MONASH
University

BORDERS, LABOUR AND MOBILITY
The Jean Monnet Project on Comparative Migration
(PROCAM)

**Policy Brief
July 2023**

Edited by
Rémy Davison
Jessica Quirk
George Nikolaidis

EXECUTIVE SUMMARY

Growth in the number of international migrants has remained consistent throughout the last two decades. By 2020, 281 million people were living outside their country of origin, in contrast with 173 million in 2000 and 221 million in 2010. International migrants represent about 3.6 per cent of the world's population currently.

Covid not only closed borders in 2020, it also created a food security crisis in many countries. Indeed, the Organization for Migration and the WPF both concluded that "no country had been spared", connecting global hunger with displacement. The WPF estimated that double the 2019 figure (270<>135 million) persons were acutely food insecure by the end of 2020. 2019 had been a record year.

Of total migrants entering Organisation for Economic Cooperation and Development (OECD) countries in 2017, almost 600,000 held permanent visas, while 4.9 million entered countries on temporary visas. Year-on-year, the rate of growth temporary migration growth to the OECD doubled. With temporary migration, the constant 'churn' of migrant workers is a structural component of international immigration.

Studies have also increasingly pointed to the partial exclusion of migrants from the formal economy and work rights. In Australia, the farm sector has been a particular focus of wage theft or inadequate protections for migrant workers. However, there are very few sectors in Australia or the European Union where this is not the case. Other core issues that arise, particularly within the gig economy, include the precarious nature of low-wage, low-skill work.

The topics in this Policy Brief include digitization of borders, refugee crossings of the Mediterranean Sea, the labour market impacts of Brexit, migration policy in Italy and Germany, the impact of the EU's Common Migration Policy, migrant workplace violations, intra-EU migration effects in Portugal, India and China's impact on global migration governance, Australia's engagement with the Asia-Pacific region through labour mobility policies, the impact of the Ukraine War, attitudes towards migration in Switzerland, people inflows and border crossings in the Balkans – and many more topics.

In 2023, Australia and the European Union may be about to embark on a new dynamic phase, with the finalisation of the Australia-EU free trade agreement (AEUFTA) in prospect. PROCAM's aim is to analyse the EU and Australia's responses to the challenges of border digitalisation, formal and informal immigration, offshore labour and virtual migration, refugee policy, employer associations and migration, workplace violations of workers' rights, the impact of the Ukraine war, media representations of migration and refugees, together with case studies of Australia and the Pacific, Azerbaijan, Germany, Italy, Portugal and Switzerland. This Policy Brief will provide up-to-date policy outlines and data analysis to private and public sector professionals, media, civil society actors, and all policy practitioners who work in issue areas such as labour markets and mobility, human capital, security, human rights, migration, refugees and border policy. It will be of particular interest to specialists in Australian and EU public policy.

Contents

ACKNOWLEDGMENTS

Introduction – Borders, Labour and Mobility: Australia and the European Union Compared

Dr. Rémy Davison
Principal Chief Investigator, Jean Monnet PROCAM.
Department of Politics & International Relations, Monash University

Growth in the number of international migrants has remained consistent throughout the last two decades. By 2020, 281 million people were living outside their country of origin, in contrast with 173 million in 2000 and 221 million in 2010. International migrants represent about 3.6 per cent of the world's population currently.

However, UN agencies reported that, due to Covid-19, international migration growth slowed by 27%, or two million migrants in 2020. In the first half of 2020, as the Covid pandemic spread and states shut their borders, refugee resettlements globally fell 69% from 2019 levels, to just over 10,000, UN data showed.

In March 2020, the UNHCR and the IOM announced they would both suspend refugee resettlement travel for "as long it remains necessary." But this did not stop people flows. In August 2020, the UK government ordered its armed forces to assist in dealing with increase in the number of boats traversing the English Channel carrying migrants from France. In Greece, the government turned back thousands of migrants from Turkey. The EU also sought to stem refugee and migration inflows, paying billions of euro to African states to prevent people movements and border crossings.

Covid not only closed borders in 2020, it also created a food security crisis in many countries. Indeed, the Organization for Migration and the WPF both concluded that "no country had been spared", connecting global hunger with displacement. The WPF estimated that double the 2019 figure (270<>135 million) persons were acutely food insecure by the end of 2020. 2019 had been a record year.

Of total migrants entering Organisation for Economic Cooperation and Development (OECD) countries in 2017, almost 600,000 held permanent visas, while 4.9 million entered countries on temporary visas. Year-on-year, the rate of growth temporary migration growth to the OECD doubled. With temporary migration, the constant 'churn' of migrant workers is a structural component of international immigration.

Studies have also increasingly pointed to the partial exclusion of migrants from the formal economy and work rights. In Australia, the farm sector has been a particular focus of wage theft or inadequate protections for migrant workers. However, there are very few sectors in Australia or the European Union where this is not the case. Other core issues that arise, particularly within the gig economy, include the precarious nature of low-wage, low-skill work.

The short-term policy response to the Covid-19 pandemic in the OECD was to shut down major sectors of national economies and lock down employees, leaving temporary migrant workers were little or no access to schemes designed to support people who were no longer employed in Covid-affected industries, such as hospitality and tourism. Undocumented

workers were similarly affected. Avoidance of the formal economy frequently leads to exploitation, violence and crime against undocumented migrants. Studies of the EEA suggest that only a very small proportion of crimes committed against undocumented migrants are reported to authorities. Some reforms – such as in France, Italy, Portugal and Spain – grant undocumented migrants' children access to healthcare. However, this does not necessarily result in improved healthcare outcomes for children, due to potential deportation that may be imposed upon individuals or families. For example, in Germany, medical professionals are required by law to share information on undocumented patients with immigration authorities. The UK followed similar procedures prior to Brexit, but the government abolished this requirement more recently.

Consequently, many OECD temporary and undocumented workers were compelled to return to their countries of origin. This also produced major effects upon migration source countries, which experienced severe impacts in terms of economic welfare, unemployment and mobility restrictions, the aggregate of which compounded the 'Covid effect' upon national economies in developing countries, which also had a particular impact upon those countries with marginal access to vaccines when they became available.

The future of migrant mobility in the post-Covid era cannot be taken for granted, and this could have a substantial effect on both the types and breadth of formal transnational mobility regimes. Although Mode 4 of the WTO's General Agreement on Trade in Services (GATS) agreement allows for the movement of natural persons for the supply of services in another territory, GATS does not cover:

- natural persons seeking access to the employment market
- measures regarding citizenship, residence or employment on a permanent basis and Governments possess the autonomy to regulate entry and temporary stays.
- Mode 4 also excludes access to labour markets, citizenship, and permanent employment.
- Mode 4 covers only temporary entry and stay in a WTO member's territory to supply services.

An estimated 5.3 million undocumented workers were living in the EU in 2016, or approximately 1.0% of the EU-European Free Trade Association (EFTA) population. Undocumented workers tend to avoid usage of state or welfare services. Over two third of all the EU's undocumented workers in 2017 were living in Germany, the UK, Italy and France.

Perhaps surprisingly, the largest single source of undocumented migrants, by citizenship, to the EU-EFTA European Economic Area (EEA) came from the Asia-Pacific region, comprising 30% of the 2017 total. In Britain, this totalled a remarkable 52%, with undocumented Europeans comprising only 6.0% of the UK's total. Conversely, Europe was the largest source of undocumented migration to Germany, comprising 32% of the total.

In both the EEA and Germany, more than half of undocumented migrants had possessed short-stay authorization of less than 5 years and had over-stayed their visas or were asylum seekers awaiting case outcomes. Britain was again the outlier,

with 36% having held residence in the UK for 10 years or more.

EU and EFTA citizens have held contradictory, although consistent, views about undocumented migration. On the one hand, a majority of EU-EFTA citizens support the deportation of undocumented migrant workers. On the other hand, the majority also support the admission of refugees, although many refugees enter the European Economic Area unauthorized and undocumented and may claim asylum.

In Australia, the October 2022 federal budget increased the non-humanitarian permanent migrant intake to 200,000, an increase from its current level of 160,000. Australia's non-humanitarian migrant intake has previously never exceeded 190,000, with an additional 13,750 places set aside for humanitarian migration. The Albanese Government has also promised to speed up processing of 570,000 temporary visa applications that are currently awaiting approval. Consequently, Australia in 2023 will undertake its largest-ever intake of net overseas migrants, eclipsing the all-time record of 316,000 persons in 2008 under Kevin Rudd's government.

The collapse in immigration during the Covid pandemic is the main factor behind Australia's unemployment rate of 3.4%, a 48-year low. Australia transitioned from importing 180,000-plus workers every year via immigration pre-COVID to losing thousands of migrant workers throughout the pandemic. Had pre-Covid levels of immigration continued throughout the pandemic, there would be approximately 400,000 more workers in the Australian economy currently.

There are clear policy and practical benefits from carefully targeted immigration and humanitarian programmes. Immigration leads to diverse and vibrant communities and skilled, adaptive and efficient workforces that build and consolidate national and regional prosperity. Migration not only expands economies, but it also builds diaspora networks, encourages innovations and investment, and deepens networks of trade relationships globally. Both the EU and Australia compete for skilled migrants in a world of scarcity where knowledge-based economies are essential to international competitiveness in the global political economy of the 21st century.

At the Jean Monnet PROCAM conference, we discussed perspectives from Europe, Australia, and North America; from Asia, from Eurasia and New Zealand on migration, mobility and humanitarian assistance, and the significant policy challenges these issues present, even as numerous political parties throughout the OECD call for more protectionism, deglobalization and closed borders. We heard perspectives from practitioners, researchers and policy professionals who deal with these issues every day.

The topics in this policy brief include digitization of borders, refugee crossings of the Mediterranean Sea, the labour market impacts of Brexit, migration policy in Italy and Germany, the impact of the EU's Common Migration Policy, migrant workplace violations, intra-EU migration effects in Portugal, India and China's impact on global migration governance, Australia's engagement with the Asia-Pacific region through labour mobility policies, the impact of the Ukraine War, attitudes towards

migration in Switzerland, people inflows and border crossings in the Balkans – and many more topics.

The importance of perspectives on the ground cannot be understated. Civil society groups, such as the Red Cross and the Refugee Council in this brief give us practical insights into the significant challenges facing NGOs. This brief also provides practitioner perspectives from policymakers, from the EU Delegation to Australia; the EU Commission's Directorate-General for Migration and Home Affairs; as well as the Serbian experience as a destination and transit country; and the UK's post-Brexit immigration policy.

The PROCAM conference organizing committee were delighted to welcome such a diverse group to Melbourne and to Monash University. The organisers were proud of the conference programme that was assembled, and we encouraged all participants to seek out other presenters and to build dialogue and networks with them.

As this was a Jean Monnet conference, a little about Jean Monnet's career. Many readers would be aware of Monnet's role as one of the fathers of European integration. Most people would be less well aware that he was also the first Secretary-General of the League of Nations and a member of the last cabinet of the French Third Republic. I will conclude this introduction with two quotations from Monnet himself, which are very apposite to the topics we are about discuss.

"Build Union among people, not cooperation between states.

"Make people work together, show them that beyond their differences and geographical boundaries there lies a common interest."

And since Monnet was also from a cognac-making family – and this conference took place in Melbourne in the pouring rain – we recalled one of Monnet's famous aphorisms:

"The great thing about making cognac is that it teaches you – above everything else – to wait: The seasons have got to be on your side."

Opening Remarks to the Jean Monnet PROCAM international conference on Borders, Labour, Mobility: Australia and the European Union Compared

Mr. Fedja Zlobec
Head, Political, Press and Information Section, Delegation of the European Union to Australia

Thank you, Remy, for that kind introduction. It is indeed a pleasure to be here and to take part in what is a very timely and important topic.

My role as Deputy Head of the EU Delegation to Australia is not to be an expert on anything but to harness the expertise of others! So I very much look forward to hearing and learning from you.

So saying I would like to give you a short overview of the situation with regard to migration and labour mobility in the EU, that might serve as a platform for debate.

As has been the case for every country, the COVID pandemic has caused enormous upheaval in terms of migration, employment, economics, security and societal issues. RU invasion of Ukraine added another layer of stress and distress which has occupied the minds of EU and EU Member State officials at all levels and across all sectors.

The EU's migration policy is an area of shared competence with the EU Member States. There is an economic, political and security case for legal migration based primarily on basic humanity but also acknowledging the need to improve overall migration management and address labour market shortages and demographic trends. Freedom of movement is not only an individual right, but labour mobility also makes good economic sense. It contributes to the objectives of the Europe 2020 Strategy by making it easier to fill cyclical and structural labour shortages and offering people opportunities for upward economic and social mobility.

We know that legal migration has a positive impact all around: it gives those who want to migrate an opportunity to improve their lives, it provides skilled workers for host countries, it boosts the economy for all. Legal migration is essential to our economic recovery, the digital and the green transitions.

Firstly some facts: every year, between two and three million people come to the EU legally. This is at least ten times more than those coming irregularly. On 1 January 2021, almost 24 million nationals from non-EU countries were residing in the EU, representing more than 5% of the total population. The COVID-19 pandemic showed that as many as 13% of workers performing essential functions – from doctors to nurses to drivers – are migrants.

The latest developments show that mobility growth came to a halt during the pandemic. In 2020 13.5 million Europeans lived in another EU country, out of which about 10 million of working age.

The main EU country of destination for EU movers is Germany followed by Spain, Italy and France. Romania, Italy, Poland, Portugal, Croatia and Bulgaria were the most important countries of origin of

mobile workers in general and active mobile workers in particular.

The latest Annual Report on Intra-EU Labour Mobility shows that mobility is mostly not a lifetime-decision: more than half of the movers is 20-49 years old. Many of them return after having gained some years of professional experience abroad.

Following set-backs caused by Covid-19, the European labour market is overall returning to pre-pandemic levels: the EU labour market continues its recovery and requires new workers, in particular in sectors with structural shortages, such as in the tourism, hospitality, IT, health and logistics sectors.

The EU has an ageing and shrinking working population. By 2070, the size of the working-age population will decline from about 65% in 2019 to between 56% and 54% of the total EU population in the EU27. EU employers are facing shortages in as many as 28 professions employing 14% of the EU workforce in 2020.

Legal migration also has to accompany the EU's transition towards a green and digital economy, which requires specific skills and a restructuring of our economies and labour markets.

What are we doing now?
More safe channels to Europe mean less irregular migration. Labour migration not only has economic benefits, it also improves overall migration management as it helps strengthen our cooperation with countries of origin and transit, including with the aim to reduce irregular migration.

The New Pact on Migration and Asylum, presented by the Commission in 2020, proposed a comprehensive migration policy reform. Notably, the revised EU Blue Card Directive adopted in October 2021 will make the EU more attractive and accessible for highly skilled workers.

In this context, the Commission presented a legal migration package in April 2022: the Skills and Talent Package. This package proposed legal, operational and policy initiatives that will benefit the EU's economy, strengthen cooperation with non-EU countries and improve overall migration management in the long term. The set of proposals also includes specific actions to facilitate integration of those fleeing Russia's invasion of Ukraine into the EU's labour market;

As well, an EU Talent Pool will be developed to address the challenges of international recruitment, to help better match EU employers with the talents they need.

In order to address the current needs of displaced people from Ukraine, the Commission is also developing a pilot 'Talent Pool' as a first step. The idea behind this initiative is that it could help map, in a simplified manner, the skills of beneficiaries of temporary protection and support better and quicker access to employment in the EU. It would feed into the development of the broader Talent Pool. Both will be addressed in the Skills and Talent package.

To mitigate the risk of brain drain and to foster mutual relations in line with the comprehensive approach to migration, the Commission is working towards the launch of a number of tailor-made Talent Partnerships with specific key partner countries, following a high-level conference in June 2021.

Further consultations with EU Member States and key partner countries (Morocco, Tunisia and Egypt as a first step, possibly followed by Nigeria, Senegal, Pakistan and Bangladesh) will take place in the weeks and months ahead in order to finalise the concept and begin operationalising it. Concrete actions would follow on a rolling basis, and gradually increase in scope and size.

This gradual roll-out will draw on the lessons learned from existing labour and student mobility pilot projects with countries in the EU's neighbourhood. Our goal is to scale up the pilot projects into fully-fledged Talent Partnerships and build capacities that can facilitate many more mobilities over the long term.

Moreover, to increase the EU attractiveness in terms of skills and talent needed by the EU economy, and to make sure that third-country workers come to the EU, and move within the EU, legally, targeted revisions of the existing legal framework are needed.

A revision of the Long-Term Residents Directive has been proposed as part of the Package, to improve the rights and mobility within the EU of migrants who are already well integrated into our societies.

Additionally, a revision of the Single Permit Directive has been proposed in order to simplify the single application procedure for the admission of all third-country workers and to better protect third-country workers from the risk of exploitation.

Whilst seeking to address these challenges we also need to reflect on how to continue to improve the potential avenues for legal migration in the medium to longer term,

responding to evolving socio-economic needs and challenges. The Commission sees the potential for focusing forward-looking policies around three areas of action: care, youth and innovation.

Ukraine

The EU is also providing substantial support to help people fleeing war in Ukraine, as well as the EU countries receiving them. In the face of Russia's unprovoked and unjustified military invasion of Ukraine, European solidarity in action is helping people through direct humanitarian aid, emergency civil protection assistance, support at the border, as well as a clear legal status allowing those fleeing the war to receive immediate protection in the EU.

In record time the EU unanimously agreed to activate the Temporary Protection Directive to bring clarity and security to people in need, offering rights to welfare support, access to the job market and education. The Temporary Protection Directive provides that the people fleeing the war in Ukraine have access to the labour market.

In its Communication on welcoming people fleeing the war in Ukraine of 23 March, the Commission called on Member States to interpret this right in the broadest possible way, and to also grant labour market access to beneficiaries of protection under national law.

It also announces a number of measures that will be taken to help support them in their efforts, including the pilot EU Talent Pool.

To conclude: the free movement of workers is a cornerstone of the EU's Single Market

and a fundamental pillar of European integration. One of the lessons we have learnt from the pandemic is that labour mobility is very fragile and that we have to protect and strengthen it. EU legislation is constantly adapting to the new realities to ensure that workers fully benefit from their rights and businesses can thrive on a level playing field, without fear of social dumping or unfair competition.

The European Labour Authority, which commenced its work in 2019, was created to help Member States and the European Commission to ensure that EU rules on labour mobility and social security coordination are enforced in a fair, simple and effective way. ELA also has an important role to play in facilitating and ensuring effective labour mobility in Europe, in particular through activities of the European Employment Services (EURES).

I hope that the above has been of interest to you. Certainly it is true that, like Australia, migration has always been a fact for Europe and always will be. We know all the positives: it not only brings new talent, but it also enriches our societies.

Keynote: Employer Associations and the Political Economy of Immigration Policy: Lobbying and Growth. Model Considerations in the UK and Germany

Professor Georg Menz
Old Dominion University, Norfolk, VA, USA

Existing accounts of business power explore the politics of lobbying, political influence and shaping policy outcomes regarding immigration policy. One fruitful avenue of scholarly inquiry (Menz 2009, 2011; Devitt 2011, Afonso and Devitt 2016) has probed the role of organized business in shaping immigration policy in Europe. The general trend over the course of the past 20 years has been one of liberalization and a rediscovery of economic migration after its abandonment in the early 1970s. However, while all countries in Europe have shifted towards a more liberal stance, there are important differences in degree, and these can in part be accounted for by the political activities of employers.

However, this line of reasoning was in the past only applied to employment-related forms of migration, which do not constitute a major legal migration channel in quantitative terms in Europe. Historically, employers did not pronounce themselves on the issue of asylum and other forms of legal migration, which they did not consider relevant for their purposes and consider potentially too politically contested to engage with. Does this characterization of the status quo still hold true today, however, given just how quantitatively significant these channels have become and how modest legal employment-related immigration figures to Europe continue to be? If not, what position does business take on the issue and what might determine its stance?

The considerable amount of legislative activity notwithstanding, for instance, in the form of the EU's so-called "Blue Card" Directive for highly skilled immigrants or national attempts to design immigration channels for elite labor migrants, European governments have struggled to attract these migrants. Whatever the rhetoric about soliciting the "best and the brightest" might suggest, in practice, skilled immigrants seem to prefer Australia and Canada. In practice, most immigrants arriving in Europe are asylum seekers, refugees, and beneficiaries of family-related migration.

Employers are not oblivious to this empirical reality and are starting to re-calibrate their political advocacy strategies accordingly. Since immigrants arriving via other legal channels will turn into denizens (and eventually possibly citizens) as well, it is sensible to attempt to shape the policy to the extent it can help with employability and human resource needs. This paper proposes that existing accounts regarding the position of employers can and should be extended to cover non-economic forms of migration. Driven by economic considerations, concerns over alleged labor shortages, the composition of migration flows and recognition of the limits to actively solicited labor migration, European employers now also take a stance on issues such as asylum, family reunion migration and welfare benefits for migrants. For instance, employers are taking an active interest in the employment rights of asylum seekers, including during the initial application process. This is not an issue that has historically been considered of interest

or relevance, but the high numbers of asylum seekers have led to changes in considering these immigrants as potential employees filling slots in the labor market and acting accordingly. Notwithstanding the highly politicized nature of these issues, employers find it in their interest to take a clear position, elaborate it and lobby policymakers accordingly.

Drawing on evidence from the UK and Germany, one can test the chief hypothesis according to which the associations calibrate their lobbying strategy in line with their perceived human resource needs. More specifically, these needs are conditioned by broader considerations of employability. The paper links the new so-called Kaleckian "growth model" approach (Baccaro and Pontusson 2016) in comparative political economy to migration studies, which is a truly novel conceptual enterprise and has not been carried out previously. In a 'consumption-oriented' growth model, such as the British example, immigration policy can afford to pay less attention to skill levels in general and indeed sector-specific skills.

In contrast, in an export-oriented growth model, such as the German one, employability requires more skilled immigrants, ideally with sector-specific vocational skills. Part of these considerations are driven by above average unemployment levels among immigrants in both countries, which reflect the problems with mismatch between labor market needs and the qualification profile of some migrants. The claim that will be tested is that British employers assume a more liberal stance because migrants of various skill levels can be accommodated in the British political economy, whereas German employers will prefer a more restrictive stance to avoid attracting immigrants who are less skilled and employable. Empirically, the paper draws on elite interviews, position papers, and journalistic coverage of political lobbying in the two countries selected as case studies.

A case can be made for a growth model approach that demonstrates how this approach can be brought into fruitful dialogue with the study of immigration policy. While past endeavors have linked the varieties of capitalism literature with immigration, this is a genuinely new and promising endeavor. The New Keynesian 'growth model' approach (Pontusson & Baccaro 2020) draws renewed attention to the demand side of the economy. Human resource considerations, including immigration policy design, could certainly be part of such demand side management, especially in light of relatively low birth rates and unfavorable ratios between pensioners and active members of the labor force. Much of the political science literature on immigration is very state-centric, and while the state remains the ultimate guardian of policy, policy is not, of course, created in a vacuum and is shaped not merely by party politics and different ideological strands, but also by non-state actors such as interest groups.

How immigration policy can help solve Australia's underpayment of migrant workers[1]

Associate Professor Anna Boucher
University of Sydney

Focusing on both employment law and how we design visas could help address the systemic underpayment of migrant workers.

