Master of Arts in International Studies

Transnational cooperation for the integration of Third-Country Nationals (TCNs) in the European Union
EU Governance, Policy and Funds

Final Dissertation submitted by:

Bassotti Andrea

Date: 20/07/2020

Course title: European Union Internal Market Law

Course instructor: Torino Raffaele

Abstract

More than twenty years after the first conception of a coherent EU integration policy vis-à-vis third-country nationals (TCNs), this paper draws some conclusions and reflects on what has been achieved so far and on how to strengthen the EU approach to such a sensitive policy field. It hence examines, contextualises and assesses the evolution of the EU "hard" and "soft" politico-legal tools that have contributed to the Europeanisation of integration-related policies. Therefore, on the one hand, this paper focuses on the role played by EU institutions, law and policy in Europeanising the Member States' approach on the matter. On the other hand, it assesses the role played by the "soft" fora, tools, initiatives and projects provided and financially supported by the EU in order to reach the same objective.

Building on these "hard" and "soft" politico-legal outcomes and approaches, this paper aims at providing the reader with a comprehensive background, overview and assessment of the available options to boost an effective, holistic and legitimate Europeanisation in the sensitive and typically sovereign policy field of TCNs' integration.

Table of Contents

Introduction

In 1999, the entry into force of the Treaty of Amsterdam, under the overarching objective to create an EU 'Area of Freedom, Security, and Justice' (AFSJ), transferred the immigration policy domain to shared competence between the EU and the Member States. Subsequently, the European Council held a summit at Tampere, Finland, in order to adopt the first multi-annual programme encompassing the strategic guidelines intended to guide the creation of the AFSJ. Its output, the so-called Tampere Milestones, aimed *inter alia* at paving the way to the development of "a more vigorous integration policy" at EU level, based on the rationale of "fair treatment of third country nationals" (European Council, 1999, chapter III, para. 18 to 21).

More than twenty years after the first conception of a coherent EU integration policy vis-à-vis third-country nationals (TCNs), it is time to draw some conclusions and to reflect on what has been achieved so far and on how to strengthen the EU approach to such a sensitive policy field. Migration and integration of migrants have been at the core of the EU integration process since its first conception, as the EU existence has gradually and increasingly depended upon the free movement of persons within its internal borders, and upon the effective management of the flows of TCNs at its external border. Therefore, taking into account the key socio-economic and demographic role played by TCNs within the EU, this paper examines, contextualises and assesses the evolution of the EU "hard" and "soft" politico-legal frameworks dealing with their integration in the EU territory and society. Particularly, it focuses on the EU role and approach concerning the policy field of TCNs' integration because, being migration a structural feature of European and society, it considers the relevance of an effective integration of TCNs in the EU to be hardly questionable.

This paper consists of two sections, assessing respectively the role played by "hard" and "soft" Europeanisation in delivering effective outcomes in matter of TCNs' integration. As argued by Van Wolleghem, the process of Europeanisation refers to the mixture of bottom-up and top-down processes, as it involves national and subnational actors both in "uploading preferences and bargaining in the bottom-up phase" and in carrying out the "implementation of EU outputs in the top-down phase" (2018, p. 19). On the one hand, the first section of this paper, including two chapters, contextualises, analyses and assesses the role played by the "hard" politico-legal tools at the EU disposal in matter of TCNs' integration. It hence assesses the role played by EU institutions, law and policy in Europeanising the Member States' approach on the matter. On

the other hand, the second section of this paper, which likewise consists of two chapters, contextualises, analyses and assesses the role played by the "soft" venues and tools provided and financially supported by the EU in order to promote the Europeanisation of the Member States' approach on the matter.

An effective, holistic and legitimate European strategy has in fact proven to be necessary in order to deliver Europeanisation within such a sensitive policy field, and the recourse to both "soft" and "hard" tools contributes to different extents to the development of a European common policy in matter of TCNs' integration.

Within this context, this paper aims to answer to the following research question:

- How can the EU deliver an effective, holistic and legitimate Europeanisation in matter of TCNs' integration?

In order to provide a comprehensive answer, the two sections constituting this paper aim respectively at providing an answer to the following sub-questions:

- Have the politico-legal tools provided by the EU institutions managed to deliver an effective, holistic and legitimate "hard" Europeanisation in matter of TCNs' integration?
- Have the non-binding networks, fora and tools provided and/or financially supported by the EU managed to deliver an effective, holistic and legitimate "soft" Europeanisation in matter of TCNs' integration?

Basically, building on the answer to these questions, this paper aims at providing the reader with a comprehensive background, overview and assessment of the available "hard" and "soft" options to boost Europeanisation in the sensitive and typically sovereign policy field of TCNs' integration.

The first section of this paper aims at providing an answer to the first sub-question. In this regard, its first chapter analyses in details the reasons why, despite the legal and institutional changes brought by the Amsterdam Treaty in 1999 and the Lisbon Treaty in 2009, as well as the multi-annual programmes adopted by the European Council and the Agendas adopted by the Commission since 1999 onwards, the EU role and competences on this policy field are still extremely limited. Particularly, it is argued that, mainly because of the 2000s terrorist attacks, the Tampere Milestones largely remained a mere political declaration of intent in matter of TCNs' integration and, as claimed by Carrera, they are today regarded "as a benchmark for demonstrating the failures and gaps of current EU legal and policy responses on immigration" (2014, p. 154). In fact, the "fair treatment" rationale they introduced in matter of TCNs'

integration entered more and more into contrast with a security-based approach to issues related to migration in general, and TCNs' integration in particular. Moreover, as this chapter demonstrates, the 2007-2008 financial crisis as well as the 2015 Mediterranean migration crisis have exacerbated the endorsement of the security-based approach at the expenses of the rights-based approach. Basically, the objective to guarantee security has increasingly prevailed over the two other AFSJ values of freedom and justice, and Member States, both within the Council of the European Union and the European Council, have increasingly stood for the retention of competences in matter of TCNs' integration. Arguably, both the current and future responses to the 2019 COVID-19 pandemic may exacerbate this trend. This paper will also refer to events such as Brexit in order to prove that the perceived security threat related to migration in general, and TCNs' integration in particular, has affected the public support for the EU, so that national politicians have planned their electoral campaigns and have developed their strategies in matter of TCNs' integration accordingly.

On the other hand, the European Commission, through the proposal of relevant secondary legislation, the opening of infringement procedures and the adoption of various Communications, as well as the European Court of Justice, through preliminary rulings and the appliance of the general principles of EU law, have kept on pushing for the Europeanisation of TCNs' integration-related policies and for the concretisation of the Tampere Milestones. In this regard, the second chapter of this section aims at proving that the struggle between Europeanisation and intergovernmentalism has not impeded the adoption of relevant secondary legislation in matter of TCNs' integration. The chapter mainly examines the rationales and notions introduced by the ECJ interpretation of the Council Directive on long-term resident status (LTR)[1] and the Council Directive on family reunification (FR)[2], which still today affect the way in which policy-makers conceive TCNs' integration and which better show how the EU secondary legislation in matter of TCNs' integration has been the result of a struggle between Europeanisation and integovernmentalism.

Overall, although it is in the interest of member states to deliver an effective management of TCNs' integration because of its impact on the European socio-economic cohesion and security, the first section of this paper aims at demonstrating that such a struggle, in the post-Amsterdam era, has resulted in the unfoldment of binding but limited outcomes in this respect. TCNs' integration, in 1999 as in 2020, is regarded as a sensitive and highly sovereign policy

[1] Council Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents.
[2] Council Directive 2003/86/EC on the right to family reunification.

field, and the EU decision-making processes have often proven to be too weak to overcome national resistances in order to deliver an effective and comprehensive Europeanisation in matter of TCNs' integration.

The second section of this paper explores the impact of "soft" Europeanisation upon TCNs' integration. It hence aims at providing an answer to the second sub-question, and so at demonstrating that, in lack of a strong EU competence and role on the matter, a "soft" Europeanisation has played and can play a key role in matter of TCNs' integration policies.
It is argued that, as claimed by Carrera, the struggle between Europeanisation and integovernmentalism mainly "resulted in the creation of a dual EU normative framework on integration consisting of EU immigration law and the EU Framework on Integration" (2014, p. 150), which has unfolded since the 2000s.
Its first chapter contextualises the origin and evolution of the EU Framework on Integration non-binding tools and fora, and it aims at demonstrating that the process of Europeanisation can occur even when there is not a strong EU competence on a particular policy field. Its second chapter further aims at confirming this theory by analysing and assessing the key role of multi-level governance (MLG) and multi-stakeholder transnational networks, initiatives and projects. Particularly, the involvement of subnational governmental and non-governmental actors in the decision-making processes is considered to be crucial in order to deliver practical and legitimate results, so that this section aims at proving that a multi-level governance (MLG) approach should be more structurally embraced in matter of TCNs' integration. Considering that these "soft" fora and tool at the EU disposal are not free from criticism, mainly because of the weak transparency and democratic accountability of their decision-making processes and because of their fragmentary and non-binding nature, the last chapter of this section aims at assessing the role that they play and should play within the EU in matter of TCNs' integration. The development of "soft" instruments in matter of TCNs' integration, such as common European principles, networks, funds, fora, websites, modules and indicators, has proven effective in indirectly influencing the national and supranational agendas over integration-related affairs. Particular attention is paid to the relevance of the evolution of the financial framework accompanying the non-binding framework in strengthening its ensemble, by putting its outputs at the core of the funding priorities.

Overall, this paper aims at demonstrating that the successes brought by "soft" Europeanisation seem to indicate "that the way to move forward with EU policy in the field of integration has

been largely through depoliticisation" (Azulai and De Vries, 2014, p. 12). In fact, the "soft" tools and fora provided by the EU Framework on Integration and the other transnational networks, projects and initiatives analysed by the second section of this paper have so far proved to be particularly effective in delivering a harmonised transnational and synergetic approach to TCNs' integration. Particularly, their embrace of a MLG approach, and the consequent "reallocation of authority upward, downward, and sideways from central states" (Hooghe and Marks, 2003, p. 233), allow the involvement of all the levels of government, EU citizens and civil society as active actors in decision-making processes at EU level. In this regard, "soft" tools are potentially functional to respond to the perceived democratic deficit whose the EU has often been blamed. Nevertheless, this paper acknowledges that it is first needed to address their current lack of democratic accountability, judicial control and transparency, affecting their legitimacy, as well as their fragmentary and non-binding nature, limiting their enforceability. As long as these issues are not faced, they still provide incomplete outcomes, which anyway could not replace the "hard" and legitimate politico-legal ones at the EU disposal.

On the other hand, the legitimacy and enforceability of supranational legislation in matter of TCNs' integration, and hence of "hard" politico-legal outcomes, allow the Commission to monitor the correct transposition of integration measures and conditions, and the ECJ to interpret them in line with the general principles of EU law, such as the proportionality, effectiveness, legal certainty and non-discrimination ones. Still, this paper also acknowledges that "hard" Europeanisation is limited by national resistances, which hinder the EU objective to deliver an effective and comprehensive approach to TCNs' integration. As long as these resistances are in force, "hard" tools cannot provide a comprehensive Europeanisation: only a "soft" approach has proven able to gradually overcome them, and hence to gradually favour the transnational harmonisation of integration policies.

Building on these postulations, this paper aims at providing an answer to its research question, hence at analysing and assessing the "hard" and "soft" politico-legal approaches and opportunities in order to demonstrate that both of them allow the enhancement of an effective, holistic and legitimate Europeanisation in the sensitive and typically sovereign policy field of TCNs' integration.

I. The "hard" Europeanisation of TCNs' integration policy

1.1. Legal and political bases

Since the adoption of the Treaty of Rome in 1957, the status and EU intra-mobility rights of third-country nationals had been neglected by the *acquis communautaire* for decades, as non-EU nationals were gradually granted rights merely "on the basis of EU association agreements and in their capacity of family members of Community workers " (Eisele, 2014, p. 2).

It has only been since the adoption of the Treaty of Amsterdam in 1999, which transferred the immigration domain to shared competence between the EU and its Member States, that the EU institutions commenced to commit themselves to develop a common immigration and integration policy and, consequently, to create a specific framework to govern the status and intra-EU mobility rights of TCNs (Della Torre and De Lange, 2018, pp. 1412 – 1413). Since then, and particularly through the adoption of the Treaty of Lisbon in 2009, as well as through the multi-annual programmes adopted by the European Council and the Agendas adopted by the Commission since 1999 onwards, a series of institutional changes, legal notions and political approaches have shaped the EU integration policy and approach. Particularly, as this whole section intends to demonstrate, they evolved according to the evolution of the tensions between Europeanisation and intergovernmentalism. In spite of this dialectic and of the EU limited role and competences on the sensitive policy field of TCNs' integration, this chapter aims at making the reader aware of the fact that, since the entry into force of the Lisbon Treaty in 2009, "almost every aspect of migration—from outside and within the Europe—has a supranational dimension" (Hampshire, 2016, p. 537).

1.1.1. The background: 1957 - 1999

Article 3 (2) of the Treaty on European Union (TEU) defines the broad EU approach to migration and integration by setting out that "the Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime". Moreover, in order to establish the EU Area of Freedom, Security and Justice mentioned by the Article 3 (2) TEU itself, it is Article 4 (2) (j) of the Treaty on the Functioning of the European Union (TFEU) which sets out that "shared competence between the Union and the Member States applies".

Therefore, the European migration and integration policies are shaped by the dual aim to abolish the internal borders within the EU territory, to define their status and intra-mobility

rights, and to control migration flows at its external border. In turn, the achievement of such aims presupposes the harmonisation of the conditions under which TCNs legally obtain the rights to access and reside within the EU territory.

Basically, as Azulai and De Vries argue, migration and integration represent "a special feature of the self-understanding of the EU", as "the constitution and the very existence of the EU depends upon a continuing flow of persons crossing the borders of the member states and upon the management of the flows of third-country nationals (TCNs) knocking at the doors of the EU" (2014, p. 2). In fact, the free movement of persons represents one of the "four fundamental freedoms" set out by the 1957 Treaty of Rome that, being functional to the achievement of the European Internal Market, have shaped the European integration process since its first inception in the aftermath of WWII. In a nutshell, as noted by Carrera, "narratives, policies, and laws dealing with the integration of persons exercising mobility across borders are far from being a new issue of policy attention at EU level" (2014, p. 151).

In this regard, it is first appropriate to mention the fact that the concept of Internal Market has evolved over time. Originally conceived as an area without internal frontiers capable of internally guaranteeing the free movement of goods, persons, services and capital on purely economic terms, all the EU bodies gradually stood for and contributed to the extension and evolution of the concept over the decades, and the concept eventually extended to the "entire structure of relations, not only purely economic" (Torino, 2017, p. 3).

When it comes to the free movement of persons, the initial concept of free movement of employees, ensured by the Treaty of Rome in 1957 and laying its foundations on the key principle of prohibition of discriminations based on the nationality (Article 18 TFEU), was gradually replaced by the broader concept of free movement of citizens over the decades, and particularly at the beginning of the 1990s. EU persons willing to move and reside in other EU Member States than the one of origin, who could before exercise such rights only if acting as market actors, were in fact gradually and increasingly granted them independently from any market-related purposes. Both the EU policy-making institutions, by enacting secondary law pursuant to the existing *acquis communautaire*, and the European Court of Justice, by mainly broadening the interpretation of the categories of persons who could be entitled to the freedom of movement, "gradually granted all the European Union citizens a 'general' right of movement and residence" (Palmieri, 2017, p. 71).

Finally, dependence on the exercise of an economic activity ended to characterise the free movement of persons with the introduction of the concept of EU citizenship in the Maastricht Treaty of 1992, whereby "the prerequisite that EU citizens must be economically active to

benefit from the free movement regime dissolved" (Eisele, 2014, p. 2). Nowadays, it is Article 20 and 21 of the TFEU which both define every person holding the nationality of a Member State as a citizen of the Union (TFEU, Article 20 (1)), and enshrine the EU citizens' right to move and reside freely within the EU territory (TFEU, Articles 20 (2) (a) and 21 (1)). According to Palmieri, Article 21 TFEU, along with Directive 2004/38/EC, which rationalised the EU legal framework on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, and the 1985 Schengen Treaty, which abolished the national frontiers of the countries that joined it over time, "sanctioned the definitive overruling of the previous 'commercial approach' to the right of movement of persons within the European Union territory" (2017, p. 72). The ECJ case law also contributed to the constitutionalisation of this notion, as shown for instance by Case C-413/99, among others. It in fact ruled that "a citizen of the European Union who no longer enjoys a right of residence as a migrant worker in the host Member State can, as a citizen of the Union, enjoy there a right of residence by direct application of Article 18 (1) EC" (2002, para. 94).

It is against this backdrop that integration has increasingly played a key role as a "desecuritising tool" vis-à-vis the abolition of internal border checks and the facilitation of cross-border mobility for EU citizens (and their family members), since capable of "ensuring that they enjoy equality of treatment, non-discrimination, family reunion, and a secure legal status in the receiving EU member state" (Carrera, 2014, p. 151). EU citizens are since then granted a series of intra-mobility rights ensuring them socio-economic inclusion within the whole EU territory. Nevertheless, while the concept of EU citizenship entitled all the EU nationals with the right to freely move across its internal borders and reside in other EU Member States than the one of origin, the EU legal framework neglected the status and EU intra-mobility rights of third-country nationals (TCNs) regularly residing within the EU territory for decades.

Within this context, it is still relevant the question posed in 1997 by Peers in the context of social security of migrant workers: "who is the European Community for? Is the Community purely for the income-earning nationals of Member States, or is it for all its legal residents, including nationals of third states and persons who are not economically active?" (p. 342). The relevance of this question is particularly evident when we refer to TCNs, both because favouring or hindering their inclusion defines the EU identity and values worldwide accordingly, and because of the socio-economic and demographic role played by TCNs within the EU.

According to one of the latest definition of TCN as provided by Article 6 of Regulation (EU) 2016/399 on a Union Code on the rules governing the movement of persons across borders

(Schengen Borders Code), 'third-country national' means any person who is not a Union citizen within the meaning of the aforementioned Article 20 (1) TFEU, and who is not a person enjoying the European Union right to free movement, as defined by Article 5 of the same Regulation. On the one hand, according to the latest Eurostat data, in 2019 TCNs represented 21.8 million people out of the 446.8 residing in the EU territory. The figure corresponds to 4.9% of the total EU population (2020). Considering that, by way of comparisons, in 2018 the TCNs residing in the EU represented the 4.4% of the total population, in 2010 the 4% and in 2006 the 3.8%, the trend clearly shows how TCNs increasingly represent a conspicuous share of the EU population[3]. In this regard, only in 2018 in 18 EU Member States "the majority of non-nationals were citizens of non-EU countries" (*Ibidem*). On the other hand, as claimed by Van Wolleghem, while within the EU territory "the proportion of workers compared to that of pensioners shrinks", not only "immigration has been the main driver of population growth" for years, but also "projections show that influxes are not likely to cease in the near future" (2019, p. 219).

Taking these information and figures into account, this paper considers appropriate and necessary to examine the evolution of the EU political and legal framework regulating TCNs' status and intra-EU mobility. Particularly, it focuses on the EU role concerning the policy field of TCNs' integration since, "as migration has become a structural feature of European society, integration has gained central relevance" (*Ibidem*).

1.1.2. The genesis: 1999 - 2009

The insertion of Title IV on "Visas, asylum, immigration and other policies related to free movement of persons" in the Treaty of Amsterdam, which entered into force in 1999, marked a turning point in the migration and integration policy domains. Member States in fact agreed to rationalise the *acquis communautaire* related to legislating on these policy fields, and to endow the Union with more extensive competences on the matter, in order to create an EU-wide 'Area of Freedom, Security, and Justice' (AFSJ). Basically, as claimed by Costello, "the Treaty of Amsterdam marks a huge institutional shift" in EU migration law, as it expanded "formal EU law-making competence over immigration and asylum, under the new overarching aim of creating an Area of Freedom, Security, and Justice (AFSJ)" (2015, p.17). In this regard, Title IV of the Treaty of Amsterdam required the Council to adopt, *inter alia*, under unanimous

[3] It must be noted that Eurostat, in its latest update (May 2020), does not consider the UK as an EU member state.

voting and after the mere consultation of the European Parliament (Article 67 (1)), "measures aimed at ensuring the free movement of persons (…), in conjunction with directly related flanking measures with respect to external border controls, asylum and immigration (…), measures to prevent and combat crime" (Article 61 (a)) and, notably for present purposes, "measures in the fields of asylum, immigration and safeguarding the rights of nationals of third countries" (Article 61 (b)). With regard to the latter Article, The Council was also called to adopt measures on "the conditions of entry and residence (…) including those for the purpose of family reunion" (Article 63 (3) (a)), as well as on "the rights and conditions under which nationals of third countries who are legally resident in a Member State may reside in other Member States" (Article 63 (4)). On the one hand, these provisions provided the legal basis for establishing a relation between integration and EU immigration law, on which the following political EU agendas, secondary legislation as well as the ECJ case law on the matter lay its foundations. On the other hand, as claimed by Azulai and De Vries, the aforementioned Article 61 (b) introduced the rationale of "fair treatment" or "fundamental rights" in EU migration and integration law (2014, p. 4). It follows that since then the right to fair treatment must be ensured by the EU policies to all TCNs legally accessing to and residing in an EU Member State. Even though the *acquis communautaire* has not provided a definition of "fair treatment", it can be assumed that it refers to the international law standards set out by the provisions of the 1951 Geneva Convention and its 1967 Protocol, the European Convention on Human Rights (ECHR) and the EU Charter of Fundamental Rights. On the one hand, it is necessary to claim that the EU member states are already parties of these international treaties and, consequently, the EU law could not absolve them from their obligations there enshrined and their "scope of application extends to all third-country nationals residing in a contracting state party" (Eisele, 2014, p. 9). On the other hand, international law standards have served as a source of reference for the EU migration and integration legal bases. Article 78 (1) TFEU expressly sets out the duty of the Union to develop its common European asylum policy "in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees, and other relevant treaties". Consequently, since the entry into force of the Treaty of Amsterdam, TCNs profit from principles enshrined by international law, such as the *non-refoulement* principle as laid down in Article 33 (1) of the 1951 Geneva Convention relating to the Status of Refugees[4]. Concerning the EU Charter of Fundamental Rights, it grants "everyone

[4] According to this Article, "no Contracting State shall expel or return ("*refouler*") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion".

residing and moving legally within the European Union" (Article 34 (2)) relevant rights facilitating their integration, such as the right to the integrity of the person (Article 3), the right to education (Article 14) and to engage in work (Article 15), the right to asylum (Article 18), non-discrimination (Article 21), as well as a series of rights related to family and professional life (Article 33), social security and social assistance (Article 34) and health care (Article 35).

