 289, 289-90 (2016). See also Regolamento concernente la disciplina dell’accordo di integrazione tra lo straniero e lo stato, D.P.R. 14 settembre 2011, n. 179 (It.).

63. Cuttita, *supra* note 62, at 290.

64. Dora Kostakopoulou, *The Anatomy of Civic Integration*, 73 MOD. L. REV. 933, 935 (2010); Friso van Houdt et al., *Neoliberal Communitarian Citizenship: Current Trends Towards ‘Earned Citizenship’ in the United Kingdom, France and the Netherlands*, 26 INT’L SOC. 408, 412-13 (2011).

65. Paul Carrel, *Germany Wants Refugees to Integrate or Lose Residency Rights*, REUTERS (March 28, 2016, 9:07 AM), <<http://www.reuters.com/article/us-europe-migrants-germany-integration-idUSKCN0WU147>> See also Janosch Delcker, *Angela Merkel to refugees: Integration is a must*, POLITICO (May 25, 2016, 5:21 PM), <<http://www.politico.eu/article/angela-merkel-to-refugees-integration-is-a-must-germany/>>

Finally, in Denmark, the conditions for naturalization have also clearly become stricter since the 2000s.⁶⁶ More specifically, the Danish language requirements for TCNs have been made more stringent in 2002, 2005, 2008, and 2013 and have been installed along with a citizenship test and the obligation to sign a declaration of faithfulness and loyalty to Denmark.⁶⁷ Remarkably, in 2011, a new government revised certain parts of integration requirements, as it concluded that some of them had become overly restrictive. However, at its core, it did not abandon the shift to the individualized perspective of integration, as this government too emphasized it intended to send the signal “that foreigners . . . whose integration has been successful, can become Danish citizens. The requirements must be high, as Danish citizenship is something special”⁶⁸ Integration remained something to be assessed solely on the *individual* level and is described as the standard for TCNs to deserve of belonging and be allowed to obtain citizenship.

The aforementioned examples could be extended or described in more detail. However, for the purposes of this article it should be clearly demonstrated that this legal tendency has played out and continues to play out in various Member States. If we compare the shift in legal integration requirements for TCNs in Member States with the conceptual shift on integration as expounded in Part III, we see that the parallel is striking. In a nutshell, the bulk of the changes in integration and citizenship policies in a growing number of European countries increasingly correspond with the following framework: TCNs after arrival are increasingly perceived as “non-integrated individuals” who are positioned “outside of society” and trigger relatively minor public responsibility.

However, *by their own effort*, they may undergo a personal transformation and achieve a degree of “individualized integration” that can and should be tested by requiring them to pass examinations that assess their loyalty, behavior, and knowledge of the receiving state’s language(s), history, values, and political institutions. Phrased differently, integration measures monitor, one might say, a *test phase* of three to five years in which TCNs should invest in and demonstrate their personal integration by completing a series of formalized integration tests and requirements. If they succeed, they have individually managed to become integrated, “to stand inside, and be compatible with, society” and therefore deserve to belong and earn rights.⁶⁹

66. MARC MORJÉ HOWARD, *THE POLITICS OF CITIZENSHIP IN EUROPE* 103 (2009).

67. EVA ERSBØLL, *REPORT ON CITIZENSHIP LAW: DENMARK* 24-27 (2015).

68. *Id.* at 29.

69. *Id.*

IV. COUNTERPRODUCTIVE INTEGRATION DEMANDS

This Part propounds that public integration policy based on individualized integration conceptions are prone to clash with desirable societal outcomes. First, research suggests that “integration requirements abroad” currently tend to delay, rather than facilitate, family migration. Indeed, Scholten et al. writes in a review of pre-departure integration measures in Germany, the Netherlands, the UK, and Austria that “their integration effects thus far seem modest at best . . . and their . . . immigration effects more significant.”⁷⁰