In Australia, in recent years, there has been concern over workplace exploitation of migrant workers. Originating from the 7-Eleven Inquiry that found a large company-wide scam where workers were required to repay sections of their wages back to their employer following payment, thereby circumventing minimum award wages, these concerns led to a series of public inquiries, including most notably one led by Allan Fels and David Cousins, known as the Migrant Worker Taskforce. Some of this taskforce's recommendations have been implemented to penalise non-compliant employers. Others are still in train and may take on fresh directions under a new Labor government, with a historically different approach to workplace enforcement and employment law than the Liberal-National Coalition.

One key characteristic of this policy area is, however, bipartisan: most policy recommendations and legal changes to date in Australia focus on domestic

employment law and punishment of non-compliant employers, rather than changes to Australian immigration law and policy. Changes in immigration law to effect changes to migrant worker exploitation have been largely superficial or have focused on key visas rather than the entire immigration program, such as rebadging the 457 visa as the Temporary Skill Shortage (TSS) visa. This change did not really remedy some of the main concerns with the prior visa, but did give it a new name, thereby addressing the reputational damage that the old name represented.

…immigration programs can be designed to minimise workplace exploitation and to increase adherence to workplace rights.

Yet, there are good reasons to believe that any exploitative behaviour on the part of employers could be countered with changes or improvements to both employment and immigration settings. Experts on regulation argue that visa design matters for the capacity of workers to craft convincing legal arguments in their favour when bringing workplace disputes. Good regulatory design might make a difference to the rights of working migrants. Even small regulatory changes could potentially have an impact on outcomes. On this basis, scholars such as Manolo Abella and Graeme Hugo have included visa design in their criteria for evaluating best practices for temporary migration schemes. In other words, immigration programs can be designed to minimise workplace exploitation and to increase adherence to workplace rights.

My most recent book, Patterns of Exploitation, demonstrates that temporary migrant workers are disproportionately overrepresented in court and tribunal cases

brought by migrant workers. This analysis encompasses 907 court and tribunal cases brought by 1,912 migrant workers in Australia, Canada, the UK and the US.

The overrepresentation of temporary migrant works remains true even factoring in their overall much higher representation within immigration flows than other categories, such as permanent skilled migrants ("work"), spouses ("family"), international students ("students") or refugees ("humanitarian migrants").

Table 1 below highlights the rates of temporary migrant workers bringing court cases between 2006 and 2016 as a percentage of:

- The total population of migrants bringing cases over a ten-year period ("M")
- The general migrant population ("P")

General population draws from a variety of immigration statistics from each jurisdiction. Tourists are included because contrary to popular perception, they do at times work, without work permits.

Temporary migrant workers are disproportionately overrepresented as litigants in claims enforcing workplace rights violations, irrespective of regulatory differences between countries in industrial and employment laws and how they are enforced.

…it is predominantly temporary visa status—rather than the details of those temporary visas—that appears to drive this outcome in terms of reported instances of workplace violations.

California, Australia and Canada have very different employment law systems, yet in

all, temporary migrant workers are heavily overrepresented as claim-bringers. The United Kingdom is the clear outlier here, however. This probably has more to do with [poor immigration data](#) in the UK historically and its strong reliance on migration from EU countries (categorised as 'other') to fill temporary skill shortages (prior to Brexit), rather than reflecting rates of litigation among temporary migrant workers.

Engagement in the labour market does not appear, by itself, to explain this dissonance across major visa types. Although permanent migrant workers are also employed at high rates and are overrepresented within the database of litigants in Australia (at 15 per cent), they are not overrepresented to the same extent as is the case for temporary migrant workers.

This finding is important because it suggests that it is predominately temporary visa status—rather than the details of those temporary visas—that appears to drive this outcome in terms of reported instances of workplace violations. Being in Australia temporarily on a TSS compared with a Working Holiday Visa, for instance, does not appear to contribute to higher rates of litigated complaints among these migrants—the temporary status overall is the central factor.

Similarly, work visas differ substantially in their design in all four countries yet, outside of the UK which suffers, as noted, from problematic immigration data historically, temporary migrant workers as a broad category are overrepresented in those migrants bringing workplace complaints. In short, focusing alone or predominately on employment law will probably not provide

the full solution to tackling the issue of the labour market exploitation of migrants.

This leads to a central policy recommendation for immigration policymakers: if visa design does influence workers' propensity to bring violation complaints and, in some instances, to succeed as complainants, it is at the very aggregate level of visa design, namely whether the visa is temporary or permanent, rather than the level of fine regulatory detail.

Small features of visa design do not appear, at least on the available evidence, to make a substantial difference to complaint rates. This may not be surprising as a shared component of temporary visa design is dependency—either on an employer, a sponsor, or certain visa conditions, for ongoing legal immigration status.

From a policy perspective, the core issue therefore appears to be the number of temporary work visas permitted within an overall immigration program compared with permanent migrants and whether the visas permit portability and pathways to permanent status, rather than the minute detail of sub-visa design.

As such, a second policy recommendation is that in consulting around and designing the federal Budget, the levels of permanent and temporary migrant admissions be considered collectively rather than a focus alone on permanent levels. This potentially would also provide the general public with a more detailed understanding of the immigration program and the interaction between temporary and permanent streams. This has likely implications for other areas of policy analysis, such as

domestic and migrant worker unemployment.

In short, focusing alone or predominantly on employment law will probably not provide the full solution to tackling the issue of the labour market exploitation of migrants. With a new federal government, the time is ripe to bring immigration policy design squarely back into the discussion of workplace conditions of migrant workers.

Table 1

	Australia		Canada		UK		USA (California)	
	M*	P	M	P	M	P	M	P
Family	1%	1%	0%	0.4%	1%	0.1%	0%	1%
Humanitarian	1%	0%	2%	0.2%	3%	0.0%	0%	0.2%
Other	10%	0%	15%	0.0%	13%	0.4%	7%	0.1%
Student	6%	2%	1%	0.4%	5%	1%	1%	1%
Temporary worker	55%	5%	68%	1%	10%	1%	67%	1%
Tourist	2%	90%	0%	97%	1%	97%	0%	93%
Unavailable	9%		13%	0%	54%	0%	21%	-
Undocumented	1%	1%	1%	1%	2%	2%	4%	4%
Work	15%	1%	0%	0.4%	11%	0%	1%	0.1%
Total	949	76,666,827	488	153,973,270	144	355,925,214	331	525,554,757

*M = Migrant Worker Rights Database.
P = General population draw from a variety of immigration statistics from each jurisdiction.
Tourists are included because contrary to popular perception, they do at times work, without work permits.

Building Australia-Pacific engagement through labour mobility and migration

Melissa Conley Tyler
Executive Director, Asia-Pacific Development, Diplomacy & Defence Dialogue (AP4D)
and Melbourne Asia Institute

Geopolitics has brought the Pacific to the forefront of Australia's foreign policy debate. However, viewing the region solely through the lens of geopolitical competition is detrimental. The Pacific will always be of great strategic significance for Australia. This means that Australia's interest in the region, and the attention it pays to it, should remain clear, consistent and coherent, irrespective of whether there are crises or not. A short-term and transactional approach would be counterproductive.

Australia's vision should be of a long-term, generational relationship based on mutuality, respect and shared leadership. As an integral and invested part the Pacific neighbourhood, Australia needs to support the region's priorities and interests. By contributing to building stronger, resilient and prosperous societies, Australia is investing in a more secure and stable immediate neighbourhood that will reap mutual benefits. Given its scale in the region, Australia can have a positive impact on the trajectory of Pacific economies and societies far into the future. To build a mutually beneficial partnership Australia should use all tools of statecraft when engaging with the region, ensuring sufficient investment across development, diplomacy and defence, and effective coordination of each in support of common strategic objectives. One of the key tools Australia can use to achieve this vision is labour mobility and migration.

Labour Mobility and Migration
There is a massive need for employment opportunities in the Pacific to manage domestic pressures. For example, the "youth bulge" in the Pacific is an opportunity for Australia and Pacific Island countries to come together to address challenges associated with livelihood opportunities.

Australia's current labour mobility program is perceived as conditional and one-sided and there is evidence of exploitation by some employers. More broadly, the difficulty of access to Australia – for example for short-term visits – is seen as unequal and demeaning in that Australia does not reciprocate the familial relationship it continues to advocate for across the region.

A more flexible border creates a relationship on a more equal footing, with a positive ethos of Pacific people working and living in Australia and Australian people living and working in the Pacific.

There are at three areas for increased focus:

(i) Improvements to Labour Mobility
Furthering improvements to labour mobility can be a focus of shared engagement and activity to improve existing programs to form the basis of a long-term economic relationship. This includes addressing the flaws in the current schemes, expanding the labour market to create new opportunities for Pacific islanders and spreading its income generating potential further. Fulfilling the potential of labour mobility schemes serves Australia's economic and

national interests, plays into the kind of strategic partnership that Australia should have with the region, and builds critical people-to-people connectedness. A skills visa approach is the most promising economically, in terms of drawing the link between Australia's need for workers, and the fact that the Pacific is well placed to provide this.

(ii) Permanent Migration

Concerns have meant that Australia's Pacific labour mobility programs have lacked pathways for permanent migration, which is a missed opportunity for enhancing an alternate development strategy. It has been estimated that opportunities could generate an additional net income of about US$13 billion for about 240,000 permanent migrants by 2040, generating benefits for both the labour-receiving and labour-sending countries as well as for the migrants themselves (World Bank, Pacific Possible, 2017). A more open labour market also increases benefits to the region, and a more flexible border creates a relationship on a more equal footing. The Pacific region is no longer viewed through a development lens, with less dependence, and more partnership.

(iii) Climate Migration

Australia needs to prepare for the future in its migration policies, tackling the problem of climate mobility as a serious issue given the need for people movement to major economies and within the region. Safe migration pathways need to be discussed and a new regional convention of refugees may be needed. Australian leaders should plan for the need to prepare the domestic population for an influx of people from the Pacific. There is a deep concern among Pacific Island countries about migration as

form of adaptation. Relocating is not the best or preferred option, especially given the cultural ties of Pacific peoples to their homelands. Migration as a form of adaptation also shifts the responsibility of adaptation away from carbon emitters to individuals and families.

(iv) The Albanese Government

The current focus of the new government in the migration space is on labour mobility and pathways to permanent migration. Minister for Foreign Affairs Wong's first speech in the Pacific focused on labour mobility and on pathways to permanency, as set out in the ALP's election policy, promising that: "We will ensure that those Pacific Islanders who come to work in Australia are treated fairly – with better conditions. We will allow workers to bring their families. And we will create the pacific engagement visa – to provide a pathway to permanency for 3,000 members of our Pacific family per year." In media appearances in Fiji, Samoa, Tonga and Solomon Islands she reiterated these messages on longer-term stays, on the ability to bring family and on pathways to permanency.

Australian Prime Minister Anthony Albanese in his visit to the region focused on the Pacific Australian Labour Mobility scheme and new pathways to permanent residency, speaking warmly about the election commitment to create pathways "to make people from the Pacific permanent Australian Citizens… to give people more security."

At some point, discussion around migration may need to look at longer term issues, but at present the focus is on using migration to provide economic benefits in terms of skills

and remittances and to contribute to the longer-term aim of building a sense of Pacific family.

The EU shadow economy and off-shore labour

Dr. Rémy Davison
Principal Chief Investigator, Jean Monnet PROCAM.
Jean Monnet Chair in Politics and Economics, Department of Politics & International Relations
Monash University.

John Urry (2015) argues, "offshoring and democracy are in direct conflict." The distinction between the national and global is blurred by the systematisation of interdependent production and services networks. Thus, the networked society is based not only trans-border trade in material products, but also information flows. The technological revolution of networked societies is found in the interlinking and integration of globally-dispersed labour forces and markets. As Castells (1996) describes it, the "basic unit of economic organization is now the network, which adapts to market structures."

Offshoring externalises costs and consolidates a new international division of labor. A key objective of offshoring to developing countries is to avoid democratic regulation, as well as statutory oversight and scrutiny. In the post-Covid and post-Brexit environment, the EU services market is likely to be increasingly affected by increased offshoring. Covid has compelled EU countries to restructure their approach to offshoring, outsourcing and reshoring. Political and logistical imperatives, due to global supply chain issues, are also forcing member countries to reshore some manufacturing.

Some of the literature shows that types of employment or wages can be affected by offshoring. Most literature does not assess the 'causality effect' of off-shoring. Jobs lost in some sectors may not see corresponding gains in others, leading to net job losses. Financial data since 2016 indicates EU FDIs have increased substantially in offshored services. This paper examines how firms have sought successfully to circumvent democratic regulation through offshoring.

Offshoring and virtual migration (VM) have implications for good governance as they can reduce transparency, including the exploitation of complex ownership structures and relationships among different jurisdictions involved.
Some links exist between strategic offshoring decisions and particular offshoring advantages (Mykhaylenko et al, 2015: 279).

In peripheral economies, offshoring is constituted as a state-supported 'grey zone', in which few official regulations apply, providing an oasis in which labour, social, environmental standards and strict fiscal policies are not observed.
Does virtual migration not only represent a new international division of labour, but also the global networking of labour? Networked labour is now more integrated than at any previous stage of economic development.

The key question these points raise is whether there an inverse relationship between regulation and incentives for firms to near-shore or offshore. Urry argues , "They [offshoring worlds] are dynamic, reorganizing economic, social, political and material relations between and within societies, as populations and states find

that resources, practices, people and monies can be made or kept secret and that vast advantages thereby accrue. Interests develop seeking to strengthen the institutional machinery that makes possible offshored worlds. " (Urry, 2014: 10)

As Castells (1996: 214) describes it, the "basic unit of economic organization" is now the network, which adapts to market structures. The distinction between the national and global is blurred by the systematisation of interdependent production and services networks. Thus, the networked society is based not only trans-border trade in material products, but also information flows. The technological revolution of networked societies is found in the interlinking and integration of globally-dispersed labour forces and markets.

Consequently, we begin to observe not only virtual migration, but also virtual integration of markets, but with a lack of democratic oversight and regulation of peripheral markets. Real-time transnational labour integration is made possible by networked continents, which is vastly more cost-effective and efficient than the relocation of workers across borders to sites of labour demand.

Data for the global market size for outsourced services from 1999-2020 demonstrates the rapid expansion of offshore services. In 2014–15, the market exceeded $US100 billion, although it receded in succeeding years. However, due to the non-contractual nature of many services (e.g., Indian IT 'body shopping'), the data is unlikely to capture fully the size and scope of shadow markets.

Revenues for the global outsourced services industry have been uneven over the last few years. In 2016, market size fell to $US76.9 billion, the lowest figure in a decade. The largest share of revenue for offshored services came from the Americas, followed by Europe, the Middle East and Africa. A much smaller share of global revenue came from the Asia-Pacific region.

Outsourcing involves the contracting out of business processes to third parties, usually in order for the business to avoid certain costs, such as taxes. In 2019, business process outsourcing (BPO) contributed a much smaller proportion of the industry's global revenue than information technology outsourcing, generating $US26 billion and $US66.5 billion, respectively.

Other outsourcing service industry sectors include business services, energy, healthcare and pharmaceuticals, retail, travel and transport, and telecoms and media. In 2016, the leading driver for using outsourcing services, according to business executives, was to cut costs. Business offshoring incentives included allowing firms to focus on their core business and solving capacity issues. Thus, firms have moved rapidly in the internet age to abandon the residue of vertical integration and horizontally-structured supply chains, while services 'trade in tasks' are increasingly the norm. Covid-19 had a clear impact upon offshoring contract values in 2020–21. However, impact is diffuse; for example, offshore cloud computing and medical equipment saw gains.

The 'shadow economy effect'
Where there is little regulation – i.e., the shadow economy – this encourages migration to western core countries, where

peripheral workers (i.e., EU and non-EU CEECs) are compelled to accept non-unionised, unregulated shadow economy jobs. This derogates further further from democratic regulation and increasingly lowers labour standards – not only in core countries, but also in near-shore and off-shore peripheries.

In other words, if on-shore labour costs are sufficiently low, near-shore and off-shore labour markets must compete in a 'race to the bottom' in order to maintain competitiveness. Moreover, organized labour faces depleted bargaining power in the face of near-shoring and off-shoring. In addition, both formal and informal labour confront the issue of 'social dumping': "the practice whereby workers are given pay and/or working and living conditions, which are sub-standard compared to those specified by law or collective agreements in the relevant labour market."[2]

In this context, as Żuk & Żuk (2017) note, "In the host countries, migrant workers' temporary employment contracts often proscribe the exercise of industrial and civil rights, and undocumented migrant workers, whose continuing residence and employment status is 'illegal', are dependent on the whim of employers and the state in policing migration laws."

The EU shadow economy
The EU economy also has a substantial shadow economy. For 2018, Schneider estimated its size at €2 trillion, or €1.8 trillion excluding Britain. In Germany, the number of full-time equivalent shadow

economy workers was about 7 million in 1995. This had increased to 8.2 million by 2009. There were around one million illegal foreign-born full-time equivalent workers throughout this period (1995–2009) (Schneider & Williams, 2013: 76–77). In the UK, the shadow economy was estimated at 11% of GDP in 2009, and almost 9% in 2014. In 2013, the IEA estimated the UK shadow economy at £150 billion, or 10% of GDP. Kelmanson et al (2019: 1) argue that, "In the emerging European economies, the key determinants of shadow economy size are regulatory quality, government effectiveness, and human capital."

Offshoring and the EU shadow economy
Labour market regulation, migration worker policy, offshoring and the shadow economy have become integral and central to firms' strategic decision-making in the EU Single Market. For example, Capolupo & Ferri's (2007) study of Italian firms preferences and performance found that:

The larger the firm → the higher the propensity to offshore.

Offshoring → increases innovation effects (R&D or sales growth; increases in employees' skill composition). Despite workers' skills increases, this still resulted in wage decreases short-term, as a result of competition from low-wage off-shore workers.

Although a total firm profitability (TFP) effect could not be detected as a direct consequence of off-shoring, data shows that:

---

[2] EU Commission, Migration & Home Affairs, 'Social dumping'. https://ec.europa.eu/home-affairs/pages/glossary/social-dumping_en

Figure 1
French IT firm: onshoring v. nearshoring v. offshoring

A location portfolio buffers the effects of structural volatility . . .

Potential IT services center locations, number of employees, and IT specialist annual wage[1]

France
Lille
Paris
100
$40,000

Romania
Iași
300
$25,000

Egypt
Cairo
300
$20,000

India
Bangalore
1,300
$20,000
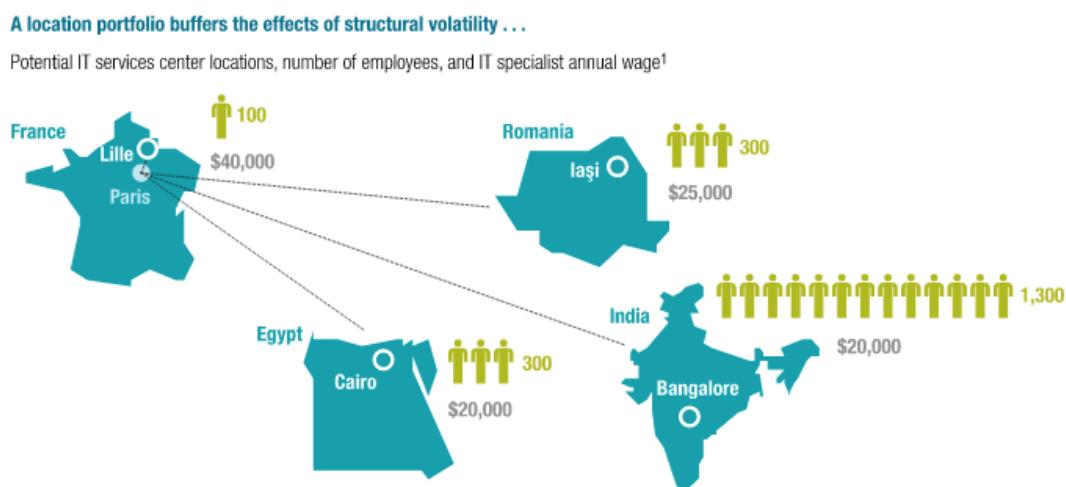
Table 1
Pay rates of IT workers, 2019 ($US/hour)

The table below shows average rates in a number of professions, according to PayScale and Glassdoor. Note that information about Argentina is limited.

	India	Ukraine	Poland	Argentina
Sr. Software Engineer	$8	$25	$25	$7
Web Developer	$4	$19	$10	$2
Sr. QA	$8	$16	$20	$8
Business Analyst	$10	$16	$19	$5
Graphic Designer	$4	$8	$8	$10

Source: Assembled from data from Glassdoor (2019) and Payscale (2019).

- Proximity to shadow markets (on- or off-shore) reduces firms' likelihood of offshoring.
- The shadow economy also has a negative and significant effect on TFP and R&D investment.
- By seeking to merely cut costs by utilsing the shadow economy, firms have a reduced incentive to innovate, thus affecting TFP.

EU labour market regulation

The EU can and does regulate offshoring, in certain instances, albeit only as addenda to existing EU regulations. For example, the EU GDPR (General Data Protection Regulation, 2016) means EU firms and governments must comply with the data privacy legislation, and ensure that offshored data services are in compliance with the EU.

However, the EU does not afford regulatory protection to offshore workers, except those who are employed in the EU. This issue has virtually disappeared since Brexit, as Britain employed 25,000 of the EU's 30,000 offshore workers. Directive 2003/88/EC outlines the rights offshore employees working in the EU are entitled to, alongside national labour regimes that may include additional rights, but they cannot derogate from extant EU rights for offshore workers. Derogations are possible, but were utilised mainly by the UK.

Directive 1992/91/EEC, Directive 1992/104/EEC and Directive 2003/88/EC, protect workers in extractive industries, both on-shore and

offshore (for example, mining; oil rigs; or minimum health standards for workers in off-shore fishing industries). But this does not extend to outsourced, offshored extractive industries.

Thus, EU legislation does not have extra-territorial applicability in this instance and removes duties of care and obligations from EU firms. The only exception to this is in Directive 2003/88/EC, which rules that EU firms cannot conclude contracts in other jurisdictions that deprive or reduce the rights a worker receives under the laws of that country. Contracts must be governed by the laws of that country.

The EU has implemented international banking regulation, anti-money laundering policy and countered terrorist financing in accordance with the regulations established by the G7's Financial Action Task Force since 1990 (Davison 2007). Within these frameworks, the EU has successfully exported governance aspects of the Single Market (SM) to foreign jurisdictions (Davison 2021).

As Bradford (2012: 3) notes, this has externalised EU law and regulations well beyond the territorial confines of the SM. Thus, the 'Brussels effect' is market-driven, as the EU deploys its market power both to harmonise the regulations of its trade partners, as well to advance its own sectional interests through the protection of EU firms and their intellectual property. A key example is the EU's insistence upon the implementation of its geographical indications (GI) regime.

The French model: regulation lite

The French government was the first in the world to include a corporate duty of vigilance in its 2017 Law of Vigilance governing the parent and outsourcing companies (Law No. 2017-399 of 27 March, 2017). The Law covers civil liability of subsidiaries, suppliers and contractors, with its remittance including environmental damage. However, it applies only to firms domiciled in France and there is no EU equivalent.

As Savourey & Brabant (2021: 152) note, there are major burdens that apply to claimants under the Law. "The more remote in the supply chain the damage, the harder it may be for the claimant to prove that the damage has occurred as a result of a breach of the Vigilance Obligations and that there is causal link between such breach and the damage. This proof may be even more complex as it will not be possible to infer from a damage that there has been a breach of the Vigilance Obligations."