Since the entry into force of the Treaty of Amsterdam, the expansion of the EU competences over the domain of TCNs' migration and integration has empowered the European Court of Justice (ECJ) to review and interpret EU legislative measures on these policy domains, among others. The ECJ, first by shaping the "fundamental rights" rationale in the fields of asylum and family reunification, then applying it "to other topics of migration policy including, for example, access of TCNs to social security and other benefits" (Azulai and De Vries, 2014, p. 3)**,** has increasingly addressed issues of equality of treatment and non-discrimination of TCNs concerning what could be defined as their "right to integration". Nevertheless, Article 68 (1) set out that only "where a question is raised in a case pending before a court or a tribunal of a Member State against whose decisions there is no judicial remedy under national law" could request the ECJ to give judgement in a preliminary ruling. As the next paragraph and chapter 1.2 are going to demonstrate, it was the institutional reshaping carried out by the Treaty of Lisbon ten years after Amsterdam that expanded the ECJ powers on the matter.

Moreover, it is relevant to mention the role played by the European Court of Human Rights (ECHR) in defending and expanding TCNs' integration-related rights, as showed for instance by the 2011 Applications No. 5335/05 and No. 56328/07, where the ECHR ruled over matters concerning, respectively, TCNs' access to secondary education and social housing. On the one hand, the former case deals with two Kazakh national brothers in possession of permanent residence permits, but still "required to pay fees to pursue their secondary education" (para. 44) differently from the other citizens of Bulgaria, the country where they live. In this case, the Court held unanimously that "a violation of the ECHR of Article 14 of the Convention taken in conjunction with Article 2 of Protocol No. 1" had occurred (para. 1). The latter case deals with a Sierra Leonean asylum seeker with a minor child who were not entitled to social housing in the UK as not considered "in priority needs" (para. 7), and were so entitled to a differential treatment from the national authorities. In this case, the Court ruled that the UK authorities did not violate the ECHR, as "the differential treatment to which the applicant was subjected was reasonably and objectively justified by the need to allocate, as fairly as possible, the scarce

stock of social housing available in the United Kingdom and the legitimacy, in so allocating, of having regard to the immigration status of those who are in need of housing" (para. 52).

Therefore, the Treaty of Amsterdam marked an unprecedented legal and institutional shift with regard to the EU approach to immigration and integration policies, and this is not only due to the fact that it introduced the "fair treatment" rationale but, as claimed by Hampshire, also because "the European Union (EU) institutions have steadily acquired increased powers over migration" since then (2016, p. 537). In fact, in the same year in which the Treaty of Amsterdam entered into force, the European Council gathered at Tampere, Finland, in order to define the first multi-annual programme offering strategic guidelines in the field of Justice and Home Affairs, hence intended to guide the creation of the EU 'Area of Freedom, Security, and Justice' (AFSJ) envisaged by the aforementioned Title IV of the Treaty of Amsterdam. Concerning the objective to develop "a Common EU Asylum and Migration Policy" (European Council, 1999, para. A), the Tampere Conclusions proved very ambitious. They in fact aimed at achieving four objectives, namely the development of a stronger "partnership with countries of origin" of TCNs (*Ivi*, chapter I, para. 11 and 12) and of a more efficient "management of migration flows" (*Ivi*, chapter IV, para. 22 to 27)[5], the establishment of "a Common European Asylum System" (*Ivi*, chapter II, para. 13 to 17) and, notably for present purposes, the endorsement of measures guaranteeing the "fair treatment of third country nationals" (*Ivi*, chapter III, para. 18 to 21). In this latter regard, the Tampere European Council set an ambitious political agenda vis-à-vis TCNs' legal status and rights as, in envisaging the endorsement of the "fair treatment" rationale of the EU migration and integration law, its Conclusions called for "a more vigorous integration policy", (…) non-discrimination in economic, social and cultural life, (…) and measures against racism and xenophobia" (*Ivi*, para. 18). Concerning the legal status and rights of long-term resident TCNs, they concluded that TCNs "should be granted in that Member State a set of uniform rights which are as near as possible to those enjoyed by EU citizens" (*Ivi*, para. 21). Finally, the Tampere Conclusions acknowledged the need of approximation of national legislations on the conditions for admission and residence of TCNs (*Ivi*, para. 20). Such principles represented the so-called Tampere Milestones, and they were supposed to streamline and rationalise the exiting EU migration and integration

[5] Particularly, this political objective set the need to better control the EU external borders, by promoting the cooperation among Member States in fighting illegal immigration and combating those who engage in organising it.

policies under the same umbrella and, consequently, to more efficiently guide and shape the responses to come.

Nevertheless, tensions between Europeanisation and intergovernmentalism followed, national resistances proved hard to be overcome and, eventually, despite the ambitious political mandate set by the 1999 Tampere European Council Conclusions accompanying the entry into force of the Treaty of Amsterdam, "the (Tampere) principles remained, to a large extent, a mere declaration of intent" (Carrera, 2014, pp. 153 - 154). In fact, mainly because of the terrorist attacks of 2001 in the US and of 2004 in Madrid, the rationales driving the EU policies vis-à-vis the integration of TCNs radically changed, and priority increasingly became the guarantee of security to the EU Member States and citizens rather than the promotion of socio-economic and cultural inclusion, non-discrimination, and equality of treatment of TCNs vis-à-vis EU citizens (Balzacq *et al*, 2016, p. 39). A shift in the EU approach to migration and integration was occurring: since then, within the context of creating the 'Area of Freedom, Security, and Justice' (AFSJ) envisaged by the Treaty of Amsterdam, the security dimension has increasingly prevailed over the other two values of freedom and justice. By way of example, the 2004 European Council Declaration on Combating Terrorism, which defined the response to the terrorist attacks in Madrid, set "Strengthening Border Controls and Document Security" (p. 7) as one of its main objective. In fact, the Declaration paved the way to the establishment of Frontex, the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, which then occurred in the same year through Council Regulation (EC) No 2007/2004. Likewise, this new approach affected the formulation of The Hague multi-annual programme, which was adopted in 2004 by the European Council in order to update the Tampere objectives and roadmap concerning the building up of the AFSJ for the years 2005 to 2010. In fact, its introduction expressly claimed that "the security of the European Union and its Member States has acquired a new urgency, especially in light of the terrorist attacks in the United States on 11 September 2001 and in Madrid on 11 March 2004" (European Council, 2015, chapter I). It followed the need, "while guaranteeing respect for fundamental freedoms and rights, to take a more effective, joint approach to cross-border problems such as illegal migration, trafficking in and smuggling of human beings, terrorism and organised crime, as well as the prevention thereof". (*Ibidem*). Basically, the Hague multi-annual programme in the area of Justice and Home affairs advocated "an expansion, predominance and strengthening of the security dimension over the other two rationales" of freedom and justice (Balzacq et al, 2016, p. 39). In fact, in order to "strengthening freedom" (2005, chapter III.1), the Hague Programme envisaged coercive

practices aiming at a more efficient and secure management of migration flows (*Ivi*, para. 1.7), which focused on border checks and the fight against illegal immigration (*Ivi*, para. 1.7.1), biometrics and information systems (*Ivi*, para. 1.7.2) and visa policy (*Ivi*, para. 1.7.3), and which did not take into account "their actual and potential impact on liberty, fundamental rights and the rule of law" (Balzacq et al, 2016, p. 39).

Concerning integration policies, the Hague Programme acknowledged that "stability and cohesion within our societies benefit from the successful integration of legally resident third-country nationals" (2005, chapter III, para. 1.5). It hence called for greater co-ordination of national integration policies and EU initiatives in this field, by acknowledging the need for the development of "common basic principles underlying a coherent European framework on integration" (*Ibidem*). This framework, which will be analysed in details by the following section of this paper, aimed at guaranteeing a comprehensive and coordinated multi-level and multi-stakeholder approach, capable of ensuring "the fair treatment of legally resident third-country nationals in the EU" (*Ibidem*). Such a phrasing demonstrates that, despite the introduction of a security-based approach, the "fair treatment" rationale kept on affecting the EU approach to migration and integration policies since its conception and formulation onwards. In this regard, the Commission kept on pushing for the endorsement of such a rationale, by introducing for instance the concept of a locally-tailored, multi-stakeholder and multi-level governance (MLG) "holistic approach" vis-à-vis TCNs' integration (2003, p. 18). In its Communication on immigration, integration and employment, the Commission in fact claimed that not only economic and social aspects of integration should be taken into account, "but also issues related to cultural and religious diversity, citizenship, participation and political rights" (*Ibidem*).

The struggle between the Commission, pushing for "more Europe", and the Council, pushing instead for "less Europe", intensified in the following years. While the Commission pushed for the endorsement and concretisation of the Tampere Milestones, Member States' representatives within the Council increasingly pushed for the appliance of the principle of subsidiarity or exclusivity of national competence on the matter. Eventually, as claimed by Carrera, such dispute between Europeanisation and integovernmentalism mainly "resulted in the creation of a dual EU normative framework on integration consisting of EU immigration law and the EU Framework on Integration" (2014, p. 150). On the one hand, the former represents a regime of ordinary EU secondary law, which, as the following chapter is going to demonstrate, is subject to strict conditions and limitations. On the other hand, the latter

represents, as the following section of this paper is going to demonstrate, a "quasi-Open Method of Coordination" that, since falling outside the ordinary EU decision-making, does not produce any legally binding effect upon the EU member states (Carrera, 2014, p. 159). However, it has developed in a non-linear and multi-layered fashion and led to the development of venues and tools that, although not legally binding, have shaped and influenced the national and supranational agendas over integration-related affairs. By way of example, as the following section of this paper is going to demonstrate, it was one of these tools, the Common Basic Principles for Immigrant Integration Policy (CBPs)[6], that led to the adoption of the first EU Commission "Common Agenda for Integration - Framework for the Integration of Third-Country Nationals in the European Union" in 2005. In turn, this Agenda structured and strengthened the EU Framework on Integration itself. In fact, as claimed by the Agenda itself, "The cornerstones of such a framework are proposals for concrete measures to put the CBPs into practice, together with a series of supportive EU mechanisms" (European Commission, 2005, para. 1, p. 4).

1.1.3. The evolution: 2009 - 2020

The following major turning point concerning the relation between TCNs' integration and EU law and policy occurred exactly ten years after the entry into force of the Treaty of Amsterdam and the adoption of the Tampere Conclusions. In 2009, two years after the deadlock experienced during the ratification process of the draft Constitution, the EU Member States approved, signed and ratified the Treaty of Lisbon, which governs the current EU integration policy. This Treaty marked a new phase on this policy field, as it represented a major turning point in the embrace of a "hard" approach to Europeanise integration-related measures both from a substantive and from a procedural standpoint. Notably, it revolutionised the EU approach to integration-related measures by providing the EU with a Treaty-based legal competence to legislate on the matter through the insertion of Article 79 (4), and by ending the "pillar structures" of the EU, which entailed far-reaching consequences in the Area of Freedom, Security and Justice as a whole (Wiesbrock, 2010, p. 141). By abolishing the third pillar, which was based on intergovernmental cooperation, all policy areas of Justice and Home Affairs were in fact brought under the ordinary legislative procedure as currently foreseen by Article 294 TFEU, which confers the right of initiative to the Commission, and establish 'co-decision'

[6] As already claimed, they were proposed by The Hague Programme. They were then unanimously adopted at a Justice and Home Affairs Council meeting in the same year. The CBPs are going to be analysed thoroughly by chapter 2.1.

between the Council and the European Parliament and the Council, and Qualified Majority Voting (QMV) in the former.[7] Going beyond unanimity within the Council and the consultative role of the European Parliament within the legislative procedure represents one of the main variation brought by the Lisbon Treaty in this policy field. It follows that, in addition to a higher degree of legal certainty and democratic accountability, such an institutional and procedural reshaping has been capable of hindering national resistances over the adoption of secondary legislation, as the following chapter is going to demonstrate. The institutional reshaping also involved the ECJ, whose liberalisation "overcoming the previous limitation restricting the presentation of preliminary rulings to last instance national courts or tribunals" (Carrera, 2014, p. 184) has entailed an increased judicial control over several domains, among which migration and integration policies. In fact, the ECJ has now full jurisdiction in these policy fields. Moreover, the institutional reshaping reinforced the role of the European Council, by providing it with the Treaty-based role of defining "the strategic guidelines for legislative and operational planning within the area of freedom, security and justice" (Article 68 TFEU). Basically, the Lisbon Treaty formally recognised the crucial planning role in the various field of the AFSJ that the European Council had been playing since the adoption of the Tampere multi-annual programme onwards.

It was Title V TFEU that amended and replaced Title IV of the Treaty of Amsterdam on the EU Area of Freedom, Security and Justice, and it is its Chapter II on the EU "Policies on border checks, asylum and immigration" (Articles 77 to 80) that provides the current legal basis governing the EU legal migration policy. Particularly, Article 79 (1) TFEU sets out the Union objectives on matters of migration in its first paragraph, according to which "the Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings". Within this context**,** it must be added that the policies of the Union set out in this Chapter of the TFEU "shall be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States" (Article 80 TFEU). Concerning the EU integration policies, it can be noted that, among the Union objectives, Article 79 (1) TFEU confirmed the rationale of "fair treatment" vis-à-vis

[7] As claimed by Bux, until the Brexit will not be concretely in force, "Denmark does not take part in the adoption by the Council of the measures pursuant to Title V of the TFEU, while the United Kingdom and Ireland only participate in the adoption and application of specific measures after a decision to 'opt in' (Protocols No 21 and 22)" (2020).

TCNs residing legally in the EU territory.[8] In this regard, paragraph 2 of the same Article sets out that, for the purposes of the first paragraph, measures shall be adopted in order to define the TCNs' conditions of entry and residence, "including those for the purpose of family reunification" (a), as well as their rights and conditions, also "governing freedom of movement and of residence in other Member States" (b). The Treaty of Lisbon slightly expands the areas in which the EU can act over migration: new competences include the adoption of measures "for the gradual establishment of an integrated management system for external borders" (Article 77 (2) (d)), for establishing of a Common European Asylum System (Article 78), for "combating trafficking in persons" (Article 79 (2) (d)), for expanding the external dimension of the EU immigration policy (Articles 78 (2) (g) and 79 (3)), for dealing with economic migration (Article 79 (5))[9] and, notably for present purposes, for defining the rights of TCNs (Article 79 (2) (b)) and for supporting "the action of Member States with a view to promoting the integration of third-country nationals" (Article 79 (4)). The latter Article provides the EU with a Treaty-based competence in the field of TCNs' integration, by setting out the legal basis for the EU support to Member States in adopting, by applying the ordinary legislative procedure, measures "with a view to promoting the integration of third-country nationals residing legally in their territories". Nevertheless, by explicitly excluding "any harmonisation of the laws and regulations of the Member States", Article 79 (4) also restates the national predominance over the political domain of integration. Arguably, despite the insertion of an EU legal basis vis-à-vis TCNs' integration, "the limited scope of this very same provision may be read as a step backwards" (Van Wolleghem, 2019, p. 227).

However, it is necessary to reiterate that the revision of the *acquis communautaire* endorsed in Lisbon in 2007 demonstrates that the "fundamental rights" rationale in EU migration and integration law conceived by the Treaty of Amsterdam shaped irreversibly the EU approach on the matter. In this regard, the Lisbon Treaty expressly sets out that the rights guaranteed by the EU Charter of Fundamental Rights constitute binding treaty obligations (Article 6 (1) TEU), that those guaranteed by the ECHR "shall constitute general principles of the Union's law" (Article 6 (3) TEU), and that "the Union shall accede to the European Convention for the Protection of Human Rights" (Article 6 (2) TEU), whose provisions shall hence constitute

[8] See also Article 67 (2), which states that "It shall ensure the absence of internal border controls for persons and shall frame a common policy on asylum, immigration and external border control, based on solidarity between Member States, which is fair towards third-country nationals".

[9] In this regard, Article 79 (5) recognises the right of Member States to determine volumes of admission of labour migrants, so that it recognises the EU competence of drafting measures concerning economic migration by limiting it.

binding treaty obligations on the EU itself. In fact, Article 47 TEU endows the European Union with a legal personality, and so since the Lisbon Treaty the EU has been able to join international Conventions. It follows that one of the major changes brought by the Lisbon Treaty is that the scope of application of EU primary law and international law extends to all TCNs legally residing not only in a contracting state party within the EU territory, but also in the EU conceived as a legal personality by itself.

In December 2009, immediately after the entry into force of the Lisbon Treaty, the European Council adopted in Stockholm the third multi-annual programme on the development of an EU Area of Freedom, Security and Justice for the period 2010-2014, following the Tampere and Hague Programmes. The Stockholm programme identified, as its main political priority, the need "to ensure respect for fundamental freedoms and integrity while guaranteeing security in Europe" (European Council, 2010, para. 1.1). It is evident since its title, "An open and secure Europe serving and protecting the citizen", that the Programme synthetized the fundamental rights and security rationales, which are said to "mutually reinforce each other" (*Ibidem*), in all the policy areas aimed at guaranteeing Freedom, Security and Justice to the EU population.
In light of this approach, the Stockholm programme set a renewed Treaty-based and political framework in the field of migration in the first paragraph of its sixth section, which deals with the development of a "dynamic and comprehensive migration policy" (*Ivi*, para. 6.1) within "a Europe of responsibility, solidarity and partnership in migration and asylum matters" (*Ivi*, section 6). As claimed by Wiesbrock, "the overarching priority of the EU lies in addressing the so-called 'external dimension of migration policies" (2010, p. 145). In fact, the first subparagraph of paragraph 6.1 deals with "consolidating, developing and implementing the (EU) Global Approach to Migration" (*Ivi*, para. 6.1.1). The paragraph also addresses the challenges of "migration and development" (*Ivi*, para. 6.1.2), the need of a "concerted policy in keeping with national labour-market requirements" (*Ivi*, para. 6.1.3), of "effective policies to combat illegal immigration" (*Ivi*, para. 6.1.6), and of protecting unaccompanied minors (*Ivi*, para. 6.1.7). Moreover, and notably for present purposes, the subparagraphs 6.1.4 and 6.1.5 deal respectively with the need of effective and "Proactive policies for migrants and their rights" and "Integration". In this regard, the Stockholm Programme embraced the Tampere Milestones, by stating that "the Union must ensure the fair treatment of third country nationals who reside legally on the territory of its Member States" by 2014 (*Ivi*, para. 6.1.4), in order to guarantee TCNs "comparable rights and obligations" to those of EU citizens. Therefore, "developing a more vigorous integration policy" remained an overarching aim of the EU

immigration policy agenda (*Ibidem*). The European Council also embraced a holistic approach by recognising integration as a cross-cutting policy field, by asserting the need "to incorporate integration issues in a comprehensive way in all relevant policy areas", such as employment, education and social inclusion (*Ibidem*).

Overall, in matter of EU migration policy, apart from certain concrete commitments, such as the establishment of a Common European Asylum System by 2012 (*Ivi*, section 6), the Stockholm Programme remains a rather vague policy document. Also, in matter of integration policy, as claimed by Wiesbrock, the European Council objectives are vague, and "the Stockholm Programme contains little novelties" (2010, p. 145). The European Council then invited the Commission to "translate the aims and priorities of the Stockholm Programme into concrete actions with a clear timetable for adoption and implementation" by the following year (European Council, 2010a, para. 1.2.10).

We must now consider that the impact of the 2007-2008 financial crisis, along with the sovereign debt crisis that followed and the long-lasting security threats to the EU territory, affected the EU strategy vis-à-vis the development of the AFSJ. Nevertheless, the "Action Plan Implementing the Stockholm Programme" expressly asserted that the current economic crisis should not prevent the EU objective of "consolidating a genuine common immigration and asylum policy (…) with ambition and resolve" (European Commission, 2010a, p. 7). Concerning TCNs' integration, the main objective it set was the release of a Communication on an EU agenda for integration, including the development of a coordination mechanism, by 2011 (*Ivi*, p. 53).

Therefore, building on the objectives of the Europe 2020 Strategy[10] and of the Stockholm Programme, the Communication of the Commission on the European Agenda for the Integration of Third-Country Nationals was released in 2011. It proposed actions aimed at fostering the integration of TCNs through participation (European Commission, 2011b, para. A, p. 4), the active involvement of local authorities (*Ivi*, para. B, p. 8) and of TCNs' countries of origin (*Ivi*, para. C, p. 10). The 2011 Agenda recognised the crucial role played by local and regional authorities and stakeholders vis-à-vis TCNs' integration, and embraced a 'bottom-up' approach in supporting the design and implementation of policies favouring local actions such as "support for language learning, introductory measures, access to employment, education and vocational training and the fight against discrimination" (*Ivi*, para. A.1, p.