Considering the shift towards integration requirements based on individualized integration requirements in Europe, this is not surprising: it increasingly made the purpose of integration policies to *select*, in the words of the Dutch minister, “integratable” immigrants.⁷¹ Nonetheless, in Part II, I discussed that applicants for family migration can successfully challenge Member States that perpetually obstruct their legal right to family migration (although the required legal procedures are, admittedly, time-consuming and in certain countries, difficult to access). From a long-term perspective, the main outcome of integration requirements abroad based on individualized integration conceptions is, therefore, not that they permanently exclude most family migrants, nor that they carefully support integration processes. Instead, they chiefly inculcate the untrue and stigmatizing public perception that the human right to family reunification is something to be “earned” by certain types of immigrants, based on their compatibility with society.⁷²

Secondly, integration requirements for permanent residency based on individualized integration conceptualizations carry the risk of generating a subclass of TCNs in society with limited packages of rights and socio-economic perspectives. We have seen that if integration requirements begin to focus on limiting belonging to those who earn it, they tend to become more burdensome, exclusionary and punitive in order to prevent undeserved belonging of those TCNs that are, allegedly, un-integrated. Although this makes perfect sense from an individualized integration perspective, from a more long-term societal perspective, a mainly undesirable outcome results. TCNs that fail to integrate remain members of society—since EU and international law halts their expulsion—albeit in “feedback loops of conditional-

70. SCHOLTEN ET AL., *supra* note 17, at 39.

71. *Id.* at 10.

72. *See, e.g.*, HUMAN RIGHTS WATCH, THE NETHERLANDS: DISCRIMINATION IN THE NAME OF INTEGRATION. MIGRANTS’ RIGHTS UNDER THE INTEGRATION ABROAD ACT (2008), available at <<https://www.hrw.org/news/2008/05/14/netherlands-discrimination-name-integration>>; Strik et al., *supra* note 17; Groenendijk, *supra* note 12.

ity.”⁷³ They maintain a precarious legal status, confronted with fines and/or debts, and stigmatized as non-integrated migrants who do not belong. Moreover, in principle, they do not receive extra public supervision or care, but are merely pressured to retake their exams.

This integration strategy thus increases, rather than decreases, the chances that these TCNs will become stranded in the margins of society—particularly since empirical scholarship indicates that the group of TCNs who fail to integrate is predominately composed of the elderly, the largely uneducated and the illiterate, along with women in disadvantaged positions and traumatized refugees.⁷⁴ The Dutch House of Audit therefore recently observed that it is questionable as to whether punitive measures work at all if these vulnerable groups of TCNs fail to meet integration standards.⁷⁵

Individualized integration conceptions create confusion about how to *evaluate* the quality of integration policies. In contrast, if integration requirements are built on more collective perspectives of integration, the method of evaluating their quality is quite clear. If politicians are concerned about fostering certain social mechanisms, it follows that integration policies should be evaluated based on empirical research exploring whether certain policies in fact promote or jeopardize these mechanisms. Therefore, if it turns out that certain integration requirements hinder TCN participation in the labor market, or that much better outcomes could be achieved through alternative public integration strategies, for example, these requirements should be altered.

Within the prevalent individualized perspectives on integration, this idea is not straightforward. For instance, low passing rates with respect to integration requirements are not understood to indicate that public integration measures are deficient and are generating *societal* problems, but merely to demonstrate the *integration* problems of TCNs who do not belong—a situation exposed by well-constructed integration policies. To illustrate, when in 2016 it turned out that only 31.2% of newcomers in Denmark had completed the civic test, the minister responsible did not reflect on the quality of the Danish trajectory or examination, but stated that being Danish is indeed “something you have to earn.”⁷⁶

73. Goodman & Wright, *supra* note 27.

74. VAN OERS, *supra* note 2, at 271.

75. ALGEMENE REKENKAMER [THE NETHERLANDS COURT OF AUDIT], EERSTE RESULTATEN VAN DE WET INBURGERING [THE FIRST RESULTS OF THE INTEGRATION ACT] 2013 (2017), available at <<https://www.rekenkamer.nl/publicaties/rapporten/2017/01/24/inburgering>>