The Law is currently being tested in a lawsuit brought by climate change activists against Total (and its CNOOC partner) for its East African Crude Oil Pipeline (EACOP) project in Uganda and Tanzania, for alleged human rights and climate risks the project poses. Currently, neither Total, nor Ugandan and Tanzanian regional governments have succeeded in securing loans to finance the pipeline from European Export Credit Agencies (ECAs) from France, the UK, Germany and Italy. Both President Macron and the French Environment minister ruled out any public financing for the pipeline. The Dutch investment company, Actiam,

also released a statement noting it had divested entirely from Total, in accordance with its own corporate social responsibility charter. Additionally, the world's largest re-insurer, Munich R.E., together with major Hanover R.E. and Swiss insurers, have made public commitments to refrain from insuring the pipeline.

Conclusions

State and regional governments have built political and market structures that posit both internal and external territorial spaces (Baldacchino, 2010), incorporating near-shoring, offshoring, virtual migration, on- and off-shore shadow economies, a virtual vaccum of off-shore or subcontracted workers rights, and little no monitoring or reporting mechanisms. This has created significant ungovernability issues for the EU and its member states' regulatory regimes in offshore locations, and creates perverse incentives for the further avoidance of democratic regulation.

References:
Benstead, A., Stevenson, M. & Hendry, L. 2017. Why and how do firms reshore? A contingency-based conceptual framework. Operations Management Research, (2017) vol. 10, pp. 85–103.
Bradford, A 2012. The Brussels Effect, Northwestern University Law Review, vol. 107 no. 1, pp. 1-67.
Castells, M. 1996. The rise of the network society. Oxford: Blackwell Publishers.
Commission of the EU. 2016. Regulation (EU) 2016/679 of the European Parliament and of the Council. Brussels: EU Commission.
Davison, R. 2007. 'Soft law' regimes and European organisations' fight against terrorist financing and money laundering in L.T. Holmes (ed) Terrorism, Organised Crime and Corruption:

Networks and Linkages. Cheltenham: Edward Elgar, pp. 61–85.

Davison, R. 2021. Aggressive Trilateralism? The Complexification of Australia's EU and UK Free Trade Agreements in S. Alomes, R. Mezyk & S. Park (eds) The European Union: New Leadership and New Agendas, Cleveland: Connor Court.

Hogrefe, J. & Wrona, J. 2014. Trade, tasks, and training: The effect of offshoring on individual skill upgrading. Trade, tasks, and training: The effect of offshoring on individual skill upgrading, DICE Discussion Paper, No. 148, Heinrich Heine University Düsseldorf, Düsseldorf Institute for Competition Economics (DICE).

Joubioux, C. & Vanpoucke, E. 2016. Towards right-shoring: a framework for off-and re-shoring decision making. Operations Management Research, vol. 9, issue 3, no. 7, pp. 117-132.

Kelmanson, B., Kirabaeva, K., Medina, L., Mircheva, B. & Weiss, J. 2019. Explaining the Shadow Economy in Europe: Size, Causes and Policy Options. IMF Working Paper WP/19/278.

Nakajima, C. 2004. Politics: offshore centres, transparency and integrity: the case of the UK territories, in D. Masciandaro, M. Fratianni, J. Kirton, & P. Savona (eds) Global Financial Crime : Terrorism, Money Laundering and Offshore Centres, London: Routledge.

Mykhaylenko, A., Motika, A., Vejrum Waehrens, B. & Slepniov, D. 2015. Accessing offshoring advantages: what and how to offshore. Strategic Outsourcing: An International Journal, Vol. 8 No. 2/3, pp. 262–283

Pollman, E. 2019. Tech, Regulatory Arbitrage, and Limits. European Business Organization Law Review (2019) vol. 20, pp. 567–590.

Schneider, F. & Williams, C. 2013. The Shadow Economy, London: Institute for Economic Affairs.

Savourey, E. & Brabant, S. 2021. The French Law on the Duty of Vigilance: Theoretical and Practical Challenges Since its Adoption. Business and Human Rights Journal, vol. 6, pp. 141–152.

Urry, J 2014. Offshoring. Cambridge: Polity Press.

Zuk, P. & Zuk, P. 2017. Offshoring, labour migration and neo-liberalisation: nationalist responses and alternatives in Eastern Europe. The Economic and Labour Relations Review vol. 29(1), pp. 97–117.

The Outcomes of Border Digitisation in the EU and Australia

Dr. Louis Everuss
Jean Monnet Centre of Excellence, University of South Australia

The borders of sovereign states are increasingly being managed by assemblages containing sophisticated digital technologies. From smart gates to algorithmic risk assessment, governments are investing in modern bordering tech in order to increase the efficiency and security of their sovereign borders. However, the social and political outcomes of border digitisation are complicated and in need of urgent scholarly inquiry.

Digitization and sovereign borders

The digitisation of sovereign borders is not, I suggest, the digitisation of a static and legally defined boundary, but instead the digitisation of a process. This process is bordering: the act of defining who is part of a political community, and inherently also, who exists outside it. It is a process Giorgio Agamben describes as the sovereign exception, and which Mark Salter sees as performed when border guards assess travellers. Furthermore, Nira Yuval-Davis points out that bordering is now an everyday activity conducted by ordinary citizens co-opted into the role of the border guard, such landlords asked to check tenants' migration papers.

Like bordering, digitisation is also a process, namely the integration of digital technologies and data into social, political and economic interactions. Digitisation is broader than any one technology, even that of AI, because as Genevieve Bell and other cybernetics scholars outline, digital technologies are comprised of cyber-physical systems. However, researchers on 'smart borders' including Holger Pötzsch identify three key transitions that underpin border digitisation: 1) the increasing use of biometrics, digitally coded measurements of behavioural and physical characteristics; 2) a reliance on widespread societal dataveillance, the mining and algorithmic analysis of everyday user data, and 3) the automation of algorithmic data analysis and the visible bordering actions, such as visa decisions arriving by email and smart gates opening.

Border digitization in the EU

These processes sit at the heart of a growing collection of bordering systems deployed across Europe and in Australia. For example, between 2016-2019 the now infamous iBorderCtrl system was tested in Hungary, Latvia, and Greece. iBorderCtrl made travellers answer questions posed by a virtual avatar. Travellers were recorded and their facial expressions assessed for 'biomarkers of deceit', the presence of which impacted the questions and demeaner of the avatar, which got sterner if the traveller was suspected of lying.

Unsurprisingly, iBorderCtrl was subject to heated debate on the effectiveness and morality of digitising bordering, and consequently never entered into operation. Nevertheless, largescale digital systems play a central role in

bordering the EU Schengen region. The Visa Information System (VIS), an EU database containing biometrics for EU visa applicants, is used to perform traveller fingerprint identify matching and determine state responsibility for asylum applications. The Schengen Information System (SIS), a European Commission biometric database containing alerts for people and objects, is accessed by authorities of member states, including in relation to visa and migration breaches.

In addition to these existing systems, the EU is accelerating its border digitisation with the 2023 rollout of the Entry/Exit System (EES) and the European Travel Information and Authorisation System (ETIAS). The EES will automate the Schengen border registration of travellers from third countries replacing passport stamps, and also generate a list of migration breaches. ETIAS will automate most of the visa waiver system for short term visa exempt travelers and identify security or migratory risks posed by cross-checking migration and criminal databases and assessing travellers against specific risk indicators.

Border digitization in Australia
As in the EU, Australian bordering is rapidly being digitised. Australia was an early adopter of airport smart gates and frequently deploys algorithmic systems to automate visa decisions, although officially this is described as only fully automated for visa approvals and not declines. Regardless, Australia's Migration Act has been amended to give border and migration decisions made by computer systems the same authority as

personal decision made by the Immigration Minister.

Also, in a similar fashion to the EU's proposed ETIAS system, the Border Risk Identification System (BRIS) algorithmically assesses passengers. BRIS analyses the Passenger Name Record Data (PNR) of travellers – which includes details like their age, gender, nationality, country of birth, luggage information and much more – and assigns travellers a risk score. PNR also includes information about whether people have had visas granted, refused and cancelled, and if people were detained or deported, in other jurisdictions. Another digital bordering system in use in Australia is the Enterprise Biometric Identification Services (EBIS) that confirms the identity of visa and citizenship applicants, as well as visa-not required travellers, by matching their fingerprints and facial images with digital records.

Key techno-social outcomes of the digitization of borders
While the professional discourse around border digitisation focuses on increases in bordering efficiency and accuracy, the outcomes of digitation are far more complicated. Indeed, I argue that digitisation alters the very nature of bordering and consequently reshapes the structure of sovereign state borders.

For instance, digitisation further fractures and disarticulates sovereign borders as they are removed from space and embedded in flows of digital information, but also re-embedded at the sites of IT infrastructure. When in 2022 Australia's Department of Home

Affairs removed its data from the Global Switch Ultimo (GSU) Sydney data centre, following investment in GSU by Chinese steel giant Shagang, a physical part of Australia's border assemblage was excised.

Digitisation is also altering the temporal nature of borders by shifting their focus from traveller histories to potential future actions and by continuing to border people after they have crossed entry/exit thresholds. For example, the Dutch Amigo Boras smart camera system re-borders people as they drive within the Netherlands and their cars are assessed for likely involvement in illegal migration. Furthermore, Draft Council of the European Union Conclusions on the 'Implementation of the EU Information Systems and their Interoperability at National Level' urges EU member states to ensure that they have the legal and technical capacity to conduct biometric immigration searches of people 'on the move', thus bordering people as they go about their everyday activities.

Digital technologies are additionally introducing new and powerful actants into border assemblages, including digital subjects/identities. Algorithmic risk assessment requires/creates both 'data doubles', the collection of coded characteristics that represent people to digital systems, and normative digital identities, the ideal types that through comparison characterise data doubles. This is indicative of how border digitisation diffuses bordering agency across human-machine and machine-machine assemblages, or what Bruno Latour would describe as actor-networks. Sovereign decisions are produced by interactions stretching from the production of algorithms and sourcing of training data to the human monitoring and maintenance of smart gates. This stretching of agency makes it difficult to identify human border actants that hold responsibility for bordering decisions. To the extent that such human actants do exist, their powers are brought into existence by their relationships with technologies, they are increasingly based in private companies, and, in a fashion described by Paul Virilio, they are likely to be involved in earlier conception stages of bordering systems.

Conclusions

It is not being suggested here that these monumental shifts in the nature of sovereign borders are the direct or causal result of digital technologies. Instead, as new digital technologies and systems are brought within existing bordering assemblages, they cause widespread reproductions of the border-component relations that together perform the sovereign decision. And, given the significance of bordering, which Agamben and Carl Schmidt before him frame as the foundational power of sovereign states, it is essential that we fully comprehend how digitisation is changing this constitutive action of sovereign states.

Special admission measures for people fleeing Russia's invasion of Ukraine: Australia and the EU in comparative perspective

Associate Professor Adèle Garnier, Ph.D. Member, Canada Research Chair in Global Migration Processes;
Honorary Senior Lecturer, School of Social Sciences, Macquarie University;
and Department of Geography, Université Laval

On February 24, 2022, Ukraine became the target of Russian military invasion. The ensuing war drove millions of Ukrainians to flee and seek refuge elsewhere. Like much of the international community, Australia and the European Union (EU) swiftly responded with special admission measures for people who had been displaced by the conflict. Yet the measures varied in breadth and scope. This brief compares the EU and Australia's special admission measures, highlighting who is and is not eligible, which social rights are granted to beneficiaries, and which pathways to permanent admission have been created.Ukrainian presence in the EU and Australia considerably differed before February 2022. Eurostat data shows that more than 1.3 million Ukrainian nationals had a valid EU residence permit at the end of 2020, and researchers argue that a significant population of Ukrainian nationals then lived in the EU without a residence permit. According to most recent Australian census data, there were 13,366 Ukrainian-born persons in Australia in 2016 and the Ukraine-born

population in Australia had been declining since the previous census in 2011.

A few days following Russia's invasion of Ukraine, both the EU and Australia introduced special admission measures. In both cases these measures were not created sui generis. The EU, for the first time, activated its Temporary Protection Directive. The Directive had existed in the EU's regulatory catalogue since 1999. Australia implemented special admission measures through a suite of already existing visa categories.

Who is and who is not included
Eligibility for special admission was more generous in the EU than in Australia. The EU granted temporary protection for up to three years to Ukrainian nationals as well as stateless people and third-country nationals legally residing in Ukraine who could not safely return to their countries of origin. Relatives who had stayed in the Ukraine were also eligible for admission. Importantly, the Temporary Protection Directive is not tied to the EU's Dublin system. Beneficiaries can apply for admission in the EU country of their choice, contrary to asylum-seekers who have to apply for protection in the first country in which they enter the EU. By contrast, Australia introduced special admission provisions for a temporary stay in Australia of up to three years for Ukrainian nationals and their family fleeing the conflict, but not for third country nationals. Also, contrary to the EU provisions, Australia's special admission measures had an end date as the scheme closed on 31 July 2022. Following this date, Ukrainians wanting

to come to Australia were to apply for a tourist visa. In both the EU and Australia, undocumented migrants who had resided in Ukraine were not eligible for temporary protection. Several EU countries granted short-term protection to temporary migrants with a residence permit, such as international students, fleeing Ukraine, yet encouraged swift return to their countries of origin.

Procedures and rights
Formalities needed to access the special admission measures were distinct. The EU had in 2017 abolished visa requirements for Ukrainian nationals, who could thus travel to the EU visa-free for up to 6 months. In addition, EU countries neighbouring Ukraine – were most people fled - suspended biometric passport requirements. By contrast, to travel to Australia, eligible Ukrainian nationals had to apply for a first Australian visa valid for up to 6 months (visa subclass 449) and apply for another visa while in Australia (visa subclass 786). Applying for this second visa required additional formalities, such as a medical examination.

EU and Australian special admission measures granted beneficiaries access to several social rights. The EU Temporary Protection Directive included rights to social welfare assistance, medical care, legal guardianship for unaccompanied minors, education and vocational training, access to the labour market and banking services. In Australia, the first six-month visa included full work rights, eligibility to social welfare assistance, to free English-language classes and to settlement services usually accessible to

humanitarian migrants but did not included access to medical care. The subsequent visa added access to Medicare, and right to study.

Pathways to permanency
It is likely that many of the displaced will return to Ukraine at the end of the conflict. Yet as of October 2022 there is no end in sight, and some might eventually prefer to stay in the countries to which they have fled. Thus, what are the options for permanent residence? In the EU, temporary protection holders can apply for asylum. However, the European Commission does not recommend applying straight away given the complexity of the asylum procedure. In Australia, 786 visa holders have the option to apply for a permanent protection visa (visa 866). Also, Ukrainians who have come to Australia on a tourist visa have been granted permission to apply for protection in Australia, an option that is not open to other tourist visa holders. The extent to which other pathways will be used, such as permanent residence on the basis of skills or of family connections remains to be seen.

Australia and the European Union have both facilitated the admission of people fleeing the Russian invasion of Ukraine. The breadth and scope of the admission measures has varied. Yet the measures have undeniably demonstrated political willingness to welcome (some of) those fleeing the conflict and been more generous that towards others fleeing conflicts and crises across the world and this has raises questions of global justice towards the displaced. The long-term distributive impact of the measures also

remains to be seen. Will the admission of the displaced from Ukraine pave the way for more generous refugee policies in the future, or will this welcome reduce the willingness of Europeans and Australians to admit future refugees?

On board of Italian quarantine ship during the COVID-19 pandemic in the Mediterranean Sea: reflections from an activist-researcher

Dr. Elena Giocomelli
University of Bologna

The migration crisis response lens in the Mediterranean Sea was amplified following the COVID-19 pandemic. Migration was framed as 'the emergency within the emergency', leading the Italian Government to declare that its ports were not ''safe places' for people rescued from boats flying a foreign flag to disembark", search and rescue vessels were reduced, then the 'quarantine-ships' were devised. On 7 April 2020, an inter-ministerial decree declared that due to the COVID-19 emergency, Italian ports cannot meet requirements as a Place of Safety while the pandemic continues. The order was approved the day after the Alan Kurdi ship (flying the German flag), requested to dock in Lampedusa. 150 migrants intercepted in the Libyan Search And Rescue (SAR) area were on board.

The Italian Association for Legal Studies on Immigration (ASGI) evidenced the dubious legitimacy of the decree with respect both to international legislation - the principle of non-refoulement - and to the Italian Constitution (ASGI, 2020). On April 2020 quarantine-ships were prepared for containment with the aim of providing accommodation assistance and health surveillance of people rescued at sea. The ASGI points out the flawed nature of this rationale, in that those same cruise ship spaces now used to quarantine migrants unable to access a 'Place of Safety', were closed to tourists as a health risk due to their spatiality that encourages the spread of disease. As scholars have identified: 'cruise ship travel presents a unique combination of health concerns. Travelers from diverse regions brought together in the often crowded, semi enclosed environments onboard ships can facilitate the spread of person-to-person, foodborne, or waterborne diseases.' (Tardivel, White and Kornylo Duong 2020). Unsurprisingly, this has led to human rights groups and others raising concerns about discriminatory measures and poor sanitary conditions.

The Mediterranean Sea, as Einashe reminds us, is 'a sea which the European Union has militarized as its member states squabble over the legality of search and rescue missions' (2018 np). Van Houtum refers to this as a process of 'ouring', of marking out ownership: ''Ouring' the territory in this way communicates the making of a place, in order to classify what is within and what is beyond' (Van Houtum, 2010, p. 126); thus, separating off (Black) Africa from (white) Italy. Borders, then, 'create a space of legitimate withdrawal, where actions need not be justified, where the beyond-space is morally emptied, neutralized, tranquillized, made indifferent' (Van Houtum, 2002, p. 45). As is tragically evident in the many deaths at sea and further, as we argue here, in the containment of unwanted migrant 'others' onboard ships deemed unsuitable for their tourist counterparts.

Whilst working as a caseworker during two missions on board two separate quarantine ships for three weeks each time, between 2020 and 2021, I simultaneously carried out covert ethnographic research to observe and analyse the power dynamics onboard the ship and social relations produced therein. Focus was placed upon those working on the ship and their interactions with the migrants on board which were observed

and recorded in a field diary. The research was underpinned by an activist stance, reflecting the need to shed light on these obscured interiors of the border regime and some of their hidden practices. These spaces are highly protected and there is limited information about practices on board. Hence, from a research-activist perspective this was the only way to gain insight into the interior space of the quarantine-ships. The experience of conducting research within the border allowed me to reflect on my positionality, power relationship and importance of self-reflexivity while conducting this kind of research (Kirmani, 2018). Whilst for the workers, the social proximity and familiarity of the interviewer to my subjects of study allowed me to "minimize the symbolic violence that can be exercised through the interview relationship" (Bourdieu, 2015: 810).

What was immediately apparent to me upon boarding the ship, was that these supposed health-centred spaces had become spaces of surveillance and control of unwanted bodies. Migrants were subject to identity checks, assessment of their intention to seek asylum and to the documentation of their vulnerabilities, such as being of minor age, or pregnant. Analysing my onboard diary, the feeling that emerges is of a totalitarian institution (Goffman, 2017 [1961]) that adopts bio-political techniques that act on the body and mind of all on board, both migrants and workers. Ships represent micro 'world-systems', 'total institutions' (Goffman, 1961) in the purest sense of the term.

In summary, drawing on my experiences working as a caseworker for a humanitarian organization on board, I unravel how the racialised construct of the migrant as a vector of disease is reproduced within these ships. Ships which, I argue, function as a form of Goffman's totalitarian institution where bio-political techniques have been adopted that act on the body and mind of all on board, limiting access to asylum and functioning as a form of externalisation.

Portuguese intra-EU migration. How the structure shapes the agent

Professor Pedro Góis●
University of Coimbra, Faculty of Economics and Center for Social Studies

Professor José Carlos Marques●●
Polytechnic Institute Leiria, Interdisciplinary Centre of Social Sciences (CICS.NOVA.IPleiria)

There are many Europes when analysing Europe as a migratory destination: the European Union (EU); the Council of Europe; and the European Schengen Area (ESA), a zone where 26 European countries, abolished their internal borders, for the free and unrestricted movement of people. ESA is in Europe, but it is not the European area3 and is not (yet?) an isolated migratory system although is becoming a quasi-European condominium migratory system (CMS) with a free movement structure for legal long-term residents and EU nationals. A CMS with robust and securitised external borders and a dedicated border police (Frontex) with a year by year ever increasing budget, competences and surveillance mission (Léonard & Kaunert, 2022). Migration within the European region and its neighbourhood countries has become dynamic, diverse and complex. The creation and deepening of

an area of free movement of capital, goods, services and people (an all-in-one package) is a founding and defining characteristic of the EU yet to accomplish integration process. The possibility of freely crossing national borders to study, work and retire in any member state has become an essential dimension of EU integration (Geddes, 2022).

The ESA without internal borders but strong external borders is (at least) potentially one of the biggest free movement areas acrosswithin the globe with more than 420 million inhabitants. ESA has become tturn out to be the most advanced and the most practical application of the free movement of persons principle (Salomon & Rijpma, 2021). This doesn't mean that the ESA is a coherent European migratory system or even the main European migratory system within this regiongeography. Recent research shows that there isn't only one migratory system within Europe, but many evolving migratory systems rooted mainly and foremost in past migration and past migration histories. Furthermore, European countries can be members of several migratory systems and European citizens have been accessing those migratory systems differently within the last decades (Bermudez & Oso, 2020; DeWaard & Ha, 2019).

Based on empirical data from two surveys on recent Portuguese emigration, we show that a change in the structural conditions for migration led to an increased complexification of Portuguese migration (visible, for example, through the growth of new forms of migration; the development of new countries of destination and reanimation of traditional destinations; or the heterogeneity of migrant profiles).

● University of Coimbra, Faculty of Economics and Center for Social Studies (pedro.gois@uc.pt) @pedrogois.
●● Polytechnic Institute Leiria, Interdisciplinary Centre of Social Sciences (CICS.NOVA.IPleiria) (jose.marques@ipleiria.pt) @jclaranjo

3 Although ESA covers most of the EU countries, except Ireland and the countries that are soon to be part of Romania, Bulgaria, Croatia and Cyprus. While not members of the EU, countries like Norway, Iceland, Switzerland and Lichtenstein are also part of the ESA.

Structural factors of economic nature, institutional and political nature and social nature may be combined to explain the maintenance and recent intensification of Portuguese migratory movements. Regarding the economic factors, the fragilities of national economic development appear particularly relevant, being traditionally responsible for significant outflows (Góis & Marques, 2020; Peixoto et al., 2019). The model of development followed for decades by Portugal has not been sufficient to overcome the income imbalances between the principal countries of destination of emigration. Portugal was incapable of responding to the aspirations of a significant fraction of the Portuguese population who, through external mobility, seek to take advantage of comparative benefits that exist in international labour markets (Marques 2008).

At the level of institutional and political conditions, Portuguese contemporary migratory movements occur in a context marked by the emergence and development of a transnational socioeconomic space within the UE and European Economic Area. Intra-European migratory movements have been slowly rising to the extent that European integration has been built up, enabling diversity in the migratory types, which range across permanent migrants, temporary, seasonal, posted workers, students, etcetera (Sert, 2018). The combined conditions for mobility help to explain the growth of different forms of temporary outward movements but, also, that the frequent blurring of the distinction between "permanent" and "temporary" movements is one of the most striking features of the adjustment that has taken place in Portuguese outward migration (Queirós, 2019).