[10] European Commission, 2010b.

4). Moreover, the 2011 Agenda stated that the role of local and regional authorities and stakeholders should be developed within a framework of multi-level cooperation since, although "integration measures are mainly for local authorities, close cooperation between the different levels of governance is important to coordinate the provision, financing and evaluation of services" (*Ivi*, para. B.2, p. 9). Nevertheless, in order to make it possible, the scope of the objectives of the 2011 Agenda mainly fell outside of the legally binding and Treaty-based instruments at the EU disposal, as it reinforced the further use and coordination of the EU Framework on Integration elements, which will be analysed in details by the chapter 2.1 of this paper. In fact, its recommendations embraced the Stockholm Programme invitation to develop "structures and tools for knowledge exchange and coordination" (European Council, 2010, para. 6.1.5). Basically, the depoliticisation of integration-related measures and the consequent embrace of a "soft" approach to promote Europeanisation in such a sensitive policy field proved necessary in the aftermath of the 2007-2008 financial crisis. Moreover, the 2011 Agenda also recognised the effectiveness of pre-departure integration measures (*Ivi*, para. C, p. 10), and the importance of strengthening "the approach of a 'three-way process' between migrants, receiving societies and countries of origin" (*Ivi*, para. 3.1, p. 11).

After the expiry of the Stockholm programme in December 2014, the European Council defined, in accordance with the aforementioned Article 68 TFEU, "the strategic guidelines for legislative and operational planning for the coming years within the area of freedom, security and justice" (European Council, 2014, p. 1). As claimed by Schmid-Drüner, "these no longer constitute a programme, but rather guidelines focusing on the objective of transposing, implementing and consolidating the existing legal instruments and measures" (2019, para. B.2). The June 2014 strategic guidelines "stress the need to adopt a holistic approach to migration, making the best possible use of regular migration, affording protection to those who need it, combating irregular migration and managing borders effectively" (*Ibidem*). Notably for present purposes, they also reiterate the EU task to "support Member States' efforts to pursue active integration policies which foster social cohesion and economic dynamism" (European Council, 2014, chapter I, para. 6, p. 2).

Meanwhile, the 2015 Mediterranean migration crisis required the EU to quickly respond to the challenges it entailed within and immediately outside of its borders. In 2015, the European Commission presented the European Agenda on Migration, which brought together the steps aiming both at coping with this immediate challenge, and at setting a series of medium and

long-term objectives, identified by four pillars[11], to better manage migration in all aspects. Taking into account the EU "long-term economic and demographic challenges" (2015a, para. III.4, p. 14), the fourth pillar identified the need to favour legal migration and, notably for present purposes, to promote an "effective integration" of TCNs (*Ivi*, p. 16). It followed that in 2016 the Commission, building on the 2011 European Agenda on Integration and on the 2015 European Agenda on Migration, adopted the Action Plan on the integration of third-country nationals, which represents the latest Commission document setting policy priorities and tools for concrete actions in matter of integration policy. It is a comprehensive document embracing a holistic approach, as its policy framework encompasses several policy areas and all levels of government. Moreover, it embraces in principle the "fair treatment" rationale, by for instance asserting that "in times when discrimination, prejudice, racism and xenophobia are rising, there are legal, moral and economic imperatives to upholding the EU's fundamental rights, values and freedoms and continuing to work for a more cohesive society overall" (European Commission, 2016, Introduction, p. 2). On the one hand, in order to further develop and strengthen TCNs' integration in the EU territory, the policy priorities encompass policy actions, funding opportunities and mutual learning initiatives and resources concerning pre-departure and pre-arrival measures (European Commission, 2016, para. 4.1.1, p. 5), education (*Ivi*, para. 4.1.2, p. 7), labour market integration and access to vocational training (*Ivi*, para. 4.1.3, p. 8), access to basic services (*Ivi*, para. 4.1.4, p. 11), and active participation and social inclusion (*Ivi*, para. 4.1.5, p. 12). On the other hand, it expressly embraces a multi-level governance and multi-stakeholder perspective. It in fact recognises that "immigrant integration is a political priority that has to be pursued not only across different policy areas but also at different levels (EU, national, regional and local) and by involving non-governmental stakeholders (civil society organisations, including diasporas and migrant communities, as well as faith-based organisations)", while also according the EU "a stronger role in coordinating and liaising between the different actors and stakeholders" (*Ivi*, para. 4.2.1, p. 14).

Lately, after the 2019 European Parliament election and the composition of the von der Leyen Commission, the Commission itself developed and published the new work programme, which listed the six headline ambitions the EU aims at achieving throughout its term (2020a, para. 2, p. 2). Notably for present purposes, the fifth priority, "Promoting our European way of life",

[11] Namely, "Reducing the incentives for irregular migration" (para. III.1), "Border management – saving lives and securing external borders" (para. III.2), "Europe's duty to protect: a strong common asylum policy" (para. III.3), and "A new policy on legal migration" (para. III.4).

involves, *inter alia*, the objective of "championing inclusion" (*Ivi*, para. 2.5, p. 7). In this regard, the Commission set the objectives to adopt a New Pact on Migration and Asylum and an Action Plan on Integration and Inclusion by the end of the 2020 (*Ivi*, pp. 7- 8)[12]. The former is supposed to deliver "a more resilient, more humane and more effective migration and asylum system" (*Ivi*, p. 8), whereas the latter is linked to the New Pact itself since part of its second package of items. Nevertheless, the COVID-19 pandemic unavoidably led the EU to reconsider its priorities, and to partially neglect the integration-related policy agenda for the time being. Arguably, as claimed by Reidy and taking into account the socio-economic impacts of the COVID-19 pandemic as well as the consequent restrictions both at the EU external borders and on the intra-EU mobility, "the coronavirus pandemic will likely impact more than just the timing of the release of the New Pact on Migration and Asylum" (2020). The EU response, in times of widespread uncertainty, risks to exacerbate the endorsement of the security-based approach at the expenses of the rights-based approach vis-à-vis TCNs, hence jeopardising the AFSJ values of freedom and justice in favour of the EU citizens' need of security. However, the increased relevance of migration-related issues in the EU policy agenda is evident when noticing that the Commission expressly claimed, through a Communication adjusting the Commission Work Programme released at the end of May 2020, that "a number of urgent major initiatives, which were delayed because of the pandemic, will be adopted as swiftly as possible, notably the New Pact on Migration" (2020b, para. 2, p. 2). The relevance of issues related to migration and TCNs' integration is also evident when acknowledging that the majority of MEPs composing the current EP "ran for election on a programme that pays attention to migrant or refugee integration" and that, interestingly, advocates "for more funding for municipalities and regions in integration" (EWSI Editorial Team, 2019).

[12] As claimed by Reidy, "the New Pact was supposed to be unveiled in February, but its release was pushed back to mid-April, and the coronavirus has caused further delays" (2020).

1.2. Legal, political and judiciary developments

The legal bases provided by the EU primary law, and particularly by the Amsterdam and Lisbon Treaties, as well as the programmes set by the European Council and the agendas set by the Commission, contributed to the production of secondary legislation on the field of migration and integration policies. They hence paved the way to the "hard" Europeanisation of integration-related measures.

This chapter, by mainly analysing the rationales and notions underpinning the Council Directive on long-term resident status (LTR) [13] and the Council Directive on family reunification (FR)[14], is going to demonstrate that the EU secondary legislation concerning the integration policy domain has been the result of a struggle between the Council of the European Union, pushing for national sovereignty over this policy domain, and the European Commission and the European Court of Justice (ECJ), pushing instead for increased EU competences on the matter. In this regard, as claimed by Azulai and De Vries, "there has not been a tendency towards constitutionalisation comparable to that driving the law on the free movement of EU citizens (2014, p.7), as the Treaties do not provide any rule directly governing TCNs' status and intra-mobility rights in the EU territory. Consequently, whereas the EU intra-mobility rights of Member States citizens and their family members are constitutionally safeguarded, TCNs are endowed with less guarantees. Nevertheless, this chapter is going to thoroughly analyse the crucial role played by the Commission and the ECJ in coping with the issue by "constitutionalising", hence Europeanising, integration-related rights through the recourse to infringement procedures and preliminary rulings respectively. These tensions contributed to the formulation of key notions concerning the integration policy domain, which have evolved overtime, and which still today affect the way in which policy-makers conceive integration.

1.2.1. A regime of secondary law

Since the Europeanisation of TCNs' migration and integration policies, which, as argued, can be dated back to the insertion of Title IV in the Treaty of Amsterdam, several legislative acts have been adopted on the matter: among them, before the entry into force of the Lisbon Treaty, the Council Directive on long-term resident status (LTR), the Council Directive on family reunification (FR), and the Council Directives regulating the conditions of entry and residence

[13] Council Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents.
[14] Council Directive 2003/86/EC on the right to family reunification.

of TCNs who are students[15], researchers[16] and highly-skilled workers[17]. After the entry into force of the Lisbon Treaty, the analysed expansion of EU powers on this policy field inevitably contributed to the adoption of further Directives, such as the Directive regulating the conditions of entry and residence of TCNs who are seasonal workers[18], the Directive regulating the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer[19], and the Directive on a single residence and work permit for TCN and on a common set of rights for third-country workers legally residing in a Member State[20]. The Lisbon Treaty also paved the way to the revision and rationalisation of already adopted secondary legislation on the matter. By way of example, in 2016, the Directive (EU) 2016/801 of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing replaced, unified and simplified the aforementioned Council Directives 2004/114/EC and 2005/71/EC. Particularly, as demonstrated by the previous chapter, the 2009 institutional and procedural reshaping consequent to the entry into force of the Lisbon Treaty, and particularly the application of QMV within the Council in the migration and integration policy domains, made it easier to reach political compromises in order to adopt a more inclusive secondary legislation in these policy fields. By way of example, the adoption of the Regulation extending the provisions of Regulations 883/2004 and 987/2009 on the coordination of social security systems to TCNs occurred despite the negative votes of Germany, Austria, and Bulgaria (Carrera, 2014, p. 183). The 2007-2008 financial crisis, along with the sovereign debt crisis that followed, have unavoidably played a crucial role in shaping the EU strategy vis-à-vis TCNs' integration. As evident from the Commission's Communication "Europe 2020 - A strategy for smart,

[15] Council Directive 2004/114/EC on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service.

[16] Council Directive 2005/71/EC on a specific procedure for admitting third-country nationals for the purposes of scientific research.

[17] Council Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment. It is known as the EU Blue Card Directive because it created the 'EU blue card', "a fast-track procedure for issuing a special residence and work permit, on more attractive terms, to enable third-country workers to take up highly qualified employment in the Member States" (Schmid-Drüner, 2019, para. C.1).

[18] Directive 2014/36/EU on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal worker.

[19] Directive 2014/66/EU on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer.

[20] Directive 2011/98/EU on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State. It is known as the Single Permit Directive.

sustainable and inclusive growth", the need to boost an inclusive growth has in fact contributed to the effort to produce secondary legislation favouring the smoother integration of third-country workers, and rationalising the existing one, aiming to "escape the reflex to try to return to the pre-crisis situation" (European Commission, 2010b, para. 1, p. 5). In fact, the Communication itself asserted that "the better integration of migrants in the work force" should be one of the means to increase the employment rate of the population aged 20-64 (*Ivi*, para. 2, p. 8). Nevertheless, the EU enactment of secondary legislation in this field demonstrates that, due to the troubles encountered in producing a common provision covering all the categories of labour migration into the *acquis communautaire*, the EU approach consists of "adopting sectoral legislation, by category of migrants" (Schmid-Drüner, 2019, para. C.1). Basically, the EU migration and integration policies increasingly aim at attracting highly qualified migrant profiles in order to alleviate specific skills shortages. In this regard, it should be noted that the Commission, in order to cope with the economic and demographic challenges the EU is facing and to "make it more effective in attracting talent to Europe" (European Commission, 2015a, para. III.4, p. 15), has been pushing for a review and modernisation of the aforementioned Blue Card Directive since 2015. Nevertheless, as claimed by Schmid-Drüner, lately progress in the Council has stalled, especially on the inclusion of skills and the recognition of professional experience equivalent to education qualifications, as well as on the possibility of maintaining parallel national schemes (2019, para. C.1). Finally, the categories who are not yet covered by EU legislation include "workers who are not highly skilled and who come for periods of more than nine months, as well as investors and self-employed third-country nationals" (*Ibidem*). In this regard, the EU approach did not come without controversy and criticism: By way of example, MEPs belonging to the Civil Liberties Committee of the European Parliament complain that, although the 2015 European Agenda for Migration set legal migration as one of its main priorities, "the only legislative proposal in this field in the last legislature was a revision of the Blue Card Directive, a proposal that has been blocked by the Council since the end of 2017" (Narrillos, 2020).

This chapter will focus on the LTR and FR Council Directives since, on the one hand, they contributed the most to the introduction and development of new notions and rationales in matter of TCNs' integration. On the other hand, they better demonstrate how the current EU legal competences over integration policy have been the result of a dialectic between Europeanisation and intergovernmentalism. This is mostly evident when analysing the insertion of integration conditions in both Directives throughout the Council negotiations that

led to their adoption, as well as the role of the ECJ and European Commission in limiting the margin of application of the integration conditions themselves.

On the one hand, the LTR Directive guarantees to those TCNs who have resided legally and continuously for a period of five years (Article 4 (1)) in the territory of a member state equality of treatment with nationals as regards a series of socio-economic rights, such as, *inter alia*, access to employment and self-employed activity (Article 11 (1) (a)), education and vocational training (*Ivi*, (b)), social security, social assistance and social protection (*Ivi*, (d)), tax benefits (*Ivi*, (e)), access to public goods and services (including housing) (*Ivi*, (f)). Moreover, Article 14 (1) lays down that TCNs are also granted "the right to reside in the territory of Member States other than the one which granted him/her the long-term residence status". Even though the host country can impose a long series of restrictions and conditions[21], the LTR Directive has created, on the basis of a rights-based approach, a status that can be defined as "a subsidiary form of EU citizenship" (Acosta Arcarazo, 2015, p. 200). In fact, the LTR status escapes direct control from Member States, "which are obliged to grant EU long-term residence and the rights associated with it to TCNs fulfilling the conditions in the Directive" (*Ivi*, p. 217). On the other hand, the FR Directive grants the right to family reunification, and so the right to be reunited with their family members in the host country, to TCNs "holding a residence permit issued by a Member State for a period of validity of one year or more who has reasonable prospects of obtaining the right of permanent residence" (Article 3 (1)). Following the approach developed by the Tampere Conclusions, family reunification is in fact claimed to be necessary, as "it helps to create socio-cultural stability facilitating the integration of third country nationals in the Member State, which also serves to promote economic and social cohesion, a fundamental Community objective stated in the Treaty" (European Council, 1999, Recital 4).

It is now relevant to note that, although the LTR and FR Directives endowed TCNs with a series of relevant rights, it respectively took five and four years of non-transparent and heated negotiations within the Justice and Home Affairs Council to adopt them. Moreover, the EU Member States did not manage to reach an agreement on the 2001 Commission Proposal for a Council Directive on the Conditions of Entry and Residence of third-country nationals for the Purpose of Paid Employment and Self-employment Activities,[22] which was hence finally withdrawn in 2006.[23] The difficulty in reaching compromises among Member States used to

[21] See Article 5, 11 (2), (3) and (4), 14 (4), 15, 17 and 18.
[22] See European Commission (2001a).
[23] See European Commission (2006).

be exacerbated by the recourse to unanimity within the Council, which entailed that the "fair treatment" rationale, embraced by the Tampere Milestones, more and more entered into contrast with the new legal concept of "conditionality of integration" (Carrera, 2014, p. 156). In fact, even before the adoption of The Hague programme, some Member States[24] had more and more resorted to integration conditions as a security tool. In case of TCNs' failure to comply with the obligation to integrate, these conditions proved functional to the non-granting or deprivation of the rights conferred to the applicant, hence exposed to irregularity and, eventually, to the expulsion from the EU territory. Basically, integration became a condition for the acquirement and maintenance of rights, and its lack represented a ground for refusal of rights. In light of this conceptual shift and of the unanimity in force within the Council in order to adopt secondary legislation on the migration and integration policy domains, the aforementioned Member States pressured for the insertion of integration conditions among the derogative clauses in the LTR and the FR Directives. Eventually, both Article 5 (2) of the LTR Directive and the first subparagraph of Article 7 (2) of the FR Directive set out that "Member States may require third-country nationals to comply with integration conditions, in accordance with national law", in order to acquire the long-term resident status in the former case, and to exercise the right to family reunification in the latter case. The identical 'may' clause of the Directives sets out that it is national provisions and practices that establish whether TCNs are mere beneficiaries of the institutional effort to provide their inclusion, or if they are asked to be actively responsible for their own integration process. In the latter case, integration appears as a mandatory requirement: in case of lack of compliance with the integration conditions, the non-granting or deprivation of the rights conferred, as well as possible sanctions on the applicant and his eventual expulsion, would follow.

Moreover, it is interesting to add that secondary legislation in the EU migration and integration policy fields contributed to the introduction and development of the notion of "external dimension of integration". In fact, Article 7 (2) of the FR Directive, as Carrera argues, introduces "what has been denominated as integration abroad or the external dimension of integration", as "integration becomes here an additional criterion for having access to a visa for the purposes of family reunion" (2014, p. 158). The provision in fact does not exclude, and hence it establishes, that integration conditions may also apply to those family members of the TCN legally residing within the EU territory even when they are still residing in their country

[24] Namely Germany, Austria, and the Netherlands (Carrera, 2014, p. 183).

of origin, in order to be eligible for family reunification. In this regard, it is here appropriate to mention that since 1991 the European Commission has realised the need to reformulate its approach to migration policies: through a Communication to the Council and the European Parliament, it established the objective "to make migration an integral element of Community external policy" (1991, p. 2). Basically, since then, the EU has developed a migration policy based not only on its internal dimension, hence on enacting "an internal set of laws for nationals of third countries", but also on its external one, hence on "an external method of approach directed towards countries of origin and transit" (Eisele, 2014, p. 6). Under the aim "to strengthen its external migration policy by setting up partnerships with non-EU countries that address issues related to migration and mobility in a way that makes cooperation mutually beneficial" (European Commission, 2011a, p. 2), the EU has increasingly strengthened the external dimension of its migration policy. First by reaching association and cooperation agreements with third countries, then by launching the 2005 EU Global Approach to Migration, which was in 2011 reinvigorated and renamed the "Global Approach to Migration and Mobility" (GAMM), and by establishing, through the Treaty of Lisbon, the European External Action Service (EEAS), the EU has steadily expanded the external dimension of its migration policy (Eisele, 2014, pp. 6 – 8). Basically, cooperation with third countries on migration matters has steadily expanded overtime, and particularly since the Treaty of Amsterdam and the Tampere Conclusion accompanying it. It increasingly encompassed, through the Treaty of Lisbon as well as through the multi-annual programmes adopted by the European Council and the Agendas adopted by the Commission since 1999 onwards, all the migration-related domains, from the regulation of visa policies and border controls to the fight against irregular migration and the facilitation and regulation of regular one. As claimed by Azulai and De Vries, "it follows that, at the EU level, the policy fields of migration and external relations are becoming increasingly intertwined. (2014, p. 8). Notably for present purposes, the interpretation of Article 7 (2) of the FR Directive, whereby it can be assumed that Member States are allowed to apply civic integration examination outside of the EU territory, demonstrate to what extent the externalisation of migration policies has also affected the EU integration policy vis-à-vis TCNs.

1.2.2. The constitutional role of the ECJ

Talking about a process of "constitutionalisation" of the European Treaties presupposes the existence of both a Constitution and a Constitutional Court within the European legal framework. On the one hand, the European Court of Justice institutionally represents an

unprecedented kind of Supreme Court within the European Union, hence holding constitutional tasks as well. On the other one, since the European Union is neither provided with a Constitution, nor with a Constitutional Treaty, it could seem at first glance that the a European process of "constitutionalisation" could neither be considered. Instead, the whole *acquis communautaire* is *de facto* represented by Treaties, which, far from being considerable as mere International Treaties, are endowed with both the list of institutions forming the EU, their complex system of checks and balances, the definition of the tasks of the Communities, their relationship with their component States and third countries, the European internal legal order, its effect on the Member States' one, and the enshrinement of the general principles to be implemented and protected by the involved political bodies (Vesterdorf, 2006, p. 608). Therefore, the European Treaties "perform the same functions as the Constitution of a federal State" (*Ibidem*) and their "constitutionalisation" can be considered legitimate. The process of "constitutionalisation" of the Treaties, as claimed by Brunell and Stone Sweet, "refers to the process by which the Rome Treaty evolved from a set of legal arrangements binding upon sovereign states into a vertically integrated legal regime conferring judicially enforceable rights and obligations on legal persons and entities, public and private, within the EC territory" (1998, p. 65). Even though the European Court of Justice is neither provided with executive nor legislative powers, it is widely conceived as one of the main actor and promoter of such a process. In fact, by "courage, foresight and imagination" (Keeling and Mancini, 1994, p. 182), the ECJ has been able, case by case, both to build up the European legal and constitutional order, and to let the Member States accept it. Since 1957, the Court has been more and more providing a constitutional vision of the Treaties, as a Member States' unintended consequence of the use of the provisions of the Article 177 of the Treaty of Rome.[25] The article, by providing the establishment of the ECJ's "preliminary ruling" meant to avoids conflicts due to interpretation of European law, *de facto* became "the linchpin of the European legal integration" (Brunell and Stone Sweet, 1998, p. 67). The "preliminary ruling" procedure provides that Member States can ask for the ECJ's interpretation of the European law. Case by case, it became an unintended means for citizens to sue governments, for Member States to defend themselves against prosecution, and for national judges to undertake judicial review with respect to the "higher" European law (*Ivi*, p. 68). In fact, according to Keeling and Mancini, the reference procedure was more and more "transformed in the course of the years into a quasi-federal instrument for reviewing the compatibility of national laws with

[25] The actual Article 267 TFEU.