76. Dan Bilefsky, *Denmark’s Tougher Citizenship Tests Stumps Even Its Natives*, N.Y. TIMES (July 7, 2016), available at <http://www.nytimes.com/2016/07/08/world/europe/denmark-citizenship-test.html?_r=0>

As soon as integration policies become premised on individualized integration conceptualizations, chances that they will be reevaluated and improved if they have exclusionary effects (i.e., push TCNs in society into precarious positions) decline. Another example is that the Dutch liberal party (largest party in cabinet and also winner of the 2017 parliamentary election) continued to reemphasize that permanent residency and citizenship should be earned after it turned out that less than 30% of TCNs in the Netherlands pass all integration requirements in time. In addition, they promised to find ways to circumvent existing EU and constitutional laws that prevent deportation and proceed to actually expel TCNs who fulfill the integration policies.⁷⁷ Rather than discussing the disappointing integration outcomes in collective terms, these outcomes are interpreted as laying bare the integration problem of individual TCNs who actually should leave.

The fourth counterproductive effect of the shift towards individualized integration conceptions is that it leads to integration trajectories that are remarkably less pro-active than they could, or should, be. This is the result of these conceptions relying on the idea that the responsibility to integrate lies solely on the shoulders of TCNs, because only *they* can integrate. This is a vital point, as it counters the frequent argument that non-punitive integration strategies that intensively supervise TCNs would be “too soft.” Most European states seem to be convinced that creating the suggestion that newcomers must “earn” their rights by integrating is the “big stick” that receiving states can wield in order to compel newcomers to learn the national language and to become familiar with the political system.⁷⁸ The most important contribution of the analysis provided in this article is to show that this suggestion is misguided.

The main result of the shift towards individualized integration in Europe (rooted in concepts of “earned belonging”), is that it blurs the obvious public interest and responsibility that immigrant incorporation processes in society turn out well. To be more precise, it clouds the fact that TCNs who are mandated to integrate (i.e., family migrants and refugees) will in all probability settle in society, regardless of the threat to expel those who fail to integrate. As a result, the increasingly dominant idea that allegedly un-integrated TCNs can be permanently excluded after a “test phase” of several years is mainly, in the words of Julia Permoser, a form of “symbolic

77. VOLKSPARTIJ VOOR VRIJHEID EN DEMOCRATIE [PEOPLE’S PARTY FOR FREEDOM AND DEMOCRACY], INTEGRATIE AGENDA [INTEGRATION AGENDA] (2017), available at <<https://vvd.nl/content/uploads/2017/02/VVD-Integratie-Agenda-Malik-Azmani.pdf>>.

78. De Waal, *supra* note 39, at 168.

politics” that do not have the actual effect they promise, but aim to “[keep] the myth of sovereignty alive.”⁷⁹

Nevertheless, these ideas do preclude European states from being, immediately after the arrival of TCNs, fully dedicated to adopting the shared responsibility of creating the conditions that will optimally enable TCNs to contribute to society. Amongst other things, we have seen that the shift towards individualized integration strategies has motivated several Member States to cut public funding for language courses for TCNs, given that *they* must invest—financially and in terms of effort—in their personal capacity to “fit in” before they deserve public concern and budget. That being the case, if individualized integration strategies are to be relinquished—for instance, by disconnecting integration strategies from laws that regulate residency and citizenship rights for refugees and family migrants—EU countries could fully explore the potential of more pro-active integration policies.⁸⁰ These policies would include a variety of customized mandatory courses, the funding of initiatives in civil society and collaboration with the business world, as well as websites that make it possible for newcomers to learn how things work in their new country, to hear about the national traditions and ways of life, to learn the nation’s history, traditions, and its languages and ultimately, to feel welcome and able to participate fully in society.