Another structural factor in maintaining or accelerating emigration movements is the cumulative social network effect, this is, the successive consolidation of Portuguese communities in various regions of the world, and especially in the European area, that establish reliable social structures supporting emigration[4]. The participation of individuals in these migratory social networks (analogic/traditional or digital/contemporary) allows them to access information disseminated through the network and to material support for the realisation of migratory projects.

Contemporary Portuguese intra-EU migration is structurally framed by the country's participation in a transnational space of free movement, which tends to present international migrations as internal migrations. Historical experience has shown that internal migrations raise control problems quite different from those arising from international migrations. Moreover, the progressive affirmation of supranational entities that define migration policies (as the EU) has, in relation to migratory flows, led to a gradual movement toward the creation of migration policies common to all EU Member States (Geddes, 2000), which tends to frame and limit the national legislative developments (Marques, 2008).

This raises fundamental issues for the definition and application of autonomous national migration policies, particularly for members of this socioeconomic space. The relocation of the governance of EU migrant workers to a supranational level (EU council and EU commission) has led

---

[4] Góis, P., and Marques, J.C. (*2022*) 'Migrant Associations, Other Social Networks of Portuguese Diaspora, and the Modern Political Engagement of Non-Resident Citizens', European Political Science Review. (forthcoming)

several EU countries to seek to regulate the migration of EU citizens through interventions aimed at the fiscal or social security system (for example, through limiting access to the welfare state, the imposition of minimum conditions in labour markets or restrictive access throughout professional technicities) (da Costa et al., 2021; Gropas & Bartolini, 2016).

The case of Portuguese emigration allows us to rethink the importance of the State in supranational contexts. It is generally considered that in these contexts, by transferring to supranational instances the regulation of intra-EU migration flows. Therefore, States counter their diminished ability to directly influence the inflows and outflows of workers through indirect mechanisms, such as, for example, the configuration of different social security systems that make immigration attractive for companies. At the individual level, the State also assumes a relevant role. Since intra-community mobility only concerns the nation states that are members or associates of the Union (Guild, 2004), the participation of individuals in these national structures is an indispensable condition for taking advantage of the migratory opportunities existing within the community area (Bommes, 1999).

Repatriating Azerbaijani Internally-Displaced Persons: Policy Priorities and Recommendations

Dr. Fariz Ismailzade
Vice-Rector, ADA University, Baku, Azerbaijan

The conflict between Azerbaijan and Armenia over Karabakh resulted in a massive humanitarian catastrophe in the region. Azerbaijan has become one of the largest refugee and IDP hosting countries in the world. During the last 30 years of occupation, refugees and IDPs received humanitarian aid from foreign donors, charity organizations, and the Azerbaijani government. When the Second Karabakh War ended the Armenian occupation, it opened new opportunities for full restoration of IDP's earlier hometowns and return to liberated areas.

Three Challenges
In one year since The Second Karabakh War, the return of IDPs has not been an effortless process for three main reasons: security concerns, contamination of the region by mines, and infrastructure destruction. Azerbaijan pressured the Armenian government to surrender mine maps, yet even after the exchange according to Azerbaijani government sources, the maps' accuracy is around 25 percent. The majority of liberated territory is contaminated with mines and poses serious risks for repatriated IDPs. Foreign governments have donated specialized equipment and seconded skilled professionals to ANAMA to speed up mine action activities.

Furthermore, towns, villages, and infrastructure had been destroyed by Armenian forces. Accordingly, a key precondition for the return of IDPs is the undertaking of major infrastructure works within the region. The leading projects have already been started by the Azerbaijani government. By the end of 2022, some initial groups of IDPs should be able to return to Karabakh, however, the numbers will be few. It takes resources, and time to establish other crucial infrastructure elements including factories, government buildings, and healthcare facilities. International donor agencies like the UN and the World Bank are involved to aid and facilitate Azerbaijan in the process.

In addition, Karabakh has the potential and ability to develop and benefit not only Azerbaijan but act as a transit centre for the entire Silk Road region. As Armenia delayed the agreement on road construction, an agreement between Iran and Azerbaijan was signed in March 2017 for the construction of a railway connection between the two countries, leaving Armenia cut off from regional integration initiatives. Since the 10 November 2020 tripartite agreement, Azerbaijan has offered several times to sign a peace treaty and to peacefully reintegrate the Karabakh Armenians into Azerbaijani statehood, but these efforts have so far been rejected by Armenia. A lack of progress in the peace process may also harm the return rate of Azerbaijani IDPs, raising concerns for future safety.

IDP Social Survey
The Azerbaijani government conducted a social survey among IDP families in the wake of the Second Karabakh War, to help better plan the resettlement of IDPs into new houses. ADA University conducted a new survey among IDPs and Azerbaijani businesspeople. The survey primarily concerned with IDPs' desire to return to their former hometowns and villages but included businesspeople's

scope of future activities and concerns for contemplating investments in liberated areas. Respondents were given several scenarios and options, ranging from the most minimal to the most maximalist. The will of return is an absolute majority, yet with the minimalization of the condition's percentage went down. Karabakh IDP families asked fundamental questions about safety, housing, jobs, and the general state of infrastructure in the area. Some respondents expressed a desire to go back home even with their funds and no government housing.

Seven Policy Recommendations
First, the Azerbaijani government appears to be concentrating on the high-tech development of "smart" villages and cities, which require a substantial number of resources and time, slowing down the repatriation. Allocating small plots of secure and landmine-free land and allowing IDPs to construct their own, organic villages will serve the shared purpose and mission.

Second, while resettling IDPs in new housing settlements is a part of the process, the main aim should be to provide them with a sustainable economic livelihood, by providing powerful incentives for Azerbaijani businesses to promptly establish themselves in Karabakh. Government authorities must rapidly supply financial mechanisms such as subsidies, tax incentives, and others. Only after the creation of employment and industries that fit IDPs' qualifications, level of education, and professional backgrounds would sustainable repatriation be possible.

Third, Karabakh has several hundreds of towns and villages, some of which are extremely small and located in remote, hard-to-access areas. Redeveloping all of

them will be economically ineffective. Powerful and persuasive communication and awareness campaigns must be established to educate IDPs about unrealistic relocation to former communities. It is unrealistic to anticipate that their former communities will remain unchanged.

Fourth, future economic development in the Karabakh region will require specialized skills and qualifications that the IDP community is currently lacking or deficient in. This may also make Azerbaijanis from other regions or young, not IDPs and who are prepared to work in labour-intensive sectors of the economy a priority. Increasing mine action capability must receive top priority that could provide employment prospects and new jobs in the area.

Fifth, Azerbaijan's Karabakh region has long been famous for its distinctive culture and traditions. Efforts to restore, protect, and promote the local subculture should be part of repatriation efforts. This is crucial for those who grew up outside the freed areas and those who lived there before the ethnic cleansing.

Sixth, a new law on the repatriation of IDPs should be drafted to clarify their legal status and the phased approach to their repatriation.

Seven, Azerbaijan's government should work with foreign groups to subcontract projects funded by the national budget, but also organize joint ventures and act as independent investors. As well as to set up an open and simple procedure for encouraging international businesses to invest in concrete projects in Karabakh. Unfortunately, the government cannot effectively manage such large-scale activities on its own. The repatriation

procedure needs to move rapidly, thus serious international cooperation is needed. To provide IDP families that are prepared to return to free areas, it is vital to scale back some maximalist housing and infrastructure aims and expectations.

Diminishing Animosity

Special attention must also be paid to the issue of Karabakh Armenians and their reintegration plans into the sovereignty of the Republic of Azerbaijan. Also affecting the rate of return, especially in those areas inside the former NKAO, where ethnic-Azerbaijanis and ethnic-Armenians lived in proximity before the First Karabakh War. The survey included some questions on the prospect of renewed coexistence and, fortunately, the results were quite favourable as expressed by Azerbaijani IDPs.

The Good Refugee: A Comparative Discussion on Australian and EU policies towards the Ukraine War

Dr. Binoy Kampmark
School of Global, Urban and Social Studies, RMIT University

Refugees, for the most part, are unwanted. Some tend to be more unwanted than others. The Ukraine War presents a sharp contrast between the way some migrant and refugee groups are treated when seeking sanctuary in recipient states. The Bulgarian Prime Minister Kiril Petkov made his position clear, calling Ukrainians fleeing conflict "intelligent" and "educated people". They did not constitute the "refugee wave we have been used to", individuals with "unclear pasts [and] who could have been even terrorists" (Euro-Med Human Rights Monitor, 2022). A similar attitude could also be found in Australia, which made generous exceptions in its otherwise severe immigration policies to Ukrainian applicants. Within days of Russia's attack on February 24, new visa pathways for those fleeing Ukraine were created.

This brief argues that EU-Australian approaches to Ukraine's have confected the notion of "good refugees" in a comparative way by contrasting it with attitudes and policies to undesirable ones. Just as the EU and Australia have converged in embracing fortress-styled approaches to irregular migration, they have challenged precepts of international refugee law and protections by embracing this selective, two-tiered approach. The "good refugee", it is argued, is anathema to international refugee law and human rights in general but typical of a condition that continues to see migrants as political currency. Having said that, the

weaknesses of international refugee law, a system that arguably allows for such discrimination, must also be considered.

Refugee types and different welcomes
The Russian invasion of Ukrainian territory saw a huge push of humanity westwards. Instead of meeting hostility, they met, in many instances quite literally, open arms. "What's compelling is, looking at them, the way they are dressed. These are prosperous … middle class people. These are not obviously refugees trying to get away from areas in the Middle East … North Africa" (Al Jazeera, 2022).

Reports of preference for certain types of refugees – namely, indigenous Ukrainians – soon started making their mark. The South African Department of International Relations and Cooperation, through its deputy director-general for public diplomacy, Clayson Monyela, noted how Africans "were actually, you know, put in different queues or lanes, if you want to call them that, but also at the back. So, we had to intervene to ensure that our people are assisted to cross" (Metelerkamp and O'Regan, 2022). The reports on segregation at the Ukraine-Poland border also began troubling the African Union. Africans were also entitled to "enjoy the same rights to cross to safety". Reports noting "that Africans are singled out for unacceptable dissimilar treatment would be shockingly racist and in breach of international law."

Such favouritism was also shown in Australian refugee policy Ukraine's refugees, idealised, rationalised as victims in the fate of a brutal invasion, became, for the Morrison government, logical extensions of a certain, sympathetic sensibility. They are fashionable for the moment, cosmetic adjustments amenable for political gain. Prime Minister Scott

Morrison, in an approach reminiscent of the Abbott government's prioritising of Christian Syrian refugees in 2015, announced the fast-tracking of Ukrainian refugee applications. In a March 11, 2022 statement, Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs Alex Hawke revealed that 5,500 visas had been granted to Ukrainians since February 23, 2022.

Critics such as Ian Rintoul of the Refugee Action Coalition have noted the "very, very selective compassion" that had been shown towards Ukrainians. The was a "very different attitude" to refugees that had arisen from wars which had seen participation from European powers and Australia itself. "We've got fortress Australia. The fences are up for the vast majority of people who desperately need help." The CEO of ASRC, Kon Karapanagiotidis, suggested that government policies moving specific groups "to the top of the pile" had the effect of pitting "the most vulnerable against each other."

Refugees and international law
The 1951 United Nations Refugee Convention was intended, in part, as a levelling response to the discriminating practices of states towards those suffering war, brutality and persecution. Despite the legal provisions supplied by the document and supporting international instruments, the problems of "xenophobic" or "foreignness" discrimination remains, according to the United Nations Refugee Agency, pervasive (Achiume, 2016). To this can also be added the problems and challenges of structural xenophobic discrimination (Achiume, 2016).

Furthermore, the 1951 convention has been accused of generating its own

inequalities and hierarchies of uneven treatment. The Refugee Convention is said to be blind to those in numerous camps straddling the globe while encouraging a smuggling industry for those with enough funds to transport them to wealthier states. Authors such as Adrienne Millbank have gone so far as to encourage states such as Australia to renounce it as defective and commit, instead "to a genuinely humanitarian policy." Seyla Benhabid also argues that the "current refugee protection regime is not only inadequate for the life and well-being of nearly 70 million displaced persons in our times, but that is also jeopardizes the demos by encouraging state practices that undermine international law." This duly encourages deterritorialised zones of a lawless nature at border crossings, airport and maritime ports, while also encouraging the excision of territories and outsourced detention arrangements in failed states (Benhabid, 2020).

In summary, the approach taken towards the Ukraine War has unnecessarily politicised the international refugee system. This goes against the universal precepts of laws governing the subject. Special humanitarian intakes, argue Tamara Wood and Claire Higgins, should be guided by two salient principles: the sharing of the global burden, notably where the sheer scale of displacement threatens a neighbouring state's ability to manage; and protecting the most vulnerable persons as a matter of principle and priority (Wood and Higgins, 2018). But such suggestions remain normative before the current structure of international law that does little to discourage States expediency in picking "good" refugees from "bad".

Yellow and Blue in the Land Down Under: who are the Ukrainian migrants coming to Australia? An insight into the profiles of young Ukrainians and their study aspirations

Dr. Oksana King
Australian Education Management Group.

Ukrainian refugees in Australia: setting the scene

On February 24, 2022 people of Ukraine woke up to the news of Russia's invasion which, at the time of writing this paper, is still ongoing with around 15%-20% of its territory being under the Russian occupation. Both sides have sustained heavy civilian and military casualties. Although the exact figures of the lives lost on either side are not available at present, UN reports estimate them to be around 6,000 for civilians and 9,000 for military personnel from the Ukrainian side and around 25,000 from the Russian side (OHCHR Update, 2022). Other sources, however, suggest that these estimates are extremely conservative and the actual number of people, who lost their lives in the conflict, is much higher, and it will take years to obtain more precise figures. What is known for certain is that the military conflict has led to the fastest and one of the largest displacement crises in the world since WWII (UN Report, 2022). The latest UNHCR report released on September 23, 2022 estimates that nearly 15 million Ukrainians have been forced from their homes with more that 7 million people having to find a refuge abroad, and around 8 million people remain internally displaced in Ukraine. While most of the Ukrainian migrants settled in Europe, several thousand migrants expressed their interest to come to Australia.

Since February 24, Australia has granted around 8,500 visas to Ukrainians, however, only about 4,500 made it to the country. The number of arrivals from Ukraine decreased dramatically since July 31 when the Department of Home Affairs stopped issuing Temporary Humanitarian Concern visas. Those who arrived before July 31 went through the expedited pathway of obtaining a Visitor visa type 600, followed by the Temporary Humanitarian Stay 449 and, finally, the Temporary Humanitarian Concern visa, type 786, which was granted for 3 years and provides access to special benefits, free language tuition, work and study rights, settlement services and medical care.

The efforts of the Australian Government, and specifically the Department of Home Affairs, in ensuring that Ukrainian refugees' applications were processed within the shortest possible period have been commended by the Ukrainian diaspora and its governing body - The Australian Federation of Ukrainian Organisations (AFUO) - which appreciated the fact that such a quick processing of visa is something that the Government has not done since the Balkan war. Still, for many migrants the question remains how to go on with their lives here in Australia once the need for necessities has been met. For many young Ukrainians pursuing a tertiary study in Australia, with its high cost of tertiary degrees and limited number of funded places, has been one of the most complex hurdles to overcome.

Ukrainian refugees' profile and data

The statistics on the recent wave of Ukrainian refugees has been rather scarce. My verbal conversations with AFUO officials suggest that the majority of arrivals in Australia are females under the

age of 50. To address the shortage of information on the migrants coming to Australia, AFUO conducted its own survey (AFUOa, 2022; AFUOb, 2022) in July through its social media outlets. The data obtained through this survey will be analysed in this paper and combined with the qualitative information obtained through the accounts of two young Ukrainians settling in Australia.

Quantitative perspective: the AFUO survey

The survey analysed the responses of 183 participants, who were either enrolled in a university in Ukraine or are recent school leavers aspiring to study in Australia. It provided a fascinating set of data regarding young refugees' intentions in Australia, their preferred study areas, location, language level and the opportunities and challenges that they see for themselves whilst in Australia. It was revealed that around 60% of survey respondents resided in Australia's two largest cities: Sydney and Melbourne, close to 80% had already completed or were close to completing a tertiary degree in Ukraine, around 80% of participants reported their language levels to be at level B1 or above on the CEFR scale. The survey also revealed that many students preferred areas of study are Medicine, Law, IT, Business and Finance. Many students left additional comments where many expressed the intention to continue studying in Australia yet were finding tertiary degrees in Australia unaffordable.

Qualitative perspectives: Alice and Diana

The two young females, Alice and Diana, help provide an in-depth perspective into the lives of young refugees in Australia. Both females fled from the unsafe Kyiv in March, 2022 and were invited to stay in Melbourne by Alice's relative. Both women benefitted from the expedited visa processing regime whereby their initial Visitor visas type 600 were granted in less than 24 hours. Upon receiving their next visa 449 and 786 shortly afterwards, Alice and Diana found employment in their respective areas of specialisation (photography and retail). Having completed a degree in Ukraine and having obtained some work experience, played a vital role in both women's finding employment for themselves relatively quickly. Both women are now enrolled in the Adult Migrant English Language Program and have strong intentions to continue their tertiary study in Australia if a scholarship opportunity becomes available to them or if they become eligible for a HECS loan.

Implications for policy making and advocacy

Both qualitative and quantitative data presented in this paper provided a much-needed insight into the profile of young Ukrainian migrants who are aspiring to study in Australia. With the cost of education being high, compared to many other hosting nations, and loan options unavailable to refugees with the visa type 786, more opportunities need to be created by the Australian Government and universities to allow refugees from Ukraine to become engaged in a tertiary study. This can be achieved by opening up additional scholarship opportunities and allowing students to access the HECS scheme and other support measures.

Make it in Germany: From 'no country of immigration' to 'integration country'

Dr. Maren Klein
RMIT European Union Centre

On 6 July, 2022, Nancy Faeser, the German Minister of the Interior, tweeted "We are a diverse immigration country. Now we want to become a better integration country". Her Twitter thread went on to say she wanted "to actively shape migration and integration instead of reluctantly administering them".

Her tweet announced the adoption by the German federal government of the first stage of its migration law reforms(i), reforming the category of 'tolerated stay'. (ii) The sentiment expressed in the tweet is a far cry from the decade-long official German position on immigration to Germany, most poignantly expressed in the 1982 coalition agreement between the CDU/CSU and the FDP which stated explicitly: "The Federal Republic of Germany is no country of immigration" and stipulated that any measure conceivable to limit immigration to Germany ought to be implemented, as long as the measure did not violate humanitarian principles.

While this position was a denial of the statistical reality that Germany had long been a country of immigration—for the majority of years since 1957, the Federal Republic of Germany's migration statistics showed a positive net migration balance with a peak of 1.14 million net immigrants in 2015—it was the quintessential representation of the belief that any in-migration to Germany ought to be of a temporary nature.

Despite (or, perhaps, because of) the fact that the German nation-state is of comparatively recent origin, German migration policies were based on the idea of ethnic belonging based on descent, common language, and shared customs and values, thus closely resembling Anderson's concept of 'imagined community'. This conceptualisation went hand in hand with the refusal to recognise the long-term or permanent nature of migrations to Germany and resulted in the lack of cohesive and coherent migration and integration policies until relatively recently.

'Guestworker' programs
The so-called 'Guestworker' programs of the mid-1950s – early 1970s are a perfect illustration of this mindset and associated policy approaches. The reconstruction after the World War 2 with its so-called economic miracle led to increased demand for labour. While the migration streams of repatriates and those leaving the German Democratic Republic for the Federal Republic were satisfied the demand for labour in the early years after WW2, the increasing securitisation of the internal German border eventually stopped this resource and labour had to be recruited elsewhere.

From 1955 to 1973, the Federal Republic of Germany operated so-called guestworker programs, usually regulated via recruitment agreements with Mediterranean countries (and to the general exclusion of labour migrants from other, non-western countries). The programs were based on the (unwritten) principle of temporary labour migration, i.e. migrants were expected live and work for a limited time in Germany and return to their country of origin, replaced by a new set of labour migrants.

While politically not uncontested – the union movement grew increasingly critical

– the scheme led to an increase of foreign workers from approximately 73,000 in 1954 to more than 1 million in 1965. The number of temporary migrant labour reached its peak of 2.6 million in 1973 when it was faced with increasing criticism due to concerns of the 'burden' foreigners would place on German society and systems. Instead of developing integration policies and programs, the political solution was to a change in approach, i.e. a reduction in recruitment numbers. The oil crises of 1973 then led to the complete discontinuation of the program.

However, the end of the guestworker program did not reduce the number of foreigners in Germany significantly. Of the approximately 14 million foreign workers who came to Germany, approximately 11 million only stayed temporarily and eventually returned to their countries of origin. The rest stayed and were joined by their families. Ultimately, while the number of foreign workers decreased from 2.6 million in 1973 to 1.6 million in 1989, the foreign population increased from 3.97 million to 4.9 million.

Migration policy reform and labour shortages: Guestworker program Mark 2? Increasingly severe labour shortages faced by Germany—it was widely reported that for the first quarter of 2022, 1.74 million jobs had not been able to be filled, leading to fears of closure of business, and an eventual impact on overall economic productivity—has led to a re-evaluation of migration policy and policy-making.

Migration policy is one the focus areas of the current German government, the so-called 'Ampel-Koalition' of the centre left Social Democrats, the Greens, and the Free Democrats who support economic liberalism. Their coalition agreement includes explicit sections on labour migration, while the sections on grants of asylum and the aforementioned changes to the category of 'tolerated stay' mention labour market integration.

A July 2022 article, co-authored by Labour Minister, Hubertus Heil, and Minister of the Interior, Nancy Faeser, for business newspaper Handelsblatt, outlined the government's intention to turn Germany into an attractive immigration destination by streamlining immigration and visa processes and facilitating labour migration generally. Other measures include facilitation of spouse/family migration without proof of knowledge of German, and changes to citizenship laws, allowing for dual citizenship to persuade migrants to stay in Germany.

Katharina Binz, member of the German Parliament and Minister for Families, Women, Culture and Integration (Rhineland Palatinate), went one step further when she declared that it was no longer possible for Germany to follow an isolationist approach for humanitarian but also for demographic and labour market reasons. She called it absurd to put up artificial barriers to the labour market, and labour market and full societal participation at a time of aging and shrinking population and labour shortages.

Conclusion
It appears that the current German context of demographic and labour market challenges has led to a thorough re-evaluation and overhaul to the approach of migration policy. However, it remains to be seen whether the current acknowledgement that concept of simply importing labour for a limited time is neither useful in addressing Germany's

problems, nor sustainable or humane will be maintained in (a) the implementation of policies and (b) in the face of geopolitical transformations.

Notes

(i) However, the law it is yet to be approved by the German Parliament. At the time of writing, Parliament had discussed the draft and made comments to be addressed before a final decision is made.

(ii) The category 'tolerated stay' (German 'Duldung') means a temporary suspension of deportation because deportation is not possible. It is thus a temporary stay permit, not a residence permit. The obligation to leave Germany once deportation is possible still stands.

The Instrumentalisation of the influx of asylum seekers by the European Union's neighbours: A reflection on how the European Common Migration Policy favours instrumentalization

Raphaël Kokkelmans
Collège d'Europe, Bruges

In recent years, the lexicon of European official statements and documents, such as Council conclusions and Commission legislative proposals, has expanded with the appearance of terms such as "hybrid attacks" and "instrumentalisation of migration". The 2021-2022 Belarus–European Union (EU) border crisis marked a turning point. The EU accused Lukashenko's regime of artificially creating flows of potential asylum seekers toward Lithuania, Latvia and Poland. The European Commission described this crisis as a recent phenomenon and made three legislative proposals to take the bull by the horns.[5] Yet, this paper argues that it is not, and that the Commission's response will not enhance the Union's resilience against instrumentalisation.