Community law" (1994, p. 184), which made the ECJ more and more visible, hence more and more legitimate.

Since 1999, as demonstrated by the previous chapter, the steady and gradual expansion of the EU competences over the migration and integration policy domains increasingly empowered the ECJ in exercising full judicial control on the matter. It followed that the ECJ has been increasingly empowered to both apply the general principles of EU law, and to "constitutionalise" new legal concepts in these policy fields. On the one hand, some of the provisions provided by the EU secondary legislation produced in the integration policy domain is "sufficiently clear and precise as to benefit from the legal doctrine and judicial interpretation on direct effect" (Carrera, 2014, p. 177). On the other hand, the ECJ has also interpreted it in line with the general principles of EU law, such as proportionality, effectiveness, legal certainty and non-discrimination. Notably for present purposes, it follows that EU Member States cannot impose administrative, fiscal or physical barriers that would jeopardise the objectives of the secondary legislation favouring the integration of TCNs any longer.

First, as ruled in case C-508/10, "in accordance with the principle of proportionality, the measures taken by national legislation transposing Directive 2003/109 must be suitable for achieving the objectives of that legislation and must not go beyond what is necessary to attain them" (2012, para. 75). Long-term residence is here recognised as a right by the ECJ and, as such, it involves both negative and positive obligations on the State: as claimed by Acosta Arcarazo, "the negative dimension would include the right to remain and not to be excluded, whereas the positive one would be the right to access the material assistance that enables someone to integrate in the form of, for example, available language courses" (2015, p. 213). Basically, the ECJ interpreted integration conditions as legitimate merely in case they aim at facilitating, rather than limiting, the long-term resident TCN's integration. Consequently, "integration conditions must not be so onerous so as to deprive the right of its essence" (*Ibidem*) and, in fact, the case law analysed by the following paragraph show that certain integration conditions, being considered to be too onerous, were condemned by the ECJ.

Secondly, in accordance with the principle of effectiveness, "the discretion granted to Member States by Directive 2003/109 (…) is not unlimited", as Member States "may not apply national rules which are liable to jeopardise the achievement of the objectives pursued by a directive and, therefore, deprive it of its effectiveness" (C-508/10, 2012, para. 65). Likewise, the same case also states that integration conditions, and the related charges imposed by Member State, cannot "create an obstacle to the exercise of the rights conferred by Directive 2003/109", as

undermining the objective pursued by that directive and depriving it of its effectiveness (*Ivi*, para. 73). By way of example, in this case the Commission brought the Netherlands before the ECJ as it had "received complaints from third-country nationals regarding the levying of charges provided for by the Netherlands legislation concerning the issue of residence permits to such nationals" (*Ivi*, para. 20).

Thirdly, the principle of legal certainty "requires that rules of law be clear, precise and predictable in their effects, in particular where they may have negative consequences on individuals and undertakings" (Case 158/07, 2008, para. 67). By way of example, the Advocate General Kokott resorted to this principle while providing an Opinion on Case C-218/14, which deals with the departure of three Union citizens and the subsequent divorces with their husbands, who are three TCNs (*Ivi,* paras. 8 – 9) whose right of residence was then refused by the Irish authorities (*Ivi,* para. 10). According to the Opinion of the Advocate General Kokott on the case, "the Union legislature's general idea was that (…) the third-country national should not have to fear any disadvantages in terms of the right of residence in the event of a divorce" (2015, para. 29). Although the ECJ did not entitle the TCNs with the right of residence, since "the commencement of the divorce proceedings is preceded by the departure from that Member State of the spouse who is a Union citizen" (Case C-218/14, 2015, para. 1), it is still relevant the interpretation provided by the Advocate General Kokott when trying to grant TCNs legal certainty to guarantee them the retention of the right of residence. Basically, "this principle privileges the interpretation by which the main criterion for acquiring long-term residence is the duration of the residence itself, rather than other 'vaguer criteria'" such as meeting integration conditions (Acosta Arcarazo, 2015, p 215).

1.2.3. Key preliminary rulings

In light of the principles analysed by the previous chapter, the role of the ECJ has proven to be crucial in promoting the Europeanisation of integration-related measures by interpreting the notion of integration conditions provided by the LTR Directive and by approximating the rights of TCNs and EU citizens. A landmark case concerning the ECJ interpretation of integration-related provisions that deserves particular attention is Case C-540/03, in which the European Parliament contended against the Council for annulling three provisions[26] of the FR Directive that allegedly did not respect fundamental rights, and "in particular the right to family life and the right to non-discrimination" (Case C-540/03, 2006, para. 30). Without entering into details,

[26] Article 4 (1), Article 4 (6) and Article 8 (Case C-540/03, 2006, para. 1).

this case proved crucial because, even though the ECJ dismissed the EP action against the Council (*Ivi*, para. 110), it used this opportunity to review and interpret the provisions in an expansionist way vis-à-vis the guarantee of fundamental rights to TCNs, and in a restrictive way vis-à-vis Member States capability to apply integration conditions (Carrera, 2014, p. 178). Particularly, in order to define the legally indeterminate notion of "integration condition" as provided by the FR Directive, the ECJ first set out that the Directive "imposes precise positive obligations, with corresponding clearly defined individual rights, on the Member States" (Case C-540/03, 2006, para. 60). Hence, it resorted to the fourth recital of its Preamble, which sets out that "the general objective of facilitating the integration of third country nationals in Member States by making family life possible through reunification" (*Ivi*, para. 69). Basically, the ruling limited the Member States recourse to the integration conditions provided by the FR Directive, which constituted "a central point in the political compromise which allowed the final unanimous adoption of the Directive inside the Council" (Carrera, 2014, p. 178), by interpreting them in line with the objective set by its Preamble.

Basically, whereas Member States have resorted to the vague concept of integration conditions to limit the provision and retention of the rights related to the LTR and FR Directives, the ECJ has on the other hand required that these conditions were proportionate, respected the effectiveness of the Directives and ensured legal certainty. By way of example, ECJ rulings over cases such as C-502/10, C-571/10 and the already mentioned C-508/10 expressly set out that the LTR Directive "must be interpreted as precluding legislation of a Member State" (C-502/10, 2012, para. 71), whether it is "a national or regional law" (C-571/10, 2012, para. 94), by forbidding "excessive and disproportionate administrative charges which are liable to create an obstacle to the exercise of the rights conferred" to TCNs by the Directive itself (C-508/10, 2012, para. 81). Moreover, as claimed by Acosta Arcarazo, the ECJ has often resorted to EU primary law, such as the EU Charter of Fundamental rights, in order to "widen the concept of rights holders", to change "the meaning of citizenship by defining who is entitled to rights", and to use it at the same time "as an essential interpretative tool" (2015, p. 217). By way of example, with regard to the grant of housing benefits to long term resident TCNs, the ECJ expressly laid down that "the Member States must comply with the rights and observe the principles provided for under the Charter" (C-571/10, 2012, para. 80). In fact, it draws on its Article 34 (3), which "recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources", to expand the meaning of Article 11 (1) (d) of the LTR Directive, granting long term resident TCNs equal treatment

with EU nationals as regards "social security, social assistance and social protection as defined by national law".

Even with regard to the FR Directive, the role of the ECJ in expanding the scope of the Directive has proven crucial. By way of example, as the ECJ stated in 2012 in the Joined Cases C-356/11 and C-357/11, even though the provisions of the EU Charter of Fundamental Rights "cannot be interpreted as depriving the Member States of their margin of appreciation when examining applications for family reunification" (para. 79), the provisions of the LTR directive "must be interpreted and applied in the light of (…) the Charter" (para. 80).

Furthermore, by defining and limiting the appliance of the notion of "integration conditions" as provided by the LTR and FR Directive, the 2015 cases C-579/13 and C-153/14 in turn proved meaningful in clarifying their interpretation. In fact, despite the relevance and attention provided by both the LTR and FR Directives on such a notion, neither of them defined it, and it hence remained legally indeterminate. Therefore, through the cases C-579/13 and C-153/14 the European Court of Justice clarified the interpretation of the concept as provided by, respectively, the LTR and FR Directives. In both cases, it was the Dutch judicial authorities that posed some preliminary questions to the ECJ in order to correctly interpret the Directives' integration clauses, and so to assess their compatibility with the national integration policy.

On the one hand, concerning the former case, according to Article 21 (1) the Dutch Law on Foreign Nationals 2000 (Vreemdelingenwet 2000), "an application for the granting or amendment of a residence permit of indefinite duration can be refused", inter alia, where the applicant has not passed a civic integration examination (k) capable to demonstrate "the oral and written proficiency in the Dutch language and knowledge of Netherlands society" (Case C-579/13, 2015, para. 10). Within this context, the Dutch authorities are entitled "to impose an administrative fine on persons required to fulfil the civic integration obligation who do not pass the civic integration examination" (*Ivi*, para. 11). The Case C-579/13 deals with the appeals lodged by P and S, two long-term residents who refused the imposition to pass the civic integration examination imposed by the national law implementing the LTR Directive (*Ivi*, para. 20 - 22). In this regard, the ECJ preliminary ruling set out that the LTR Directive cannot preclude national legislation from imposing "the obligation to pass a civic integration examination, under pain of a fine, provided that the means of implementing that obligation are not liable to jeopardise the achievement of the objectives pursued by that directive, which it is for the referring court to determine" (*Ivi*, para. 56). In order not to do so, the referring court is asked to consider "the level of knowledge required to pass the civic integration examination, the accessibility of the courses and material necessary to prepare for that examination, the

amount of fees applicable to third-country nationals as registration fees to sit that examination, and the consideration of specific individual circumstances, such as age, illiteracy or level of education" (*Ivi*, para. 49).

On the other hand, the latter case deals with the appeals lodged by K and A, two TCNs who applied for a temporary residence permit in the Netherlands on grounds of family reunification with their spouse, legally residing in the Member State, and who submitted a medical certificate stating that, due to respectively a physical and a mental disability, they were "unable to take the civic integration examination outside the territory of the Kingdom of the Netherlands" (2015, para. 28 and 33). The case hence also proves the crucial role played by the ECJ in defining and limiting the externalisation of integration policies. The ECJ preliminary ruling set out that Article 7 (2) of the FR Directive allows Member States to require the TCN to pass a civic integration examination "before authorising that national's entry into and residence in the territory of the Member State for the purposes of family reunification" (*Ivi*, para. 71), but it also sets out that the conditions of application of such a requirement cannot make it "impossible or excessively difficult to exercise the right to family reunification", as in the case at stake (*Ibidem*). Therefore, the ECJ legitimised the practice of externalising integration policies, but limited Member States to resort to them by forbidding Member States to apply integration conditions either under "special circumstances objectively forming an obstacle to the applicants passing the examination, or by setting "the fees relating to such an examination at too high a level" (*Ibidem*). Therefore, the ruling contributed to better defining and limiting the notion of "integration conditions". The judgement followed the Communication of the European Commission on guidance for application of the FR Directive, which authorised, if proportionate, respecting the effectiveness of the Directive and ensuring legal certainty, the possible appliance of integration conditions and "*pre*-conditions which MSs may require the sponsor to achieve before authorising entry and residence of family members" (2014a, para. 4.5, p. 15).

Given the concrete impact of the analysed Directives and preliminary rulings on integration practices across EU Member States, the offered interpretative tools prove useful to Europeanise integration-related measures by striking, according to Montaldo, "a proper balance between the Member States' discretionary power and the limits imposed by the EU legal order to the exercise of the national competences on integration of regular migrants. (2016, p. 41).

Moreover, the constitutional role of the ECJ is evident when we consider the impact of its rulings in influencing the approach of the European Commission, which in fact followed the

jurisprudence of the ECJ and confirmed the limitation imposed to Member States in applying integration conditions. For instance, in the aforementioned 2014 Communication on guidance for application of the FR Directive, the Commission stressed that "the objective of such measures is to facilitate the integration of family members" (2014a, para. 4.5, p. 15). Moreover, in the 2011 report on the application of the LTR Directive, in order to assess whether the integration conditions applied by a Member State are proportionate and respect the effectiveness of the Directive, "the nature and level of the knowledge expected from the applicant, also by comparison to the knowledge of the host society, the cost of the exam, the accessibility of the integration training and tests, the comparison between the integration requirements imposed on a prospective LTR and those applied to prospective citizens (which are expected to be higher), are all valuable indicators" (2011b, chapter III, para. 3.2, p. 3). Likewise, in the aforementioned Communication on guidance for application of the FR Directive the European Commission states that "integration measures must be proportionate and applied with the necessary flexibility (…) on a case-by-case basis and in view of specific circumstances" (2014a, para. 4.5, pp. 16). Member States should in fact take into consideration that "cognitive abilities, the vulnerable position of the person in question, special cases of inaccessibility of teaching or testing facilities, or other situations of exceptional hardship" are ground for exemption from integration conditions and *pre*-conditions. (*Ibidem*). Interestingly, the fact that "in several parts of the world women and girls have less access to education and might have a lower literacy level than men" should also be taken into account (*Ibidem*). Overall, according to the 2019 implementation report of the LTR Directive, mainly because of "the numerous infringement cases launched by the Commission and judgements issued by the CJEU" (European Commission, 2019b, chapter III, p. 9), the state of play of the Directive has improved. In this regard, the report states that the European Commission "launched infringement proceedings against 11 Member States for not having transposed the Directive in time or for not having properly informed the Commission of the adoption of national legislation" (*Ivi*, chapter I, p. 1). Finally, although the report argues that the full achievement of the objective "to constitute a genuine instrument for the integration of third-country nationals who are settled on a long-term basis in the Member States" is still undermined (*Ivi*, chapter III, p. 9), the role of the ECJ and Commission in achieving it has been undeniably relevant. Therefore, despite the limited achievements because of national resistances, their contribution to the Europeanisation of integration-related policies is undeniable.

II. The "soft" Europeanisation of TCNs' integration policy

2.1. The EU Framework on Integration

The previous chapters have demonstrated that the tensions between Europeanisation and intergovernmentalism vis-à-vis integration-related matters have entailed both limited achievements in matter of "hard" Europeanisation of integration-related policies, and the emergence and evolution of a non-binding European framework on integration complementary to the Treaty-based and enforceable secondary legislation. In this latter regard, given the national reluctance to adopt and implement secondary legislation, a softer and more flexible framework was considered to be necessary in order to develop an EU integration policy. Since the early 2000s, this EU Framework on Integration has evolved in a fragmentary, non-linear and multi-layered fashion, resulting in the creation and development of a series of "soft" instruments in matter of TCNs' integration, such as common European principles, networks, funds, websites, modules and indicators.

Even though its outcomes are neither legally binding, nor achieved in a democratically accountable and transparent manner, the softness inherent to the whole Framework has not compromised its relevance. After contextualising the emergence and development of the tools and venues it encompasses, this chapter is in fact going to show how the EU Framework on Integration has proven crucial in shaping the EU agendas and approaches to integration-related matters. Particularly, the third paragraph of this chapter is going to prove the relevance of the evolution of the financial framework accompanying it in strengthening its ensemble, by putting its outputs, and particularly the Common Basic Principles for Immigrant Integration Policy (CBPs), at the core of the funding priorities.

2.1.1. A quasi-Open Method of Coordination (OMC)

The Commission believed that, in order to develop a common immigration policy, a "soft" coordinating mechanism complementary to the enactment of secondary legislation was needed. The Commission in fact "intended to respect the diversity of national legal systems, Member States' sovereignty and subsidiarity" while overcoming national resistances over such a sensitive policy area (Velluti, 2007, p. 69). On the 11th of July 2001, through a Communication to the Council and the EP, the Commission identified the open method of coordination (OMC) as "the most appropriate way to support the development of the Community immigration policy" (2001b, p. 4). The Communication put forward six multiannual guidelines modelled on the Tampere Milestones. On the one hand, the Member States would have been asked to

prepare National Action Plans (NAPs) reporting successful practices, proposals and problems encountered (*Ivi*, para. 4.1, p. 12). On the other hand, the Commission would have been in charge of developing and evaluating the Community Immigration Policy based on the NAPs (*Ivi*, para. 4.2, p. 13), by involving the other EU institutions (*Ivi*, para. 4.3, p. 14), as well as the civil society (*Ivi*, para. 4.4, p. 14). Notably for present purposes, the sixth guideline aimed at "ensuring the development of integration policies for third country nationals residing legally on the territories of the Member States" (*Ivi*, p. 11). As in line with the Tampere milestones, this guideline aimed at establishing "a vigorous integration policy to ensure fair treatment of third country nationals aimed at granting them rights and obligations comparable to those of EU citizens" (*Ivi*, p. 5).

Briefly, the OMC would have provided a "soft" and non-invasive framework, materialised into the benchmarks and indicators indicated in the NAPs to compare good practices as well as into the Commission monitoring and evaluative reports, which was then intended to result in "the further implementation of hard law via European guidelines adopted by the Council and combined with specific timetables for achieving the goals" (Velluti, 2007, p. 71). Being the OMC a non-binding coordinating mechanism merely based on "exchange of 'best practices', benchmarking, periodic reporting, and multilateral surveillance" (Carrera, 2014, p. 160), the Commission considered it as an appropriate and non-invasive tool to coordinate, and gradually converge, the immigration and integration policies of the Member States. Nevertheless, exactly two months after the adoption of the Communication, the terrorist attacks to the US resulted in the already addressed shift in EU migration and integration policies, marking "a distinctive move from an approach framing integration as a process of inclusion to one where it functions as an insecurity, immigration, and identity-control tool" (*Ivi*, p. 152). Consequently, the Council did not endorse the Commission proposal to establish an OMC for the Community Immigration Policy.

The Commission reacted by developing, since 2002, a common European Framework on Integration, which represents a "quasi-Open Method of Coordination" where the Commission itself, by making use of "soft law/policy, networks of experts and other 'integration actors', exchange of information of integration policies and practices, and EU-wide evaluation mechanisms" (*Ivi*, p. 159), coordinate and evaluate the national integration policies. The EU Framework on Integration mainly constitutes a set of non-transparent mechanisms and tools gathering experts in closed-doors meetings and conferences and, since falling outside the ordinary EU decision-making, it neither produces any legally binding effect upon the EU member states (*Ibidem*), nor ensures "legal certainty, transparency, democratic accountability,

and judicial control (*Ivi*, p. 180). Although both OMCs and the EU Framework on Integration aim to "influence EU member states through informal discussions and exchanges of practices, the participation of networks of practitioners, and supranational coordination and evaluation", the Commission monitoring powers are weaker in the latter case, since it does not require Member States to deliver National Action Plans (NAPs) (*Ivi*, p. 181). Moreover, the EU Framework on Integration does not expressly aim at harmonising national legislation on the matter, "but rather at being complementary to the enactment of EU law", and its outputs are "soft" and not legally binding documents, such as "Annual Reports, Handbooks, Communications, Commission Staff Working Documents, Council Conclusions" (*Ibidem*). Nevertheless, their incidental legal effect as well as their direct and indirect influence over the TCNs' status and intra-EU mobility rights should not be underestimated, also because of "their potential use as interpretative sources in hands of European tribunals of integration-related provisions incorporated into EU Directives on regular immigration" (*Ibidem*).

The idea to build the Framework was launched during a 2002 Justice and Home Affairs (JHA) Council meeting, which drew attention to "the importance of EU co-operation regarding integration of third country nationals with a legal stay in the Member States" (p. 17), and to "the promotion of the exchange of information between Member States concerning valuable experiences and national policies on integration" (p. 18). This JHA Council meeting expressly encouraged the establishment in the Member States of National Contact Points on Integration (NCPIs), a network of experts and high-level authorities responsible for integration policies, including national ministries. Chaired by the Commission, they aimed at facilitating the exchange of good practices and information on the matter (*Ibidem*). Their establishment, following the endorsement by the 2003 Thessaloniki European Council (para. 32, p. 9), constituted the first tangible EU success on integration resulting from the Tampere Conclusions. As claimed by Van Wolleghem, it is within this context that further instruments of the EU Framework on Integration were first conceived before being officially launched: among them, the first ex-ante impact assessment and the draft Decision relating to the European Integration Fund (EIF), which will be analysed by the following paragraphs, and the Common Basic Principles for Immigrant Integration Policy (CBPs) (2019, p. 225). In this latter regard, as already claimed in chapter 1.1 of this paper, it was the Hague Programme that first acknowledged and reiterated the need to establish a coherent European framework on integration based on common basic principles (2005, chapter III, para. 1.5). This framework would be capable of guaranteeing a comprehensive and coordinated approach "involving

stakeholders at the local, regional, national, and EU level", and of ensuring "the fair treatment of legally resident third-country nationals in the EU" (*Ibidem*). Building on these indication, the Council Conclusions of a 2004 meeting of the Justice and Home Affairs adopted by unanimity eleven Common Basic Principles for Immigrant Integration Policy (CBPs).They aimed, on the one hand, to offer Member States "a simple non-binding guide of basic principles against which they can judge and assess their own efforts" (Council of the European Union, 2004, chapter 8, para. a, p. 16), as well as to "explore how EU, national, regional, and local authorities can interact in the development and implementation of integration policies" (*Ivi*, para. b, p. 17). They also aimed, on the other hand, to assist "the EU to explore how existing EU-instruments related to integration can be developed further" (*Ivi*, para. e, p. 17), and "the Council to reflect upon and, over time, agree on EU-level mechanisms and policies needed to support national and local-level integration policy efforts" (*Ivi*, para. f, p. 17). Even though, as claimed by Carrera, "the principles are so broad as to be largely symbolic", so that they fail to "provide a common EU model and definition on integration" (2014, p. 163), and even though CBP 2[27] and 4[28] reflect the already analysed notion of "conditionality of integration", and so the dispute between Europeanisation and intergovernmentalism, the CBPs remain a relevant guide for developing and implementing integration policies. By way of example, among others, CBP 1 asserts that "integration is a dynamic, two-way process of mutual accommodation by all immigrants and residents of Member States" (Council of the European Union, 2004, p. 19); CBP 3 (*Ivi*, p. 20) and 5 (*Ivi*, p. 21) reiterate the importance of employment and education for successful integration of TCNs; CBP 8 expressly refers to the EU Charter of Fundamental Rights (*Ivi*, p. 23); CBP 9[29] and 10[30] focus on the importance of dealing with integration related policies from a multi-level governance and multi-stakeholder perspective. Finally, CBP 11 set the objective to develop "clear goals, indicators and evaluation mechanisms"[31].