In weighing the importance of this argument, it is important to remember that the integration requirements for these groups formally do not serve to select their *eligibility* for migration or residency rights. Furthermore, if TCNs (i.e., refugees and TCNs) do not complete mandatory integration requirements, it virtually never leads to their physical removal from the territory. For this reason, the main effect of the current integration requirements in Member States is that these TCNs remain within society with limited

79. Mourão Permoser, *supra* note 13, at 173-97.

80. See, e.g., De Waal, *supra* note 39, at 139-163; see also Anna Goppel, *Linguistic Integration—Valuable but Voluntary*, 25 RES PUBLICA 55 (2017). In previous work, I have proposed that receiving EU liberal democracies should establish a new principle, namely to place a firewall between, on one hand, laws that regulate the allocation of rights to legal residency and citizenship to refugees and family migrants, and on the other, public strategies that monitor and encourage integration. The institutional attributes of this firewall are therefore quite straightforward: integration measures are in principle legitimate, but they should institutionally and legally be decoupled from laws that supervise the residential inclusion and citizenship. Goppel criticizes the *moral* acceptability of the requirement of linguistic integration and argues that all arguments often invoked in favor of integration requirements—that such requirements are proportional, are for the immigrants’ own sake and that newcomers have agreed upon them upon entry to the country—must be rejected.

packages of rights, and limited socio-economic perspectives. Therefore, the mechanisms of control that result from the connection between integration policies and laws that regulate the residency and citizenship rights for family migrants and refugees are actually relatively toothless, and mostly counterproductive.

The fifth counterproductive effect is that integration policies based on individualized integration conceptualizations disregard the fact that it is didactically disadvantageous to ask all TCNs to complete *the same* integration trajectory and to pass the same tests.⁸¹ Surely, if one thinks that individual integration renders individuals worthy of secure rights and citizenship, it is only fair that people are granted these rights under the same conditions. From this point of view, the meriting of belonging is comparable to the obtaining of diplomas, which is based on reasons of fairness and on the same standards and tests. However, from a more societal perspective, the mainstreaming of integration requirements is not pragmatic at all. Instead, it seems worthwhile to develop customized approaches such as giving illiterate immigrants and those with university degrees different integration trajectories based on their didactical needs.⁸²

Indeed, to illustrate this point, Van Oers draws an “integration spectrum.” On the one side, there is the “Top End” existing of TCNs who are already highly educated and/or have strong social networks. For this group, she writes, integration requirements are often “belittling.”⁸³ On the other side, there is the “Bottom End” (e.g. illiterates, traumatized refugees) for whom it is often simply impossible to pass integration requirements.⁸⁴ Yet, individualized integration conceptualizations predispose receiving states to approach all TCNs as persons who must individually prove themselves able to integrate into “us,” instead of recognizing them as persons who require a variety of public interventions to achieve the best emancipatory outcomes. In this context, recent research also indicates that European cities have traditionally recognized that customized approaches to integration work best, and have developed the expertise to provide it. Cities are increasingly forced to mainstream their integration strategies by law made at the national level. These strategies are often governed by the broader shift towards the

81. Along these lines, the CJEU also ruled in 2015 in the P and S case that Member States should take into account “the level of knowledge required to pass the . . . examination,” and “specific individual circumstances, such as age, illiteracy or level of education.” Case 579/13, *supra* note 23, at § 49.

82. *See, e.g.*, U.N. HIGH COMM’R FOR REFUGEES, A NEW BEGINNING: REFUGEE INTEGRATION IN EUROPE (2013), available at <<http://www.unhcr.org/protection/operations/52403d389/new-begin-ning-refugee-integration-europe.html>>

83. VAN OERS, *supra* note 2, at 270.

84. *Id.* at 271.

idea that all TCNs must demonstrate their individual integration to merit rights, which in turn leads to policies that are measurably less effective than their previous, more customized ones.⁸⁵

Finally, if EU countries indeed abandon individualized integration strategies and explore the opportunities offered by customized integration policies, the question arises as to why integration trajectories in EU countries are most often closed off for other groups in society such as internal EU immigrants. After all, *all* arguments in favor of integration trajectories for TCNs, seen as a field of public policy facilitating sets of desirable societal outcomes (e.g. equal participation, enhancing language fluency, democratic socialization) apply to this group as well.⁸⁶ Of course, internal EU migrants cannot be obliged to complete integration standards in order to deserve belonging (*i.e.*, to obtain, renew, or increase their residency rights). But this is only relevant if integration is fully understood as a personal condition of non-EU migrants.