A mere replication of a well-known policy?
The instrumentalisation of migrants is part of a longer process where third countries use the migratory variable strategically and to their own ends in their relationship with the Union or its member states. For example, Russia with Finland in 2015, the UN-backed Libyan government with the EU in 2016, Turkey during the European migration crisis of 2015-2016 and in 2020, and Morocco with Spain in 2021. Although these neighbours only replicate in their own way a well-known policy that has been used before,

especially under Gaddafi, the context has changed. Firstly, the EU's fragility regarding migration has become blatant with the European migration crisis, mainly due to the massive politicisation and securitisation of migration by far-right and populist movements. Second, instrumentalisation has taken a much more explicit character since the March 2016 EU-Turkey Statement. Third, the flaws in the EU's common migration and asylum policy have become more obvious with the European migration crisis of 2015-2016. All these, and especially the EU's internal weaknesses, provide opportunities for the EU's neighbours to further their foreign policy objectives toward the EU.

Moreover, the Turkish and Belarusian case studies point out commonalities despite the many differences (e.g. level of involvement, relationship with the EU). Be it through threats or actions, both countries used coercive migration diplomacies to affect asylum seekers' flows toward the EU and divide and conquer strategies to attain broader foreign policy objectives, which are unrelated to migration. These objectives include: seeking political recognition, sanctioning foreign policy choices of the Union or a member state, playing on alleged European double standards, exacerbating tensions (even physically) to create a sense of crisis in the EU, trying to obtain economic concessions and avoiding EU interference in the Turkish and Belarusian domestic spheres.

The EU's policy response to the instrumentalisation of migrants
The Commission's response to the Belarusian crisis was threefold. First, a decision on provisional emergency measures specifically targeting the Belarusian instrumentalisation provided

---

[5] European Commission. COM(2021) 591 final.

temporary measures easing states' asylum responsibilities (e.g. applying accelerated procedures for applications, only covering third-country nationals' basic needs).6 Second, a broader regulation to address the instrumentalisation of migration was developed.7 It is largely identical in terms of tools to the above-mentioned decision. The main difference is its legal basis and activation procedure, which are not based on exceptional measures. Third, an amendment to the Schengen Borders Code (SBC), which includes provisions on and a definition of instrumentalisation, notably allows for the strengthening of the European external borders in case of instrumentalisation.8

An inadequate response to cover varied uses of migration by the EU's neighbours
Nevertheless, these proposals sparked controversy. The two first pieces of legislation received criticism from NGOs, academics and the UNHCR as they are accused of undermining fundamental rights, procedural safeguards as well as European and international rules on asylum and return. Moreover, the proposed definition of instrumentalisation in the SBC is considered too broad and lacking indicators.
Beyond conceptions of fundamental rights, the legislation lacks a broader and longer-term vision. Such policies only put the EU in a weaker position towards its neighbours, as they allow the EU's neighbours to see – if it was not already clear – how sensitive migration is for the Union, but also that it is ready to use tools and even emergency mechanisms that overturn parts of EU law and principles. Moreover, the definition contained in the SBC could easily cover cases such as

Turkey, Libya and Morocco. Yet, interviews showed that the Commission focuses on states that artificially create flows and do not have a strategic relationship with the Union, leaving many cases outside the scope of these measures.

Ways ahead
Several other policy avenues could be considered going forward. Rather than taking the easy way out by reducing the right to asylum, the Union should devote its efforts to fixing its internal migration policies.

First, the Schengen and Dublin systems' reforms should be considered as a whole. The SBC allows member states to prevent secondary movements of asylum seekers within the Union, while the Dublin III Regulation enables states to send them back to the first-state-of-entry if asylum seekers manage to cross borders. This, in turn, exacerbates the pressure on states located at the external borders of the EU that are already subject to significant asylum seekers' flows, thereby also aggravating the effects of the instrumentalisation of migration.

Second, a definition of instrumentalisation that would have a greater deterrent effect on neighbouring states should be considered. Another option is the development of other tools to respond to less extreme cases of instrumentalisation, such as Turkey.

Third, there should be greater awareness of the unintended consequences of externalisation and external border reinforcement policies. These only increase dependence on third countries and increase their leverage. The more complicated the EU makes access to its territory, the more irregular border

---

6 European Commission. COM(2021) 752 final.
7 European Commission. COM(2021) 890 final.
8 European Commission. COM(2021) 891 final.

crossings are likely to increase, and the more neighbouring countries will be able to exploit irregular flows of asylum seekers into the EU. Legal pathways, which could take the form of a resettlement policy, are needed to make externalisation more sustainable.

Finally, it is important to note that it was not the tough response at the EU border that ended the Belarusian crisis, but the Commission's outreach to the airlines and countries of origin to break the artificial flows. The EU would therefore be well advised to reflect on how it would have reacted if Belarus had had significant and 'natural' flows like Morocco, Libya or Turkey. Concessions might be the cost of doing business for the EU, but at what price?

Increasing highly-skilled non-EU mobility within the European Union: new migration policies for digital nomads

Dr. Kamila Kowalska
Centre of Migration Research, University of Warsaw

New migration policies and legislations were introduced recently by the EU Member States to attract third-countries' remote workers. The pandemic closed frontiers for many non-EU nationals and limited their mobility within the European Union. At the same time, there was a significant increase of the number of EU states that started offering digital nomad visas for third-countries' citizens willing to come and work within the European Union. Consequently, the global phenomenon of digital nomadism, that has been steadily expanding throughout the last decade, found a legal ground in the EU starting with mid-2020. The push factors attracting digital nomads vary from one country to another. Among the special norms and facilities provided by singular states, there are tax reliefs, competitive packages for singles and families including rental reductions and the possibility to travel in the EU/Schengen.

The term "digital nomad" was first introduced in 1997 to forecast a future of work (Makimoto and Manners, 1997). Though today the phenomenon of digital nomadism is well known and studied, relating to the category of mobile professionals, who perform their work remotely from anywhere in the world, utilizing digital technologies. It is seen as a result of globalization and more recently as a product of changing working cultures, social changes, new travel patterns and technology development. Existing studies have been focused on various aspects of digital nomadism. Economic researchers analyze the phenomenon within concepts of work-life balance, precarity or gig economy, sociologists on the other hand study digital nomads' networks and communities, while anthropologists their identity. Literature review shows little evidence of legal perspective in analyzing the issue, these results are particularly interesting given the recent changing scenario of legal norms in EU countries insofar as the figure of the digital nomad is concerned.

The Economist in a 2022 article on digital nomads described them as a "kind of lifestyle…as old as laptops and the internet, but Covid-19 has given it a boost" (The Economist, 2 October, 2022). The coronavirus pandemic was definitely the catalyst for the increase of remote working in the European Union. Though, the common standards of the EU approach to the phenomenon of digital nomadism of third countries' citizens have not been set so far. In the meantime, several Member States have taken their own steps to become nomad workers-friendly, proposing digital nomads' visas and legislations for non-EU remote workers. The list starts with Estonia that introduced a Digital Nomad visa in July 2020, followed in 2021 by Croatia (DN Residency Program – Jan.), Malta – (Nomad Resident Permit – Jun.) and Greece – (DN Visa – Sept.). In 2022 the group was enlarged by joining Romania and Cyprus – (DN Visa – Jan.) as well as Italy (DN Visa - March).

Theoretically, digital nomadism is often studied within the concept of lifestyle migration, that includes different forms of privileged migration focused on the search for the good life rather than work opportunities or political rights (Benson &

O'Reilly, 2016). The lens of the framework of migration infrastructure shows its different intersection dimensions (Xiang, Lindquist, 2014), focusing on various actors involved in digital nomads' mobility. The five dimensions include: regulatory one (laws for digital nomads), commercial (intermediary actors specialized in services for digital nomads), technological (new technologies and transport), humanitarian (NGOs and unions that represent digital nomads) and social (networks, communities, co-spaces).

In the case of the Member States that have adopted the new specific laws, it is important to investigate the incentives offered by these countries to attract digital nomads from non-EU countries. Another fundamental issue is whether building an adequate infrastructure followed the introduction of the regulations for non-EU digital nomads. The analysis of new regulations shows examples of favorable tax schemes (i.e. Greece – 50% tax reduction, Malta – taxes on the local income, Portugal – tax free overseas income and cryptocurrency), digital nomad visa program extended to close family members or travelling facilities in EU/Schengen zone up to 90 days. Other, structural, incentives regard for instance: nationwide 5G mobile internet service (Malta) or nearly completely digitalized government and society (Estonia).

In order to present the functioning of five dimensions of migration infrastructure framework within digital nomads-friendly EU Member States, a comparative case study of Estonia versus Malta will be considered. The first country is among the founders in 2014 of Digital 5 (now Digital Nations), a network of leading digital governments that aim to use cyber technology to improve citizens' lives, while the second boasts more than 20% of residents who are expats and an advantageous location close to Europe, North Africa, and the Middle East.

In first case, in Estonia the digital nomad visa, applicable online, is granted to non-EU citizens who work independently using telecommunications technology for clients abroad, who are freelancers or for those who have contract with a company abroad or are owners of a company registered abroad, with minimum income monthly 3,504 Euros. As for the commercial dimension, there is an important role of Estonian banks in promoting services for foreign remote workers as well as an official online marketplace with all the actors who deliver services for digital nomads (tax, insurance, health, loans). Estonia is also a completely digital country with almost all government services available online. It offers moreover a government–issued digital identity and status for digital nomads, business owners, freelancers and consultants. Here, we can consider the humanitarian dimension represented by, among others, the Estonian e-Residents International Chamber, a non-profit organization that unites foreign remote workers. For the social dimension in Estonia, there is a variety of co-working and co-living spaces for digital nomads, as well as dedicated hubs and active community.

Malta's Nomad Residence Permit for Third Country Nationals can be issued for remote workers: non-EU nationals, who reach a monthly income threshold of 2,700 Euros. As for the commercial dimension, both government entities and private actors offer consultancy and support services to digital nomads. Technological dimension of the migration

infrastructure in Malta includes 5G nationwide coverage, while the social one – a large community and official language of the country – English that facilitates the communication. Numerous nomad associations organize networking events on the island.

There are a number of reasons why Europe and, in particular, the European Union, is a good place for non-EU digital nomads. First, Europe is a varied continent with innumerable travel possibilities, few internal borders and ease of labour mobility in the EU/Schengen zone. As noted above, the incentives the Member States offer to attract non-EU digital nomads may result important pull factors for Third Country remote workers. The growing specific migration infrastructure for digital nomads facilitates building nomad communities while evident interest of Member States in the phenomenon may indicate its further development in the near future.

What prospects for new Italian migration to Australia?

Dr. Riccardo Armillei
RMIT European Union Centre

Professor Bruno Mascitelli
RMIT European Union Centre

The Italian contribution to Australia's population composition

Italian migration to Australia was a product of a changed migration approach enacted by the then Labour Government in the late 1940s. It was the realisation by the government that natural population growth was insufficient to meet Australia's societal goals both in the present as well as into the future. While Italian migrants were not the main intended target, that was left to British immigrants, the quantity of British immigrants coming into Australia was insufficient to meet the needs of Australia and so Immigration authorities expanded its net to include other nations in Europe including Italians.

As a result of massive Italian migration, which occurred primarily throughout the 1950s and 1960s, Australia began to see the makings of a strong ongoing presence of Italians in Australia in all walks of life. The Italian community greatly transformed the population make-up of Australia, representing for many years (up to the 2001 Census), the second-largest migrant group after the 'Anglo-Celtic' segment of the overseas-born population (UK, New Zealand, and Ireland). But, as relations expanded with its Asian neighbours, Australia began to embrace new migration sources, particularly China and India. [9]

Italian migration to Australia essentially ceased in 1975. Italy, which had been a country of emigration saw in 1976, for the first time in its history that more Italians returned to the nation than expatriated. Some 30 years later, Italians were on the move again towards Australia and in the decade between 2004 and 2016, Australia had once again become the destination for a new generation of young and educated Italians seeking new opportunities. Yet, the temporary nature of this 'new Italian migration' and the smaller numbers recorded (as compared to countries like China and India) make this a purely coincidental and inconsequential development.[10]

While the Covid-19 pandemic might be responsible for a sudden collapse of migration to Australia, Italian migration had already ceased as a mass phenomenon and has not been a feature of Australian migration trends over the last few years, except for the limited and indefinite presence of working holiday Italian youth.

The COVID-19 Pandemic and the impact on migration to Australia

Australia, together with Spain, the United Arab Emirates, and the United Kingdom, has been among the top 10 destinations for international migrants since 1990. The COVID-19 pandemic ushered in major disruptions to human mobility. The United Nations Population Division estimates that

---

[9] Armillei, R., & Mascitelli, B. (2017). 'From "White Australia Policy" to "Multicultural" Australia: Italian and other migrant settlement in Australia', in *Living in Two Homes*. Emerald Publishing Limited.

[10] Armillei, R. & Mascitelli, B. (2016) From 2004 to 2016: A New Italian 'Exodus' to Australia?', Committee of Italians Abroad of Victoria and Tasmania, Coburg, Australia.

the population of international migrants dropped by approximately two million, as of mid-2020. With lockdowns, travel restrictions and border closures being lifted in most of the countries around the world, cross-border movement reignited again in 2021 and 2022.[11]

The island continent, which was dubbed "fortress Australia" for its strict border controls, has been gradually reopening since November 2021, first allowing Australians to travel in and out, then admitting international students and some workers.[12] According to the 2021 Intergenerational Report, the planning levels of the Government's permanent Migration Program increased from 80,800 places in 1995-96 to 190,000 places in 2012-13, before decreasing to 160,000 in 2019-20. After a forecasted period of negative net overseas migration between 2020 and 2022, with more people leaving the country than entering it, the population growth is expected to recover to 1.3 per cent per year by 2023-24.[13]

Due to the COVID-19 pandemic, Australia recorded a first decrease in the proportion of people born overseas in over 20 years (since 2000). According to Jenny Dobak, Head of Migration Statistics at the ABS, "the decrease reflected reduced overseas migration in and out of Australia, given the COVID-19 travel restrictions. The travel and migration intentions of many people changed due to the pandemic, including those migrating to work or study."[14]

A decreasing Italian presence in Australia

As we moved into the new millennium, a resurgence of Italians travelling to Australia was evidenced. This movement, incorrectly described as a new 'exodus' of Italians to Australia, was not permanent in nature, like in the past. It mainly developed in response to the Global Financial Crisis in 2007 and was expressed by the rise of temporary arrivals (mostly through Working Holiday visa arrangements introduced in 2004). Yet, the drivers of a 'new' Italian migration remained that of seeking better life experiences with more opportunities.

This is what emerged from a study conducted in 2016 based on the analysis of more than six hundred online surveys collected nation-wide that were collected from Italians who had arrived in Australia after 2004. Most of them were young (between 18-40 years of age), highly educated, with only a small group (9 per cent) being unemployed before moving to Australia. While for many of them the idea of settling permanently in Australia was a positive aspiration, the lengthy and complex process of obtaining permanent residency was a major issue. More than 40 per cent of all Italian respondents reported a difficult work experience in Australia where they felt they had been exploited. Recognition of foreign

[11] Batalova, J. (2022). 'Top Statistics on Global Migration and Migrants', Migration Policy Institute, July 21. https://www.migrationpolicy.org/article/top-statistics-global-migration-migrants

[12] Kelly, L. (2022). 'Fortress Australia' to welcome tourists for first time under COVID. Reuters, 20 February. https://www.reuters.com/world/asia-pacific/fortress-australia-welcome-tourists-first-time-under-covid-2022-02-20/

[13] Commonwealth of Australia (2021). *2021 Intergenerational Report: Australia over the next 40 years*.https://treasury.gov.au/sites/default/files/2021-06/p2021-182464.pdf

[14] Australian Bureau of Statistics (2022). 'Australia's overseas-born population drops during pandemic', https://www.abs.gov.au/media-centre/media-releases/australias-overseas-born-population-drops-during-pandemic

qualifications had also been a problem for a number of respondents (37 per cent).[15] More recently, another research more specifically focused on a smaller group of 80 Italian youth and young adults, aged 18 to 35, who have arrived in Australia since the Great Financial Crisis in 2008 and residing in Victoria and South Australia. Those from high- and mid-socioeconomic backgrounds were more likely than their low socio-economic counterparts to assert that they moved on a quest for personal and professional growth, while the latter migrated in the search for new employment opportunities. The study revealed the continuation of social stratification patterns and social inequality present in the home context and translated into the host country.[16]

The trend of a decreasing Italian presence in Australia became more evident during the COVID-19 Pandemic. Although Italy can still be counted today in the top 10 of Australia's overseas-born population by country of birth, the presence of Italy-born migrants has been decreasing over time, moving from 238,246 in 1996 to 163,326 in 2021.[17] The defining aspect is that most of those recorded were aged 65 years and over (111,523 or 68.28 per cent), and therefore their numbers will continue to decline because of age. As for the rest of the Italy-born population 2,137 (or 1.42 per cent) are aged between 0 and 19 years of age, 16,694 (or 10.22 per cent)

are aged between 20 and 39 years of age, and 32,788 (or 20.08 per cent) are aged between 40 and 64 years of age.

While most of the recorded Italians (125,668 or 76.94 per cent) hold Australian citizenship, a smaller portion (35,692 or 21.85 per cent) were not Australian citizens. There were also 1,972 (or 1.21 per cent) Italians that did not state their visa status. If we look at their distribution within Australia, Victoria has the highest number of Italy-born migrants (64,796), followed by New South Wales (47,197), Western Australia (18,175), South Australia (16,653), Queensland (13,217), Australian Capital Territory (1,912), Tasmania (874), Northern Territory (502).[18]

To have a better idea of the impact of the latest generation of Italian migration to Australia, we simply need to have a look at the Permanent Migration Program Outcome. More specifically, in the period between 2015-16 and 2020-21, around 10,803 Italians became permanent residents.[19] In the same period, 996,536 people became permanent residents in Australia. This means that Italy represented only 1.08 per cent of this program. The Philippines alone in financial year 2020-21 had more permanent residents (11,058) than Italy in 6 years. China, followed by India, UK, Philippines and Vietnam, were the top five permanent migration sources.[20] Italy

[15] Armillei, R. & Mascitelli, B. (2016) From 2004 to 2016.
[16] Giardiello, M., Cuervo, H., & Capobianco, R. (2022). A study of Italian young adults' transnational mobility to Australia: The reproduction of unequal trajectories in the host society. *International Migration*,
[17] Australian Bureau of Statistics (2022). Cultural diversity: Census. Retrieved from https://www.abs.gov.au/statistics/people/people-and-communities/cultural-diversity-census/latest-release

[18] Australian Bureau of Statistics (2022). Snapshot of Australia. 28 June.
[19] Department of Home Affairs (2022). Historical Migration Statistics. 18 January. https://data.gov.au/data/dataset/historical-migration-statistics
[20] Department of Home Affairs (2021). *2020–2021 Migration Program Report. Program year to* 30 June, 2021*. https://www.homeaffairs.gov.au/research-and-stats/files/report-migration-program-2020-21.pdf

remains in the top 5 countries in relation to Working Holiday visas.

Conclusions

While the main thread of this paper has been to provide an overview of a declining migration of Italians to Australia, as well as the decreasing number of Australians born in Italy, the authors' intent is to address an aspect of this people movement which has received too little attention. On the one hand, there is evidence to suggest that Italians still wish to emigrate to Australia, but they are unable to do so due to intricate visa processes. The second aspect of note is the election of a new Australian federal government in May 2022, with the promise to review the visa system. The third and most important aspect is that Australia's skills shortage would benefit considerably from a highly-skilled labour source like Italy. These three observations can alter this whole scenario and it is the intent of this paper to be a start to this process.

The Balkans and the EU/UK: the source and route of regular and irregular migration patterns

Dr Nina Markovic Khaze
Department of Politics and International Relations, Macquarie University,
and Solve Law Immigration, Sydney

A diplomatic row recently erupted between Albania and the United Kingdom. The Albanian Prime Minister Edi Rama accused the British Home Secretary, Suella Braverman, of using highly inflammatory language to "discriminate" against Albanian asylum-seekers while not fast-tracking an already agreed upon repatriation agreement. Braverman, who is looking at offshore processing options in third countries as a possible temporary solution to the UK's migrant claims processing crisis, said that her country is facing an "invasion" from small boats, in which, in 2021, some 42% of arrivals were of Albanian origin. Rama responded to Braverman that the UK should follow the lead from Germany in "learning" how to cope with a large-scale migrant wave, and provide the asylum seekers with adequate support services rather than politicising the issue and presenting asylum seekers in derogatory terms (as "criminals" and "thugs").

The Albanian-UK diplomatic row is highly symptomatic of several current trends in European politics. First, the rising populist tide in many European countries, including the UK, has an anti-immigration rhetoric and hard border control policies at its helm. Moreover, the electoral success of far right and anti-immigration political parties and local councillors in countries like Italy and Hungary are another manifestation of that trend. Secondly, the failure of immigration policies is often not recognised by the home governments, whereas the blame is being directed at the asylum seeking applicants rather than outdated and slow processes used in response. Thirdly, geopolitical choices made by the European countries, such as the decision to part-take in regime-change activities in Libya (France) in 2011, and direct involvement in the Syrian civil war also since 2011 (UK and France) have provided an impetus for the current immigration patterns in Europe, including illegal migration.

International coalitions' military activities against Afghanistan (2001) and Iraq (2003) have also directly affected migration patterns in Europe, with millions of displaced people finding their way through Iran and Turkey to Europe's shores seeking international protection. The Balkan region has been both a source of illegal migration to Europe over the past decade and a source of legal migration, as well as the transit route for Middle East and North African asylum-seekers. The policies adopted in response to this wave, which swelled in 2015, by many European governments have priviledged security over human rights protection and solidarity, in a possible contravention of several international legal obligations that the same countries have signed up to—all in the name of temporary solutions to the ongoing migrant wave.

The Balkans as a transit route for illegal migration and push back policies
Since 2015, Croatia was fast-tracking thousands of asylum-seeking applicants a day and sending applicants quickly on to other EU member states, even though in some cases there were unaccompanied minors involved, who were at an increased risk of harm and human

trafficking. There were also cases of violent push-back policies by security services of countries such as Croatia, Greece, Hungary, Slovenia and Bulgaria, documented in one study from 2016 onwards, whose such actions were heavily criticised by international human rights groups, leading to a complaint before the United Nations Human Rights Committee.

In April 2019, a group of parliamentarians—including Dimitris Avramopoulos, Commissioner of Migration and Home Affairs, and Christos Stylianides, Commissioner of the European Civil Protection and Humanitarian Aid Operations—wrote a letter of complaint to Croatia for its Border Police's alleged violent push-back policies and the lack of support for asylum-seekers arriving from Bosnia-Herzegovina and Serbia, who were then "forced to live in deplorable conditions". Some of the reports by international human rights agencies as described in this letter documented a pattern of violent, sub-human and degrading treatment of asylum seekers by the Croatian border police forces, which, ultimately, nobody was held responsible for. A similar line of behaviour was observed on the borders of Hungary and Bulgaria, as well as Greece—which bears the brunt of frontline asylum seeker emergency that it shares with neighbouring Turkey, but also other EU members like Malta and Cyprus in the Mediterranean, as well as Poland further north.