Particularly, the CBPs contributed to pave the way to the further expansion of the European Framework on Integration, which occurred when the European Commission, through a

[27] It states that "integration implies respect for the basic values of the European Union" (Council of the European Union 2004, para. 2, p. 19).

[28] It states that "basic knowledge of the host society's language, history, and institutions is indispensable to integration" (*Ivi*, 2004, para. 4, p. 20).

[29] It states that "the participation of immigrants in the democratic process and in the formulation of integration policies and measures, especially at the local level, supports their integration" (*Ivi*, 2004, para. 9, p. 23).

[30] It states that "mainstreaming integration policies and measures in all relevant policy portfolios and levels of government and public services is an important consideration in public policy formation and implementation" (*Ivi*, 2004, para. 10, p. 24).

[31] It states that "developing clear goals, indicators and evaluation mechanisms to adjust policy, evaluate progress on integration and to make the exchange of information more effective" (*Ivi*, 2004, para. 11, p. 24).

Communication on a "Common Agenda for Integration - Framework for the Integration of Third-Country Nationals in the European Union" (2005), responded "to the invitation of the European Council to establish a coherent European framework for integration" (para. 1, p. 4).

2.1.2. The development of the Framework

Building on the CBPs (European Commission, 2005, para. 1, p. 4), the Common Agenda for Integration paved the way to the development of the EU Framework on Integration that, as claimed by Carrera, then evolved in "non-linear and multi-level fashions" around the elements addressed by the Agenda itself: the national contact points on integration (NCPIs), the common basic principles for immigrant integration policy (CBPs), the European integration fund (EIF), the European integration forum and the European website on integration (EWSI) (2014, p. 161). Moreover, these tools were rationalised, modernised and strengthened over time, while new ones were added, as this and the following paragraph are going to demonstrate. Particularly, it is relevant to note that it was the 2009 Stockholm Programme that paved the way to the further development of the European Framework on Integration. The Stockholm Programme in fact invited the Commission to support Member States in developing "structures and tools for knowledge exchange and coordination" (European Council, 2010, para. 6.1.5), by proposing a common coordination mechanism involving the Commission and the Member States, as well as "European modules to support the integration process" (*Ibidem*) and a set of "core indicators for monitoring the results of integration policies and increasing the comparability of national experiences" (*Ibidem*). Building on these bases, the 2011 European Agenda for Integration set three recommendations: namely, "the further use and coordination of European platforms for consultation and knowledge exchange", and so of the National Contact Points on Integration, the European Integration Forum and the European Web Site on Integration" (European Commission, 2011b, p. 12), "the further development of a flexible tool-box, including 'European modules'" to support the integration process (*Ibidem*), and the adoption of "common European 'indicators'" in all the policy fields areas of employment, education, social inclusion and active citizenship to monitor the results of integration policies (*Ibidem*).

On the one hand, the aforementioned network of NCPIs played a central role in providing data and information for the production of crucial documents aimed at comparing the integration policies within and among Member States, such as the 2004, 2006 and 2007 Commission's Annual Reports on Migration and Integration, and at facilitating the exchange of good practices

among Member States, such as the 2004, 2007, and 2010 Commission Handbooks on Integration for Policy Makers and Practitioners (Carrera, 2014, pp. 161 – 162). In light of this, the 2016 Action Plan on the integration of TCNs upgraded the network of NCPIs into a European Integration Network "with a stronger coordination role and mutual learning mandate" (European Commission, 2016, para. 4.2.1, p. 14). The Network endorses the multi-level governance and multi-stakeholder approach, as it sponsors cooperation among all relevant governmental and non-governmental actors at all levels of government, by promoting "targeted learning activities such as study visits, peer reviews, mutual assistance and peer learning workshops on specific aspects of integration" (*Ibidem*).

On the other hand, the European Integration Forum and the European Website on Integration (EWSI) were both created in 2009: the first meeting of the European Integration Forum officially launched the EWSI, which publishes the Forum's activities, reports and conclusions (EESC, 2008, para. 3.5.8, p. 5). They respectively provide a physical and a digital platform based on a multi-stakeholder approach, allowing in fact the exchange of good practices and information among all relevant stakeholders, such as governmental and non-governmental actors, EU umbrella organisations, and other EU bodies. The European Council acknowledged the need of such platforms through the adoption of the aforementioned Hague Programme, which in fact invited "Member States, the Council and the Commission to promote the structural exchange of experience and information on integration, supported by the development of a widely accessible website on the Internet" (2005, chapter III, para. 1.5).

On the one hand, the European Integration Forum was foreseen in 2007 by the European Commission Communication on a Third Annual Report on Migration and Integration (European Commission, para. 3.1, p. 5), and then established in 2008 by an Opinion adopted by the European Economic and Social Committee (EESC, para. 3, p.5). It is composed by 100 members representing EU bodies, external experts, governmental and non-governmental actors (*Ivi*, para. 3.6, pp. 6 - 7) as well as involving the network of National Contact Points (*Ivi*, para. 3.5.6, p. 6), and it is in charge of performing "consultation, exchange of expertise and drawing up recommendations" (*Ivi*, para. 3.5.2, p. 5) in matter of TCNs' integration on the basis of the CPBs, which provides the roadmap for the Forum's activities and consequently its agenda". (*Ivi*, para. 3.10.1, p. 8). In 2015, the European Integration Forum evolved into the European Migration Forum, "covering a broader range of topics related also to migration and asylum" (European Commission, 2016, para. 4.2.1, p. 14).

On the other hand, the European Website on Integration (EWSI) represents the Commission's dedicated website for integration. Developed by the Migration Policy Group (MPG) together

with UNISYS, Social Change Online, and Eurocities (Carrera, 2014, p. 166), its main goal is to provide a virtual forum enabling decision-makers and stakeholders to exchange good practices and information on the matter, as well as enabling "European citizens and third-country nationals to become involved" (EESC, para. 3.5.8, p. 6).

As already said, the Stockholm Programme laid the foundations of the further expansion of the European Framework on Integration not only by strengthening existing tools, but also by envisaging the creation of new ones. In this latter regard, it in fact set the basis for the "European modules to support the integration process" (European Council, 2010, para. 6.1.5) and of the set of "core indicators for monitoring the results of integration policies and increasing the comparability of national experiences" (*Ibidem*).

On the one hand, the European Modules for Migrant Integration (EMMIs) are built on the CBPs (European Commission, 2014b, p. 4) and on a pool of good practices related to three integration-related areas: "introductory and language courses", "a strong commitment by the host society", and "the active participation of immigrants in all aspects of collective life" (*Ivi*, p. 3). Basically, by resorting to the exchange of knowledge, they aim "to provide an agreed reference framework and to help increase the quality of policies and practices in the Member States" (*Ivi*, p. 4). The tools they provide in the aforementioned integration-related areas are in fact applicable to different contexts, as they are the outputs of "negotiated recommendations on how to improve their integration policies and practices, based on the best existing evidence of what works" (*Ivi*, p. 3).

On the other hand, the development of core indicators to better monitor and evaluate progress on integration and transnational comparability built on the aforementioned eleventh CBP. The Zaragoza Declaration, made at the 2010 European Ministerial Conference on Integration organised under the Spanish Presidency of the Council, gave a crucial boost to their development. It in fact promoted, *inter alia*, the launching of a pilot project aiming at putting into practice the indicators for the monitoring and evaluation of integration policies (Council of the European Union, 2010, para. 15, p. 11). It hence indicated various core indicators in relation to "the main policy areas of relevance for monitoring the outcome of integration policies"; namely employment, education, social inclusion and active citizenship (*Ivi*, Annex, p. 13).

Finally, the development of the coordination and knowledge exchange mechanisms and core indicators characterising the fragmentary EU Framework on Integration went hand in hand

with the implementation of a continuously evolving financial framework accompanying it. Given its relevance, due to the positioning of indicators and evaluation methodologies assessing the national implementation of the CBPs and of the other outputs of the EU Framework on Integration at the heart of the funding priorities, as well as its evolution over time, it deserves special attention and a thorough analysis, which is offered by the following paragraph. Basically, as claimed by Carrera, the softness inherent to the CBPs and the whole European Framework on Integration has been strengthened since the adoption of the financial framework accompanying it, and particularly since the creation of the European Integration Fund (EIF) in 2007 onwards (2014, p. 181).

2.1.3. The financial framework

In order to grasp the actual relevance of the EU Framework on Integration, it is necessary to analyse the substantial and procedural evolution of the financial framework accompanying it.
It is through the Multiannual Financial Framework (MFF) that the EU sets, at the beginning of the programming period, the medium-term budget over seven years in accordance with its political priorities. The MFF is formed by specific funds, which are in turn characterised by defined priorities and spending rules (Van Wolleghem, 2019, p. 222). The MFF is designed in order to favour the national projects putting the Framework policy outputs into practice, with a general objective to converge the Member States' migration and integration policies. Concerning the EU integration policy, it was the 2007 Council Decision 2007/435/EC that established the 'European Fund for the Integration of third-country nationals', also known as the European Integration Fund (EIF). The EIF represented the first EU financial framework completely devoted to the integration of TCNs and it was endowed with a financial envelope of € 825 million (2007/435/EC, Article 11 (1)) for the period 2007 to 2013 (*Ivi*, Article 1 (1)). Article 2 (1) of this Council Decision set its general objective, which was "to support the efforts made by Member States in enabling third-country nationals of different economic, social, cultural, religious, linguistic and ethnic backgrounds to fulfil the conditions of residence and to facilitate their integration into the European societies". Particularly, according to Article 3 of the Council Decision establishing the EIF, the four specific objectives to which the EIF should contribute were the facilitation of the integration process of TCNs both during their admission procedures (a) and upon their arrival (b), as well as the national capacity building (c) and the support for knowledge exchange "in and between Member States" (d) in order to favour the integration process. It is already evident from the EIF objectives to what extent the margin of national discretion was excessively high. Particularly, from a procedural point of

view, the wider level of discretion enjoyed by Member States when implementing the EIF instead of the structural funds was evident by the lack of provision of the additionality principle, "so that member states could substitute national funding with their EIF allocations" (Van Wolleghem, 2019, p. 226), and by the facultative recourse to the partnership principle, "which associates a series of actors to the management of the funds, was made optional in the case of the EIF" (*Ibidem*). In order to counterbalance such a wide national discretion, the Council Decision establishing the EIF imposed "soft obligations" and provided financial incentives in order to favour the national implementation of the CBPs, and so to converge national integration policies (*Ivi*, p. 225). On the one hand, concerning the soft obligations, The EIF was expressly designed to favour the national projects implementing the CBPs. In fact, the Commission strategic guidelines setting out a framework for the intervention of the Fund, as set out by Article 16 (2), "shall in particular give effect to the priorities of the Community with a view to promoting the Common Basic Principles". Likewise, Article 17 (1) (a) expressly encouraged the national multiannual programmes drafted by Member States on the basis of the EU strategic guidelines, and then implemented by means of annual programmes after the approval of the Commission (Article 19 (1)), to consist of "a description of the current situation in that Member State as regards the implementation of national integration strategies in light of the Common Basic Principles" (2007/435/EC). On the other hand, concerning the financial incentives, Article 13 (4) set out that the EU contribution to support projects could be increased from the maximum of "50 % of the total cost of a specific action" to 75% "for projects addressing specific priorities identified in the strategic guidelines" (*Ivi*). Nevertheless, as claimed by Van Wolleghem, "the blurred legal basis on which the EIF laid its foundations, implying "a limited role for the Commission in the definition of the priorities, as well as very limited control mechanisms over member states' implementation choices", resulted in the fact that "a stark 28.4 percent of the total funding over the seven years of implementation and across countries actually planned to tackle EU indications" (2019, pp. 225 - 226). Finally, it must be added that Article 5 (1) of Council Decision 2007/435/EC allocated up to 7 % of the Fund's available resources to EU direct management, which "may be used to finance transnational actions or actions of interest to the Community as a whole concerning immigration and integration policy". In this regard, it is necessary to note that the EU funds may in fact be used "either directly by the Commission (direct management), by the Member States (shared management), or indirectly by entrusting the budget implementation to a third party (indirect management)" (European Commission, 2018a, p. 17).

After the expiry of the EIF fund, the Asylum, Migration and Integration Fund (AMIF), which is in force until the 31st of December 2020 (Regulation 516/2014/EU, Article 1 (1)), was adopted through Regulation 516/2014/EU. In this regard, it is essential to notice that, within the context of the Lisbon Treaty's institutional reshaping analysed by the previous chapters, the insertion of Article 312 TFEU set out that the MFF should be adopted in the form of a Regulation via a special legislative procedure (2). More importantly, it is essential to remind the reader that, despite the expansion of the EU legal competences over integration-related issues through the Lisbon Treaty, the limited scope of the already analysed Article 79 (4) TFEU along with the changes in the overall structure of the migration funds sent "ambiguous signals, both money-wise and priority-wise" (Van Wolleghem, 2019, p. 227). In this latter regard, the presence of four distinct funds devoted to finance migration-related measures for dealing with borders, refugees, return and integration within the previous MFF had made its use more complex and not flexible enough (*Ibidem*). Particularly, it proved confusing the fact that it dealt with integration-related funding through the EIF when it came to third country nationals who are not beneficiaries of international protection and through the European Refugee Fund (ERF) when it came to beneficiaries of international protection (*Ivi*, p. 228). Consequently, the 2014-2020 MFF merged all the previous funds aiming to "contribute to the efficient management of migration flows and to the implementation, strengthening and development of the common policy on asylum, subsidiary protection and temporary protection and the common immigration policy" (Regulation 516/2014/EU, Article 1 (1)) into a unique fund[32], the AMIF. Notably for present purposes, within this general objective, it is Article 3 (2) (b) that sets out that the AMIF shall also contribute "to promote the effective integration of third-country nationals". In order to devote a pretty equal amount of resources to each migration-related domain encompassed by the AMIF, Regulation 516/2014/EU also introduced safeguards, as Member States were asked to allocate at least 20% of the resources to the specific objectives of the Fund (Article 15 (1) (a)). Taking into account that the AMIF was endowed with a financial envelope of € 3,137 million (*Ivi*, Article 14 (1)) for the period 2014 to 2020 (*Ivi*, Article 1 (1)), and that the 20% minimum threshold of the total fund had to be devoted to integration-related measures, it follows that the minimum amount devoted to integration "would be about € 478 million, slightly more than half as much as the EIF" (Van Wolleghem, 2019, p. 228). Interestingly,

[32] It is here necessary to add that the AMIF did not include border management, as it was made part of the Internal Security Fund (ISF), created by this MFF (Van Wolleghem, 2019, p. 228).

Member States exceeded to different extents the 20% minimum threshold devoted to integration (*Ibidem*).

In order to guarantee flexibility, smoother implementation and increased spending in matter of migration, hence in order to respond to the EIF weaknesses, the AMIF reversed its approach by reducing the attention on the generation of substantive national convergence while introducing remarkable procedural changes to limit the discretionary role of Member States in comparison to subnational and EU authorities (*Ivi*, p. 230). From a substantive standpoint, Regulation 516/2014/EU clearly softened the analysed EIF objective to converge national integration policies through soft obligations and financial incentives to implement the CBPs. In fact, only its Recital 20 mentions them by stating that "the implementation of the Fund should be consistent with the Union's Common Basic Principles on Integration, as specified in the Common Programme for Integration". As claimed by Van Wolleghem, "this translates into less attention being paid to the common priorities established at the EU level for integration and more attention to member states' priorities" (2019, p. 229). Nevertheless, from a procedural standpoint, the AMIF limited national discretion in comparison to the EIF on the management and recourse to its resources, by respectively reinforcing the principle of partnership and increasing the share of resources the EU Commission could directly manage. On the one hand, Article 12 of Regulation (EU) No 514/2014 laying down general provisions on the AMIF expressly limited Member States' discretion in the management of the resources by inserting the required involvement of "relevant public authorities at national, regional and local level", as well as "relevant international organisations, non-governmental organisations and social partners" (1) "in the preparation, implementation, monitoring and evaluation of national programmes" (3). On the other hand, Article 6 (b) allocated € 385 million to the "Union actions, emergency assistance, the European Migration Network and technical assistance of the Commission"; hence increasing of five percentage points the share of the fund the EU may directly manage in comparison to the EIF.

It is now necessary to add that the 2015 Mediterranean migration crisis required the EU to develop a fast and concerted response, which in turn required an increase in the available resources. Consequently, the AMIF "was substantially increased through top-ups" in order to support the EU migration policy (European Commission, 2018a, p. 2) and "by the end of 2017 it amounted to a total of € 6888 million, an increase of 120 %" (*Ibidem*). Although the relative resources devoted to integration decreased to 19 % of the total amount of the AMIF because of the higher increase of resources allocated to asylum-related measures (*Ivi*, p. 19), the share of the AMIF allocated to integration-related measures raised in absolute terms of € 2305

million (*Ivi*, p. 2). Basically, as claimed by Van Wolleghem, "the decision taken in the passage from the 2007-2013 to the 2014-2020 MFF to merge the funds dedicated to integration and asylum, combined with the response to the asylum crisis, has had the unintended effect of increasing the resources allocated to integration altogether" (2019, p. 230). Likewise, the share of the AMIF allocated to the EU direct management increased along with the increase of the AMIF whole resources (European Commission, 2018a, p. 15).

Basically, on the one hand, the AMIF in comparison to the EIF allocated more resources to deal with migration-related issues, especially after the top-ups responding to the Mediterranean migration crisis. On the other hand, it guaranteed less substantial restraints to Member States but more procedural ones, as the share of the total resources allocated to the direct management of the Commission was raised and the role of subnational governmental and non-governmental bodies was upgraded in the management of the Fund.

The impact of the 2015 Mediterranean migration crisis has kept on affecting the EU attention to migration-related issues (European Commission, 2018c, p. 1), so that the 2018 Commission proposal for the 2021-2027 MFF includes an increased Asylum and Migration Fund (AMF) by over 2.6 times in comparison to the Multiannual Financial Framework 2014-2020 (European Commission, 2018b, p. 15). It in fact proposes "a financial envelope for the implementation of the Fund of € 10 415 000 000" dedicated to asylum, migration and integration (European Commission, 2018c, Article 8, p. 29), in order "to contribute to an efficient management of migration flows in line with the relevant Union acquis and in compliance with the Union's commitments on fundamental rights" (*Ivi*, Article 3 (1), p. 27). Notably for present purposes, one of the specific objectives of the Proposal, which are set by Article 3 (2), recites that the AMF shall contribute "to support legal migration to the Member States including to contribute to the integration of third-country nationals" (*Ivi*, Article 3 (2) (b), p. 27).

Apart from the Commission need and choice to prioritise migration-related issues, the significant increase of resources is also due to the fact that, given the opposition of many Member States against relocation and secondary movements of migrants across the EU territory, financial solidarity represents a more practicable path than practical solidarity (Van Wolleghem, 2019, p. 231). In this regard and notably for present purposes, the Proposal for the AMF Regulation expressly distributes a share of its resources according to the number of TCNs residing in the Member State in Article 17 (3), which in fact sets out that "a Member State (…) shall receive an additional contribution of EUR [10 000] per applicant who has been granted international protection for the implementation of integration measures (European

Commission, 2018c, p. 34). The same approach is endorsed by the European Social Fund Plus (ESF+) and the European Regional Development Fund (ERDF) (Van Wolleghem, 2019, p. 231). In this regard, it is now necessary to add that a major novelty characterising the AMF Proposal in comparison to the AMIF relies on the aim to fully embrace a synergetic approach among different EU funds on matters of integration. Within the post-2020 MFF, the Commission has in fact proposed to include TCNs' integration as a clear objective of various funds, particularly the European Social Fund Plus (ESF+) and the European Regional Development Fund (ERDF) (European Commission, 2018c, Recital 13, p. 18). Basically, as stated by the Proposal for the AMF Regulation, the AMF is designed to cover early integration measures in complementarity to the ESF+ and the ERDF which, on the other hand, "include important provisions to cover long term integration of third country nationals" (European Commission, 2018c, p. 5), "such as integration into the labour market and social inclusion support" (*Ivi*, p. 48). Particularly, according to Article 7 (3) of the Proposal for the ESF+ Regulation, Member States are required to allocate "at least 25% of their ESF+ resources under shared management to the specific objectives for the social inclusion policy area set out in points (vii) to (xi) of Article 4 (1), including the promotion of the socio-economic integration of third country nationals" (European Commission, 2018d, p. 30). Moreover, also other relevant funds, such as "the European Agricultural Fund for Rural Development (EAFRD) and Erasmus+, will strengthen the provisions dealing with migrants and refugees" (European Commission, 2018c, pp. 5 - 6). It must be noted that this approach is already being implemented by the AMIF and has been explored and endorsed since years, as for instance the Commission document "Synergies between the Asylum Migration and Integration Fund (AMIF) and other EU funding instruments in relation to reception and integration of asylum seekers and other migrants" shows (European Commission, 2015b). Likewise, as stated by the 2016 Action Plan on the integration of third country nationals, "the Commission is actively working with all relevant stakeholders to ensure that all funding instruments are used to their maximum potential and in an integrated and strategically coordinated way" (p .16).