It leaves untouched the fact that if integration is perceived as a public concern, it seems a reasonable option for receiving states to provide ongoing courses for all who might benefit from them—perhaps free of cost, or otherwise at low prices. One could argue that this would be costly. Nonetheless, from a societal perspective, it seems at least worth exploring. If negative societal consequences and public costs are to be prevented in the long term (e.g. increased welfare dependency, unemployment, etc.), installing effective integration trajectories for different new groups in society might in fact be lucrative, and prove to be the best strategy for society as a whole.

Accordingly, the same could be argued about *citizens* who are disadvantaged due to low language levels. For example, we saw the Netherlands heavily approaches integration concerns through individualized conceptualizations, leading to seeing only low language levels on the side of newcomers as a pressing issue. However, 12% of the Dutch population is also functionally illiterate, which can be roughly defined as being ill-equipped to

85. See, e.g., Patrick Simon & Mélodie Beaujeu, *Mainstreaming and Redefining the Immigrant Integration Debate in Old Migration Countries: A Case Study of France, the UK and the Netherlands*, in MAINSTREAMING INTEGRATION GOVERNANCE: NEW TRENDS IN MIGRANT INTEGRATION POLICIES IN EUROPE 25 (Peter Scholten & Ilona van Breugel eds., 2018).

86. For example, the WRR wrote in a report on internal EU migration that if Polish and Bulgarian immigrants that (most probably) settle are offered education, language training and labor market supervision, unemployment could be prevented. See WRR, IN BETERE BANEN 27 (2017), available at <<https://www.wrr.nl/publicaties/verkenningen/2012/12/12/in-betere-banen>>

participate in the labor market due to being unable to read longer text.⁸⁷ From a societal integration perspective, installing language strategies only for newcomers therefore seems ineffective. Therefore, it is worth exploring whether there would be better results if language courses were structurally provided and open to all residents in society, citizen or not, who may benefit from them.

V. CONCLUSION

In essence, the analysis presented in this article indicates that EU states should carefully avoid basing their integration strategies on individualized integration conceptions, as this carries great risk of leading to counterproductive public policies supervising immigrant incorporation processes in society. Nevertheless, European integration policies are increasingly evaluated based on the benchmark of whether they sufficiently assess when individual TCNs have “integrated *enough*” to deserve belonging, instead of on their measurable effects on social mechanisms. This makes integration measures less pro-active, and creates disorientation with regard to when integration policies are effective in achieving societal goals (e.g. finding the most effective policies to enhance language levels of members in society, encouraging democratic socialization, stimulating participation, etc.).

Integration measures have proliferated across European states. Yet, taking a closer look, these policies have only to a limited extent been the result of careful policy making with the purpose to genuinely promote the integration—in terms of a set of societal processes—of newcomers who will most likely settle permanently. On that account, this article demonstrates that integration measures in EU countries should be *less* associated with the question of “who earns the right to belong here?” and redirected instead towards the question of “if newcomers join society, what public issues might this raise, and what state policies would demonstrably work to adequately address these?” This would make a catalogue of possible integration strategies conceivable, to be evaluated on the basis of their impact on societal outcomes, which are customized to the specific needs and capacities of individual TCNs (and also to other groups in society such as EU migrants and citizens). This would better ensure that the integration strate-

87. Moreover, recent research by PricewaterhouseCoopers indicates that functional illiteracy costs the Dutch economy €572 million a year. *Laaggeletterden lopen jaarlijks ruim half miljard aan inkomsten mis* [Illiterate People Miss Out on over Half a Billion of Revenue a Year], SICHTING LEZEN & SCHRIJVEN [THE READ & WRITE FOUNDATION] (Apr. 4, 2018), available at <<https://www.lezenenschrijven.nl/nieuws/laaggeletterden-lopen-jaarlijks-ruim-half-miljard-aan-inkomsten-mis/>>

gies of Member States have inclusionary instead of exclusionary effects and, moreover, are in line with the EU directives that give Member States the discretion to install mandatory integration requirements.