The Balkans as the source of legal migration to Europe

The Balkan region has traditionally been a source of temporary labour migration, and refugee resettlement to Western and Central Europe. A massive brain drain from the Balkans over the past decade has been a brain gain for many EU states, with countries like Germany, Austria, France and the UK (especially before Brexit) attracting highly skilled professionals from this region. It is being estimated that more than 1 million people, many of whom were skilled, left the Balkan region since 2012 in search of better economic and life opportunities in Central and Western Europe.

During the Cold War, it was mostly unskilled Yugoslav workers coming through regular labour migration channels (set up with Yugoslavia's bilateral temporary migration agreements), taking up factory jobs in countries like Germany, Italy, the Netherlands, Belgium, Austria, and France. However, illegal political emigration was also a characteristic of emigrants from Yugoslavia and other Balkans countries, who temporarily settled in France en route to English-speaking countries. Many former prisoners of war from Italy and Germany chose not to return to the Balkans due to huge political changes and often violent transition from monarchy to Communism, opting instead to join displaced persons programs—including those destined for Australia.

The disintegration of Yugoslavia has led to up to 1.5 million people being displaced. Hundreds of thousands were eventually resettled as refugees in European countries, as well as further afield in Australia, New Zealand, the United States and Canada. After the regime-change in Serbia in 2000, many Serbian citizens as well as citizens of Bosnia-Herzegovina and Albania (after the collapse of Communism in 1996) became temporary or seasonal workers in Central and West European countries. At one point, they represented at least 10% of illegal and legal migrant workforce in many EU countries—essentially dominating the underpaid labour market of Europe in places like

Austria, Germany, Switzerland, and even Malta. This trend has led to an expected increase in the anti-immigrant sentiment, as demonstrated with the recent Nationalist Party rhetoric in Malta directed at Syrian workers. Illegal workers generally have no access to workers' rights protection mechanisms nor even health care, making their condition worse. While not covered here, there are well-established human trafficking channels also operating illegally from the Balkans to the EU/UK, which necessitate cooperation between regional governments and their overseas counterparts.

The Balkans as a point of labour attraction for Cuban, Chinese and Nepalese migrants

In recent years, the Balkan countries, in part due to a massive brain drain, had to resort to new measures such as the signing of temporary labour agreements with non-European countries. For China, it is the massive inflow of capital investment that saw the Chinese companies bringing in Chinese and Vietnamese workers to support the Chinese Government financed infrastructure projects in the Balkans. Interestingly, countries like Serbia also signed temporary labour agreements with Cuba, Nepal and Sri Lanka to import low-skilled labour, mostly to be used in hospitality, construction but also transportation and even food delivery services. Interestingly, Serbia started awarding refugee status to Cubans, which was unprecedented for this Balkan country. Serbia, Montenegro, and North Macedonia offer a visa-free entry to Cubans, which has put them recently at odds with the European Commission, which claims that a larger number of Cubans than before is using this opportunity to seek asylum in the EU. A similar situation occurred when Serbia allowed entry, in a policy measure dubbed

as "quarantine tourism", to thousands of Indian nationals, and transit rights in the middle of the Covid-19 pandemic, when most other countries closed their doors to them. It is likely that visa-free status between some Balkan countries and other non-EU, third countries from Asia, Latin America and Africa will make their EU joining prospects even harder in the years to come.

Conclusion

The research area of illegal and legal labour market trends in the Balkan region to and from Europe is expanding and is also very dynamic. There are new patterns of migration which can be observed, such as in the case of Latin American and the Sub-continent's temporary workers. There are also tens of thousands of working visas issued annually to Chinese citizens and a smaller number of Vietnamese workers. It is clear that the Balkan region offers a fruitful, illustrative case study and new insights into contemporary European politics of migration, shifting border policies and national rhetoric by, and within, EU and non-EU countries alike.

Lesson learned (?) The post-crisis legal landscape in European Union migration and asylum policy

Dr. Sylwia K. Mazur
Research Center for the Future of Law, Catholic University of Portugal

Introduction

Migratory pressure witnessed by the European Union (EU) in 2015 and 2016 was at that time the most serious migratory challenge since the end of World War II. In 2015 there were 1.83 million illegal crossings at the EU external borders. On a legal level the crisis revealed inadequacies of available legal tools which were meager considering that the crisis was looming at least for the two decades before its peak in 2015.

What was on the table?

Migration and asylum into the European Union are regulated by a combination of international obligations entered into by the member states, the European Convention on Human Rights, acqui Communautaire and national law. According to Article 79 of the Treaty on the Functioning of the European Union (TFEU), Union shall develop a common immigration policy. Article 67(2) covering the general provisions of the Title on the area of freedom, security and justice, stipulates that Union "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.

It is worth mentioning that when Treaty of Lisbon entered into force, the Charter of Fundamental Human Rights of the European Union was made legally binding with the same legal value as Treaties. For the first time at the European level a right to asylum was granted (Article 18). Article

19 of the Charter encapsulates the principle of non-refoulement. In terms of refugee protection, since 1999 the EU has been developing Common European Asylum System (CEAS) working on accordance with the Convention relating to the Status of Refugees as amended by its 1967 Protocol.

Despite a significant growth of the acquis in the area of freedom, security and justice the goal to create common European asylum and migration policy was not achieved in the post-Lisbon European Union. In fact, the only off-the-shelf measures to be applied in the situation of migratory pressure were provisional measures in the event of a "sudden increase of arrivals of third-country nationals" enshrined in the Art 78(3) of TFUE (primary law) and the EU Temporary Protection Directive (Directive 2001/55/EC) (secondary law).

Crisis and solutions

Following the tragedies in the Mediterranean in April 2015, European leaders made a commitment to address the migratory pressure. In May 2015, the European Commission issued the European Agenda on Migration which was a roadmap on how to deal with the crisis in its "hot" phase and also included a preview of post-crisis reforms on better migration management based on four pillars (reducing the incentives for irregular migration, more effective border management, clear and coherent system for asylum seekers and new policy on legal migration).

Among the presented immediate solutions were: an increased budget for the Frontex joint-operations Triton and Poseidon; targeting criminal smuggling networks; relocation under the emergency response system envisaged

under Article 78(3) TFEU which according to the Agenda should be a "lasting solution"; resettlement; and the hotspot approach. Nowhere to be found was a proposal to activate the EU Temporary Protection Directive which would enable member states to offer protection to people in need of it and help to avoid overwhelming national asylum systems at the same time.

A solution which raised tensions between member states was the emergency response mechanism. It was the first time article 78(3) TFEU was used. In line with Article 80 TFEU, decisions on the relocation of 160 000 asylum seekers from Greece and Italy were taken. Although the rationale was to ensure a fair and balanced distribution of asylum seekers present in Europe, some member states refused to implement the decision and some – Slovakia and Hungary - challenged the Council's decision in front of the Court of Justice. The ECJ rejected their case in a judgment of September 2017. Lack of cooperation on a part of Hungary, Czechia and Poland triggered the European Commission referral to the Court for non-compliance with their obligation with the mechanism for the mandatory relocation. In April 2020, the Court ruled that abovementioned member states failed to fulfill their obligation arising from Council's decisions.

Suffering not only from migratory pressure, but also solidarity crisis, the EU had to reach for more pragmatic measures, by some described as Realpolitik tool. It was an EU-Turkey statement which caused the numbers of refugees and migrants reaching the EU to drop significantly. According to the 1:1 mechanism, for every returned to Turkey irregular migrant reaching the Greek islands, the EU member states declared to

take in another Syrian entitled to protection. In addition, the EU provided financial support totaled 6 billion euros for the care of refugees in Turkey.

Conclusions
The 2015 migration crisis proved that migration is still one of the most divisive topics in the European Union. The issue of migration, so highly politicized in the member states, undermines the EU's moral standing and political effectiveness. The situation on the external borders after Russia's attack on Ukraine proved that the European Union limitations when dealing with migratory pressure lie not in the number of people crossing borders, but rather the lack of political will, solidarity and appropriate measures (or ignorance of those that are already in place).

The crisis showed that:
Member states are still not "mature" enough to conduct "common" policy in the area of immigration and asylum. It can be safely assumed that introduction of any obligatory relocation scheme in the future will lead to visible cleavages inside the EU;

Mixed arrival of asylum seekers and irregular migrants requires that future legal solutions will have to be complex in order to provide protection to refugees, handle irregular immigration, ensure border security and enhance fair sharing among member states;

In terms of crisis solving, member states are willing to give more power to agencies. In 2016 Frontex evolved into the new European Border and Coast Guard was launched in October 2016. Also, European Asylum Support Office was revamped. The EU Agency for Asylum was

created in order to make EU migration management system more efficient and sustainable;

In order to stem irregular migratory arrivals, EU member states are willing to enter into morally and legally doubtful agreements with third states. The case of the EU – Turkey statement proved that this kind of agreement can be used as a political leverage.

In summary, stalled reform of migration and asylum policy, together with inconsistencies in application of the EU law during subsequential migratory pressures, clearly show that when dealing with migrants and asylum-seekers flows, member states prefer ad hoc and emergency solutions.

Mobility for people living with HIV/AIDS in Australia: a perspective on policy through discourse

Bastian Neuhauser
Berlin Institute for Migration and Integration Research (BIM), Humboldt University Berlin

Australia as an outlier in HIV/AIDS mobility policy

Australia upholds an exclusive migration regime as it restricts the access of migrants living with HIV/AIDS (MHIVs) to long term visas, residency, or citizenship through mandatory HIV screenings. A total of 46 countries worldwide have similar policies in place in 2022. Australia, however, remains largely isolated amidst the circle of developed nations to enact such a policy after New Zealand has abolished similar restrictions in October 2021. The situation has remained unchanged despite urgent calls from the UN to comply with the commitments made in the 2016 United Nations Political Declaration on Ending AIDS to eradicate all forms of HIV-related mobility restrictions.

People living with HIV/AIDS face substantial institutional hurdles migrating to Australia. For almost all visa application processes, both permanent and temporary, Australian migration law provides two distinct types of health-related Public Interest Criteria, PIC 4005 and PIC 4007, set out in the Migration Act of 1958 and the subsequent Migration Regulations of 1994. Applicants aged 15 years or over must undergo a health examination including an HIV test and disclose their status to the Department of Immigration. Only select number of family stream (i.e. partner, fiancé, dependent child), most refugee and humanitarian and a limited number of skilled visas, allow for a 'health waiver' for undefined compassionate and compelling circumstances in case the applicant fails the health assessment. If the primary applicant or another member of their family unit does not meet the health criteria, the application for everyone automatically fails ('one fails, all fail rule'). The routine exclusion of applicants with HIV/AIDS function through a significant cost threshold which bars entry for applicants with anticipated health costs exceeding $49,000 over a span of 10 years. The high costs for medication and treatment for both HIV and AIDS routinely exceed these criteria, resulting in a denial of the visa. Due to the widespread inaccessibility of required medication outside industrialized nations, not rarely denials have devastating repercussions for an already often intersectionally-marginalized population.

Adopting a discursive approach to policy analysis

Research unequivocally shows that mobility restrictions on the basis of HIV status are widely ineffective or even counterproductive as effective preventions of HIV transmission. Yet, migration policy serves the pivotal function of a site where national belonging is negotiated (Yuval-Davis 2011). These processes are both shaping and being shaped by discourse. Analysing the discourse in and around of policies enables us to shed light on the contexts in which these processes and politics become intelligible, politically rational and legitimate. In order to better understand the genesis and reproduction of these politics and boundaries of belonging, I undertake an empirical analysis of the media reporting representing the broader discursive context of the general public as well as an analysis of policy text, expert

interviews and legal documents representing codified discourse.

Landscapes of knowing: media reporting

The migration of people living with HIV/AIDS triggers racial, national and moral anxieties in the discursive media landscape of Australian public. Media reporting from 2000 to 2019 constructs MHIVs through different yet intersecting subjectivities. Migrants with HIV/AIDS are firstly framed as a specific 'racial other'. HIV/AIDS is discursively entangled with constructions of race, both through the notion of 'African AIDS' and the emergence Papua New Guinea as a proximate third world danger (Patton 2002). These anxieties have a longstanding history in the Australian context and were largely institutionalized during the White Australia policy era between 1901 and 1973. HIV/AIDS and migration is enmeshed in a discourse on securitization and national integrity discourse. Here, the paradigm of humanitarianism is called into question through economic rationalist regimes of integration where MHIVs emerge in imagery of burden and fraud to a nation of taxpayers. Thirdly, media reporting introduces the migrant with HIV/AIDS as a 'moral deviant' (Lupton 1994). Under the migration paradigm of 'New Integrationism' which has partially replaced Australian multiculturalism, the role of predefined Australian mores and values has seen substantial revaluation. Policy exclusion becomes discursively legitimate through imaginations of MHIVs as promiscuous, sexually transgressive and a moral menace to the general population. This idea finds its discursive culmination in the image of the 'migrantized' and racialized 'HIV Predator' infecting large numbers of white middle class women in Australia.

Constructing boundaries in policy documents

This discursive landscape translates into the analysed policy and legal justifications in case documents of the Migration Review and Administrative Appeals Tribunal. Empirical analysis shows that exclusion largely operates through three parallel symbolic boundaries of exclusion. Firstly, boundary drawing processes activate notions of the MHIV as a threat which are based on the present and historic entanglements of Australia with racism, imperialism, and public health (Bashford 2004). In its symbolic counterpart, overlapping and intersectional modes of vulnerability offer a pathway to belonging within the politics of humanitarianization.

Secondly, elements of economic rationalism define the primary exclusion of MHIVs on the basis of costs and construction of the 'burden'. MHIVs in turn seek to contest these aspects through compliance to symbolic formulations of productivity and profitability and adherence to the neoliberal logic of Australian migration policies.

Thirdly, this work identified boundaries of morality drawing on individual politics of respectability. MHIVs here are faced with contradictory and ambiguous narratives of responsibility and irresponsibility around questions of individual behavior, medical regimes and care-work. Simultaneously, they try to contest and blur boundaries by alluding to normative respectability and their potential inclusion into the nation-state as a community of values. Overall, discursive processes around MHIVs in Australia have been shown to both cite and complexify the sexed, gendered and racialized discourse on HIV/AIDS and makes them politically

intelligible in an Australian context to legitimate exclusive migration policy.

How to move forward

Given these results, the following recommendations seem critical for media and policy makers:

Media outlets are recommended to introduce feedback systems in order to avoid reductive, stereotypical, derogatory language in their representation of refugees and migrants in reporting. In practice, the systematic inclusion of reporting guidelines on migration and in codes of ethics and conduct has proven useful. Sources of information should be diversified, amplifying voices of advocacy groups with expert knowledge as well as migrants themselves.

On a policy level, migration restrictions due to HIV/AIDS and other forms of medical inadmissibility need to be adapted or overhauled from a human rights perspective (c. Stratigos et al. 2014). Policy makers are equally encouraged to prioritise the education of the public on different forms of discrimination towards migrants and encourage the teaching of critical media literacy. Additional funding for groups working directly with MHIVs is critical to induce both policy change and impact communication processes.

Immigration Quotas and Anti-Immigration Attitudes: A Brief Review of Swiss Migration Policy

Qingyang Lin
Geneva Graduate Institute

Switzerland stands out as a unique case in the field of immigration. It has one of the largest shares of foreign population among developed countries — as of 2020, 2.21 million (25%) of its 8.67 million inhabitants are of foreign nationalities, and 38% of the total population has immigration background (Swiss Federal Statistical Office 2021). Switzerland also has a long history of accepting refugees from all over the world, which significantly contributes to such high figures. Despite all these, Switzerland does not consider itself as an immigration country. On the contrary, it could indeed be considered a "pioneer" xenophobic society in Western Europe, as the anti-immigration attitudes sprung up in the 1960s (Skenderovic 2015).

In response, the Swiss federal government set up a quota system in 1963 to manage migration inflows into Switzerland. The annual immigration quotas served as the core instrument of the Swiss migration policy between 1970 and 2002. Even today, it still plays an important role in immigration, though the majority of the immigrants in Switzerland are no longer subject to this system thanks to the 2002 Swiss-EU agreement on Free Movement of Persons (Gross 2006).

A Dual Labour Market

Switzerland began to implement the immigration quotas back in the 1960s, during which time the booming Swiss economy was attracting hundreds of thousands of workers migrating to the Alpine country every year. Foreign labourers were required to obtain relevant residence permits in order to work and live in Switzerland.

At the time, two major types of residence permits were issued to foreigners—yearly permits (German: Jahresbewilligungen; French: permis annuels) and seasonal permits (German: Saisonbewilligungen; French: permis saisonniers). The yearly permit (B permit) entitled the holder to stay in Switzerland for one year and was renewable. Newly issued yearly permits fell under annual quotas, but renewals were not subject to any quota. Also, family reunions were allowed for the holders of yearly permits, and permits issued for such reasons were the same B permits but did not count towards the annual quotas.

The seasonal permit (A permit) only granted the holder to stay in Switzerland for a maximum of nine months within a year and the holder was obligated to return to home country during the remaining time of the year. Such constituted a "guest worker" labour market which was to a great degree segregated from the mainstream labour market (Muller 2003). Seasonal permits were issued to foreign workers in specific industries and field including agriculture, construction, and hospitality, where the supply of Swiss labour was inadequate to meet the demand.

Holders of seasonal permits were considered temporary residents and the number of seasonal permit holders residing in Switzerland varied substantially within each year, since the target industries all featured high seasonality, as suggested by the name of the permit. Holders of seasonal permits could apply for renewal provided that the nine-month-per-year maximum had not been

reached. However, such renewals counted towards the annual quotas just as newly issued ones. Family reunions were not granted for holders of seasonal permits. Nevertheless, holders could convert their seasonal permits into yearly permits after ten consecutive years, and such conversions did not count towards quotas of either seasonal or yearly permits (Gross 2006).

The nature of this dual labour market with a segregated section targeting seasonal immigration workers implies that fluctuations in the seasonal labour market would have minimal impact on the rest of the labour market in the short to medium term (Muller 2003).

From Soft Ceiling to Hard Ceiling

When the immigration quota system was first introduced in 1963, the national annual quotas, set by the Swiss federal government, were allocated to industries and firms, prioritizing those in greater shortage of labour. During the 1960s, the annual immigration quotas only formed a "soft ceiling" since the quotas were non-binding constraints—the accumulative number of new holders of these residence permits by the end of each year was significantly lower than the annual quota announced by the federal government in November of the preceding year.

The shift in immigration policy in 1970 consisted of two major changes in the quota system. Firstly, the quotas were no longer allocated to industries, but to cantons, besides those reserved by the Confederation. The exact number of quotas for each canton was decided through consultation and negotiation between the Confederation and the cantons, using the cantonal population as a starting point. Secondly, the number of quotas experienced a sharp drop, particularly for the yearly permits where

the decrease amounted to one magnitude. The "soft ceiling" turned into the "hard ceiling", as the quotas became binding constraints for most cantons in most years.

The rise of anti-Immigration attitudes

The grand shift in the Swiss immigration policy in late 1960s resulted from the rising anti-immigration attitudes. The xenophobic groups voiced through the Swiss direct democracy. The first popular initiative calling to limit the number of immigrants into Switzerland emerged in 1968, but was then withdrawn (Swiss Federal Commission on Migration 2020). Eventually, several initiatives were put into referendum voting throughout the "hard ceiling" era.

Four noteworthy immigration-related referenda reflect the attitudes of the general Swiss population for each of the four decades expanding the "hard ceiling" era, as summarised in the following table. All four immigration-themed referenda positioned the core demand as limiting the foreign population in Switzerland.

Date	Referendum	Yes	No
7 Jun 1970	Initiative against Foreign Dominance	46%	54%
13 Mar 1977	Fourth Initiative against Foreign Dominance	29.5%	70.5%
4 Dec 1988	Initiative for the Limitation of Immigration	32.7%	67.3%
24 Sep 2000	Initiative for a Regulation of Immigration	36.2%	63.8%

Source: Swiss Federal Commission on Migration (2020).

Demographic and Economic effects

The inter-cantonal variation in the immigration quota provides a good opportunity to investigate the effect of an immigration policy aiming at restricting migration inflows. By comparing Swiss cantons, one can estimate the demographical and economical effects of capping the number of immigrants,

particularly to the degree propelled by xenophobic voters. The empirical analysis shows that the Swiss immigration quotas implemented between 1970 and 2002 did slow down the growth of foreign population as intended. However, it did not lower the unemployment rate. On the contrary, immigration quotas substantially undermined native workers, especially on their skill levels. Notably, this plain-quantity restriction affected high-skilled immigrants more strongly than low-skilled immigrants, and thus reduced the incentives of native workers to pursue higher skill levels. Consequently, the immigration quota system brought down the average skill level of the Swiss population and hurt the overall productivity of the Swiss economy.

Bibliography

Gross, Dominique M. 2006. Immigration Policy And Foreign Population In Switzerland. Policy Research Working Papers. The World Bank. https://doi.org/10.1596/1813-9450-3853.

Muller, Tobias. 2003. "Migration Policy in a Small Open Economy with a Dual Labor Market." Review of International Economics 11 (1): 130–43. https://doi.org/10.1111/1467-9396.00373.

Skenderovic, Damir. 2015. "Fremdenfeindlichkeit Xenophobie." In Historic Lexicon of Switzerland (HLS). https://hls-dhs-dss.ch/de/articles/016529/2015-05-05/.

Swiss Federal Commission on Migration. 2020. "Initiativen Zur Begrenzung Der Zuwanderung Und Gegen Überfremdung." July 28, 2020. https://www.ekm.admin.ch/ekm/de/home/zuwanderung---aufenthalt/zuwanderung/geschichtliches/volksinitiativen.html.

Swiss Federal Statistical Office. 2021. "Population." Swiss Federal Statistical Office. https://www.bfs.admin.ch/bfs/en/home/statistics/population.html.

Italian immigration policy following the European refugee crisis: how does the changing political landscape influence immigration and migration policy in Italy?

Jessica Quirk
Department of Politics & International Relations, Monash University

Asylum and migration are areas of shared competence between the European Union (EU) and the member states, though the implementation of asylum policies largely falls onto local authorities. The Dublin Regulation gives the responsibility of asylum applications to the country on first point of entry (European Commission, 2022) and this framework has shifted the weight of the issue to countries on the EU external borders. As the primary landing country on the Central Mediterranean Route (CMR), Italy saw huge numbers of asylum seeker arrivals during the European Migration Crisis with over 700,000 applications between 2014 and 2020 (UNHCR, 2022). The uneven distribution during this time placed a huge strain on Italian resources, contributed to disunity among member states and compounded feelings of abandonment, resentment, and Euroscepticism in the Italian people (Mascitelli & Brunazzo, 2020). Subsequently, the issue of immigration grew in salience (Dennison and Geddes, 2021) and the lack of coordination at an EU level pushed immigration to be a key area of concern among the Italian public. Immigration at the forefront of Italian's minds has created a 'loud' political issue, one that policy makers are unable to ignore (Busemeyer., et al. 2020) and has given political opportunity for domestic parties with nationalist and anti-immigration policies.