Moreover, concerning the management of the resources of the Fund, the Proposal for the AMF Regulation foresees, in comparison to the AMIF Regulation, a less clear allocation of the resources to be spent through the shared management method and through the EU action through a direct or indirect management method. In fact, whereas the AMIF clearly allocated 88 % of its total resources to the shared management method and 12 % to the EU direct or indirect management method (Van Wolleghem, 2019, p. 232), the Proposal for the AMF Regulation allocates € 6249 million, which corresponds to 60 % of the total resources, to the

shared management method (a), and € 4166 million, which corresponds to 40 % of the total resources, to the so-called thematic facility (b) (European Commission, 2018c, Article 8 (2), p. 29), which refers to a flexible and mixed use of the shared and EU direct/indirect management methods (*Ivi*, Article 9 (1), p. 29). Although it is not clear how this mixed method will concretely work, the trend established by the previous MFFs is likely to lead to an increase of the percentage allocated under the EU direct/indirect management method in comparison to the AMIF (Van Wolleghem, 2019, p. 232).

Likewise, from the substantive and procedural standpoints, the Proposal for the AMF Regulation and the ongoing negotiations seem to follow and confirm the AMIF approach, by diminishing the substantive restraints to the national use of the Fund while, on the other hand, raising the procedural ones. On the one hand, concerning substantive matters, only Recital 15 of the Proposal reiterates that "the implementation of the Fund in this area should be consistent with the Union's common basic principles on integration" (European Commission, 2018c, p. 19). Moreover, differently from the AMIF Regulation (516/2014/EU, Article 15 (1) (a)) and in order to guarantee a more flexible use of its resources, the Proposal for the AMF Regulation does not set minimum thresholds in order to allocate resources to the specific objectives of the Fund. As claimed by Van Wolleghem, "this is a significant step backwards for the development of an EU integration policy in its own right, as it further accentuates the EU's withdrawal from substantive policy points by taking it to a whole new level" (2019, p. 232). On the other hand, concerning procedural matters, national discretion is further reduced "through the reinforcement of the partnership principle, now completely aligned with the structural funds" (*Ibidem*). In fact, contrary to the AMIF Regulation, the principle is not regulated by the AMF Proposal itself, but by the Proposal for the umbrella Regulation covering the common provisions to all the structural funds. Its Article 6 on "Partnership and multi-level governance" expressly recites that, "in accordance with the multi-level governance principle" (European Commission 2018e, Article 2, p. 28), "each Member State shall organise a partnership with the competent regional and local authorities" (*Ivi*, Article 1, p. 28) by involving urban and other public authorities (a), economic and social partners (b) and relevant bodies representing civil society (c) "in the preparation of Partnership Agreements and throughout the preparation and implementation of programmes" (*Ivi*, Article 2, p. 28). Moreover, Article 4 recites that "at least once a year, the Commission shall consult the organisations which represent the partners at Union level on the implementation of programmes" (*Ivi*, p. 28).

Lately, the need of quick and effective responses to the socio-economic impacts of the COVID-19 pandemic over "our healthcare and welfare systems, our societies and economies and our way of living and working together" (European Commission, 2020d, para. 1, p. 1) has not significantly altered the contents of the Proposal for the AMF Regulation. In fact, the EU Commission, under the overarching objective to reinforce the 2021-2027 MFF by delivering a recovery plan capable of guiding and building "a more sustainable, resilient and fairer Europe" (*Ivi*, p. 2), clearly expressed that "the fundamentals of the Commission's proposals for a modern and flexible long-term budget tightly geared to the Union's priorities remain valid today" (2020c, chapter 1, p. 3), and so that it "now proposes to adapt and strengthen these proposals to power Europe's recovery (*Ibidem*). However, along with the endorsement of "Next Generation EU", a new recovery instrument that this paper is not going to address as it does not affect the funds devoted to migration and TCNs' integration (*Ivi*, pp. 18 - 20), the funds envisaged for migration-related issues are going to be increased "by reinforcing the Asylum and Migration Fund and Integrated Border Management Fund to reach a level of EUR 22 billion" (*Ivi*, chapter 2, para. 3, p. 12). In fact, the EU aims at making the Union more resilient and at addressing challenges, such as the ones related to migration and TCNs' integration, "that have been heightened by the pandemic and its consequences" (*Ibidem*).

Overall, the evolution of the financial framework devoted to migration and integration over time demonstrates two main trends: on the one hand, pursuant to the increasing need and choice to prioritise these policy domains in its political agenda, the EU has steadily increased and rationalised the resources devoted to these policy fields. On the other hand, since its first adoption in 2007, the EU has increasingly committed itself to make this financial framework as flexible as possible in order to respond to the multifaceted challenges related to migration and TCNs' integration. These tendencies seem to be reinforced by the post-2020 MFF that, although still under negotiations, will likely lead to more procedural restraints to national authorities, in favour of the EU and subnational bodies, at the expense of substantive convergence among Member States on the matter. Basically, the Proposal for the AMF Regulation grants "more discretion to the Union for migration policy-making as a whole" while marking "a significant step backwards for an EU integration policy in its own right" (Van Wolleghem, 2019, p. 232).

2.2. The MLG approach and TCNs' integration

Key actors and stakeholders at all levels of governance are increasingly acknowledging the need of embracing a multi-level governance (MLG) approach in matter of TCNs' integration. Addressing the MLG in Europe means to address such a process whereby the policy-making is more and more being placed, with respect to the subsidiarity principle, at the most effective level of government, whether it is the supranational, national or subnational one. The multi-stakeholder and MLG outputs and venues provided by the EU Framework on Integration and other transnational networks have so far proved to be particularly effective in delivering a harmonised, transnational and synergetic approach in the sensitive policy field of TCNs' integration. Arguably, Van Wolleghem refers to a process of "soft" Europeanisation that has proven more effective than the EU Treaty-based and legally binding one, analysed by the first section of this paper, in "Europeanising" the sensitive policy field of TCNs' integration (2018). After analysing the MLG approach in details, this chapter is going to focus on the key role subnational actors play and should play when dealing with programming and implementing EU-funded projects and initiatives in matter of TCNs' integration. In fact, by delivering practical and tangible outputs, they are better equipped to convey European values and to concretise European objectives at the subnational level; hence, they are better equipped to contribute to the legitimisation of the supranational institutions, since more prone to transnationally harmonise integration-related efforts while delivering tangible results at the closest levels of governance to the European citizens. Particularly, this chapter will focus on the crucial relevance of transnational networks, initiatives and projects involving both governmental and non-governmental subnational actors. Considering that they are not free from criticism, mainly because of the weak transparency and democratic accountability of their decision-making processes, this chapter aims at assessing the role that the MLG approach plays and should play within the European Union in order to promote the Europeanisation of TCNs' integration.

2.2.1. The subnational mobilisation at the European level

The academic literature has often examined the link both between migration-related issues and the perceived security threat in Europe and between these issues and the public support for the process of European integration. By way of example, Kortenska and Toshkov argue that if on the one hand "integration requires and builds on migration to address social and economic challenges" (2015, p. 910), on the other one migration itself can weaken the process of

European integration. In order to support this theory, the scholars accompany it with an empirical analysis, which links the migratory influx from the Central and Eastern Europe to the EU following the European Eastern enlargement with the decreasing public support for the process of European integration. Basically, on the one hand, "short and long-term migration from one part of the integrating territory to another can alleviate asymmetric economic shocks, foster the development of common identities and speed up the emergence and diffusion of shared norms and ideas" (*Ibidem*); on the other one, the "perceived cultural threats and to the competition for jobs, public services and social benefits" (*Ibidem*) resulting from migration affect the standpoint of public opinion. The theory of this study can also be applied to Member States' migration and integration policies vis-à-vis TCNs.

Moreover, many scholars have demonstrated that politics, mass media and public opinion are tightly linked, so that the standpoint of politicians and media is unavoidably affected by the so-called "silent majority" of citizens who consider migration-related issues as a "vehicle for complaints about other concerns" (Gilligan, 2015, p. 1377) unrelated to migration-related issues, or whose "opinion varies depending on the wording of questions and on how much, and what type, of information is provided to respondents" (*Ivi*, p. 1376). Taking also into account that, as stated by Majone, "when confronted by serious international crises, people tend to look to their national government, not to supranational institutions, for effective problem-solving and a sense of collective security" (2009, p. 36), the multifaceted migration-related challenges the EU is coping with have increasingly contributed to the growing Euroscepticism of European citizens. The perceived security threat related to migration-related issues affects the public support for the European Union and in fact, since 2015, "far-right political parties have gained ground in elections across Europe by stoking anxieties and anger about migration" (Reidy, 2020). It follows that the placement of powers at the most appropriate level of governance within the EU, as well as their effective synergetic action, are hindered in key policy fields, such as TCNs' integration. For instance, taking the Brexit into account, "the vote by Britons to leave the European Union doubled as a referendum on how the country views the issue of immigration" (Siegel, 2016). Basically, it was the perceived need of collective security, more than other political and economic reasons, that led to the potentially counterproductive choice to leave the EU. The disenchantment of European citizens vis-à-vis European affairs is hazardous and, "unless the EU can demonstrate that it can add value to what individual member states can achieve on their own, it will be impossible to resolve the legitimacy crisis threatening the Union's stability" (Majone, 2009, p. 45). Therefore, taking the link between migration-related issues and the citizens' support for the EU institutions into account, it is necessary to

involve the European citizens and civil society in the EU decision-making processes. The EU is in fact asked to deal contemporaneously with internal and external issues since they strongly affect and influence each other. Basically, the reliance on legitimate and publicly supported means is an essential prerequisite to develop an appropriate European strategy capable of coping with challenges related to migration and TCNs' integration. The EU should encourage the formation of venues where the European citizens and civil society organisations (CSOs) could transparently interact in order to stimulate a supranational feeling of belonging to the same identity, and so of sharing the same opportunities and challenges. "Experiment with new types of governance mechanisms and involving the CSOs in deliberation, debates and policymaking processes at the EU level" (Johansson and Kalm, 2015, p. 7) could finally result in involving the European population and civil society as active actors in such processes. In this regard, this paper is now going to analyse the multi-level governance (MLG) approach, as it could represent an effective solution for dealing with the democratic deficit whose the EU has often been blamed, a potential way for finding out comprehensive and successful responses to the challenges related to migration and TCNs' integration, as well as a potential way for tightening both the horizontal links between governmental and non-governmental bodies, and the vertical links between the various levels of policy-making.

Since centuries national states have historically taken form and strength through the progressive centralisation of all relevant policy areas, among which integration policies, which are in fact "strongly related to nationally specific models of identity and belonging" (Van Wolleghem, 2018, p. 11). Nevertheless, although national states are still the main driving force of policy development at EU level, the traditional model of the unitary state is being more and more undermined by the move towards globalisation and decentralisation which, according to Levi, "are two aspects of a single process", in which "global and local do not exclude each other" (2010). In fact, "the erosion of state sovereignty stimulates the need for new forms of governance based on a division of competences" (Levi, 2010) not only between the national and higher levels of government, but also between the national and lower levels of government. This process, leading to "a multilevel governance" as first defined by Marks in 1993, represents a process of decisional reallocation "in which some decisional powers are shifted down to municipal, local and regional governments, some are transferred from states to the EC, and some are shifted in both directions simultaneously" (Marks, 1993, p. 407). The MLG, according to Caponio, represents the intersection of a vertical dimension, "regarding interdependence between governments at different territorial levels", and a horizontal

dimension, regarding "the interdependence between public and non-public actors" (2017, p. 2055). Whereas the former dimension developed throughout the 1990s, the latter was conceived and developed throughout the 2000s, when "a greater emphasis was assigned to the role of non-state actors in diffused MLG systems of exchange, negotiation, policy-making, and implementation" (Caponio and Jones-Correa, 2017, p. 1997).

Within the EU context, it has been since the 1992 Maastricht Treaty that regional and local authorities have been provided with a formal role in EU policy-making through the creation of the Committee of the Regions as an EU advisory body, the introduction of the principle of subsidiarity, and the authorisation to Member States to be potentially represented by regional Ministers (Högenauer, 2016). It is on these bases that, in order to both ensure more efficiency and to better reach out to citizens, the Commission's 2001 White Paper on European Governance underlined the need to "ensure that regional and local knowledge and conditions are taken into account when developing policy proposals", by organising "a systematic dialogue with European and national associations of regional and local government, while respecting national constitutional and administrative arrangements" (2001c, p. 13). It followed that local and regional bodies should no longer be conceived as mere intermediaries, but as crucial partners in shaping and implementing the EU policies. Nevertheless, as stated by the White Paper, even though both the regional and local responsibility have increased in order to implement the EU policies, "their role as an elected and representative channel interacting with the public on EU policy is not exploited" (*Ivi*, p. 12). Even today, cities and regions are not fully involved in the EU policy shaping yet, and an efficient multi-level partnership among local, regional, national and supranational actors is still under development. According to the 2014 Committee of the Regions' Charter for Multilevel Governance in Europe, the MLG is "based on coordinated action by the European Union, the Member States and regional and local authorities according to the principles of subsidiarity, proportionality and partnership, taking the form of operational and institutional cooperation in the drawing up and implementation of the European Union's policies" (p. 1). Hence, it is not only supposed to promote synergetic, efficient and coherent decisions since policy-making is placed, with respect to the subsidiarity principle, at the most effective level of government, but it is also supposed to be closer to the European citizens by "developing a transparent, open and inclusive policy-making process" (Committee of the Regions, 2014, p. 2). The aforementioned Charter was launched after the public consultation initiated in 2009 by the Committee of the Regions through the White Paper on Multilevel Governance, which expressed the need to endorse the MLG approach in various policy fields, among which TCNs' integration (p. 25). Local and regional actors have been

more and more involved in the EU decision-making process since then. It follows that the EU Regional Policy, mainly delivered through the European Regional Development Fund (ERDF) and the Cohesion Fund (CF), accounting for € 355.1 billion for the period 2014-2020, hence almost a third of the total EU budget, is currently the EU's main investment policy (European Commission Website, 2020a). Even though, in light of the priorities of the Commission, the post-2020 MFF foresees a cut of approximately 7% to the cohesion budget (Lampropoulos, 2018), and even though "integration funding is mostly decided and coordinated at national level, and then reaches subnational level" (Van Wolleghem, 2018, p. 11), the role of subnational authorities and actors has steadily increased over time. In fact, they have been more and more called to deal with those services and policy areas that are more efficient to be handled at the local and regional level, such as not only TCNs' integration, but also "fire protection, policing, schooling, commuter transport and planning" (Hooghe and Marks, 2003, p. 233). It has followed that, in order to comply with the European requirements at the subnational level and enjoy the consequent benefits, "the most profound effect of the new approach was the reconfiguration of linkages among national, regional and local levels within the Member States" (Milio, 2007, p. 432). In this regard, Leonardi and Paraskevopoulos talk about "subnational mobilisation at the European level" (2004, p. 316) since the success of the European policies "is heavily dependent on both national and regional administrative bodies conforming to the Community's framework conditions" (Milio, 2007, p. 432). In fact, "implementation depends on the level of administrative capacity of the regional bureaucracy" (*Ivi*, 2007, p. 439), and factors such as the subnational administrative efficiency as well as the extremely correlated economic absorption capacity, which according to Milio depends on the size of the region and on the stability of the regional government, result in being crucial. In this regard, as emphasised by Leonardi and Paraskevopoulos, to different regional pre-existing institutional infrastructures correspond different degrees of "adaptational pressures" (2004, p. 316) so that, for instance, "where regions did not exist (e.g. Greece), they were created", whereas "where they already existed (e.g. Spain, Italy and France), but with varying responsibilities for regional policy, regions adjusted their institutional setting to respond to European regulation" (Milio, 2007, p. 432). Basically, the crucial importance of the efficiency of both local and regional bodies in the EU has been often pointed out.

Moreover, it seems to be clear that "embracing multilevel governance contributes to deeper EU integration by further strengthening the ties between the EU territories, and overcoming the administrative hurdles in regulation and policy implementation and the geographical frontiers that separate us" (Committee of the Regions, 2014, p. 1). In light of the increasing powers

accorded to subnational bodies, according to the comparative study between the European federalism and other federal states conducted by Knüpling, "the EU appears not as a case of 'proto-federalism' but a case of federalism *sui generis*" (2009, p. 3). In this regard, considering that the federal government, as claimed by Levi, is defined as "that system of power sharing that allows the central government and the regional governments to be, each in its own sphere, coordinated and independent" (2010), it can be argued that the EU multi-level governance could be well conceived as a federalist design under a different disguise. Knüpling, by comparing the crucial role played by local government in federal or semi-federal states such as Australia, Austria, Brazil, Canada, Germany, India, Mexico, Nigeria, Switzerland, Spain, South Africa, and United States, claims that, "given the overlap in responsibilities, extensive financial relations and the need to co-produce services, co-operation between the three orders of government – local, regional, federal – is a necessary consequence" (2009, p. 5). Basically, any kind of either federal or semi-federal design fights the excessive centralisation of the nation-states "by adding new levels of government, popular participation and citizenship, both above and within the nations" (Levi, 2010). The same implications more and more affect the European governance, which is in fact increasingly dependent on a multi-level design. The EU has taken form through "cooperation and compromise rather than a clear separation of exclusive powers at different levels of government" (Knüpling, 2009, p. 3), as it happened to different extent in the case of other federal or semi-federal states. Moreover, through the subsidiarity principle, the EU Member States can preserve their national political activism while belonging to the bigger Union. Hence, we are talking about a peculiar model of federalism, which could not perfectly resemble any other kind of existent federalism. Therefore, as stated by Knüpling, on the one hand, "the key question is not what power should be attributed to which level but instead what is the appropriate balance of *power-sharing* among different levels of government with regard to each policy field" (*Ibidem*); on the other one, "rather than focusing on a clear separation of powers and a pan-European parliamentary system of representation and governance, the democratic deficit in the EU might be addressed best by improving the procedural elements of European governance" (*Ibidem*).

The von der Leyen Commission seems to be aware of this, as one of the objectives the Work Programme 2020 set was a Conference on the Future of Europe involving "citizens, EU institutions, national, regional and local politicians" in order to further "strengthen our democracy" (European Commission, 2020a, para. 2.6, p. 8).

The following paragraph is going to make an overview of the EU efforts in this regard. In fact, despite national resistances, the EU institutions have increasingly acknowledged the relevance

of embracing a transparent, open and inclusive MLG approach when dealing with TCNs' integration. Nevertheless, as the next paragraphs will demonstrate, the lack of strong EU competences and Treaty-based foundations in matter of TCNs' integration has entailed the unavoidable reinforcement of the informal fora and tools characterising the analysed EU Framework on Integration.

2.2.2. The EU embrace of a MLG approach

As showed by the previous paragraph, the MLG approach and the consequent reinforcement of subnational actors is constantly expanding when it comes to various policy fields, among which TCNs' integration. On the one hand, this tendency is justified by the fact that, "whereas the issue is politicised at the national level, it appears to be more of a pragmatic, problem-solving approach at the local level" (Van Wolleghem, 2018, p. 12). On the other hand, it is essential to reiterate that the MLG approach can be crucial to legitimise the European policy-making, and so to face the democratic deficit whose the actual EU decision-making process has often been blamed. It is on these bases that the MLG approach has been and should be more and more endorsed within the EU, and so that "the reallocation of authority upward, downward, and sideways from central states" (Hooghe and Marks, 2003, p. 233) should be more and more favoured.

The European bodies have more and more acknowledged the need of involving all the relevant non-governmental and governmental actors in order to deliver an effective and holistic approach to TCNs' integration. As already claimed by the first chapter of this paper, it was the Commission that, through a 2003 Communication on immigration, integration and employment, officially launched the concept of a multi-stakeholder and multi-level governance "holistic approach" in order to ensure the effective integration of TCNs (2003, p. 18). Particularly, it identified the need of a "closer monitoring and increased cooperation between all relevant actors from local to regional, national, and EU authorities" (*Ivi*, para. 3.4, p. 23), while also recognising their need of collaborating with "the Social Partners, the research community and public service providers, NGOs and other civil society actors, including immigrants themselves" (*Ibidem*). It followed that, whereas the Tampere Milestones did not include any referral to the crucial role of subnational authorities and key stakeholders in guaranteeing a holistic integration policy, it was The Hague Programme that followed the Commission standpoint by underlining the importance of "involving stakeholders at the local, regional, national, and EU level" (European Council, 2005, chapter III, para. 1.5). Basically, the European Council, through The Hague Programme, paved the way to the endorsement of a

multi-stakeholder and multi-level governance approach in matter of TCNs' integration. Due to the fact that the Treaty-based pathways analysed by the first two chapters of this paper did not provide strong bases in order to enforce such a comprehensive approach, the strengthening of the EU Framework on Integration analysed by the previous chapter proved crucial in order to provide more and more tools and fora in matter of TCNs' integration. In this regard, the Common Basic Principles for Immigrant Integration Policy (CBPs), adopted unanimously by the Council Conclusions of a 2004 meeting of the Justice and Home Affairs, listed among their aims the objective to assist "the EU to explore how existing EU-instruments related to integration can be developed further" (Council of the European Union, 2004, para. e, p. 17). Particularly, the tenth CBP expressly referred to the need of "mainstreaming integration policies and measures in all relevant levels of government" (*Ivi*, p. 24) in public policy formation and implementation. TCNs' integration process was in fact identified as a cross-cutting policy field, which "cut across institutional competencies and levels of government" (*Ibidem*), and which is also affected by non-governmental actors such as "trade unions, businesses, employer organisations, political parties, the media, sports clubs and cultural, social and religious organisations" (*Ibidem*). Basically, the tenth CBP promotes the endorsement of a multi-stakeholder and multi-level governance approach in matter of TCNs' integration, by identifying the need of cooperation, coordination and communication among all the actors involved while developing measures related to the implementation of the others CBPs. In fact, as stated by the Common Agenda for Integration adopted by the Commission in 2005, the "successful implementation of policies and measures reflected by CBPs 1 to 9 rests upon" the endorsement of CBP 10 (European Commission, 2005, para. 3.1, p. 11).