Fuelling the tension
The Refugee Crisis exacerbated and widened the gap between the realities of asylum processing in arrival hotspots such as Italy and the top-down asylum policies designed by EU institutions. This compounded the already simmering tension following mass arrivals during the Arab Spring and austerity measures from the Global Financial and the Sovereign Debt Crises (Mascitelli & Brunazzo, 2020). Increased politicization and polarisation of immigration as a consequence of the migration crisis (Hutter & Krisi, 2021) saw the political framing of immigration shift to that of 'an unprecedented crisis'. Asylum seekers were increasingly labelled as 'illegal', 'dangerous' and a 'threat' to both the Italian people and their way of life. Public opinion poll, Standard Eurobarometer 86 (European Commission 2016) showed a deterioration in attitudes towards migrants and paved the way for aggressive anti-migrant and nationalist political discourse. Immigration and asylum seekers were linked to the economic struggles facing Italy and amplified questions of EU solidarity among Italians demonstrating a consistent and solid relationship between critical attitudes of immigrants and increased Euroscepticism (Stockemer, Niemann and Linger, 2019). The uncertainty and discontent from a previously Europhile country has opened the doors for Eurosceptic parties to gain voter share and to weaponise the issue of migration for political advantage. This shift has implications for immigration and migration policy moving forward because the focus and discourse is no longer about people seeking refuge but instead enables asylum seekers to be used for political capital.

The rise of the right and the effect on domestic migration policy

Heightened salience of immigration after 2015 allowed political parties with pre-established anti-immigrant positions to exploit the concern of the Italian public for electoral success (Hutter & Krisi, 2021). This led to a period of strengthening and amplifying the already restrictive migration policies in place. Campaigns of far-right parties such as the League (Lega) and Brothers of Italy (Fratelli d'Italia) in 2018 placed a strong focus on 'Italians first', criticism of the EU and a commitment to strengthening Italian borders against immigration flows. These parties have both benefited and contributed to the politicisation of immigration and since 2018 there has been a greater representation of the centre to far-right in governing coalitions. The decade between 2007 and 2017 saw a gradual tightening of both internal and external domestic migration policy (Caponio & Cappiali, 2018) and this was greatly amplified after the 2018 national elections which saw the first populist and Eurosceptic coalition appointed. Matteo Salvini, leader of the League served as Interior Minister from 2018 to 2019 as part of the Five Star – League coalition and directly influenced immigration and migration policy. Ports were closed to NGO rescue ship Aquarius and asylum seekers on board were refused entry to the country (The Guardian, 2018). Further influence and tightening of policy were evident in the passing of the 'Salvini Decree' in 2018 which saw the abolishment of humanitarian protection status for migrants, introduced fast track expulsion for 'dangerous' asylum seekers and greatly increased fines for NGOs deemed to be breaking laws while conducting rescues (Dennison and Geddes, 2021).

The 2022 elections and further tightening of immigration policy

The collapse of the technocratic Draghi government in July 2022 triggered new national elections on 25 September, 2022. Polling suggested the new government would be a far-right coalition between the League, Go Italy (Forza Italia) and Brothers of Italy, led by Georgia Meloni (Politico, 2022), who would become the first female Italian Prime Minister and the first far-right leader since Benito Mussolini. The expected result prevailed drawing attention of political observers world-wide. Pre-election, the governing coalition campaigned on stricter border controls, blocking boat landings, and establishing centres for assessing asylum applications outside of the EU bloc, indicating there will be a further strengthening of existing policies and potential tension between member states when negotiating reform of the EU's migration and asylum systems (Kirby, 2022). Disharmony between the new Italian government and France occurred almost immediately when Italy blocked migrant ship Viking from docking in Italian waters. The ship was eventually accepted by the French (Lowen, 2022). Recent history suggests a far-right government is likely to have a more tumultuous relationship with the EU particularly in the areas of immigration and fiscal policy (Quirk, 2020). Despite the simmering tension with France, Meloni has worked early to quash market fears and to reassure she is a capable leader willing to work with EU partners (Baczynska & Balmer, 2022).

In summary, the European refugee crisis compounded and exacerbated existing flaws in the Dublin Regulation Policy, and this contributed to and increased existing tensions in Italy towards the EU. Mass asylum arrivals during 2014-2020 contributed to the salience of immigration

increasing dramatically over this time. The rise of discontent and Euroscepticism in the Italian public has given incentive to political parties with established anti-immigrant ideology and policies to weaponise immigration for electoral success. Catch cries exemplified by "Close the ports" used during election campaigns reduce the important issue of immigration down to a simple dehumanising slogan garnered to attract votes. The incentives for immigration to be a political tool will likely continue so long as there is an uneven distribution of responsibility for asylum seekers placed on states at external EU borders. Moving forward the EU and member states can work to bridge the gap between top-down asylum policies and the realities of asylum processing in hotspots. This task is likely to be more challenging with the current coalition leading Italy.

Reflection: The first six months of the FdI – Lega – Forza Italia coalition

Despite the first six months progressing with less tension between Italy and the EU than many anticipated, (The Economist, 2023) the management of immigration and migration policy remain a concern and have re-emerged as key issues leading to the 2024 European Parliamentary elections (Bonalume, 2023). Italian Minister of the Interior, Matteo Piantedosi indicated the government's intention was to control and limit migration flows to Italy (Wallis, 2023) and this position was supported by the controversial Piantedosi Decree passed in January 2023. The law formalised a code of conduct for NGOs that prevents multiple rescues at sea and obligates sea vessels to immediately request a port of disembarkation and has received critique and a call for review by Mijatović the EU Commissioner for Human Rights (Council of Europe, 2023). The disapproval from

the EU has not prompted a change in the Piantedosi decree, however Minister Piantedosi met with Commissioner Mijatović in late June to highlight Italy is meeting its humanitarian obligations (Ministero Dell'Interno, 2023) and supported the assertion with the recent decision to handover the contentious Lampedusa migrant hub to the Italian Red Cross (France 24, 2023). The passing of Forza Italia leader and former Italian Prime Minister Silvio Berlusconi in June 2023 creates some uncertainty for the stability of the coalition moving forward, yet it is unlikely to bring down the coalition in the near future.

References
Baczynska, G., & Balmer, C., (2022) 'Italy reassures EU on her first foreign trip as premier'. Reuters. Available at: https://www.reuters.com/world/europe/italys-new-pm-meloni-makes-her-first-foreign-trip-eu-hub-brussels-2022-11-03/. [Accessed: 20 November, 2022].
Bonalume, A., 2023. Georgia Meloni's first six months. *Robert-Schuman Foundation.* Available at: https://www.robert-schuman.eu/en/european-issues/0666-giorgia-meloni-s-first-six-months (Accessed: 17 May 2023).
Busemeyer, M., Garritzmann, J.L. & Neimanns, E., 2020. *A loud but noisy signal?: Public opinion and education reform in Western Europe*, Cambridge: Cambridge University Press.
Caponio, T. & Cappiali, T.M., 2018. Italian migration policies in times of crisis: The policy gap reconsidered. *South European Society and Politics*, 23(1), pp. 115–132.
Dennison, J. & Geddes, A., 2021. The centre no longer holds: The Lega, Matteo Salvini and the remaking of Italian Immigration Politics. *Journal of Ethnic and Migration Studies*, 48(2), pp. 441–460.
European Commission, 2022. Country responsible for asylum application (Dublin Regulation). *Migration and Home Affairs*. Available at: https://home-affairs.ec.europa.eu/policies/migration-and-asylum/common-european-asylum-system/country-responsible-asylum-application-dublin-regulation_en (Accessed: August 20, 2022).

European Commission, 2016. *Standard Eurobarometer no. 86, Autumn.* Brussels: CEC.

France 24, 2023. On Lampedusa, Red Cross take over grim migrant hub. *France 24.* Available at https://www.france24.com/en/live-news/20230610-on-lampedusa-red-cross-takes-over-grim-migrant-hub (Accessed 26 June 2023).

Hutter, S. & Kriesi, H., 2021. Politicising immigration in times of crisis. *Journal of Ethnic and Migration Studies*, 48(2), pp. 341–365.

Kirby, P. 2022. Who is Georgia Meloni? The rise to power of Italy's new far-right PM. *BBC,* Available at: https://www.bbc.com/news/world-europe-63351655. (Accessed: 21 November, 2022).

Lowen, M. (2022) "Ocean Viking: Italy defiant over migrants row with France," *BBC*, 11 November. Available at: https://www.bbc.com/news/world-europe-63598797.amo (Accessed: December 10, 2022).

Mascitelli, B. & Brunazzo, M., 2020. *Italy and the European Union a rollercoaster journey*, New York: Nova Science Publishers.

Ministero Dell'Interno, 2023. Il Ministro Piantedosi ha incontrato al Viminale la Commissaria per I diritti umani del Consiglio d'Europa Mijatović. Available at:
https://www.interno.gov.it/it/notizie/ministro-piantedosi-ha-incontrato-viminale-commissaria-i-diritti-umani-consiglio-deuropa-mijatovic
(Accessed: 26 June 2023).

Politico. 2022. Italy — National parliament voting intention. Available at:
https://www.politico.eu/europe-poll-of-polls/italy/ (Accessed August 24, 2022).

Quirk, J., 2020. Italy and Euroscepticism – political uncertainty gives way to temporary political relief. *Australian and New Zealand Journal of European Studies,* 12(1), pp. 67-76.

Stockemer, D. et al., 2019. The "Refugee Crisis," immigration attitudes, and euro-scepticism. *International Migration Review*, 54(3), pp. 883–912.

The Economist, 2023. After a steady first 100 days, choppier waters await Georgia Meloni: Division and disunity could rock her boat, 26 January. Available at:
https://www.economist.com/europe/2023/01/26/after-a-steady-first-100-days-choppier-waters-await-giorgia-meloni (Accessed: 24 June 2023).

The Guardian, 2022. Italy summons French ambassador in a row over migrant rescue boat, 13 June. Available at:
https://www.theguardian.com/world/2018/jun/13/italy-hits-back-at-french-criticism-over-turning-away-migrants-ship-aquarius (Accessed: 3 August 2022).

Wallis, E., 2023. Italy holds talks to limit migrant departures. 24 January. *Infomigrants.* Available at: https://www.infomigrants.net/fr/post/46319/italy-holds-talks-to-limit-migrant-departures (Accessed: 24 June 2023).

Brexit and European Labour Markets: What May Lie Ahead for Workers?

Assistant Professor Kristina Sargent, Ph.D., Department of Economics Middlebury College, Vermont, USA.

The UK vote to leave the European Union will surely be seen as a turning point for the British economy. While there are countless aspects of life that will change, potentially dramatically, for UK and EU citizens, the labour market will be top of mind for many. The importance of immigration in influencing labour market outcomes has been increasingly recognized in the last few decades. It is therefore critical to consider how workers will migrate between the UK and EU subject to new visa rules, and how these changes will interact to impact workers' employment and wages as a result.

The Brexit agreement called for a new regulation of migration between the UK and EU: The UK required EU citizens to apply for permission to remain in the UK, and over 6 million applications had been submitted by the deadline in summer 2021. There are also known to be at least 1.2 million UK citizens living in the EU, most of whom are active participants in the labour market. Regarding policy going forward, the current agreement between the UK and the EU is for workers to apply for work visas through the same processes which applied to third countries before Brexit. In some instances, there are preferences based on nationality, education, or skills. While some model-predicted welfare reduction from Brexit is a straightforward result of charging for something that was formerly free (instituting costly visa requirements for workers when previously there were none), there are spill over effects as workers who may have previously migrated choose not to. Increasing costs to migrate should therefore lower migration between the UK and EU.

Making migration more costly lowers worker benefits from migrating, lowering the total value of any given job. This could decrease wages, increase unemployment, or both. Additionally, if barriers prevent workers from taking an otherwise beneficial job, that surplus is eliminated ex ante. It may result that a former destination country will now have a smaller labour force, potentially lowering incentives for local firms to post openings. The former origin country then benefits from the reversal in migration behaviour. Workers in a former destination country may benefit from less competition for (potentially) scarce jobs, and instead experience gains in wages and/or employment from the decreased migration.

Which of these effects dominates depends on the scale of the increase in costs to workers relative to the joint benefits for firms and workers who still manage to meet. Therefore, if the result of Brexit is a small increase in costs relative to a large expected benefit of employment, then the impacts of Brexit on labour markets in the UK and EU should be quite small. If those costs are in fact large, then the distortions will offset any potential benefits following the increased costs to migrate for work. Understanding when costs are "small" or "large", is therefore key for policy makers seeking to maximize welfare for workers.

When making the decision to move to another country for work, people take into consideration the likelihood of obtaining work, the value of that work (often relative to work at home), and the

costs they face to do so. Respondents to Eurobarometer surveys cite the difficulty in living away from friends and family as well as the cost to secure housing, physically move, and obtain visas and other legal requirements to finding employment as key factors in their decision making. It is likely that fixed, one-time costs like visa fees would impact a (potential) migrant's decision differently from an ongoing cost like language barriers or lack of social network upon arrival.

The new visa regime serves to increase the costs faced by migrating workers. Explicitly, this directly increases the costs to workers to leave their country of origin. Indirectly, this may also increase the ongoing psychological costs of living somewhere that is (perceived as) less welcoming than before the Brexit vote. It may also increase the return costs faced by a worker since it increases the stakes of a move from the potential migrants' perspective.

While the visa application and associated fees are a straightforward increase in the costs to workers to leave their country of residence, the relative size of the increase is less clear. First, the direct, nominal visa costs are likely to be only a small portion of the full cost of requiring visas when they were previously unnecessary. For example, the UK additionally requires visa applicants to pay a healthcare surcharge as well as provide proof of sufficient funds for financial support upon arrival. The additional psychological cost of these barriers to workers should not be underestimated. The estimated size of the increases must therefore include not only the visa fees, but also the associated increased barriers faced by workers, some of which are incurred literally and some of which are psychological.

The case for Brexit cannot rest on economic rationales when viewed through the expected labour market experiences of workers. The current post-Brexit policy frame- work with visas required for migrants means workers stand to lose out significantly over the long-run through receiving lower net benefit from working, and fewer op-opportunities to match with jobs at home and abroad (i.e. lower wages and higher unemployment). British citizens lose out on otherwise beneficial job opportunities on the continent and suffer from the lower productivity predicted by the closure of borders, skill-shortages, and other Brexit-induced damage to the economy. Some groups, like EU citizens remaining in the EU, may benefit slightly from the lower competition from UK migrants, but the aggregate effect is expected to be negative.

Regardless of the precise magnitude of increased migration costs due to Brexit, costs will be higher for workers relative to the pre-Brexit baseline. Modelling suggests the costs associated with the new restrictions are large relative to the benefits of migrating for work, and so costs will dominate any offsetting benefits to the post- Brexit labour market. Aggregate negative impacts on natives and migrants in both the EU and UK are expected as a result, though the pain will be unevenly distributed across locations and between native and migrant workers. Workers all over Europe would have been better off had the UK not left the EU, but the best way to maintain overall welfare now is to pursue a migration policy which minimizes the costs faced by workers.

Urban housing discourses and their implications for EU migrant Roma integration in Western Europe

Emily Schraudenbach
Department of Political Science
George Washington University

In France, EU migrant Roma have the right to housing and the state has the legal duty to integrate or evict migrants from its territory, but it is city governments that have the knowledge and experience to house migrants. In this context, when the capacity of the city and responsibility of the state are at odds, what determines housing provisioning for EU migrant Roma? Integration studies is a quickly growing sub-field of Migration Studies. However, most migration literature looks to micro-foundations such as attitudes towards migrants, macro-level explanations of immigration or integration policy, or meso-level explanations such as labour market outcomes to explain when integration efforts are successful (Enos 2014; Adida et al. 2016; Kymlicka 2012; Joppke 2017) These explanations – with some notable exceptions (Ireland 2004; Good 2016; Pugh 2018; de Graauw 2016)— overlook an important actor, the city government. While national-level policies and local level attitudes are important, the city council ultimately determines implementation and outcomes.

This paper focuses on city government as a key institution. Using NVIVO discourse analysis of city stakeholder interviews, municipal archives and online municipal and metropole deliberations on housing policy for migrant Roma across three cities in France and the U.K., this paper will explore how variation in stakeholder networks and policy discourses affect housing integration for EU migrant Roma families.

The argument is that city councils that craft empowerment policy frames and simultaneously develop stakeholder coordination between municipalities and local NGOs, provide functional housing options for EU migrant Roma. However, while cities can perpetuate empowerment discourses, they also (and sometimes simultaneously) perpetuate threat discourses. Which discourses city councils perpetuate matters because each discourse signifies its own policy logic. The implicit policy logic reveals whether city government considers housing for migrant families as valuable or not. Cities perpetuate empowerment versus threat discourses due to the history of integration in the city and the level of perceived land-availability by the city council.

In this project "housing policy" is not taken for granted, instead it is treated as a constructed discourse that is co-created through the stakeholders' experience in the process of providing housing and that therefore arises inductively from archives, city council meetings and the experience of social workers and families who receive housing.

Empowerment discourses include themes such as "compromise," "balance," "participation," "flexibility," "social support," "trust," "self-reflexivity," "information sharing," "trust building," and a constructive relationship with the prefect as well as "stakeholder coordination" across organizations and municipalities. Empowerment discourses evoke a sense of "humanitarianism," a focus on individuals' well-being and external circumstances instead of intrinsic characteristics. These discourses use logics of "responsibility" and "hospitality"

toward new migrant families to support their pro-housing policies.

Threat discourses highlight differences, power hierarchies between groups and unilateral assimilation. Threat themes emphasize "electoral success," a focus on "job conditionality," on "security," "order" and "evictions," an antagonistic relationship with the state/prefect and sentiments such as blame, scapegoating and fear-mongering. Threat discourses us fear-based logics to support their anti-housing policies.

Anti-Immigrant and Anti-Roma Attitudes

Anti-Roma and anti-immigrant attitudes can be assuaged over time if city council and associations coordinate with their network of stakeholders. This allows City councils to avoid electoral backlash in the wake of their policy decisions. This does not mean that housing discrimination and inequalities suddenly disappear, but the previously considered significant role of individually held attitudes in housing outcomes can be mediated through the coordination of associations with the city and its residents.

History of Integration

Some associations that provide social support for integration today are descendants of organizations founded during previous waves of migration (in the 1970's for instance). In France, some associations were founded by religious community leaders interested in serving vulnerable populations because of their religious beliefs and values. While it is unclear whether those values of service and hospitality were enough to form a cultural linkage over the past half century, the associations at least forged an institutional linkage between the 70's and today that other cities might not have.

Perceived Resource Scarcity and Land Availability

Respondents were clear that cities have the funds to provide housing for migrant Roma; the decision to provide adequate housing is a political one, not an economic concern. "(Mayors) are always saying, oh, we can't afford to have such kind of families because of such and such reasons. I don't want to hear that. I just don't want to hear that. Sometimes you think, how can such people talk that way? It is really just discriminatory." (Toulouse Metropole Representative, Zoom interview March 10, 2021).

It is not a question of affordability; rather, priorities. Whether a family can achieve the qualifying criteria for housing (for example whether the family has an income, which is dependent on language proficiency) is directly influenced by the level of social support the city provides. Achieving these criteria requires sustained support from associations such as SOLIHA and France Horizon, and so it is in the city's interest to support these organizations to the best of its ability.

Whether the city has land-availability does rely on zoning laws and policies, but it also depends on how much stakeholder coordination there is across municipalities and how creative city councils are willing to be with housing options. It would be reductive to pinpoint a city's success on the fact that it has funding or land-availability; what matters is how a city uses its resources, which ultimately depends on the level of stakeholder coordination and the integration logic that these stakeholders perpetuate through their discussion of integration policy, or policy discourse.

These specific findings regarding discourses on housing for EU Migrant

Roma in French and UK cities have broad policy implications concerning public provisioning for groups that have a right to integration, but have been excluded historically from the material benefits that other citizens enjoy.

Competing narratives in the EU institutions' securitization discourse: The representation of the European refugee crisis

Dr. Dionysios Stivas
Department of Government and International Studies
Hong Kong Baptist University

Introduction

Between 2015 and 2016, the EU dealt with an unparalleled refugee crisis. The EU member states' lack of solidarity, disinterest in sharing the refugees' burden, failure of coordination, and division in 'camps' provoked some commentators to argue that the refugee crisis could suspend the progress of EU integration. To some EU member states' leaders and officials of the (main) EU Institutions, the refugee crisis resembled an existential threat.

This policy brief focuses on the securitization of the refugee crisis at the level of the main EU Institutions, namely, the European Council, the European Commission (Commission), and the European Parliament (EP). To reveal the extent to which the EU Institutions securitized the refugee crisis, this policy brief builds on the securitization theory of Copenhagen School of Security Studies (Buzan et al., 1998) and subsequent methodological contributions. This policy brief further introduces a continuum, the Securitization Narratives Continuum (SNC), that categorizes the intensity of the securitizing rhetoric into four levels: normal, alarming, challenging, and existentially threatening. The analysis of this study is based on secondary (press releases, statements, interviews, surveys, institutional documents) and primary (interviews with securitization agents) sources.

The clash of securitizing narratives at the EU level

The clash of perspectives about the refugees' situation among the EU members states has been emphasized by Dagi (2017) and Maricut (2017). Yet, it appears like there was more of a discrepancy at the securitizing narratives' intensity at the EU level and among the main EU Institutions rather than a clash of perspectives.

The assessment of the text of the security speech acts confirms the clash of securitizing narratives about the refugees' influx among the leading officials of the Commission, the European Council, and the EP. This is supported by the clustering of the security-charged words and their positioning on the SNC (See fig. 1).

The analysis of the SNC shows that the President of the European Council used words that denoted an existential threat meaning to the refugee crisis many more times than the officials of the EP and the Commission. The situation was also represented as 'challenging' many more times by Tusk than by the members of the Commission and the EP. The three main EU Institutions officially framed the outbreak as 'challenging' and 'threatening' more than 'alarming'. This reveals their determination to treat the situation as a security threat and to activate emergency actions.

The discourse analysis of the EU officials' addresses indicates that the narratives used by some of them included strong securitizing words and metaphors (e.g., Tusk). However, other EU officials (e.g., Juncker and Avramopoulos) were more cautious with their wording. They rarely represented the crisis as an existential

threat. The discrepancy of the securitizing narratives' intensity though, was not accompanied by a clash in the perspectives about the proposed emergency solutions. Despite the differences in the rhetorical representation of the crisis, all the examined EU Institutions proposed almost similar emergency action: the operationalization of the European Border Coast Guard (EBCG), 'Europeanization' of the crisis, additional funding and human resources, and support for the EU-Turkey Statement.

However, while the most authoritative voices of the three main EU Institutions considered the referent object of security, or in other words, the threatened object, to be the EU integration project (or the existence of the EU), they did not seem to agree about the referent subject of security, the threat. The Commissioners explicitly treated the refugee crisis as the threat to the EU's existence. The European Council's President, on the other hand, represented the reintroduction of intra-EU border controls between EU member states as threatening the future of the EU. Contrastingly, it was the lack of solidarity that could destroy the EU project, according to the EP's most official voices.

Variations were also observed in the intensity by which the securitizers represented the alleged threat. It was Donald Tusk who used the strongest securitizing rhetoric, with Timmermans from the European Commission following in terms of securitizing discourse intensity. Avramopoulos and Juncker were very careful with the words that they used to represent the situation. The EP's officials rarely used explicit securitizing narrative. The latter also proposed slightly different emergency action than that

urged by the Commission and the European Council. The European Council's President insisted on the EBCG's operationalization, the European Union-Turkey agreement, and the provision of financial resources to the EU's most affected member states. The EP proposed mainly solidarity and burden sharing as the way out of the crisis. Considering the securitization's audiences, all the assessed EU Institutions aimed their narratives at the EU public and the other EU main Institutions. However, the officials of the European Council and the Commission also targeted the EU member states leaderships in addition to the EU public and Institutions.

To conclude, although there were discrepancies in the intensity of the securitizing rhetoric of the main EU Institutions, the securitizers shared near identical perspectives about what constitutes the existential threat and what was the appropriate response to tackle the alleged threat.