Moreover, it was the 2005 Common Agenda for Integration itself that, by emphasising the need of tools and fora in order to concretise the CBPs' vague, non-binding and broad concepts, paved the way to the evolution of the EU Framework on Integration (*Ivi*, para. 1, p. 4). Particularly, the creation of the European Integration Fund (EIF) in 2007, and so of the financial framework accompanying the EU Framework on Integration, "induced the creation of a systematic integration policy at national level" since, by providing funding opportunities, it "required that national programmes be drafted and implemented" (Van Wolleghem, 2018, p. 4), along with monitoring and reporting activities. In this regard, being the European Integration Fund a systematic instrument concerning all member states, it represented the main driving force towards the Europeanisation of TCNs' integration policies (*Ivi*, p. 19). The last paragraph of the previous chapter showed how the evolution of such a financial framework has been characterised by the tendency of increasing the procedural restraints to national authorities in

favour of the EU and subnational bodies, particularly through the gradual reinforcement of the partnership and additionality principles, at the expense of substantive convergence among Member States. Considering that this tendency has been confirmed by the AMIF, in force until the end of 2020, and it seem it will be reinforced by the post-2020 MFF under negotiations, it seems evident that the EU is improving the procedural elements of European governance in order to ensure a more efficient integration policy. Particularly, the Proposal for the AMF Regulation expressly recognises the need of a synergetic and locally tailored use of the EU resources as well as the key role played by subnational actors and CSOs in the integration policy field, as it expressly recites that "the Fund should facilitate the implementation of actions in the field of integration by local and regional authorities or civil society organisations, including through the use of the thematic facility and through a higher co-financing rate for these actions" (European Commission, 2018c, para. 17, p. 19).

Within this context, the multi-stakeholder and multi-level governance fora and tools under the EU Framework on integration umbrella, which the previous chapter analysed in details, unfolded and evolved over time. All relevant governmental and non-governmental actors have been increasingly involved in the creation, evolution and implementation of fora and platforms such as the European Migration Forum, the European Integration Network and the European Website on Integration.

Moreover, the EU institutions have decisively contributed to the evolution of the MLG approach through the strengthening of the EU Framework on Integration tools and fora. In fact, the relevance of TCNs' integration has been increasingly reiterated and reinforced over time by the European Council, particularly through the Stockholm Programme, calling *inter alia* for "efforts by national, regional and local authorities" as well as "improved consultation with and involvement of civil society" (European Council, 2010, para. 6.1.5). Likewise, the Commission increasingly embraced this approach over time, and particularly through the 2011 European Agenda for the Integration of Third-Country Nationals and the 2016 Action Plan on the integration of TCNs. In fact, on the one hand, the former asserted that "close cooperation between the different levels of governance is important to coordinate the provision, financing and evaluation of services" (European Commission, 2011b, para. B.2, p. 9), and recognised the relevance of the existing EU Framework on Integration platforms for consultation and knowledge exchange (European Commission, 2011b, p. 12). On the other hand, the latter recognised that "immigrant integration is a political priority that has to be pursued not only across different policy areas but also at different levels (EU, national, regional and local) and by involving non-governmental stakeholders" (*Ivi*, para. 4.2.1, p. 14). In fact, as the following

paragraph is going to show in details, the 2016 Action Plan on the integration of TCNs acknowledged the important role played by "The Inclusion of Migrants and Refugees" thematic partnership, established by the Urban Agenda for the EU, which was adopted a week before the adoption of the 2016 Action Plan itself.

Recently, as claimed by the first chapter of this paper, building on the overarching objective of "championing inclusion" (European Commission, 2020a, para. 2.5, p. 7), the von der Leyen Commission set the objectives to adopt a New Pact on Migration and Asylum and an Action Plan on Integration and Inclusion by the end of the 2020 (*Ivi*, pp. 7- 8). These objectives were set after the release of the 2019 Commission progress report on the implementation of the European Agenda on Migration, which *inter alia* reiterated the increased EU support to subnational actors, "in the forefront of the integration of migrants in our communities", through the launch of various transnational cities networks, projects and initiatives (2019a, para. 6, p. 19). Therefore, building on the approach to TCNs' integration of the former Commission, it seems to be clear that the pathway taken by the new Commission confirms the reinforcement of the multi-level governance and multi-stakeholder holistic approach vis-à-vis TCNs' integration. In this regard, as the European Commissioner for Home Affairs Ylva Johansson stated, considering that on average 13% out of the 31% key workers[33], and so "health and care assistants, supermarket staff, agricultural workers and many more" formally and informally employed in the EU during the COVID-19 pandemic, "were born outside the EU" (European Commission Website, 2020b), and that "their contribution to the rebuilding of our economy will also strengthen the cohesion of our communities" (*Ibidem*), "the Commission will renew the partnership built with social and economic partners in the field of integration of refugees" (*Ibidem*).

Taking into account the recognition of the relevance of enforcing an effective MLG in matter of TCNs' integration, the next paragraph is going to provide some examples of networks, initiatives and projects currently implementing it. Despite the softness and weaknesses inherent to their scope and structure, this paper is finally going to prove that their relevance is undeniable in advancing a harmonised, synergetic and comprehensive approach in matter of TCNs' integration.

[33] Data extracted by Fasani and Mazza, 2020, p. 1.

2.2.3. The relevance of an effective MLG approach

As demonstrated by the previous paragraph, it is clear to which extent TCNs' integration takes first place at the local level and, consequently, local integration strategies have increasingly attracted the attention of EU and national institutions (Borkert and Caponio, 2010, p. 9).

Likewise, subnational policymakers have increasingly networked and contributed to the development of an effective MLG approach to integration policy. By way of example, the EWSI was created in 2009 with the contribution of Eurocities (Carrera, 2014, p. 166), a network of 140 European partner cities founded in 1986. Transnational cities networks such as Eurocities encompass both a horizontal dimension, providing further venues to subnational authorities for policy exchange and learning, and a vertical dimension, allowing them to circumvent EU national authorities, and hence the analysed national resistances to devolve powers to supranational authorities in matter of TCNs' integration, in order to directly lobby EU institutions (Caponio, 2017, p. 2053). Eurocities focuses on five key policy areas through six thematic forums and a wide range of working groups, among which the one on migration and integration contributing to reach the objective of "inclusive, diverse and creative cities" (2010, p. 2). In this latter regard, Eurocities launched in 2006 the so-called "Integrating Cities Process" through the conference "Integrating Cities: European Policies, Local Practice" taking place in Rotterdam and involving key local, national and European policymakers and stakeholders. Its success led the following year to the Milan conference "Integrating Cities II", which in turn led to the signature of the Milan Declaration. This Declaration formalised the partnership between Eurocities and the EU Commission, hence indicating "the emergent attention of European institutions towards processes, practices and policies of local migrant integration" (Borkert and Caponio, 2010, p. 11). In 2010, at the fourth Integrating Cities Conference, which took place in London, the process was further formalised through the adoption of the Charter on Integrating Cities. The Charter did not only formally recognised the Integrating Cities Conference Series, but also "a regular policy dialogue on integration between city representatives and the European Commission"; and "projects of mutual learning between cities in the field of integration governance" (Eurocities, 2010, p. 2). Currently signed by 39 cities, the Charter sets out the duty of cities as policy-makers, service providers, employers and buyers of goods and services to guarantee equal opportunities, equal access and non-discrimination to TCNs across all policies (*Ivi*, p. 3). By acknowledging the crucial role played by cities in developing a locally tailored approach in matter of TCNs' integration, the "Integrating Cities Process" encompasses both the horizontal and vertical dimension of MLG,

as it provides a platform to gather key local authorities, actors and practitioners, while also lobbying at the national and EU levels on the matter from a subnational perspective. Interestingly, the Charter itself was developed by a transnational cities partnership involving the Eurocities Working Group Migration and Integration and the municipalities of Amsterdam, Berlin, Leeds, London and Rome "as partners in the 'Diversity and Equality in European Cities (DIVE) project", which was a peer review project co-funded by the EIF (*Ibidem*).

The Commission has increasingly and steadily recognised and fostered the role of subnational actors and networks in matter of TCNs' integration since years. In this regard, the 2016 Action Plan on the integration of TCNs strongly emphasised the relevance of the multi-stakeholder thematic partnership on TCNs' integration established by the Urban Agenda for the EU (European Commission, 2016, para. 4.2.1, p. 15). This Agenda was adopted a week before the adoption of the 2016 Action Plan at the Informal Meeting of EU Ministers Responsible for Urban Matters, which took place in Amsterdam, The Netherlands. The so-called "Pact of Amsterdam" represented a key milestone in the development of a multi-level governance approach vis-à-vis TCNs' integration, identified as one of the Priority Themes and cross-cutting issues of the Urban Agenda for the EU (2016, para. 10.1, p. 7). The Pact of Amsterdam envisaged an informal multilevel cooperation platform among EU institutions, EU advisory bodies, representatives of Member States, Regions and Urban Authorities, key stakeholder and TCNs (*Ivi*, para. 13, p. 9) in order "to involve Urban Authorities in the design of policies, to mobilise Urban Authorities for the implementation of EU policies, and to strengthen the urban dimension in these policies" (*Ivi*, para. 3, p. 5). Building on three pillars of EU policy making and implementation, namely "Better regulation, Better funding and Better knowledge (base and knowledge exchange)" (*Ivi*, para. 5, pp. 5-6), further thematic partnerships were established in the following years while, according to the latest State of Play of the Urban Agenda for the EU, The Amsterdam partnerships, and so also "The Inclusion of Migrants and Refugees Partnership", are finalising their actions (European Commission, 2019c, p. 29). The Urban Partnership on Inclusion has acted on the basis of eight actions, adopted through the multi-stakeholder and multi-level governance approach at the core of the partnership. Namely, the partnership actions encompass the protection of Unaccompanied Minors (Action 1), the establishment of financial blending facilities for cities and SMEs (Action 2) and for microfinance (Action 3), the improvement of access for cities to EU integration funding (Action 4), the establishment of an Urban Academy on Integration Strategies (Action 5) and of a European Migrant Advisory Board, the development of urban indicators to facilitate evidence-based integration policies in cities (Action 7), and the improvement of desegregation

policies in European cities (Action 8) (Heimann and Stürner, 2020, para. 3, p. 18). Interestingly for present purposes, the fact that the Action 4 "proved to be an important contribution to the EU negotiations on the next Multiannual Financial Framework (MFF)" (*Ivi*, para. 1, p. 4) demonstrates to which extent an effective multi-stakeholder and multi-level governance approach allows all relevant actors to play a crucial role in developing impactful and important outcomes. Considering that "the Urban Partnership on Inclusion is perceived as one of the most successful of the twelve Urban Partnerships represented within the Urban Agenda" (*Ivi*, para. 8, p. 24), it is currently rethinking on how to strengthen its strategic orientation, how to renew structure and composition, how to get more funding and resources, how to increase its visibility, and how to better coordinate its actions with other institutions and networks (*Ivi*, para. 1, pp. 5 – 6). In this latter regard, it is worthy to mention the acknowledgement of the need of a fruitful cooperation with "Cities and Regions for Integration", an initiative providing a further platform for dialogue and knowledge exchange among European mayors and regional leaders which was launched in 2019 by the Committee of the Regions in cooperation with the Assembly of European Regions (AER), the Conference of Peripheral Maritime Regions (CPMR), the Council of European Municipalities and Regions (CEMR), and Eurocities (*Ivi*, para. 5.3, p. 40).

Nevertheless, it is now necessary to add that transnational networks are not free from criticism. First, MLG networks and outputs are usually analysed and assessed according to the efficiency they entail, rather than to their democratic accountability. According to Papadopoulos, the deficit of democratic accountability of MLG networks and tools stems from four of their key properties: "the weak presence of citizen representatives in networks; the lack of visibility and uncoupling from the democratic circuit; the multilevel aspect; and the prevalence of 'peer' forms of accountability" (2007, p. 470). Particularly, the lack of visibility is coupled with the democratic circuit because "effective control is not possible in the absence of visibility, or if networks operate in remoteness from democratic institutions" (*Ivi*, p. 474). It follows that informal and opaque 'peer' forms of accountability, "based on mutual monitoring of one another's performance within a network of groups, public and private, sharing common concerns" (*Ivi*, p. 480), outweigh democratic, formal and visible ones. Basically, in the sake of efficiency, negotiations across the various levels and stakeholders involved in MLG networks "are often deemed to be more successful if they take place under conditions of informality that impede accountability" (*Ivi*, p. 479). Therefore, various scholars have focused their studies on interesting suggestions on how to guarantee the MLG networks' transparency and democratic

accountability. Among them, Carrera claims that Article 79 (4) TFEU, allowing EU measures to support national integration policies, represents a Treaty-based provision that could encompass the EU Framework on Integration networks and outputs within its umbrella (2014, p. 186). On the other hand, Papadopoulos envisages a decision-making model according not only policy-making power to MLG networks, but also a "constituent and veto power dedicated to institutions that are authorised and accountable to citizens" (2007, p. 485). In order to prevent and avoid policy blockades by veto players at the expenses of efficiency, Papadopoulos adds that this institutional design should provide mechanisms of mutual learning between network members, political representatives and voters (*Ivi*, p. 486). Therefore, if on the one hand it is true that MLG networks can further legitimise the EU actions by involving European citizens and CSOs in their decision-making processes, on the other hand it is even true that they can degenerate into opaque, informal and non-transparent policy-making venues complementary to the more legitimate EU ones.

Secondly, Caponio claims that they are more appreciated for the symbolic than for the instrumental functions they serve, since enabling cities "to strengthen their prestige and positioning in local and/or national policy venues" (2017, p. 2065). Even though symbolic functions, and so identity-building, policy legitimisation and cities' positioning, "appear to be crucial in the vertical dimension of MLG, since they are indispensable for cities in order to get access to EU funding and to lobby EU institutions" (*Ivi*, p. 2066), municipalities usually adopt a 'pick-and-choose' strategy when networking and selecting the CSOs to involve (*Ivi*, p. 2067). It follows that the cities which can position themselves and obtain recognition from their peers are quite likely to be the most entrepreneurial ones" (*Ivi*, p. 2066), and they hence tend to exclude and marginalise the smaller and less internationalised cities and CSOs that need more visibility and attention. Still, Caponio recognises that the emergence of patterns of MLG imply at least a partial redefinition of the vertical and horizontal relations on matters of migration (*Ivi*, p. 2067). Moreover, the 2018 AMIF Call for proposals document on the Integration of Third-Country Nationals shows that the EU acknowledged the issue identified by Caponio, as its first priority is the development of "Local and regional networks for the integration of third-country nationals" (European Commission, 2018f, para. 2, p. 4). In order to promote this priority, the Commission expressly set out that, in financing transnational projects setting-up network of regions and cities, it intended to particularly favour those partnerships which "include local and regional authorities having none or little experience on integration and local and regional authorities having experience in that area through the development of integration policies and measures" (*Ivi*, p. 5). In this regard, it must be noted that, as demonstrated by a research on the

role of cities in tackling integration governance challenges conducted by Patuzzi for the EU-funded project "ADMin4ALL", implemented by the International Organisation for Migration (IOM) and involving the Migration Policy Institute (MPI) Europe, "while discussions of local integration governance in Europe have largely focused on superdiverse metropolises such as Berlin, Vienna, Paris and Stockholm, a huge amount of innovation is happening in cities and towns outside of the limelight[34]" (Patuzzi, 2020, p. 32).

Overall, despite the need to face the weak enforceability and democratic accountability inherent to the nature and structure of the MLG networks and venues, their relevance is undeniable. In fact, this chapter has attempted to demonstrate that placing the policymaking processes at the most effective level of government while guaranteeing a synergetic coordination among all the levels of government involves efficiency in the design, implementation and monitoring mechanisms related to TCNs' integration. Even though their scope and structure fall outside of the Treaties, "soft" approaches to promote Europeanisation on this matter allow a particularly effective and synergetic harmonisation of integration models and management strategies and, unlike "hard" approaches to promote Europeanisation, their venues are better equipped to depoliticise the issues in order to favour the embrace of practical and locally tailored responses. Nevertheless, this section has also tried to prove that, although they represent useful complementary tools to "hard" Europeanisation, they lack of enforceability and, more importantly, of a transparent and democratically accountable decision-making process. Therefore, once they will embrace transparency and democratic accountability, they will be better-equipped tools not only to complement the EU "hard" approaches to promote Europeanisation in the TCNs' integration policy field, but also to ensure the public legitimisation of the European decision-making and delivery processes on the matter.

[34] The study in fact drew in part its conclusions from "semi-structured qualitative conducted (…) with representatives of Kufstein, Austria; Thessaloniki and the neighbouring municipalities of Kalamaria and Neapoli-Sykies in Greece; Milan and Palermo, Italy; Malta; Gdansk and Warsaw, Poland; Bucharest, Romania; and Malaga, Spain" (Patuzzi, 2020, p. 5).

Conclusion

The limits of the EU Treaty-based role and competences in matter of TCNs' integration analysed by the first section of this paper reflect the lack of willingness of the EU Member States to coordinate their policies in such a sensitive policy field. This paper has showed that The Amsterdam and Lisbon Treaties, along with the multi-annual programmes adopted by the European Council and the Agendas adopted by the Commission since 1999 onwards, accorded the EU a role in this respect, even though limited to provide incentives and support for the action of Member States and excluding any harmonisation of their laws and regulations on the matter. Moreover, this paper has demonstrated that both the Commission, through the proposal of relevant secondary legislation, the opening of infringement procedures and the adoption of various Communications, as well as the European Court of Justice, through preliminary rulings and the appliance of the general principles of EU law, have shaped and expanded the EU approach and competences in matter of TCNs' integration.

Nevertheless, this paper has also demonstrated that the evolution of the European policy and approach to such a sensitive policy field has been the result of a struggle between logics of Europeanisation and intergovernmentalism. By way of example, the insertion of integration conditions in the secondary legislation adopted in this respect, and particularly in the Council Directive on long-term resident status (LTR) and the Council Directive on family reunification (FR), as well as the failure to adopt an Open Method of Coordination (OMC) on the matter, show how national resistances proved hard to be overcome. Member States, acting both within the Council of the European Union and the European Council, have increasingly stood for the retention of competences in matter of TCNs' integration. The historical context in which the EU has developed its TCNs' integration policy has not been favourable to the embrace of a fully rights-based approach, as the 2000s terrorist attacks, the 2007-2008 financial crisis, the 2015 Mediterranean migration crisis and the 2019 COVID-19 pandemic have, to different extents, affected the EU and Member States policy and approach to such a delicate and highly sovereign policy domain. Consequently, despite the gradual endorsement of the 'fundamental rights' rationale, the EU policy in matter of TCNs' integration is still predominantly characterised by a security-based approach centred on controls and obligations. Basically, the aim to guarantee security has increasingly prevailed over the other two AFSJ values of freedom and justice and, even though nowadays "almost every aspect of migration—from outside and within Europe—has a supranational dimension" (Hampshire, 2016, p. 537), this paper has demonstrated that the impact of "hard" politico-legal attempts of Europeanisation in this

respect have been limited, and hindered by national resistances. In this regard, this paper has also demonstrated that the perceived security threat related to migration in general, and TCNs' integration in particular, affects the public support for the European Union, so that national politicians take it into account when they plan their electoral campaigns. The Brexit example is hence provided, as various journalists and scholars argued that "the vote by Britons to leave the European Union doubled as a referendum on how the country views the issue of immigration" (Siegel, 2016).

In order to circumvent national resistances within the EU institutions, the development of the "soft" fora and tools provided by the EU Framework on Integration and the other various transnational networks, initiatives and projects analysed by the second section of this paper have somehow facilitated the harmonisation of national integration policies, as well as the exchange of knowledge and best practices and the development of benchmarks for integration policy measures. Although these "soft" outputs have depoliticised the field of integration because of their avoidance to touch upon "fundamental debates about the underlying values or objectives of integration policies" (Azulai and De Vries, 2014, p. 12), and despite their non-legally binding nature, this paper has demonstrated that their relevance should not be underestimated. By way of example, even if not legally enforceable, the CBPs have affected the EU allocation of financial resources for TCNs' integration since the 2007 establishment of the European Integration Fund (EIF), hence contributing to a "soft" Europeanisation of integration policies. In turn, the financial framework has effectively awarded those transnational networks, initiatives and projects embracing a holistic, synergetic and locally tailored approach; hence resulting in being a very effective framework to Europeanise integration-related policies at the EU disposal.