Figure 1
Securitization Narratives Continuum–EU Institutions Combined
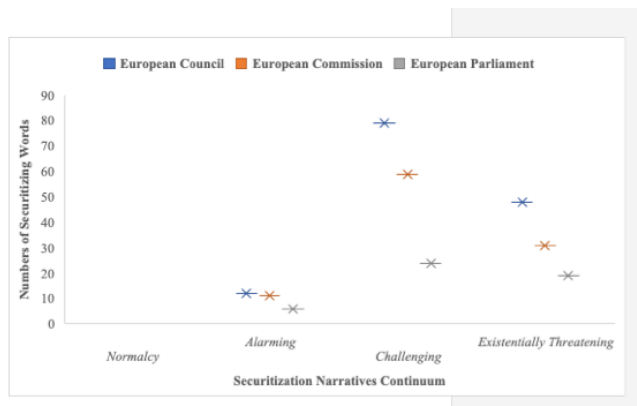
Source: Author's compilation of source data.

Comparing Australian and Russian phobias: meditating on fear following Thucydides

Professor Raymond Taras
Department of Political Science
Tulane University, New Orleans

It is never a bad idea to cite classical Greek scholarship when studying international relations or political theory. But Thucydides' takedown of fear and phobia has been one for the ages. This policy brief considers his five categories of fear and investigates how they may apply today to diverse Western countries. In my empirical section I single out two cases: survey data on Australia's fear of China in terms of both in-migration and its security policies; and Russia's dread of in-migration from Central Asia. As in some countries in western Europe, was Putin ruthless, too, in ending Muslim arrivals just before Covid hit, and freezing everyone in their place? Employing Thucydides' framework, we may develop some reliable answers concerning the changing character of fear.

Thucydides is known for his paradigm-shifting book, *The History of the Peloponnesian War*, which appeared around 400 BCE. He was the first true historian who offered a dispassionate account of war and fear in which the gods played no part whatsoever. He has been called the father of the school of political realism which views the outcomes of relations between states as constructed upon fear and self-interest. It was Napoleon who, more than twenty centuries later, reiterated that only these two forces can unite human beings.

The Athenian writer, proud of his city-state, introduced key concepts rarely used today which outlined his registry of fear and its causes. Revisiting these ideas is essential if we want to deconstruct and disaggregate political fears for our times. Given that nearly all his terms for fear are unfamiliar and even unwieldy, for reasons of style I use them selectively and for the most part employ approximate English translations in their place.

Thucydides' status is important to historians since he was forefather of the study of not just conflict but fear. Indeed, his detailed analysis of the Peloponnesian war (431-404 BCE) has been described as "a meditation upon fear—its varieties, ubiquity, potency, and even rational necessity.i His focus on the role played by fear in politics highlighted how it posed a grave danger to democracy itself. This today presents a major topic when debating democratic backsliding and erosion across many countries. Fear's complexity offered insights into different types of extending from sudden panic to distant suspicion.

Gregory Nagy, the Harvard University professor of Classics, asserts that "There is no single word in ancient Greek that matches the modern English word fear in all its comprehensiveness." Classical Greek terms have their use, then can be quickly forgotten. Thucydides' catalogue setting out definitions of fear includes the noun *deos* (δέος), which is derived from the word "to doubt." In Homeric Greek, to doubt also signifies to be afraid. In this sense *deos* constitutes a cerebral fear—an anxiousness about a more distant, ill-defined threat bringing with it fear.

Classical scholars single out *phobos* (φόβος) as of particular importance—the word for fear that faithfully remains commonly used today. It corresponds to a stronger, more instinctive, less rational fear of an imminent threat. Rather than exclusively standing for fear, the English rendering of phobia has been transformed into an outline of a wide gamut of human passions. These encompass feelings of animosity, antipathy, antagonism, and even hate towards adversaries. On occasions, Thucydides uses *deos* interchangeably with *phobos* and so, notionally, they should not be treated as mutually exclusive. But it might be said that they do exclude each other.

The other word signifying fear is *ekplēxis* (ἔκπληξις), which means shock, astonishment, even panic. Nagy cites Thucydides: "In the narrative of Thucydides, we can see here a crescendo of panic. Each instance of great panic that defies the imagination leads to another instance of even greater panic that defies the imagination all the more. But the ultimate panic is yet to come…." Thucydides made little use of the *ekplexis* and closely-related *kataplexis* (καταπληξία) word groups. But they denote stronger feelings expressing fear, for instance, terror and trepidation.

The last two nouns Thucydides identified for fear have fallen out of use today: *orrodia* (ορρόδια) and *hypopsia*, (υποψία). These two deserve to be revived today to offer us greater conciseness and explanatory power for the character of fear. The good news is that *orrodia* appeared only five times in his History of the Peloponnesian War and was associated with quoted speeches and orations of several classical Greek political leaders. The case study that I examine for employing

orrodia is especially fitting: Vladimir Putin, chief mouthpiece of the Russian Federation.

When Thucydides wished to capture a fear evoked by a breakdown in confidence in the state of things, he invoked hypopsia. It is to this term I gravitate in examining in-migration from and inter-state relations with China. The literal meaning of hypopsia is "looking underneath the surface" evoked by a suspicion that what will be discovered beneath will be found to be threatening. It therefore represents the condition of being suspicious about the way things, or people, appear to be. It entails distrust, even deep distrust, which may capture the gist of fear.

References
Desmond, W. "Lessons of Fear: A Reading of Thucydides," *Classical Philology* 101 (2006) p. 359, http://eprints.nuim.ie/827/1/William_Desmond.pdf
Calabrese, B.E., *Fear in Democracy: A Study of Thucydides' Political Thought* (Ann Arbor: ProQuest, UMI Dissertations Publishing, 2008), 17.
Lebow, R.N. and Strauss, B.S. (eds.), *Hegemonic Rivalry: From Thucydides to the Nuclear Age* (Boulder: Westview Press, 1991).
Nagy, G. "The Subjectivity of Fear as Reflected in Ancient Greek Wording," November 2, 2020; originally published in *Dialogues* 5 (2010), 29–45, https://chs.harvard.edu/curated-article/gregory-nagy-the-subjectivity-of-fear-as-reflected-in-ancient-greek-wording/
Taras, R. *Fear and the Making of Foreign Policy: Europe and Beyond* (Edinburgh: Edinburgh University Press, 2015), 1-4.

Media Representations of Ukrainian Refugees

**Dr. Zala Volcic and
Breanna Edebohls
School of Media, Film & Journalism,
Monash University**

Recent dramatic changes in the media landscape have significantly changed the ways in which Australians and Europeans alike inform themselves about news and current events, including migration themes. The media play a crucial role in informing the populace about issues of public interest, in cultivating civic understanding about common goods and goals, and in reproducing shared commitments and values. Media serve as the informational circulation systems for democratic societies, and structural shifts in their operation have important implications for how people understand the social world beyond their direct experience – and their position in it.

Now, all media, commercial, public service, and independent, are becoming increasingly reliant on distribution channels shaped by large commercial platforms. A range of accusations have been levelled against both online and legacy media regarding the impact of hyper-commercialization and covering migration issues, in particular combined with new forms of targeted curation, and platform imperatives of stickiness and engagement (Volcic & Andrejevic, 2022). While legacy media have pointed the scapegoating finger at the major tech platforms, their own practices are also adjusting to the practices they decry in order to fight for audiences and advertisers online. However, the questions of the power of media representations remain at the heart of media studies.

There are many debates about representations, misinformation and disinformation in media studies. Media and intercultural communication scholars have expressed a serious worry over fake news – which is a very deliberate presentation of misleading or false claims as news (Gelfert, 2018). In 2021, two investigative journalists from the Philippines and Russia — used their Nobel Peace Prize acceptance speeches to criticize social media companies for spreading fake news and disinformation (including and specifically migration) and to warn about the growing spread of authoritarianism.

The goal here is to, however, briefly explore media representations of contemporary Ukrainian crisis in Central and Eastern Europe. The media in the region are mostly privately owned; with commercial, profit-oriented imperatives. Public broadcasting, in majority of cases, has been politicized, and commercialized. In many Central and Eastern European countries alike, there are public discussions about the fear of polarizations, and fake news. It is worth exploring these political and media discourses of forced migration in Europe in the contexts of the relationship between media consumption patterns, levels of knowledge about current events, anti-civic sentiment, and political polarization. After all, the media became key actors in setting the parameters of the public conversation on "the crisis" and its political, ethical, and security implications for Europe. Media represent a crucial domain for Europe (and Australia) to encounter refugees and new migrants. Key question here is What is the role of media in the production of

knowledge on migration? The analysis of media representations then is critical to understanding the responsibilities and consequences of cross-border mobility. For example, during the years from 2014-2018 – when we witnessed the arrival of over 4 million refugees and migrants to Europe – this irregular migration, largely across the Mediterranean Sea or through Southeast Europe, became a top media topic and a controversial issue in the Central and Eastern Europe's media, public debates. The media played a critical role in framing the issue and in evaluating the causes and consequences of the migration crisis. Visuals of boats full of migrants, images of migrants walking towards barricades, and protests throughout Europe, were common in global media. At the moment of "crisis", media were full of images of migrants fleeing war, suffering, or losing their lives during their journey. Overall, research shows (Chouliaraki & Georgiou, 2022), the European media systematically framed refugees and migrant arrivals to European shores as a crisis for Europe – and the crisis argument relied on a view of the newcomers as (possibly dangerous) others. There was little connection explained in the media between stories on migration and war reporting or between stories on refugee plight and news stories from their countries of origin.

What is interesting is that in 2022, the narratives of the media coverage of Ukrainian refugees are distinctively sympathetic. The empathetic response of a large proportion of the Central and Eastern European media is based on humanitarian media portrayals of the crisis (Chouliaraki & Georgiou, 2022). In some cases, migrants and refugees even do appear themselves as narrators of their own stories. The humanitarian media portrayal involves the development of measures that are less restrictive, more accepting, and aimed at regulating the status of irregular migrants. As of the 4th of August, 2022, more than 5.3 million Ukrainian refugees have been recorded across Europe. Ukrainian refugees are portrayed as one of "us" – we witnessed headlines that claimed Ukrainian refugees are like us because they use social media; are on Instagram and use Tik-Tok. These media depictions help to construct portrayals of migrants and refugees in crucial ways: in the case of Ukrainian migrants and refugees, they were more like us, than those coming from parts of Africa or the Middle East. On the basis of very preliminary research (textual analysis of some selected dominant media outlets in Europe and Australia), there are some common themes that were found in European and Australian media: Innocent Victims, Children, Elderly, Russian Invasion, Ukraine Victimization, Destruction, Blame, Comparison to other refugee situations, Resilience, Bravery, Christianity. The media coverage has been largely sympathetic, presenting the suffering and grim reality that Ukrainians are experiencing. Media articles, overall, also positively highlighted the strength and resilience of the Ukrainian refugees. The photographs that accompanied various news stories mostly used perceptual realism as a mode of presentation (including the use of mobile phones).

The discourse of threat has been largely absent from the coverage of the war in Ukraine and its refugees. Slovene philosopher, Slavoj Zizek, writes:

Throughout the region, two species of refugee have emerged. A tweet by the Slovene government on

February 25 clarified the distinction: 'The refugees from Ukraine are coming from an environment which is in its cultural, religious, and historical sense something totally different from the
environment out of which refugees from Afghanistan are coming.' After an outcry, the tweet was quickly deleted, but the obscene truth was out: Europe must defend itself from non-Europe.

There were numerous articles in European media that detailed the alleged double-standards surrounding the treatment of refugees from different part of Middle East and North Africa (MENA) vs Ukrainian refugees.

References:
Chouliaraki, L. and Georgiou, M. (2022). The Digital border: Migration, technology, power. New York New York University Press.
Gelfert, A. (2018). Fake News: A Definition. Informal Logic: Reason and Rhetoric in the Time of Alternative Facts, vol. 38(1), 84-117.
Volcic, Z and Andrejevic M. (2022). Automated media and commercial populism, Cultural Studies vol. 22(1), 45-56.

Australian and European migration policies: what can we learn from a comparative analysis?

Dr. Catherine Wihtol de Wenden
Senior Research fellow
Centre national de la recherche scientifique (CNRS)
and Centre de recherches internationales (CERI), Sciences Po, Paris

As a political scientist, specialising on international migration, namely on Europe and global geopolitics, but having also learnt from Stephen Castles, Ellie Vasta, Alistair Davidson, Jock Collins and Christine Ingliss' research on Australia, and thanks to some academic visits, there is much to be gained from a comparative analysis of Australian and EU approaches to migration, which to this point has been under-researched.

While Europe is one of the main important regions of migration in the world, it hardly considers itself as a continent of immigration, because Europe was conceived as a region of emigration to countries of immigration of settlement (United States, Canada, Latin America, Australia), in mid nineteenth century and then in most European countries in the second part of the twentieth century, as a region of immigration of work. In post-war Australia, by contrast, one of the core demographic principles was "populate or perish", which emplifies Australia's position as a country of migrant of settlement. In the French case, France was a primary migrant destination in the second half of the 19th century), but governments of the Third Republic did not develop migration policies, which delegitimizes the contribution of past migrants to France.

Most European countries, except for the United Kingdom, were ruled by jus sanguinis, which was not inclusive for newcomers who had settled for previously, or even for second and third generations. France altered its nationality code for demographic reasons at the end of the nineteenth century (1889), introducing a mix between *jus sanguinis* (the heritage of ideas from the Enlightenment of the 18th century) and *jus soli* (the old nationality code, still implemented in the UK), whereas most EU countries reformed their citizenship laws in the 1990s, with Germany amending laws in 2000. Italy was the only exception. In Australia, as a former British colony, jus soli has been a very efficient tool for the incorporation of new migrants. However, there is no legislation specifically protecting multiculturalism in Australia. Jus soli is also the rule in the United States and Canada, which contributes to allow rapid citizenship to be acquired newcomers and to their sons.

In Europe, in spite of increasingly restrictive immigration policy at the EU level, and at national levels, all countries must be respectful of asylum rights, in accordance with the Geneva Convention of 1951, even if they do not finally grant asylum to persons that have entered their territories. The so-called 2015 asylum crisis, which was, in reality, a crisis of solidarity and welcoming policy, split in two sides the EU countries facing with the welcome of Syrian refugees, namely Germany where Angela Merkel decided to welcome more than one million of them, and those refusing to grant asylum right to newcomers while applying the right of entry, similar to some Eastern European countries (e.g., Hungary, Poland,

Czech Republic, Slovakia). In the meantime, southern European countries were assigned the role of of acting as the EU's border, trying to manage the arrival of migrants and refugees from the Mediterranean (Greece, Italy, Malta, Spain) while Turkey, on the road of the Balkans, was asked to maintain containment of Syrians and other Middle East refugees and migrants on its territory in exchange for $6 billion in 2016. This situation was considered as a crisis of European values of solidarity and shared duties, reiterated in the Lisbon treaty of 2009, and the EU appeared weakened because it did not apply sanctions to reluctant countries, although they were the subject of condemnations by the European Court of Justice.

The EU has major difficulties in further opening its borders to legal means of entrance for non-European workers. Migration for salaried worker was largely closed by a number of EU countries after the oil crisis of 1973, including Germany, Belgium, the Netherlands, Luxembourg and France. Some countries, like Germany, since the accession of the Scholz government in 2021, and Italy, due to many bilateral work agreements, began to open their borders to workers. This is a source of controversy in Europe, due to the populist vote. However, in spite of COVID 19 crisis, which sharply brought into focus the demographics of labour force shortages in several key sectors, the 2020 European Pact on Immigration and Asylum remains the core policy document that outlines the main EU approach to asylum. Its main objectives include dissuasion, criminalization of unlawful migrants looking for jobs, militarization of borders, return policies, repatriations with resettlement and local development policies in the countries of origin. Most of these proposals have been introduced for over 30 years; they are ineffective, but they are still at the centre of the EU Pact in order to assuage public opinion. The spectre of 'invasion', of the 'great replacement' and of insecurity have proven stronger than any rational argument.

In contrast, in Australia, asylum seekers' status is routinely regarded as illegitimate, but skilled migrants are welcome. For over 20 years, most refugees, largely transiting via Asia, have been placed in immigration detention centres on Australian islands that have been formally removed from Australia's migration zone to prevent refugees from technically arriving on Australian sovereign territory. Australia has also employed Nauru and Manus Island, Papua New Guinea, as off-shore migration processing centres. A number of countries have signed agreements with Australia, permitting the operation of detention facilities, which have proven publicly controversial, due to alleged conditions for refugees detained in the centres.

Conversely, qualified workers are welcome. The visa system provides places for qualified workers who want to settle, as migration is key to filling skill shortages in the Australian labour market. Less qualified labour and short-term workers can enter as temporary visa holders and students.

In summary, it is clear that two of the world's main migrant destinations, Australia and the EU, have had diametrically-opposed policies in relation to refugees or economic migrants and families reunion over the last two decades. However, the EU's relatively porous borders have exacerbated the dual

challenges of informal migration and refugee resettlement.

A Guestworker Resurrection? Recent Temporary Labour Migration Policy in Germany and Australia

Dr. Matt Withers
Australian National University

In 1986, the late Stephen Castles authored an obituary for Western Europe's post-war guestworker migration schemes, which had proven to be far less 'temporary' than anticipated (Castles 1986). Twenty years later, as Europe again looked to temporary migration as a fix for labour and skill shortages, he questioned whether elements of past schemes were being resurrected in contemporary policymaking (Castles 2006). At the same time that Castles was querying the return of guestworkers in Europe, Australia was doubling down on its eschewal of the guestworker model, with then treasurer, Peter Costello, declaring that, "Australia has never been a guestworker country… I don't think Australia will be a guestworker country and I don't think Australians want to see that" (cited in Wright and Clibborn 2020). This article seeks to pick up the threads of Castles's analysis by evaluating evidence of a guestworker resurrection in Germany and by comparing these trends against recent shifts in Australian migration policymaking.

What makes a guestworker?
A prerequisite task is to establish the criteria that makes guestworkers distinct from other forms of temporary labour migration. Castles's original definition (1986) is somewhat limited. Owing in part to the preponderance of permanent immigration across European migration regimes, he isolates state orchestration of temporary labour migration as a defining feature: that a guestworker programme "usually entails state control of recruitment, mobility and working conditions" (1986, 762). His later article offers further distinctions, asserting that guestworker schemes target low-wage labour, have extensive admittance, and typically involve longer duration of employment distinct from seasonal migration (Castles 2006). Surak (2013) advances a more comprehensive definition, emphasising the volume and location of workers as key variables within a broader taxonomy of guestworker regimes: greater numbers and a more central role in the economy are positioned as archetypal features. In addition to these attributes, I posit that lived experiences of *liminality* – distinguished by differentiated rights (Wright and Clibborn 2020) and the navigation of transnational family life (Withers 2022) – are definitional aspects of being a guestworker. Having employer-tied visas, being unable to access welfare systems and other forms of social protection, the inability to be accompanied by spouses and dependent family members: these factors all contribute to the qualitative experience of being a guestworker valued only as labour.

Recent Trends: Germany and Australia Compared
Both Germany and Australia have experienced considerable change in the composition of their migration regimes since 2006. Germany has seen a relatively modest level of intake via specific temporary labour migration schemes, but an increasing intake of EU workers entering via free movement and – particularly after

the so-called 'migration crisis' of 2014 – a significant number of asylum seekers. In Australia, meanwhile, there has been a steady increase in official and de facto temporary labour migration pathways since 2006.

Germany's principal temporary labour migration scheme is the Western Balkan Regulation (WBR). The WBR came into existence as a temporary measure to formalise irregular migration into Germany from the Balkans; it offers applicants the opportunity to legally work in Germany on the basis of having an accepted job offer, without targeting for particular skills (Gomes and Doomernik 2020). As of last available statistics, there were approximately 25,000 entrants per year under the scheme and eligibility is currently set to expire in 2023 (Uznanski 2020). At the same time, Germany remains one the of largest countries of destination for free movement of workers within the EU (second only to Switzerland), though overall entrants make up a relatively modest share of the total workforce: slightly over one percent of workers as of 2017 (OECD 2019). Asylum intake has also been significant, peaking at 700,000 entrants in 2015 in the wake of intensified conflict during the Syrian civil war (OECD 2019).

In Australia, policy trends have dictated a distinctly different course: temporary labour migration has formed a bourgeoning share of Australia's overall migration intake since 2006. Including de facto temporary labour migration schemes, such as working holiday makers and international students, total temporary work visa numbers have increased from 500,000 in 2006 to 882,000 in 2019: far outstripping permanent migration, which has decreased from

144,000 to 157,000 over the same period (Department of Home Affairs 2020). Parallel to this, economic selection criteria have become increasingly prominent and refined in the selection of entrants. While the 457 visa, Australia's largest temporary labour migration visa, has always been an employer-sponsored (and therefore employer-tied) scheme, it also offered a pathway to permanent residency. This pathway was closed in 2017, as the 457 was replaced with a new Temporary Skill Shortage (TSS) visa that split admittance into low-skill and high-skill streams, with permanent residency reserved for the latter. At the same time two smaller schemes with Pacific Island countries have been introduced – the Seasonal Worker Program (SWP) in 2012 and the Pacific Labour Scheme (PLS) in 2018 – that introduce further limits on location (rural and regional), skill (unskilled to semi-skilled) and family accompaniment (not permitted).

Despite contrary policy outlooks in 2006, Germany's recent migration trends reflect a patchwork of free movement and asylum intake alongside modest and unrestrictive temporary labour migration, while Australia has embraced the guestworker model by expanding the volume and tightening the conditions of its temporary visa pathways. Although migration remains a key feature of labour markets in both countries, Australia has increasingly intervened to orchestrate the rotation of a liminal and expendable migrant workforce. Recent policy shifts align with defining attributes of the guestworker paradigm and – amid mounting social, legal and political backlash to rights abuses endured by such workers – policymakers might now be awakening to contradictions that Germany learned decades prior.

References

Castles, Stephen. 1986. The Guest-Worker in Western Europe - An Obituary. International Migration Review 20 (4): 761–78.

Castles, Stephen. 2006. Guestworkers in Europe: A Resurrection? International Migration Review 40 (4): 741–66.

Department of Home Affairs. 2020. Australian Migration Statistics, 2019-2'. Canberra: Australian Government, Department of Home Affairs.

Gomes, Vincenzo, and Jeroen Doomernik. 2020. State-of-the-Art on Temporary Labour Migration Schemes in Europe. ADMIGOV Paper D3.1. Amsterdam: University of Amsterdam.

OECD. 2019. International Migration Outlook 2019. International Migration Outlook. OECD.

Surak, Kristin. 2013. Guestworkers: A Taxonomy. New Left Review 84: 19.

Uznanski, Julia. 2020. West Balkan Immigration Regulation Extended and Amended in Germany. Ius Laboris (blog). 3 November 2020. https://iuslaboris.com/insights/west-balkan-immigration-regulation-extended-and-amended-in-germany/

Withers, Matt. 2022. Rapid Analysis of Family Separation Issues and Responses in the PALM Scheme – Final Report. Australian Government.

Wright, Chris F, and Stephen Clibborn. 2020. A Guest-Worker State? The Declining Power and Agency of Migrant Labour in Australia. The Economic and Labour Relations Review 31 (1): 34–58.

Further information

Monash University
Wellington Road
Clayton, Victoria 3800
Australia

T: +61 3 9905 9432
E: Remy.Davison@monash.edu

monash.edu.au