Moreover, the EU Framework on Integration networks, fora and tools, as well as the other "soft" transnational networks, initiatives and projects, have embraced a multi-level governance (MLG) and multi-stakeholder approach to TCNs' integration, which proves to be crucial in order to deliver practical and legitimate outputs. Particularly, this paper considers essential the involvement of subnational governmental and non-governmental actors in the decision-making process, since this has proven to be crucial in order to both deliver more pragmatic, effective and locally-tailored responses to integration-related issues, and to legitimise the EU decision-making process itself, and so to face the democratic deficit whose it has often been blamed. Basically, as claimed by Johansson and Kalm, "experiment with new types of governance mechanisms and involving the CSOs in deliberation, debates and policymaking processes at

the EU level" could eventually result in involving the European population and civil society as active actors in such processes (2015, p. 7), while at the same time delivering effective outcomes. Nevertheless, as argued by Azulai and De Vries, the Europeanisation in matter of TCNs' integration brought by "soft" networks, fora and tools falling outside the ordinary EU decision-making show that "practical responses to events often precede the formulation of adequate legislative and administrative frameworks to guarantee their legality and democratic control" (2014, p. 12). In fact, despite they have favoured the practical harmonisation of integration-related policies in both vertical and horizontal dimensions, their current lack of transparency, democratic accountability and possibility of judicial control is a major substantial issue, which needs to be addressed in order to eventually regard them as legitimate.

Therefore, both "soft" and "hard" politico-legal outcomes have steadily contributed to the Europeanisation of the TCNs' integration policy field. On the one hand, the first section of this paper has demonstrated that logics of intergovernmentalism and national resistances are hard to be overcome. Despite the enforceability and legitimacy of the EU institutions' outcomes in matter of TCNs' integration, such as secondary legislation, infringement procedures and preliminary rulings, the development of "soft" approaches to deliver Europeanisation in this respect, accompanying the "hard" ones, is enough to prove "that the way to move forward with EU policy in the field of integration has been largely through depoliticisation" (Azulai and De Vries, 2014, p. 12). Basically, "hard" Europeanisation cannot provide comprehensive outcomes in matter of TCNs' integration by itself, so that the development of a "soft" Europeanisation accompanying it has proven to be necessary.

On the other hand, the second section of this paper has demonstrated that "soft" networks, fora and tools have proven to be particularly effective in delivering a harmonised transnational and synergetic approach to TCNs' integration and, consequently, in indirectly overcoming national resistances and favouring the Europeanisation of this sensitive policy field, especially through a strict financial framework and through the recourse to a MLG approach. Nevertheless, despite the relevance of these "soft" outcomes, it is necessary to reiterate that, in addition to their fragmentary and non-binding nature, they lack of democratic accountability, judicial control and transparency; hence, they lack of legitimacy. As long as this issue is not faced, they will remain incomplete outputs and, as such, they cannot replace the "hard" and legitimate politico-legal tools at the EU disposal. In this regard, this paper has built on the existing literature in order to suggest possible experiments with new types of governance mechanisms, and hence to develop a more legitimate "soft" approach to Europeanise TCNs' integration. These

experiments may further boost the involvement of all the levels of government, and particularly the subnational ones, as well as the EU citizens and civil society as active actors in the EU decision-making processes when dealing with TCNs' integration. Paradoxically, "soft" Europeanisation could hence be functional to respond to the perceived democratic deficit whose the EU has often been blamed.

Therefore, by analysing "soft" and "hard" politico-legal outcomes and exposing their main weaknesses, this paper has tried to demonstrate that both types of approach may contribute to the development of an effective, holistic and legitimate Europeanisation in the sensitive and typically sovereign policy field of TCNs' integration.

Bibliography

Table of Cases

- Case 66/85. *Deborah Lawrie-Blum v Land Baden-Württemberg* [1986]
- Case C-413/99. *Baumbast and R v Secretary of State for the Home Department* [2002]
- Case C-540/03. *European Parliament v. Council of the European Union* [2006]
- Case C-158/07. *Jacqueline Förster v Hoofddirectie van de Informatie Beheer Groep* [2008]
- ECHR. Application No. 5335/05. *Ponomaryovi v. Bulgaria* [2011]
- ECHR. Application No. 56328/07. *Bah v. UK* [2011]
- Case C-571/10. *Servet Kamberaj v. Istituto per l'Edilizia sociale della Provincia autonoma di Bolzano (IPES) and Others* [2012]
- Case C-508/10. *European Commission v. Kingdom of the Netherlands* [2012]
- Case C-502/10. *Staatssecretaris van Justitie v. Mangat Singh* [2012]
- Joined Cases C-356/11 and C-357/11. *O, S v Maahanmuuttovirasto* (C-356/11), and *Maahanmuuttovirasto v L* (C-357/11) [2012]
- Case C-153/14. *Minister van Buitenlandse Zaken v K, A* [2015]
- Case C-579/13. *P and S v Commissie Sociale Zekerheid Breda and College van Burgemeester en Wethouders van de gemeente Amstelveen* [2015]
- Case C-218/14. *Kuldip Singh, Denzel Njume and Khaled Aly v Minister for Justice and Equality* [2015]
- Opinion of Advocate General Kokott (2015) on Case C-218/14. *Kuldip Singh, Denzel Njume and Khaled Aly v Minister for Justice and Equality* [2015]

Table of EU Legislation

- Charter of Fundamental Rights of the European Union (2000). OJ C 364/1.
- Convention for the Protection of Human Rights and Fundamental Freedoms (1950). (Council of Europe).
- Title I, Articles 1 to 8 TEU
- Article 47 TEU
- Part II, Articles 18 to 25 TFEU
- Title V, Chapters I and II, Articles 67 to 80 TFEU
- Article 312 TFEU
- Article 294 TFEU
- Title IV, Articles 61 to 69 Treaty of Amsterdam
- Regulation (EEC) 1612/68
- Council Directive 90/364/EEC
- Council Directive 90/365/EEC
- Council Directive 90/366/EEC
- Council Directive 2003/86/EC
- Council Directive 2003/109/EC
- Council Directive 2004/114/EC
- Directive 2004/38/EC
- Regulation (EC) No 883/2004
- Council Directive 2005/71/EC
- Council Decision 2007/435/EC
- Council Regulation (EC) 2007/2004
- Council Directive 2009/50/EC
- Regulation (EC) No 987/2009
- Directive 2011/98/EU
- Directive 2011/51/EU
- Directive 2014/36/EU
- Directive 2014/66/EU
- Regulation (EU) 514/2014
- Regulation (EU) 516/2014
- Regulation (EU) 2016/399

- Directive (EU) 2016/801

Table of other EU Documents

- Committee of the Regions (2009). The Committee of the Regions' White Paper on Multilevel Governance. Opinions. 2009/C 211/01.
- Committee of the Regions (2014). Charter for Multilevel Governance in Europe.
- European Commission (1991). European Commission Communication to the Council and European Parliament on Immigration. SEC (91) 1855.
- European Council (1999). Tampere European Council 15 and 16 October 1999 - Presidency conclusions. SN 200/99.
- European Commission (2001a). Proposal for a Council Directive on the Conditions of Entry and Residence of third-country nationals for the Purpose of Paid Employment and Self-employment Activities. COM (2001) 386.
- European Commission (2001b). Communication from the Commission to the Council and the European Parliament for an Open Method of Coordination for the Community Immigration Policy. COM (2001) 387.
- European Commission (2001c). European Governance, a White Paper. COM (2001) 428 final.
- Council of the European Union, Justice and Home Affairs (JHA) (2002). Council meeting 2455.
- European Commission (2003). Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on immigration, integration and employment. COM (2003) 336.
- European Council (2003). Thessaloniki European Council: Presidency Conclusions. 11638/03.
- European Council (2004). Declaration on combating terrorism.
- Council of the European Union, Justice and Home Affairs (JHA) (2004). Immigrant Integration Policy in the European Union – Council Conclusions. Press Release. 14615/04. Council Meeting 2618, pp. 15 - 24.
- European Commission (2005). Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions. A Common Agenda for Integration - Framework for the Integration of Third-Country Nationals in the European Union. COM (2005) 389.
- European Council (2005). The Hague Programme: Strengthening Freedom, Security and Justice in the European Union. OJ C 53/01.

- European Commission (2006). Withdrawal of Commission Proposals Following Screening for Their General Relevance, their Impact on Competitiveness and Other Aspects. 2006/C 64/03. OJ C64/3.
- European Commission (2007). Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions. Third Annual Report on Migration and Integration. COM (2007) 512.
- EESC (2008). Opinion of the European Economic and Social Committee on the Elements for the Structure, Organization and Functioning of a Platform for the Greater Involvement of Civil Society in the EU-level Promotion of Policies for the Integration of Third Country National. SOC/281, CESE 1208/2008.
- Council of the European Union (2010). European Ministerial Conference on Integration. Zaragoza, 15 and 16 April 2010. Draft Declaration.
- European Commission (2010a). Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Delivering an area of freedom, security and justice for Europe's citizens - Action Plan Implementing the Stockholm Programme. COM (2010) 171.
- European Commission (2010b). Communication from the Commission – Europe 2020 - A strategy for smart, sustainable and inclusive growth. COM (2010) 2020.
- European Council (2010). The Stockholm Programme - An open and secure Europe serving and protecting the citizen. OJ C 115/01.
- European Commission (2011a). Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. The Global Approach to Migration and Mobility. SEC (2011) 1353.
- European Commission (2011b). Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. European Agenda for the Integration of Third-Country Nationals. COM (2011) 455 final.
- European Commission (2011c). 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 (2011) 585 final.

- European Commission (2014a). 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. COM (2014) 210.
- European Commission (2014b). European Modules on Migrant Integration. DG HOME. Final report.
- European Council (2014). Conclusions. EUCO 79/14.
- European Commission (2015a). Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. A European Agenda on Migration. COM (2015) 240.
- European Commission (2015b). Synergies between the Asylum Migration and Integration Fund (AMIF) and other EU funding instruments in relation to reception and integration of asylum seekers and other migrants.
- European Commission (2016). Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Action Plan on the integration of third country nationals. COM (2016) 377 final.
- European Commission (2018a). Commission Staff Working Document. Interim Evaluation of the Asylum, Migration and Integration Fund 2014-2017. SWD (2018) 339 final.
- European Commission (2018b). Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. A Modern Budget for a Union that Protects, Empowers and Defends - The Multiannual Financial Framework for 2021-2027. COM (2018) 321 final.
- European Commission (2018c). Proposal for a Regulation of the European Parliament and of the Council establishing the Asylum and Migration Fund. COM (2018) 471 final.
- European Commission (2018d). Proposal for a Regulation of the European Parliament and of the Council on the European Social Fund Plus (ESF+). COM (2018) 382 final.
- European Commission (2018e). Proposal for a Regulation of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, and the European Maritime and Fisheries Fund and financial rules for those and for the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument. COM (2018) 375 final.

- European Commission (2018f). Asylum, Migration and Integration Fund - Call for proposals document -Integration of Third-Country Nationals. AMIF-2018-AG-INTE.
- European Commission (2018g). Toolkit on the use of EU funds for the integration of people with a migrant background. Directorate-General for Regional and Urban Policy - Inclusive Growth, Urban and Territorial Development Unit.
- European Commission (2019a). Communication from the Commission to the European Parliament, the European Council and the Council. Progress report on the Implementation of the European Agenda on Migration. COM (2019) 481 final.
- European Commission (2019b). Report from the Commission to the European Parliament and the Council on the implementation of Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents. COM (2019) 161 final.
- European Commission (2019c). Urban agenda for the EU - Multi-level governance in action. Directorate–General for Regional and Urban Policy, Directorate 1 – Deputy Director-General for Implementation (REGIO.DDG), Unit – Inclusive Growth, Urban and Territorial Development (REGIO.DDG.03).
- European Commission (2020a). Commission Work Programme 2020. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. COM (2020) 37 final.
- European Commission (2020b). Adjusted Commission Work Programme 2020. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. COM (2020) 440 final.
- European Commission (2020c). The EU budget powering the recovery plan for Europe. Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions. COM(2020) 442 final.
- European Commission (2020d). Europe's moment: Repair and Prepare for the Next Generation. Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions. COM(2020) 456 final.
- Eurostat (2020). Migration and migrant population statistics. Data extracted in May 2020.
- Informal Meeting of EU Ministers responsible for Urban Matters (2016). Urban Agenda for the EU - Pact of Amsterdam.

Further Readings

- Acosta Arcarazo, Diego (2015). Civic Citizenship Reintroduced? The Long-Term Residence Directive as a Post-National Form of Membership. European Law Journal, Vol. 21, No. 2, pp. 200-219.
- Azulai, Loïc and De Vries Karin (2014). EU Migration Law: Legal Complexities and Political Rationales. Oxford: Oxford University Press.
- Balzacq Thierry, Carrera Sergio and Guild Elspeth (2016). The Changing Dynamics of Security in an Enlarged European Union. In: Bigo Didier, Carrera Sergio, Guild Elspeth and Walker R.B.J. (2016). Europe's 21st Century Challenge: Delivering Liberty. Routledge.
- Borkert, Maren and Caponio, Tiziana (2010). Introduction: the local dimension of migration policymaking. In: Borkert, Maren and Caponio, T. (2010). The Local Dimension of Migration Policymaking. IMISCOE Reports, Amsterdam University Press, pp. 9-32.
- Brunell Thomas L. and Stone Sweet, Alec (1998). Constructing a Supranational Constitution: Dispute Resolution and Governance in the European Community. The American Political Science Review. Vol. 92, No. 1, pp. 63-81.
- Bux, Udo (2020). An area of freedom, security and justice: general aspects. European Parliament. Fact Sheets on the European Union. Retrievable at: https://www.europarl.europa.eu/factsheets/en/sheet/150/an-area-of-freedom-security-and-justice-general-aspects
- Caponio, Tiziana (2017). Immigrant integration beyond national policies? Italian cities' participation in European city networks. Journal of Ethnic and Migration Studies, Vol. 44, No. 12, pp. 2053-2069.
- Caponio, Tiziana and Jones-Correa, Michael (2017). Theorising migration policy in multilevel states: the multilevel governance perspective. Journal of Ethnic and Migration Studies, Vol. 44, Issue 12, pp. 1995-2010.
- Carrera, Sergio (2014). Integration of Immigrants in EU Law and Policy: Challenges to Rule of Law, Exceptions to Inclusion. In: EU Migration Law: Legal Complexities and Political Rationales. Oxford: Oxford University Press, pp. 149-187.

- Convention and protocol relating to the Status of Refugees (1951 and 1967). United Nations.
- Costello, Cathryn (2015). The Human Rights of Migrants and Refugees in European Law. Oxford: Oxford University Press.
- Della Torre, Lucia and De Lange, Tesseltje (2018). The 'importance of staying put': third country nationals' limited intra-EU mobility rights. Journal of Ethnic and Migration Studies, 44:9, pp. 1409-1424.
- Eisele, Katharina (2014). The External Dimension of the EU's Migration Policy Different Legal Positions of Third-Country Nationals in the EU: A Comparative Perspective. Brill, Leiden.
- Eurocities (2010). EUROCITIES Charter on Integrating Cities.
- European Commission Website (2020a). What is Regional policy? The EU's main investment policy. EU regional and urban development, Regional Policy, Policy. Retrievable at: https://ec.europa.eu/regional_policy/en/policy/what/investment-policy/.
- European Commission Website (2020b). Statement by Commissioner Johansson following meeting with social partners and civil society on role of migrants in economic recovery from COVID-19. Retrievable at: https://ec.europa.eu/commission/commissioners/2019-2024/johansson/announcements/statement-commissioner-johansson-following-meeting-social-partners-and-civil-society-role-migrants_en.
- EWSI Editorial Team (2019). What can we expect from the new European Parliament on migrant integration?. Retrievable at: https://ec.europa.eu/migrant-integration/feature/what-can-we-expect-from-the-new-european-parliament-on-migrant-integration?fbclid=IwAR0Nzo9K35Fkpcweb2tH7ahal4_3PsuUYjGZQmb7w2KjzQkAYf6PbKGx0AQ
- Fasani, Francesco and Mazza, Jacopo (2020). Immigrant Key Workers: Their Contribution to Europe's COVID-19 Response. European Commission.
- Gilligan Chris (2015), 'The Public and the Politics of Immigration Controls'. In: Journal of Ethnic and Migration Studies, 41:9, 1373-1390.

- Hampshire, James (2016). European migration governance since the Lisbon treaty: introduction to the special issue. Journal of Ethnic and Migration Studies, 42:4, pp. 537-553.
- Heimann Christiane and Stürner Janina (2020). Evaluation Report – Urban Partnership on the Inclusion of Migrants and Refugees.
- Högenauer, Anna-Lena (2016). The Principle of Subsidiarity After Lisbon: Towards a Sustainable System of EU Multi-Level Governance?. In: Papakostas Nikolaos and Pasamitros Nikolaos (2016). EU: Beyond the Crisis: A Debate on Sustainable Integrationism. Columbia University Press.
- Hooghe, Liesbet and Marks, Gary (2003). Unravelling the Central State, but How? Types of Multi-level Governance. American Political Science Review, Vol. 97, No. 2.
- Johansson Hakan and Kalm Sara (2015). Thinking Relationally: Questions, Themes and Perspectives for the Study of the EU Civil Society. MAC/CISO.
- Keeling, David T. and Mancini, Federico (1994). Democracy and the European Court of Justice. The Modern Law Review, Volume 57, No. 2.
- Knüpling, Felix (2009). Federalism and Multi-level Governance: Comparing the EU with other Federal States. Retrievable at: http://federalistasdearagon.es/wp-content/uploads/FEDERALISM-AND-MULTI-LEVEL-GOVERNANCE.-COMPARING-THE-EU-WITH-OTHER-FEDERAL-STATES.pdf.
- Kortenska Elitsa and Toshkov Dimiter (2015). Does Immigration Undermine Public Support for Integration in the European Union?. In: Journal of Common Market Studies, 53: 4, pp. 910-925.
- Lampropoulos, Nikos (2018). Regions and cities worried about cohesion cuts, co-finance and ESF. Euractiv.
- Leonardi, Robert and Paraskevopoulos, J. Christos (2004). Introduction: adaptational pressures and social learning in European regional policy —cohesion (Greece, Ireland and Portugal) vs. CEE (Hungary, Poland) countries. Regional & Federal Studies, 14:3, pp. 315-354.
- Levi, Lucio (2010). Multi-level Governance and Federalism. The Federalist Debate, Year XXIII, Number 3, November 2010.

- Majone Giandomenico (2009). An Elitist Project. Majone Giandomenico. Europe as the Would-be World Power. Cambridge University Press, pp. 22-46.
- Marks, Gary (1993). Structural Policy and Multilevel Governance in the EC.
- Milio, Simona (2007). Can Administrative Capacity Explain Differences in Regional Performances? Evidence from Structural Funds Implementation in Southern Italy. In: Regional Studies, 41:4, pp. 429-442.
- Montaldo, Stefano (2016). Integration examinations for regular migrants: the difficult search for a balance between national competencies and full effectiveness of EU law. UNIO - EU Law Journal, Vol. 2, No. 2, pp. 39-53.
- Municipalist (2017). Healing Europe's populist divisions depends on its cities | Citiscope. Retrievable at: http://municipalist.org/healing-europes-populist-divisions-depends-on-its-cities/.
- Narrillos, Estefanía (2020). Asylum and Migration Pact: MEPs push for legal and safe avenues. European Parliament. News. Press Releases. Retrievable at: https://www.europarl.europa.eu/news/en/press-room/20200430IPR78208/asylum-and-migration-pact-meps-push-for-legal-and-safe-avenues
- Palmieri, Filippo (2017). Free Movement of Persons. In: Torino, Raffaele (2017). Introduction to European Union Internal Market Law. RomaTrE-Press, pp. 69-104.
- Papadopoulos, Yannis (2007). Problems of Democratic Accountability in Network and Multilevel Governance. European Law Journal, Vol. 13, No. 4, July 2007, pp. 469-486.
- Patuzzi, Liam (2020). European Cities on the Front Line - New and emerging governance models for migrant inclusion. The ADMin4ALL project. Migration Policy Institute Europe and International Organization for Migration.
- Peers, Steve (1997). Equality, Free Movement and Social Security. European Law Review, 22.
- Reidy, Eric (2020). Briefing: In search of a more humane EU migration and asylum policy. The New Humanitarian. Retrievable at: https://www.thenewhumanitarian.org/analysis/2020/05/21/EU-new-pact-migration-asylum.

- Schmid-Drüner, Marion (2019). Immigration policy. European Parliament. Fact Sheets on the European Union. Retrievable at: https://www.europarl.europa.eu/factsheets/en/sheet/152/immigration-policy.
- Siegel, Josh (2016). How Immigration Fueled the Brexit Result. The Daily Signal. Retrievable at: https://www.dailysignal.com/2016/06/23/how-immigration-fueled-the-brexit-result/.
- Torino, Raffaele (2017). The Internal Market. Short history and basic concepts. In: Torino, Raffaele (2017). Introduction to European Union Internal Market Law. RomaTrE-Press, pp. 1-31.
- Van Wolleghem, Pierre Georges (2018). The EU's Policy on the Integration of Migrants: A Case of Soft-Europeanization?. Palgrave Macmillan.
- Van Wolleghem, Pierre Georges (2019). Where is the EU's Migrant Integration Policy Heading? A Neofunctionalist Take on Three Multiannual Financial Frameworks. International Review of Public Policy, Vol. 1, No. 2, pp. 218-237.
- Velluti, Samantha (2007). What European Strategy for Integrating Migrants? The Role of OMC Soft Mechanisms in the Development of an EU Immigration Policy. European Journal of Migration and Law 9, pp. 53-82.
- Vesterdorf, Bo (2006). A constitutional court for the EU?. Oxford University Press and New York University School of Law. I-CON, Volume 4, Number 4.
- Wiesbrock, Anja (2010). Legal Migration to the European Union. Martinus Nijhoff Publisher.